

Updated to include ordinances and
amendments adopted through 8/12/13

CODE OF ORDINANCES

CITY OF

ROCKFORD, MICHIGAN

**Updated to include ordinances and amendments
adopted through August 12, 2013**

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CHAPTER 1 ADMINISTRATION

SECTION 1.1 ADOPTION, CONTENTS AND INTERPRETATION

- (A) Publication and Distribution of Code. Publication of this codification of the Ordinances of the City of Rockford is hereby directed. Copies of the Code shall be published in loose leaf form and shall be distributed to City officers and employees as directed by the City Council. One hundred (100) copies of the original printing of this Code shall be published and made available to the public at a charge to be fixed by the City Council.
- (B) Amendment Procedure. This Code shall be amended by Ordinance. The title of each amendatory Ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:
- (1) To amend any section:
- AN ORDINANCE TO AMEND SECTION _____ (or SECTIONS _____ AND _____) OF CHAPTER ____ OF THE CODE OF THE CITY OF ROCKFORD.
- (2) To insert a new section, Chapter or title:
- AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROCKFORD BY ADDING A NEW SECTION (_____ NEW SECTIONS, or A NEW CHAPTER, as the case may be) WHICH NEW SECTION (SECTIONS, CHAPTER or TITLE) SHALL BE DESIGNATED AS SECTION _____ (SECTIONS _____ AND _____) OF CHAPTER _____ (or proper designation if a Chapter is added) OF SAID CODE.
- (3) To repeal a section, Chapter or title:
- AN ORDINANCE TO REPEAL SECTION _____ (SECTIONS _____ AND _____), CHAPTER ____ (as the case may be) OF THE CODE OF THE CITY OF ROCKFORD.
- (C) Publication and Distribution of Amendments. Amendments to the Code shall be published as required by the Charter of the City of Rockford and sufficient copies of each amendment shall be published in loose-leaf form for insertion in the loose-leaf copies of the Code. Each copy of said Code shall remain the property of the City and shall be turned over by each officer having custody thereof upon expiration of his term of office to the City Clerk.
- (D) Contents of Code. This Code contains all Ordinances of a general and permanent nature of the City of Rockford and includes Ordinances dealing with municipal administration,

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utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, business and trades, building, housing, electrical, heating and plumbing regulations, police regulations and traffic regulations, and excludes Ordinances granting franchises and special privileges, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, and for the construction and improvement of other public works, authorizing the borrowing of money or the issuance of bonds. The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any Ordinance of the City in effect on the date of adoption of this Code. Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of Ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part thereof.

(E) Short Title. This Ordinance may be known and cited as the “Rockford City Code.”

(1) Headings. No provision of this Code shall be held invalid by reason of deficiency in any Chapter or Section heading.

(a) Numbering of City Code. The numbering system of the Code shall be divided into Chapters, Sections, and Subsections, as follows:

CHAPTER (SECTION) (SUBSECTION)

(F) Responsibility. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act.

(G) Definitions. The following words and phrases, when used in this Code and any amendment thereto, shall, for the purpose of this Code, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

(1) “City” shall mean the City of Rockford, Kent County, Michigan.

(2) “City Charter” shall mean the Charter of the City of Rockford adopted June 17, 1935, as the same may be amended from time to time.

(3) “County” shall mean Kent County, Michigan.

(4) “Person” shall include any individual, co-partnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

(5) “Public Place” shall mean any place to or upon which the public resorts, or travels, whether such place is owned or controlled by the City or any agency of

the State of Michigan, or is a place to or upon which the public resorts or travels by custom, or by invitation, express or implied.

- (6) “Sidewalk” shall mean that portion of a street between the curb lines or lateral lines and the right of way lines which is intended for the use of pedestrians.
- (7) “Street,” “highway” and “alley” shall mean the entire width subject to an easement for public right of way, or owned in fee by the City, Kent County or the State of Michigan, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public, as a matter of right for purposes of public travel. The word “alley” shall mean any such way or place providing a secondary means of ingress and egress from a property.
- (H) Title of Officer to Include Deputy or Subordinate. Whenever, by the provisions of this Code, any officer of the City is assigned any duty or empowered to perform any act or duty, the title of said officer shall mean and include such officer or his deputy or authorized subordinate or designee.
- (I) Tense. Except as otherwise specifically provided or indicated by the context, all words used in this Code indicating the present tense shall not be limited to the time of adoption of this Code, but shall extend to and include the time of the happening of any act, event, or requirement for which provision is made therein, either as a power, immunity, requirement or prohibition.
- (J) Notice. Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which, if performed by the City, may be assessed against the premises under the provisions of this Code shall be served:
 - (1) By delivering the notice to the owner of the affected real property leaving the same at his residence, office or place of business with some person of suitable age and discretion, or
 - (2) By mailing said notice by certified or registered mail to such owner at his last known address, or
 - (3) If the owner is unknown, by posting said notice in some conspicuous place on the affected premises at least five (5) days before the act or action concerning which the notice is given is required or is to occur.
 - (4) No person shall interfere with, obstruct, mutilate, conceal, or tear down any official notice or placard posted by any City officer, unless permission is given by said officer to remove said notice.

(K) Penalty.

(1) Misdemeanor. Except as provided in Chapter 10 hereof with respect to municipal civil infractions or unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than five hundred dollars (\$500) and costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. However, a violation which substantially corresponds to a violation of State law for which the penalty is not more than ninety-three (93) days imprisonment shall be punished by a fine of not more than five hundred dollars (\$500) and cost of prosecution or by imprisonment for not more than ninety-three (93) days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this Section, unless another penalty is expressly provided, shall apply to the amendment of any Section of this Code whether or not such penalty is re-enacted in the amendatory Ordinance.

(L) Single Lot Assessments. When any expense shall have been incurred by the City upon or in respect to any single premises, which expense is chargeable against said premises and the owner thereof under the provisions of this Code and which is not of that class required to be pro-rated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the City Treasurer, who shall immediately charge and bill the owner, if known. "Owner" shall mean the last recorded title holder which shall be determined by the records in the office of the Kent County Register of Deeds. The City Treasurer, at the end of each quarter, shall report to the City Council all sums so owing to the City and which have not been paid within thirty (30) days after the mailing of the bill therefor. The City Council shall, at such times as it may deem advisable, direct the City Assessor to prepare an assessment roll covering all such charges reported to it together with any applicable penalty. Such roll shall be filed with the City Clerk who shall advise the Council of the filing of the same, and the Council shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven (7) days before the City Council shall meet to review the roll and hear complaints. The City Clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the City Council to hear complaints and shall also give like notice to the owners of the property affected by first class mail at their addresses as shown on the current general assessment roll of the City, at least ten (10) days prior to the date of such hearing. Such special assessments and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed of the same character and effect as a lien created by general law for ad valorem property taxes, until paid. The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the City Council, as are

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provided by law to be paid on delinquent ad valorem property taxes and such assessments, with penalties and interest, which shall be added by the City Treasurer to the next City and/or County ad valorem property tax roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as ad valorem property taxes.

- (M) Severability. It is the legislative intent of the City Council in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City and should any provision or Section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this Section shall apply to the amendment of any Section of this Code whether or not the wording of this Section is set forth in the amendatory Ordinance.
- (N) Rules and Regulations. When rules and regulations provided for herein have been adopted and promulgated by the Appropriate Officer and approved by the City Council, they shall be deemed to be as complete and binding a part of the Code as if the same were herein specifically set forth; and the violations of any said regulations so adopted shall be deemed a violation of this Code. Except where otherwise provided, the “Appropriate Officer” shall be the City Manager or his designated representative. Copies of any such rules and regulations shall be placed on file in the office of the City Clerk for inspection by interested parties at any reasonable time.
- (O) Effective Date. This Code shall take effect as specified in the Ordinance which adopts it.

SECTION 1.2 POLICY AND PROCEDURE

- (A) City Manager. The City Manager, in addition to performing such duties and obligations as are required by the City Charter, shall see that all laws, ordinances, rules and regulations adopted by the City Council and the provisions of this Code are properly enforced. He shall attend all meetings of the City Council, regular and special. During the absence or disability of the City Manager, some qualified person to temporarily perform the duties of the City Manager shall be designated by the Manager.
- (B) Department Heads. All administrative officers are responsible to the City Manager for the effective administration of their respective departments and offices, and all activities assigned to them. The City Manager shall employ or appoint all administrative officers. The City Manager may set aside any action taken by any administrative officer and may supersede him in the functions of his office.
- (C) Vacancies. In case of vacancy in office or during the absence of any administrative officer, the City Manager may designate an interim acting head or perform personally the functions of the office, until such vacancy is filled.
- (D) Departments. All departments of the City shall comply with the following:

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- (1) All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the City Manager, such new practices as appear to be of benefit to the service and to the public.
 - (2) Reports of the activities of each department shall be made to the Manager as he shall direct.
 - (3) Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing and indexing the same.
- (E) Administrative Manual. The City Manager is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the Charter and this Code, as he shall deem necessary and proper to provide for the adequate functioning of all departments. Such regulations shall comprise the Administrative Manual.
- (F) Payment of Monies. All monies belonging to the City shall be paid out by checks drawn by the City Treasurer.
- (G) Approval of Legal Documents. The Mayor or in his absence the Mayor Pro Tem shall sign, the City Clerk or in his absence the Deputy Clerk shall attest to, the City Manager shall approve as to substance, and the City Attorney upon request of the City Manager shall approve as to form, all contracts and agreements requiring the assent of the City, unless otherwise provided for by law, the City Charter, ordinances or the provisions of this Code.

SECTION 1.3 FINANCE AND TAXATION

(A) PREPARATION OF ANNUAL ASSESSMENT ROLL

- (1) Assessment Procedure. Pursuant to the provisions of the General Property Tax Act of the State of Michigan, as amended, the making, completing and reviewing of assessment roll for the City shall be as provided in this Section, any provisions of the City Charter to the contrary notwithstanding.
- (2) Tax Day. December 31, of each year shall be the tax day in the City. The taxable status of persons and real and personal property shall be determined as of the tax day.
- (3) Preparation of Roll. The City Assessor shall, on or before the first Monday of March in each year, make and complete the assessment roll of taxable property in the City and shall submit the roll over his certificate to the Board of Review on the Tuesday immediately following the first Monday in March. The City Assessor may begin making the assessment roll as early as he may deem necessary to conveniently complete it before the first Monday in March, and shall prepare the assessment roll in accordance with applicable laws, rules and regulations. The assessment roll shall be open to public inspection upon

completion, and notice to that effect shall be published as required by applicable laws, rules, regulations and Charter provisions. Any person may file in writing with the City Clerk a complaint of any assessment, as permitted and required by applicable laws, rules, regulations and Charter provisions.

- (4) Board of Review. In each year the Board of Review shall meet for the purpose of reviewing and correcting the assessment roll, on the Tuesday immediately following the first Monday and on the second Monday in March. The Board of Review shall consider all complaints filed which property owners may make in person or by their authorized agent; the Board of Review shall continue its meetings on such successive days as may be necessary to hear all complaints. Notice of the meetings of the Board of Review shall be provided as required by law. Before the first Monday in April the Board of Review shall complete its review of the roll which shall during the next fiscal year, be the basis for the levy and collection of taxes.

(B) BUDGET STABILIZATION FUND

- (1) Creation of Budget Stabilization Fund. There is hereby created a Budget Stabilization Fund in accordance with the provisions of Act No. 30, Public Acts of Michigan, 1978, as amended.
- (2) Appropriation of Money to Budget Stabilization Fund. Each fiscal year starting with the fiscal year commencing July 1, 1982, the City Council may by Resolution adopted by a two-thirds (2/3) vote of the City Council then elected and serving, appropriate to the Budget Stabilization all or part of any surplus in the City's General Fund resulting from an excess of revenues over expenses. The City shall not impose any additional taxes in excess of that needed for its estimated budget in order to provide money to be appropriated to the Budget Stabilization Fund.
- (3) Investment of Budget Stabilization Fund Moneys. Any money in the Budget Stabilization Fund may be invested in any manner authorized by law. Any money earned from investment shall be paid into the City's General Fund.
- (4) Limitation on the Amount of Money in Budget Stabilization Fund. The money in the Budget Stabilization Fund shall not at any time exceed either fifteen percent (15%) of the City's most recent General Fund budget, as originally adopted, or fifteen percent (15%) of the average of the City's five most recent General Fund budgets, as amended, whichever is less. If money in the Budget Stabilization Fund exceeds this permitted amount, the excess money shall be appropriated in the City's next General Fund budget, but shall not be appropriated back into the Budget Stabilization Fund.
- (5) Purpose and Use of Budget Stabilization Fund. Money in the Budget Stabilization Fund may be appropriated by Resolution adopted by two-thirds (2/3)

vote of the City Council elected and currently serving for any of the following purposes:

- (a) To cover a General Fund deficit, when the City's annual audit reveals a deficit.
 - (b) To prevent a reduction in the level of public services at any time in a fiscal year when the City's budgeted revenue is not being collected in an amount sufficient to cover budgeted expenses.
 - (c) To prevent a reduction in the level of public services when in preparing the budget for the next fiscal year the City's estimated revenue does not appear sufficient to cover estimated expenses.
 - (d) To cover expenses arising because of a natural disaster, including a flood, fire or tornado. Provided, however, if federal or state funds are received to offset such appropriation, the money so appropriated shall be returned to the Budget Stabilization Fund.
- (6) Limitation on Use of Budget Stabilization Fund. Money in the Budget Stabilization Fund shall not be appropriated for the acquisition, construction, or alteration of a facility as part of a general capital improvements program.

SECTION 1.4 CITY PERSONNEL RULES AND REGULATIONS

- (A) Rules and Regulations. Pursuant to the provisions of Section 1.1(N) hereof rules and regulations governing the employees of the City may be from time to time promulgated adopted and approved.

SECTION 1.5 BOARDS AND COMMISSIONS

(A) GENERAL

- (1) General Provisions. All Boards and Commissions existing at the time of the adoption of this Code shall be continued and the members serving thereon shall remain in office for the duration of the term for which they were appointed.
- (2) Vacancies. Unless otherwise provided, any vacancy occurring in the membership of any Board or Commission shall be filled for the remainder of the unexpired term in the manner provided for original appointment.
- (3) Removal. Except as otherwise provided in this Code, or other law, the appointing authority at its discretion may remove any member of any Board or Commission with or without cause.
- (4) Compensation. Unless otherwise specifically provided, all members of Boards and Commissions shall serve without compensation as members thereof.

(B) CITY HOUSING COMMISSION

- (1) Commission Continued. Pursuant to Act No. 18 of the Public Acts of Michigan of the Extra Session of 1933, as amended, the Commission heretofore created in and for the City of Rockford, Michigan, known as the Rockford Housing Commission is continued.
- (2) Appointment; Terms. The Mayor shall appoint, subject to confirmation by a majority of the City Council, five (5) members to the Rockford Housing Commission. Appointments to the Rockford Housing Commission shall be for one (1), two (2), three (3), four (4), five (5) year terms with one-fifth (1/5) of the terms expiring each year in the beginning, and thereafter all appointments shall be for five (5) year terms, provided that any vacancy shall be filled for the unexpired term.
- (3) Powers and Duties. The Rockford Housing Commission shall have all powers and duties vested or permitted to be vested in housing commissions by said Public Act No. 18 of the Extra Session of 1933, as heretofore amended, and any laws heretofore or hereafter enacted which are supplemental thereto, it being intended to vest in the Rockford Housing Commission all powers and duties permitted by law.

(C) AREA ARTS COMMISSION

- (1) Commission Continued. The Area Arts Commission heretofore created by the City is hereby continued and shall have the following powers and duties:
 - (a) To act in an advisory capacity to the City government in connection with the artistic and cultural development of the City.
 - (b) To coordinate creativity through its assistance, scheduling and communication.
 - (c) To sponsor and encourage cultural and educational activities in the City and its surrounding areas.
 - (d) To act for all the people as the means towards the end result of making the Rockford area more habitable and improving the quality of life by sponsoring cooperative planning, research, fund raising, public education programs, and fostering a creative atmosphere.
 - (e) To undertake such other services and programs deemed necessary to encourage participation and appreciation of the arts by all citizens in the Rockford area.
- (2) Members. The Area Arts Commission shall consist of eleven (11) members to be appointed by the Mayor subject to confirmation by a majority of the City Council.

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At least three shall be lay members, the others having diverse interests in theater, arts, hobbies, crafts, science and architecture. The commissioners shall be representative of the whole community, knowledgeable in such vocations as education administrator, art educator, artist, corporate executive, clergy, student, civic, lawyer, media, as well as representative of finance, merchants and retirees.

- (3) Terms. Appointments to the Area Arts Commission for one (1), two (2) and three (3) year terms with one-third of the terms expiring each year in the beginning, and hereafter all appointments shall be for three (3) year terms, provided that any vacancy shall be filled for the unexpired term.
- (4) Organization. The Area Arts Commission may organize and elect a chairperson annually and adopt such administrative procedures as are necessary to accomplish the purposes enumerated herein. City officers and the staff of City departments may consult and advise with the Commission from time to time on matters coming within the scope of this Chapter; and, the Area Arts Commission may likewise consult and advise with such officers and staff.
- (5) Organizational Meeting. An annual meeting of the Arts Commissioners shall be held the fourth Monday of July each year to elect its chairperson and to transact such other business as may be necessary. The chairperson shall determine that there is a quorum of at least six (6) Commissioners present before any meeting may transact any business.
- (6) Performance of Duties. The Commissioners shall use their best efforts to carry out in good faith the powers and duties set forth in Section 1.5(C).
- (7) Funds. All monies collected by the Commission shall be held by the City Treasurer in a separate City account. Said monies shall be expended and drawn from the separate City account as authorized by voucher from time to time by the Area Arts Commission.

(D) DOWNTOWN DEVELOPMENT AUTHORITY

- (1) Definitions. The terms used in this Chapter shall have the same meaning as given to them in Act 197 of the Public Acts of Michigan of 1975, as amended or as hereinafter in this Section provided unless the context clearly indicates to the contrary. As used in this Chapter:
 - (a) “Authority” The Rockford Downtown Development Authority created by this Chapter.
 - (b) “Act 197” Act No. 197 of the Public Acts of Michigan of 1975; as amended, being MCLA 125.1651 *et seq.*; MSA 5.3010 (1) *et seq.*
 - (c) “Board or Board of Trustees” The Board of Trustees of the Authority; the governing body of the Authority.

- (d) “Chief Executive Officer” The City Manager of the City.
 - (e) “Downtown District” The downtown area designated by this Chapter as now existing or hereafter amended.
- (2) Determination of Necessity. The City Council hereby determines that it is necessary for the best interest of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City, to eliminate the causes of that deterioration and to promote economic growth by establishing a downtown development authority pursuant to Act 197.
- (3) Creation of Authority. There is created pursuant to Act 197 a downtown development authority for the City of Rockford, Michigan. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of “Rockford Downtown Development Authority.” The Authority may adopt a seal, may sue and be sued in any court for this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by the Chapter and Act 197. The enumeration of a power in this Chapter or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.
- (4) Board of Trustees.
- (a) The Authority shall be under the supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the City and ten (10) members as provided by Act 197. All members shall be appointed by the Chief Executive Officer subject to the approval of the City Council.
 - (b) Five (5) members shall be persons having an interest in property located in the downtown district. If the downtown district has 100 or more persons residing within it, not less than one (1) of the members of the Board must be a resident of the district. Of the members first appointed, three (3) each shall be appointed for one (1) year and two (2) year terms; and two (2) each shall be appointed for three (3) year and four (4) year terms. A member shall hold office until the member’s successor is appointed. Thereafter, each member shall serve a term of four (4) years. An appointment to fill a vacancy shall be made by the Chief Executive Officer subject to the approval of the City Council, for the unexpired term only.
 - (c) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.
 - (d) The Chairperson of the Board shall be elected by the Board.
 - (e) The business which the Board may perform shall be conducted at a public meeting of the Board held in compliance with Act No. 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 of the Michigan Compiled Laws. The Board shall adopt rules consistent with the Act governing its

procedure and the holding of regular meetings, subject to the approval of the governing body.

- (f) Pursuant to notice and after having been given an opportunity to be heard, a member of the Board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.
 - (g) Records of the authority shall be available to the public in compliance with Act 442 of the Public Acts of 1976, being Sections 15.231 to 15.246 of Michigan Compiled Laws.
- (5) Powers of Authority. Except as specifically otherwise provided in this Chapter, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein. The Authority shall have the power to levy ad valorem taxes on real and tangible personal property not exempt by law and as finally equalized in the downtown district at a rate of not more than two (2) mills each year if the City Council annually approves the levy of the Authority.
- (6) Director; Bond. If a Director is employed as authorized by Section 5(1) of Act 197, he shall post bond in the penal sum of \$5,000.00 as required by said statutes, payable to the Authority for use and benefit of the Authority, and filed with the City Clerk. Said bond shall be deemed an operating expense of the Authority, payable from funds available to the Authority for expenses of operation.
- (7) Fiscal Year; Adoption of Budget.
- (a) The fiscal year of the Authority shall begin on July 1 of each year and end on June 30 of the following year or such other fiscal year as may hereafter be adopted by the City.
 - (b) The Board shall annually prepare a budget and shall submit it to the Council on the same day that the proposed budget for the City is required by the City Charter to be submitted to the City Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so.
 - (c) The Authority shall submit financial reports to the City Council quarterly. All expense items shall be publicized monthly. The Authority shall be audited annually by the same independent auditing firm auditing the City and copies of the audit report shall be filed with the City Clerk.
- (8) Downtown District. The Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the following described territory in the City, subject to any changes as may hereinafter be made pursuant to this Section and Act 197.

- (a) An area in the City of Rockford, Michigan, with the boundaries described as follows: Commencing at the Southwest corner where the Rogue River intersects with 10 Mile (Division Street) Road; thence East along the South Right-of-Way of 10 Mile (Division Street) Road to the Southeast corner of 10 Mile (Division Street) Road and Monroe Street; thence North along the East Right-of-Way of Monroe Street to a point 347.0 feet North of the centerline of Courtland Street; thence West 165.0 feet; thence North 8.61 feet, more or less; thence West 132.0 feet to the East Right-of-Way of Main Street; thence North along the East Right-of-Way of Main Street 1310.0 feet, more or less; to a point 185.0 feet, more or less; South of the centerline of Lewis Street; thence Northwest perpendicular to Main Street to the West border of the Rogue River; thence South along the West border of the Rogue River to the point of beginning.
- (9) COUNCIL DETERMINATION. Based on a public hearing held on January 13, 1992 in compliance with the provisions of Act 197, P.A. of 1976, and related to the Downtown Development Authority's Development Plan revisions presented at the time, the original Development Plan and the Financing Plan having been reviewed and approved previously, the City Council hereby determines that:
- (a) The development plan as revised constitutes a public purpose;
 - (b) The financing plan (tax increment financing and millage levy) constitutes a public purpose;
 - (c) The development and financing plans meet the requirements set forth in Section 17(2) of Act 197;
 - (d) The proposed method of financing the development is feasible and the Authority has the ability to arrange financing;
 - (e) The development is reasonable and necessary to carry out the purpose of this act;
 - (f) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this Act in an efficient and economically satisfactory manner;
 - (g) The development plan is in reasonable accord with the overall development philosophy of the City;
 - (h) Public services, including fire and police protection and utilities, are adequate to service the project area;
 - (i) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project.

- (10) APPROVAL OF PLAN. The development and financing plans for the Downtown Development Authority district as recommended by the Authority and presented at the public hearing on November 17, 1986 is hereby approved and adopted. The revised development plan for the Downtown Development Authority district as recommended by the Authority and presented at the public hearing on January 13, 1992 is hereby approved and adopted.
- (11) Approval of Millage Levy. A two-mill ad valorem tax levy on real and personal property not exempt from law within the downtown district is hereby approved as permitted by Act 197.

(E) ELECTED OFFICIALS' COMPENSATION COMMISSION

- (1) Elected Officials' Compensation Commission Established. In accordance with Public Act No. 8 of the Michigan Public Acts of 1972, an Elected Officials' Compensation Commission is created.
- (2) Members. The Elected Officials' Compensation Commission shall consist of five (5) members, who are registered electors of the City of Rockford, appointed by the Mayor subject to confirmation by a majority of the City Council.
- (3) Terms. Appointments of the Commission shall be for five (5) years; however, of the first members appointed, one each shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years. Members shall be appointed before July 1 of the year of appointment. After the initial appointments, all terms shall begin July 1 and end on June 30. Vacancies shall be filled for the unexpired term. No member or employee of the legislative, judicial or executive branch of any level of government, or members of the immediate family of such member or employee, shall be eligible to be a member of the Commission.
- (4) Performance of Duties. The Commission shall determine the salaries of the Mayor and members of the City Council, which determination shall be such salaries unless the Mayor and the City Council by resolution adopted by two-thirds of the members elected to and serving on the City Council reject them. The determination of the Commission shall be effective thirty (30) days following their filing with the City Clerk, unless rejected by the City Council. In case of rejection, the existing salary shall prevail.
- (5) Meetings: Quorum. The Commission shall meet for not more than fifteen (15) session days in every odd-numbered year, and shall make its determination within forty-five (45) calendar days of its first meeting. A majority of the members of the Commission shall constitute a quorum for conducting the business of the Commission. The Commission shall not take action or make determinations without a concurrence of a majority of the members appointed and serving on the Commission. The Commission shall elect a chairperson from among its members. Session days shall be any calendar day on which the Commission

meets and a quorum is present. The members of the Commission shall receive no compensation.

(F) CITY PLANNING COMMISSION

- (1) Commission Continued. The City Planning Commission heretofore established under and pursuant to Act 285 of the Public Acts of Michigan of 1931, as amended, is continued.
- (2) Members. The Planning Commission shall consist of nine members, who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor, but such appointments shall always be subject to the approval of a majority vote of the City Council. All members of the Planning Commission shall serve as such without compensation and no member of the Planning Commission shall hold any other municipal office except that one member may be a member of the Zoning Board of Appeals. The term of each member shall be three years, or until his successor takes office. However, the terms of the three members initially appointed to replace the ex-officio members, i.e., the Mayor, a City Councilman and a City Administration Officer, who formerly comprised a portion of the Planning Commission shall be as follows: one member shall serve for one year, one member shall serve for two years, and one member shall serve for three years. Thereafter, all three shall serve three year terms or until his successor takes office. Members may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of terms, shall be filled for the unexpired term by the Mayor subject to the approval by a majority vote of the City Council.
- (3) Organization; Meetings. The Planning Commission shall elect its chairman and a secretary from the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for re-election. The Planning Commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.
- (4) Employees; Funds. The Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the City. The Planning Commission may also contract with City planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council which shall provide the funds, equipment and accommodations necessary for the Planning Commission's work.

(5) Master Plan.

- (a) The Planning Commission shall make and adopt a master plan for the physical development of the City, including any areas outside of its boundaries which, in the Planning Commission's judgments, bear relation to the planning of the City. The plan, with the accompanying maps, plats, charts and descriptive matter shall show the Planning Commission's recommendations for the development of the territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, flood plains, waterfronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; the general locations, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
- (b) The Planning Commission shall also recommend to the City Council from time to time such amendments, changes, supplements, modifications and revisions to the Zoning Ordinance attached as Appendix A to this Code, including a zoning plan or plans for all lands and territory which may be added to the City from time to time, for the control of the height, area, bulk, location and use of buildings and premises, to carry out proper City planning, but a public hearing, with the notice thereof given in accordance with the requirements of Act No. 207 of the Public Acts of Michigan of 1921, as amended, shall always be held by the Planning Commission before a zoning plan or any amendments or supplements thereto are recommended to the City Council.
- (c) The Planning Commission may from time to time adopt and publish a part or parts of the proposed master plan, any such part to cover one or more major sections or divisions of the City or one or more of the aforesaid or other functional matters to be included in the plan. The Planning Commission may from time to time amend, extend, or add to the plan.
- (d) In the preparation of the plan, the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the City and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with

the present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

- (e) The Planning Commission may adopt the master plan of the City as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical section or divisions of the municipality and surrounding areas or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the Planning Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given, not less than fifteen (15) days prior to such hearing, by one (1) publication in newspaper of general circulation in the City, and by registered United States mail to each public utility company and to each company owning or operating any public utility or railway in the geographical sections or divisions of the City. The adoption of the plan or any such part or amendment or extension or addition shall, by resolution of the Planning Commission, be carried by the affirmative vote of not less than six members of the Planning Commission. The resolution shall refer expressly to the maps and the descriptive and other matter intended by the Planning Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan the descriptive matter by the identifying signature of the chairman and/or secretary of the Planning Commission. An attached copy of the plan or part thereof shall be certified to the City Council and to the Kent County Register of Deeds.
- (6) Public Works Approval. Whenever the Planning Commission shall have adopted the master plan of the City or of one or more major sections or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure, shall be constructed. or authorized in the City or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the Planning Commission; provided, that in case of disapproval, the Planning Commission shall communicate its reasons to the City Council which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its' entire membership: Provided, however, that if the public way, ground, space, building, structure or utility be one, the authorizing or financing of which does not under the law or charter provisions governing same, fall within the province of the City Council, then the

submission to the Planning Commission shall be by the board, commission or body having such jurisdiction, and the Planning Commission's disapproval may be overruled by said board, commission or body by a vote of not less than two-thirds of its membership. The failure of the Planning Commission to take final action, within sixty days from and after the date of official submission to it, shall be deemed approval. For the purpose of furthering the desirable future development of the City under the master plan, the Planning Commission, after the Planning Commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The Planning Commission shall annually prepare such a program for the ensuing six years, which program shall show those public structures and improvements, in the general order of their priority, which in the Planning Commission's, judgment will be needed or desirable and can be undertaken within the six year period. The above comprehensive coordinated programs shall be based upon the requirements of the City for all types of public improvements, and, to that end, each agency or department of the City shall, upon request, furnish the Planning Commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department or agency.

- (7) Street Improvements. Whenever the City Council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the City Council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter have been referred back to the City Planning Commission for a report and until after a public hearing has been held. The City Council shall have the power to overrule the recommendation of the City Planning Commission by a vote of not less than two-thirds of its entire membership.
- (8) Plan Publicity. The Planning Commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the Planning Commission, when duly authorized by the Planning Commission, may attend City planning conferences or meetings of city planning institutes, or hearings, upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The Planning Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens with relation to the protecting or carrying out the plan. The Planning Commission shall have the right to accept and use gifts for the exercise of its functions. All City officials and employees shall, upon request, furnish to the Planning Commission, within a reasonable time, such available information as it may require for its work. The

Planning Commission, its members, officers and employees, in the performance of their function, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon. In general, the Planning Commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this Chapter.

- (9) Plat Approval. Whenever the Planning Commission shall have adopted that sort of a master plan relating to the major street system of the territory within the City or part thereof, and shall have filed a certified copy of such plan in the office of the Kent County Register of Deeds, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the Planning Commission and such approval entered in writing on the plat by the Chairman or Secretary of the Planning Commission.
- (10) Subdivision Regulations. The Planning Commission may adopt regulations governing the subdivision of land within its jurisdiction, but such regulations shall not conflict with any provision of this Code.

CHAPTER 2 UTILITIES AND SERVICES

SECTION 2.1 GARBAGE AND RUBBISH

- (A) Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:
- (1) The word “garbage” shall be construed to mean all forms of animal, fruit or vegetable matter, including fowl and fish, that is discarded, rejected, accumulated or stored as unfit for use as food.
 - (2) The word “rubbish” shall be construed to mean non-putrescible solid wastes consisting of both combustible and non-combustible wastes such as paper, cardboard, metal containers, yard clippings, leaves, wood, glass, bedding, crockery, demolished building materials or litter of any kind that will be a detriment to the public health and safety.
- (B) Depositing. It shall be unlawful for any person to deposit or place any garbage or rubbish in any alley, street, creek, lake, park, or other public place or premises within the City.
- (C) Containers. It shall be unlawful for any person to deposit or place any garbage or rubbish upon the private property of any other person within the City. It shall be unlawful for any person to deposit or place any garbage or rubbish, except for bulk items, leaves, yard waste and ashes, upon his own private property within the City unless the same shall be enclosed in a suitable can, vessel, tank or container which shall be water tight and which shall be fitted with a cover suitable to keep out water and to exclude flies and animals and to keep odors and other harmful material from escaping therefrom. Such container shall be kept covered except when garbage is being deposited in or removed from such container. On the day said garbage or refuse is to be collected it may be contained in closed or sealed polyethylene bags.
- (D) Containers; How Kept. Such garbage can, vessel, tank or container shall be of suitable and convenient size to be handled by a garbage collector, except that stores and other business establishments may have and maintain a suitable receptacle of such size as may be necessary to properly take care of all garbage and rubbish from such establishments. The same shall be kept upon the owner’s premises at a place readily accessible for collection of garbage and rubbish, and any person other than the owner or a licensed garbage collector who carries away, destroys or in any manner interferes with such garbage or rubbish container, shall be guilty of a violation of this Code.
- (E) Removal From Premises. It shall be unlawful for any person not to have accumulations of garbage and/or rubbish removed from his premises at least once weekly unless such is otherwise lawfully disposed of.

- (F) Presumption. The fact that garbage or rubbish remains on any occupant’s premises in the City in violation of this Chapter shall be prima facie evidence that the owner and/or occupant of such premises is responsible for the violation of the Chapter occurring.
- (G) Collector’s License Required. No person shall engage in the business of collecting and disposing or transporting of garbage or rubbish, or removing same for hire, or hauling same through the streets, alleys or other public places in the City without first having obtained a license as a garbage collector and paid the fee therefor.
- (H) License Fee. The fee for each such license shall be established by resolution of the City Council from time to time.
- (I) Rules and Regulations. The City Council may promulgate such rules and regulations for the collection and disposal of garbage and rubbish as it may deem necessary for the preservation of the public health and welfare, and may change, amend, add to and revoke the same from time to time as circumstances may demand in accordance with Section 1.1(N) of this Code. Failure of a licensee to comply with such rules and regulations as may from time to time be made by the City Council of said City, shall be cause for revocation of the license. When a license is once revoked, a new license shall not be issued until the City council is satisfied that the applicant will comply with the rules and regulations relative to the collection and disposition of garbage and/or rubbish.
- (J) Use of Landfill. It shall be unlawful for any licensee under this Chapter to dispose of any garbage or rubbish except at a licensed sanitary landfill designated by the City.

SECTION 2.2 CITY WATER SYSTEM

- (A) Definitions. In the interpretation of this Chapter, the following definitions shall apply unless the context clearly indicates otherwise:
 - (1) “Backflow” means water of questionable quality, wastes or other contaminants entering a public water supply system due to a reversal of flow.
 - (2) “Cross-connection” means a connection or arrangement of piping or appurtenances through which a backflow could occur.
 - (3) “Department” shall mean the Water Department of the City.
 - (4) “Secondary water supply” means a water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources not meeting the requirements of Act No. 98 of the Public Acts of 1913, as amended, being Sections 325.201 to 325.214 of the Compiled Laws of 1948, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

- (5) “Submerged inlet” means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminants and which is unprotected against backflow.
- (6) “Water connection” shall mean that part of the water distribution system connecting the water main at the curb cock with the premises served.
- (7) “Water main” shall mean that part of the water distribution system located within easement lines or streets designed to supply more than one (1) water connection.
- (B) Water Connection Required. The owner of each house, building and other property used for human occupancy, employment, recreation or other purposes situated within or outside the City and abutting any street, alley or right-of-way in which there is located, or may in the future be located, a public water main served by the City water distribution system, shall, at his/her expense, within 180 days after said public water main becomes available, install suitable plumbing facilities therein and to connect such facilities directly to the public water distribution system, provided said public water main is within a 200 foot radius of the house, building or other structure where connection will occur. All water usage at such connected house, building and other property shall be through the public water distribution system and private water wells shall not be permitted to provide any water service to such house, building and other property. If a public water main is not located within a 200 foot radius of the house, building or structure to which a connection would be made, a written request to waive the connection required must be made to the City Manager. The City Manager may grant such waiver based upon the circumstances presented.
- (C) Service Connections. Applications for water connections shall be made to the Department on forms prescribed and furnished by it. Water connections, plumbing and water meters shall be installed in accordance with rules and regulations promulgated pursuant to Section 1.1(N) of this Code and upon payment of the connection fee and meter installation fee set from time to time by the City Council. All meters and water connections shall be the property of the City. All fees charged by the City related to providing water service shall not be less than the cost of materials, installation and overhead attributable to such installations. Water service will not commence until payment in full for the installation has been made to the City. In case of nonpayment, the cost of the installation shall be placed on the first City ad valorem property tax roll following the installation and become a lien on the property served. Construction of a water service line shall be done as expeditiously as possible after written notice to proceed, but the time for construction shall be at the convenience of the City.
- (D) Institution of or Restarting Water Service. Written notice given not less than 48 hours in advance shall be made to the City by the property owner when water service is desired. It shall be unlawful for any person to connect to or use water supplied by the City without first giving notice as provided herein. The City reserves the right to request a nominal

sum be placed on deposit with the City for purpose of establishing or maintaining any customer's credit.

- (E) Meters. The City reserves the right to determine the size and type of meter used. The City reserves the right to require the installation of remote meter reading equipment. The cost of said equipment and installation cost shall be charged to the owner at the prevailing rates and cost of material and labor.
- (F) Access to Meters. The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of readings, testing, removing, or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.
- (G) Reimbursement for Damage. Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the City on presentation of a bill therefore; and in cases where the bill is not paid, the water may be shut off and shall not be turned on until all charges have been paid to the City.
- (H) Turning on Water Service. Only personnel authorized by the Department shall operate any water main valve or curb box on public property, or within a public easement or right-of-way. Any curb stop found in the "on" position and a meter bar installed on the meter setting without prior authorization of the Department shall be an unlawful use of public water and the contractor or plumber installing such meter bar or the owner of the property benefiting from such water use shall pay the City a penalty of \$500 for each violation. A request for water service shall be submitted to the Department at least twenty-four (24) hours in advance of the time such service is required.
- (I) Hydrant Use. No person, except an employee of the City in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the department and paying such charges as may be prescribed.
- (J) Discontinuance of Service. In the event a water customer desires water service to be discontinued, said customer shall so request in writing not less than 48 hours prior to time of such discontinuance of service is desired.
 - (1) The City will not recognize the discontinuance of water service unless the provisions of the foregoing paragraph have been fully complied with. Under any other circumstances, discontinuance of service will be charged to the customer at the actual cost of labor, materials and equipment.

- (2) The City may refuse or discontinue water service for any violation of any rule, regulation, or condition of service.
- (K) Shut off of Water. The City reserves the right at all times (and will endeavor to give due notice) to shut off the water at the water mains or to require reduced use or no use of the water distribution system for the purpose of making repairs or extensions or for other purposes. All persons having equipment on their premises and depending on water from the water mains are hereby cautioned against danger which might arise from emergency shutting off of water. In the event of such emergency, the City Manager may designate in any notice the extent of any regulation, limitation or prohibition and the date and time on which it shall take effect.
- (L) Responsibility for Damages. The City will not be responsible for any damages because of failures of or within the water distribution system, or actions by the City to correct such failures.
- (M) Curb Box. No person shall remove the cover from any curb box or place any dirt, stone or other obstruction in it or tamper with any meter or commit any act tending to obstruct the use thereof.
- (N) Unlawful Connections. No person shall make a connection on a service line between the water meter and the street mains, or install a by-pass around the meter.
- (O) Cross-Connections Control. The City shall eliminate and prevent all cross-connections pursuant to the plan submitted to and approved by the Department of Public Health, pursuant to the requirements of Sections 325.11401 through 325.11407 of the 1979 Michigan Administrative Code, as the same may be amended or replaced from time to time.
- (P) Cross-Connections Prohibited
- (1) A cross-connection shall not be made between the water distribution system and a secondary water supply.
 - (2) A cross-connection shall not be made by submerged inlet.
 - (3) A cross-connection shall not be made between the water distribution system and piping which may contain sanitary waste or a chemical contaminant.
 - (4) A cross-connection shall not be made between the water distribution system and piping immersed in a tank or vessel which may contain a contaminant.
- (Q) Inspections. It shall be the duty of the Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Department and as approved by the Michigan Department of Public Health.

- (R) Right of Entry. The representative of the City shall have the right to enter at any reasonable time any property served by a connection to the water distribution system for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
- (S) Protection of Water Supply. The potable water supply made available on the properties served by the water distribution system shall be protected from possible contamination as specified by this Chapter and by the State of Michigan and City plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as water unsafe for drinking.
- (T) Other Laws. If any provisions of this Code or any ordinances of the County or any statutes of the State of Michigan, shall impose greater restrictions than herein set forth, then such provisions or statutes shall control.
- (U) Lawn Sprinkling. The City Manager, subject to approval by the City Council, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for fire fighting. No such regulation, limitation or prohibition shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the City, except in an emergency as may be deemed by the City Manager. In the case of such emergency the regulation, limitation or prohibition shall be and take effect as indicated by the City Manager and notice shall be given on the local radio station. Any person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in Chapter 1 of this Code.
- (V) Additional Regulations. Rules and regulations concerning the water distribution system may be established pursuant to Section 1.1(N) of this Code. The rules and regulations now in effect shall continue until changed in accordance with this Section.
- (W) Injury to Facilities. No person, except an employee of the City in the performance of his duties, shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the water distribution system.

SECTION 2.3 SANITARY SEWER CONNECTION AND USE

- (A) **Purpose**. The purpose of this Section of the Rockford City Code is:
 - (1) To require connection to and use of the public sewer for premises to which it is available, as defined by this Ordinance;

- (2) To prohibit and regulate the disposal of waste other than through use of the public sewer;
- (3) To regulate the manner of connection to the public sewer; and
- (4) To regulate the substances introduced into the public sewer, in order to protect the public sewer, and its customers, and also to protect and assure the safety and function of the sewer mains, lift stations, and other facilities which transmit sewage from the City of Rockford and other communities to the PARCC Side Clean Water Plant.

(B) **Coordination with NKSA Rules and Regulations.**

(1) The North Kent Sewer Authority, with the concurrence of the City of Rockford and other constituent members of the NKSA, have adopted the “North Kent Sewer Authority Rules and Regulations”, which rules are amended from time to time. These Rules and Regulations apply throughout the territory of the City of Rockford, and the Director of the NKSA is authorized to enforce them within the City. The Rules and Regulations are primarily intended to protect the PARCC Side Clean Water Plant (sometimes known as the “publicly owned treatment works” or “POTW”) from the introduction of sewage with characteristics which would interfere with the proper treatment of waste at the POTW, which could not be treated in such a manner as to achieve compliance with the POTW’s permits, or other laws, or which could be damaging to the processes of the POTW or dangerous to persons working at the POTW. The Rules and Regulations apply primarily to customers which generate wastes which are not defined as normal strength domestic wastes including industrial users. The Rules and Regulations do, in addition, contain prohibitions against substances which may be placed into the public sewer which apply to all customers of the public sewer.

(2) Regulation of substances placed into the public sewer have also the purpose of protecting the public sewer collection system within the City of Rockford, and accordingly are regulated by this Section, and violations are enforced by the City.

(3) In the case of a conflict between a provision of this Ordinance and the Rules and Regulations to a customer which generates non-domestic waste, the Rules and Regulations shall control. In the case of a violation pertaining to the character of waste water placed into the system by a commercial or domestic user, the City shall advise the Director of the NKSA of the enforcement action to be taken by the City, and coordinate enforcement actions with the NKSA as appropriate in the circumstances.

(C) **Definitions.**

The following words and phrases shall have the meanings respectively ascribed to them by this subsection unless the context in which they are used specifically indicates otherwise.

- (1) *Authorized Representative:*

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- (a) In the case of a corporation, a president, secretary, treasurer or vice president of the corporation in charge of a principal business function;
- (b) In the case of a limited liability company a principal managing member or the member in charge of the principal business functions;
- (c) In the case of a partnership or proprietorship, a general partner or proprietor; and
- (d) An authorized representative of the individual designated above if: (i) such a representative is responsible for the overall operation of the facilities from which the discharge into the public sewer originates; (ii) the authorization is in writing; and (iii) the written authorization is submitted to the public sewer.

(2) *City Manager* – The Rockford City Manager or his or her designated representative responsible for the administration and enforcement of this section. For some purposes, the City Manager may designate the Director of the NKSA as his designated representative.

(3) *Clean Water Act* - The Federal Water Pollution Control Act, 33 USC Sec. 1251 et seq., as amended and applicable regulations promulgated thereunder.

(4) *Combined Sewer* - Any sewer designed or intended to receive both stormwater and sewage.

(5) *Commercial User* - A person or entity whose premises are used to offer services and/or products such as retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, hospitals, warehouses, private clubs, theaters and governmental buildings. However, some commercial users may also be designated as Significant Industrial Users (SIU) according to the Rules and Regulations.

(6) *Confined Space, Permit Required* - Space defined by reference to Part 90 of Act 154 of the Public Acts of Michigan of 1974, as amended, Section 408.1001 et seq. of the Michigan Compiled Laws.

(7) *Director* - The Director of the NKSA.

(8) *Discharger* - Any person or entity owning, controlling or operating any real property which directly or indirectly utilizes the public sewer. The term “user” and “customer” are sometimes used synonymously with “discharger”. *Discharger* also means any employee, officer, director, partner, member, contractor or other person who participates in, or is legally or factually responsible for, any act or omission which is a violation of this Chapter or which results in a violation of this Chapter. This definition shall be interpreted broadly to include any person or entity who participates in an act or omission that results in a violation of this Chapter.

- (9) *Domestic User* - A person or entity whose premises are domiciles for single or multiple family use.
- (10) *Effluent* - Waste material (as smoke, liquid, industrial refuse or sewage) discharged into the public sewer.
- (11) *Enforcement Action* - Action taken to return a user into a state of compliance with the standards established in this Chapter of this Code. This may include, but is not limited to, fines, penalties and injunctive relief.
- (12) *Extraordinary Customer Fee* – A fee imposed by order of the City Manger or City Council against a premises to recover the cost and expense incurred as a result of violation of this Ordinance, or other action which caused expense to the City.
- (13) *Garbage* - Animal and plant waste resulting from the handling, preparation and cooking of foods.
- (14) *Grease Trap* – A device designed to intercept, separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the public sewer.
- (15) *Industrial Effluent* - Waste matter or material discharged into the public sewer from any non-domestic source subject to regulation under Section 307(b), (c), or (d) of the Clean Water Act.
- (16) *Industrial User* - Any person or entity that discharges into the public sewer from any non-domestic source subject to regulation under Section 307(b), (c), or (d) of the Clean Water Act.
- (17) *Industrial Waste* - Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.
- (18) *Infiltration* - The water entering the public sewer, including sewer service connections, from the ground, through such manner as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- (19) *Inflow* - The water discharged into the public sewer, including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm drains and combined sewers, catch basins, stormwater, surface run-off, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
- (20) *Interceptor Sewer Lines* - Those lines whose basic function is to collect wastewater from two (2) or more separate trunk sewer lines and to transport such wastewater to the sewage treatment plant.

- (21) *Interference* - A discharge, which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW collection, treatment processes or operations, or its sludge processes or operations, use, disposal, or causes a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of the violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or any more stringent State or Local regulations: Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act and the Marine Protection, Research and Sanctuaries Act.
- (22) *Lateral Sewer Line* - A sewer pipe beginning at the local collector sewer or other connection point and extending to the premises actually served. The lateral sewer includes the publicly owned stub to which a user connects, as well as the pipes located on the premises, which are owned by the property owner.
- (23) *MDEQ* – The Michigan Department of Environmental Quality.
- (24) *NKSA* – The North Kent Sewer Authority.
- (25) *NPDES* - National Pollution Discharge Elimination System, a permit issued pursuant to Section 402 of the Act (33 USC 1342), as amended.
- (26) *Pass Through* - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase of the magnitude of duration of a violation).
- (27) *Person or Entity* - An individual, firm, partnership, association, public or private corporation, limited liability company or public agency or instrumentality.
- (28) *pH* - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.
- (29) *Pollutant* - The term includes, but is not limited to: any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial and agricultural waste or any other contaminant or other substance defined as a pollutant under the Clean Water Act.
- (30) *POTW* (Publicly Owned Treatment Works) – The PARCC Side Clean Water Plant, and all sewers, pipes and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in Section 502(4) of the

Clean Water Act which has jurisdiction over the indirect discharges to and the discharges from such treatment works.

- (31) *Premises* - Each lot or parcel of land or building having any connection directly or indirectly to the public sewer.
- (32) *Property Owner* – Any person having legal or equitable title to real property or any person having or exercising care, custody or control over any real property.
- (33) *Public Sewer* - Local collector, trunk and interceptor sewer lines including lift stations and all appurtenances, now or hereafter existing, used or useful in connection with the collection, pumping, disposal and treatment of sewage, as now or hereafter added to, expanded or improved which are owned or controlled by the City.
- (34) *Rules and Regulations* – The North Kent Sewer Authority Rules and Regulations adopted in 2008, including all subsequent amendments.
- (35) *Sewage* - Any liquid or water carried waste received from domestic, commercial and industrial customers, including any infiltration or inflow as may be present.
- (36) *Sewage Treatment Plant* - Any arrangement of devices and structures used for treating sewage.
- (37) *Sewer* - Any pipe or conduit for the conveyance of Sewage.
- (38) *Significant Industrial User* - Any discharger to the POTW who: (i) has a discharge flow of twenty-five thousand (25,000) gallons or more of process wastewater per day (excluding sanitary, non-contact cooling and boiler blowdown wastewater) or contributes a process wastestream which makes up more than five (5) percent of the average dry weather hydraulic or organic capacity of the plant, as determined by the Director under authority of 40 CFR 403.12(a) and in Rule 323.2302 of the Michigan Administrative Code on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6) and Rule 323.2306(h) of the Michigan Administrative Code) or discharges or has the potential to discharge wastes having toxic pollutants as defined pursuant to Section 307 of the Clean Water Act or; (ii) is found by the Director, Michigan Department of Environmental Quality (MDEQ) or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system the quality of sludge, the system's effluent quality or air emissions generated by the system, or; (iii) is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and Rule 323.2311 of the Michigan Administrative Code and 40 CFR Chapter I, Subchapter N. Upon a finding that an industrial user meeting criteria (i) of this definition has no reasonable potential for adversely affecting the

POTW's operation or for violating any pretreatment standard or requirement, the Director may at anytime, on his/her own initiative, or in response to a petition received from an Industrial User or the POTW, and in accordance with 403.8(f)(6) and Rule 323.2306(h) of the Michigan Administrative Code, determine that such industrial user is not a Significant Industrial User.

- (39) *Storm Drain* - Any underground pipe or any facility intended to convey only storm water runoff, street wash waters, groundwater and drainage. This also includes discharges allowed by State or Federal discharge permits.
- (40) *System* – Refers to the Public Sewer and the POTW.
- (41) *Toxic Pollutant* - Any pollutant identified pursuant to Section 307 of the Clean Water Act, or pursuant to Part 31 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, or pursuant to any other applicable laws or regulations.
- (42) *User Class* - Either a domestic, commercial or industrial group of users.
- (43) *USEPA* – The United States Environmental Protection Agency.
- (44) *Wastewater* - Water, or any liquid, whether or not containing pollutants, which is discharged or permitted to be discharged into the sanitary sewer system.
- (45) *Utilities Department*- The Department of the City of Rockford that is responsible for the reading of meters, submitting bills for water and/or sewer service, collection of payment for bills and the preparation and maintenance of the customer accounts including applications for service.

(D) **Management and Inspection.**

(1) **Management of the Public Sewer**

The Public Sewer shall be and remain under the management, supervision and control of the City Manager. The City Manager may make such rules, orders or regulations as are deemed advisable and necessary to assure the efficient management and operation of the public sewer, subject, however, to the rights, powers and duties with respect thereto which are reserved by law to the City Council of the City of Rockford.

(2) **City Manager's Emergency Authority.**

When a necessary or advisable emergency protective measure or action is required, the City Manager, or his designee, is authorized to cause such measures and actions to be taken as authorized by law. The cost of such protective measures or actions shall be at the expense of the property owner responsible for such measure or action and may be imposed as an Extraordinary Customer Fee.

(3) **Inspection.**

The City Manager and other duly authorized employees of the City of Rockford bearing proper credentials and identification shall be permitted to enter upon all premises at reasonable times for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. Any person who uses, applies for use and/or is connected to the public sewer shall be deemed to have consented to inspections pursuant to this Section, including entrance upon that person's property at reasonable times to make inspections. In the event that a violation of this Section is identified the property owner shall be responsible for all costs of inspection and remediation if necessary.

(E) **Disposal of Wastes; Private Sewage Disposal Systems.**

(1) **Waste Deposits.** It shall be unlawful for any person to place or deposit or permit to be deposited in an unsanitary manner upon any public or private property within the City any human or animal excrement, garbage or other objectionable waste.

(2) **Water Pollution.** It shall be unlawful to discharge into any natural watercourse or any storm sewer within the City any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with the standards of the City and the State.

(3) **Privies and Septic Tanks.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, portable toilet, septic tank, cesspool or other facility intended or used for the disposal of sewage. Upon approval of the City Manager or his designee, privies, portable toilets or similar facilities may be permitted for a 48 hour maximum time limit for private lot use, and for a limited period of time in connection with sponsored special events and at construction sites subject to such terms and conditions as shall be imposed by the City Manager or his designee. The Rockford Public School properties are exempt from this ordinance.

(4) **Private Sewer Systems.** Where a public sewer is not available under the provisions of Section 2.3(F) below, the building sewer shall be connected with a private disposal system complying with the regulations and orders of the State of Michigan, the County of Kent and the City. Said private disposal systems shall be subject to an inspection by a qualified person or firm, at the expense of the property owner, proof of which inspection must be forwarded to the City. Inspections shall be required at least every three (3) years. The City will notify the property owner when the cleaning and inspection is due and provide paperwork and forms for the required reporting.

- (5) **Maintenance of Private Sewer Systems.** The owners of private sewer systems shall operate and maintain the private disposal facilities in a sanitary manner at all times at no expense to the City.

(F) **Required Connection to Public Sewer**

- (1) **Sewer Connection Required.** The owner of each house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City (1) abutting on any street, alley or right-of-way in which there is located, or may in the future be located, a public sewer of the City; and (2) the nearest point of which building is within 200 feet of said sewer shall, at his expense, install suitable plumbing facilities therein and connect such facilities directly to the Public Sewer system, within 180 days after said public sewer becomes available. For purposes of this section, a Public Sewer so located is considered to be “available” to the building.
- (2) **Discontinuance of System.** At such times as a public sewer becomes available to a property served by a private disposal system, as provided in Section 2.3(F)(2), a direct connection shall be made to the public sewer within 180 days after it becomes available in compliance with the provisions of this Chapter, and any septic tank, privy, privy vault, cesspool or similar private disposal facility shall be abandoned and filled with suitable material.

(F) **Use of the Public Sewer.**

Any person or entity conforming to the standards, rules and regulations established in, or pursuant to, this Chapter shall be permitted to discharge effluent into an available Public Sewer, provided there exists adequate capacity in the Public Sewer and POTW.

(G) **Application for Sewer Service**

- (1) **Application.** A user desiring to obtain sewer service shall make application on forms prescribed by the City. In the event that sewer service at a premises is continuous through a change of ownership, the new owner must file a notification of change of ownership within ten (10) days. Failure to complete an application or notification may result in discontinuance of service.

- (2) **Permit Required.**

Persons shall obtain a permit for connection from the City in accordance with the City of Rockford Plumbing Code. Said permits shall be obtained before any such work may begin. No person may uncover, make any connection with, or any opening into, use, alter, or disturb any Public Sewer without such a permit.

- (3) **Connection Fee.** Prior to connection, the applicant shall pay all applicable connection fees, as established from time to time by resolution of the City Council and any applicable connection fee imposed by the NKSA.

(H) **General Standards for Stubs and Laterals.**

- (1) **Sewer Diameter Construction.** The building drain/sewer, including required cleanouts, shall be four (4) inches or greater in diameter and shall be constructed in compliance with the Rockford Plumbing Code. The City may require a larger diameter sewer lateral size in those cases in which drainage or similar problems exist or a larger size is warranted.
- (2) **Separate Lateral.** Every structure with plumbing fixtures(s) shall have an independent, owner-maintained building sewer lateral to the local collector sewer line when the System is available. There shall not be more than one (1) structure served by a single sewer lateral connection, except upon approval of the City Manager.
- (3) **Division of Land; Separation of Laterals.** Before division of a single premises for separate ownership on which there is an existing sewer lateral serving more than one building, the owner shall install separate laterals as necessary for each building in which sanitary sewage is generated. Those building sewers and laterals shall have direct connection to the public sewer located in an abutting public easement, or the lateral shall be located in a written easement across the intervening property to the public sewer approved by the City and recorded with the Kent County Register of Deeds. Buildings existing or constructed on premises which are divided shall be required to connect to the public sewer if the nearest point of the building is within 200 feet thereof, without regard to whether a newly created parcel itself has frontage directly on a right-of-way or easement in which the public sewer is located.
- (4) **Location.** Whenever a sewer lateral is to be extended into the premises, the plumber or contractor may obtain location measurements from the City. However, the City does not assume responsibility for the accuracy of such location measurements.
- (5) **Approval.** Each new sewer lateral installation, or repair of an existing sewer lateral, shall be inspected and approved by the City prior to backfilling.
- (6) **Warranty.** Whenever a new sewer lateral is installed or repaired by a contractor or plumber, it shall be guaranteed to be free from any defective material or poor workmanship, in the public right-of-way, for a period of one (1) year from the date of installation.
- (7) **Maintenance Responsibility.** The Premises owner shall be responsible for the maintenance and/or replacement at his/her expense of his/her sewer lateral

including both the sewer stub located in the public right of way and the building sewer located on the property owner's premises, in order to insure continuous flow of sewage and to be free from infiltration, from the structure to the local collector sewer.

- (8) **Disconnection.** When a structure is to be demolished, satisfactory arrangements shall be made with City of Rockford to disconnect and seal the sewer lateral at the property line or at the point designated by the City. The lateral disconnection shall be inspected by the City prior to sealing. Failure to make arrangements for inspection and the proper termination of the connection shall cause the City Manager to order excavation of the lateral for the required inspection with all associated costs to be the responsibility of the property owner.
- (9) **Compliance Orders; Shut-off.** If at any time it is found that any sewer lateral connection has been installed contrary to or in violation of this Ordinance or rules or regulations governing such installation, the City Manager shall issue an order requiring compliance within thirty (30) days after notification. If compliance has not been obtained within thirty (30) days of the notice, the Director may authorize termination of water/sewer service until the corrections are made. The owner or user will not have redress for any such charges occurring because of shut-off or termination. In addition, the violator may be subject to a municipal civil infraction action.

(I) **Illegal Connections.**

- (1) **Roof drains.** Roof drains shall not be connected to the System. The owner of the premises shall be responsible for any and all costs associated with disconnections and all costs including, but not limited to, legal and inspection service required to enforce provisions of this Chapter. Each day the owner fails to comply with such order shall constitute a separate violation of this Section.
- (2) **Footing drains.** Footing drains shall not be connected to the System on any structure built after 1968. The owner of the premises shall be responsible for any and all costs associated with these disconnections and all costs including, but not limited to, legal and inspection service required to enforce provisions of this Chapter. Each day the owner fails to comply with such order shall constitute a separate violation of this Section.
- (3) **Other Waterproofing Systems.** Basement or similar waterproofing systems shall not be connected into the System or discharged in such a manner as to cause a public or private nuisance. Given due cause, the City Manager may order the owner to discontinue the discharge of water from a basement waterproofing system. Each day the owner fails to comply with such order shall constitute a separate violation of this Section.

(J) **Sand/Oil/Water Separators; Grease Traps; Metering Facilities.**

- (1) **Sand Interceptors.** Sand traps and similar interceptors for removal of heavy solids by Commercial Users, as determined by the City Manager, shall be designed and installed, according to the City of Rockford design specifications. They shall be located as to be readily accessible for cleaning and shall have a water seal of not less than six (6) inches. Sand traps and similar interceptors shall be cleaned and maintained in accordance with a schedule as submitted to, and approved by, the City Manager. Proof of maintenance and cleaning shall be sent to the City Manager on an annual basis or as approved in the maintenance schedule.
- (2) **Oil/Water Separator.** Oil/Water separators are required at repair garages, gasoline stations with grease racks, grease pits or work racks and at factories, or other facilities, where oily and flammable liquid wastes are produced, separators shall be installed into which all oil-bearing, grease-bearing or flammable wastes shall be discharged before emptying in the building drainage system or other point of disposal. Oil separators shall have a depth of not less than two (2) feet below the invert of the discharge drain. The outlet opening of the separator shall not have less than an eighteen (18) inch water seal. An alternative design may be approved by the City of Rockford Plumbing Inspector, as provided for by the City of Rockford Plumbing Code. Oil/water separators shall be cleaned and maintained in accordance with a schedule as submitted to, and approved by, the City Manager. Proof of maintenance and cleaning shall be sent to the City Manager on an annual basis or as approved in the maintenance schedule.
- (3) **Grease Traps.** Grease Traps shall be installed at the sole expense of the Discharger.
 - (a) Grease Traps shall be installed at the sole expense of the Discharger: if the City determines they are necessary for the proper handling of liquid wastes containing grease in excessive amounts; or if the City, State of Michigan, or County of Kent regulations or plumbing codes require such installation; or if any regulatory agency having jurisdiction determines that existing installations are inadequate to protect the Public Sewer. All grease traps shall be of a type and capacity approved by the City or by other regulatory agencies having jurisdiction and shall be located so as to be readily accessible for cleaning and inspection.
 - (b) Grease Traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight. Grease Traps shall be installed in compliance with current plumbing codes adopted by the City or other regulatory agency. There shall be ample room and reasonable access to interceptors to allow accurate sampling and preparation of samples for transport and analysis. All newly constructed Grease Traps shall be accessible for

maintenance and cleaning outside of enclosed buildings in a place that is easily accessible for that purpose.

(c) After a newly constructed Grease Trap has been inspected by the plumbing inspector, the Discharger responsible for maintaining the Grease Trap shall contact the City to arrange for an initial inspection and registration to facilitate the administration of the requirements of this ordinance.

(d) The Discharger shall maintain Grease Traps at its expense, in continuously efficient operation at all times. Grease shall be removed from a Grease Trap in a manner in accordance with the requirements of the United States Environmental Protection Agency, the Michigan Department of Environmental Quality, and this Ordinance. The City shall have the right to require evidence of records of maintenance and disposal related to the operation of Grease Traps and oil and sand interceptors or to inspect said records without prior notification.

(e) the Discharger served by a Grease Trap shall arrange for and carry out the inspection, cleaning and maintenance of the device by a licensed qualified contractor and shall submit to the City, within ten (10) days of the inspection, cleaning, and maintenance, a report of such inspection, cleaning and maintenance on a form approved by or acceptable to the City, and signed by the contractor and thereafter repeat this inspection, cleaning, maintenance and reporting every sixty (60) days. The Discharger shall accomplish said reporting by requiring the contractor to forward a copy of his receipt and statement of services rendered directly to the City or its designee. The receipt and statement must state;

- (i) the condition of the operation (“adequate” or “inadequate”),
- (ii) whether the inlet and outlet of the Grease Trap was open or closed,
- (iii) whether the Grease Trap and appurtenances require jetting and whether this service was refused, and
- (iv) what services were rendered.

(f) The City, in its sole discretion, may determine that conditions on the premises of a Discharger require cleaning and/or maintenance more often or less often than every sixty (60) days. Said determination shall be in writing and signed by the City or its designee.

(g) Regular Grease Trap pumping and cleaning requires pumping out all liquids and solids and not leaving any pumpable material remaining in the trap.

(h) No decanted liquid from the pumped Grease Trap shall be returned to the Grease Trap.

(i) An Administrative Charge, in an amount established by resolution of the City Council, shall be levied in the manner of a Sewer Rate against a premises for each month or portion of a month following the date by which the required report is not submitted. Failure to provide the report or failure to pay any Administrative Charge shall be grounds for disconnection of the premises by turning off the public water supply or other means, in addition to all other remedies provided by law and ordinance.

(j) In the event that the licensed contractor fails to provide the required report, and notice of said failure is provided to the owner of the premises, the City shall accept written evidence of the services provided from the owner, in the form of a copy of the inspection and report of services provided by the licensed contractor. Said written evidence must be provided within ten (10) business days of the first class mailing of the notice.

(4) **Wastewater metering facilities.**

(a) Wastewater metering facilities may be installed by a user or as required by the City Manager to measure sewage discharge from the user's premises to the sanitary sewer. All such arrangements shall be made subject to acceptance by the City Manager and the expense thereof, including the installation, maintenance and operation, shall be borne by the user. Plans and specifications for the installation of any wastewater meter must be submitted to the City of Rockford before actual installation begins. Such metering facilities shall meet the following criteria:

(i) A Michigan licensed professional engineer must develop installation plans. Drawings of the location of the primary measuring device and the meter, the location of the meter's data output(s) and specifications for the meter, including its manufacturer, model and logging frequency, must be included with the plans.

(ii) A plan location map, which accurately shows where the primary measuring device and meter are located, shall be submitted as part of the drawings.

(iii) Meter reading provisions shall be convenient to any existing water meter reading location.

(b) Underground structures and all associated piping, which contain the primary measuring device and the meter, shall be installed in accordance with the City of Rockford Plumbing Code

- (c) If possible, the primary measuring device must be located in an open or non-permitted confined space. The recording device may not be located in a confined space.
- (d) The meter must include a data logger capable of recording and displaying continuous flow data in one thousand (1000) gallon units. The data must be inspected each business day, by the user, with documentation of the inspection in the form of the inspector's initials, date and time. All data records must be maintained for a minimum of three (3) years and be available for inspection by Grand Rapids.
- (e) The meter installation must be inspected and found to be acceptable by the Director before any data from the meter will be used for billing purposes.
- (f) The user must maintain a meter service contract provided by the manufacturer or the manufacturer's approved representative. The meter shall be checked and calibrated quarterly, or more frequently as conditions require, by the service provider. All calibration records must be maintained for a minimum of three (3) years and be available for inspection by the City.
 - (i) If failure of the meter occurs, the user must notify the Director within one (1) business day. Repairs to the meter, which are the responsibility of the owner, must be completed within five (5) business days. If repairs cannot be completed within five (5) business days, a timetable for completion of repairs must be submitted to the Director. If, as a result of failure, or suspected failure, the sewer meter readings are in dispute, the volume of water indicated by the water meter during the disputed time will be used as the wastewater volume.
- (g) The City of Rockford, at its discretion, must be allowed to inspect the meter and all records pertaining to the meter. At the Director's discretion, the acceptance of any wastewater metering device and/or data may be revoked.

(K) **Prohibited Discharges.** In addition to the prohibitions of the Rules and Regulations, no Discharger shall discharge, or allow to be discharged, nor shall any person, Discharger or otherwise, introduce in any manner, the following into the public sewer:

- (1) Materials which can, alone or by interaction with other substances, cause fires or can be explosive including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and Stoddard solvents and/or any waste stream with a closed-cup flashpoint of less than 140 degrees

Fahrenheit or 60 degrees Celsius (using test methods specified in 40 CFR 261.21 or its successors).

- (2) Any Wastewater or waste with a pH of less than 6.5 or greater than 10.0.
- (3) Solid or viscous substances which will obstruct the flow in Sewers or otherwise interfere with the proper operation of the Public Sewer including, but not limited to, ashes, cinders, construction debris, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, or paunch manure, or any material which can be disposed of as trash.
- (4) Any Wastewater or waste having a temperature exceeding 140 degrees Fahrenheit or which causes the influent to the POTW to exceed a temperature of 104 degrees Fahrenheit.
- (5) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through, as defined by the Rules and Regulations.
- (6) Any noxious gas, malodorous gas, or any gas or fumes, or substance which results in the presence of such gas or fumes which would injuriously affect the safety or health of the public or the employees of the City or North Kent Sewer Authority, or work substantial annoyance, inconvenience or injury to the public.
- (7) Any trucked or hauled Pollutants, excepted as and where specifically designated in writing by the City Manager and the Director.
- (8) Garbage which is not shredded to such a degree that (i) all particles can be carried freely under the flow conditions normally prevailing in Public Sewer and (ii) no particle is greater than one-half (1/2) inch in any dimension.
- (9) Any Wastewater or waste having corrosive properties capable of causing damage or hazards to structures or equipment of the Public Sewer, and/or personnel.
- (10) Any substance which may cause a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair, as determined by the City or other NKSA.
- (11) Any Wastewater or waste which constitutes a hazard to humans or animals, or creates any hazard in the receiving waters or the effluent of the POTW.
- (12) Any hazardous waste, or any waste which if otherwise disposed of would be hazardous waste under 40 CFR Part 261.
- (13) Any radioactive waste or isotopes.

- (14) Any medical wastes, except as specifically authorized by the City Manager and Director.
 - (15) Stormwater, surface water, groundwater, artesian well water roof runoff, subsurface drainage from footing drains or otherwise, deionized water, noncontact cooling water, and unpolluted water, unless specifically authorized by the City Manager and Director.
 - (16) Any water from a dewatering operation, without prior written authorization by the City Manager. Such written authorization shall be on the conditions and subject to such charges as determined by the City Manager. Nothing contained in this Section or in any written authorization provided hereunder shall excuse compliance by the Discharger with any other provision of this Ordinance, the Rules and Regulations, or other applicable law. No recipient of such authorization shall be deemed to have any vested right or property interest to discharge substances as specified in such permit but instead only a temporary permissive right to discharge within the limits of such written authorization.
 - (17) Any water discharged from an environmental remediation project, without prior written authorization by the City Manager. Such written authorization shall be on the conditions and subject to such charges as determined by the City Manager. Nothing contained in this Section or in any written authorization provided hereunder shall excuse compliance by the Discharger with any other provision of these Rules and Regulations or other applicable law. No recipient of such authorization shall be deemed to have any vested right or property interest to discharge substances as specified in such permit but instead only a temporary permissive right to discharge within the limits of such written authorization.
- (L) **Clearing Sewer Laterals; Notification to City.** The repair of sewer laterals blocked by roots or other debris may result in removing materials which will then enter the public sewer, which can cause a blockage in the public sewer which affects other properties. All property owners and contractors who remove a blockage in a sewer lateral shall contact the City of Rockford Public Utilities Department as the blockage is being removed or as soon thereafter as possible for inspection, and follow the instructions of City personnel for removal of the debris or other material from the sewer system.
- (M) **Rates And Charges; Public Utility Basis**
- (1) **Fees for Service**
- Users of the System shall pay rates and charges as set forth in the City of Rockford Schedule of Fees, Rates and Charges. Such fees, rates and charges shall be designed to produce revenues which are proportionate to the cost of providing service to each user class of each customer class. Such cost shall include but not be limited to operation, maintenance, replacement, depreciation and a reasonable rate of return of the System's investment. See Sec. 2.4 of the Rockford City Code

(2) **Rates Imposed Under Rules and Regulations**

In addition to the fees established pursuant to Section 2.4 of the Rockford City Code, there shall be levied upon premises served by the Public Sewer these fees and charges imposed pursuant to the Rules and Regulations of the NKSA in the amounts, and subject to collection as set forth in the Rules and Regulations. In the event such fees are not paid, they may, upon order of the City Manager, be treated and collected as delinquent sewer assessments in the manner set forth in Section 2.4 of the Rockford City Code, subject to all the remedies available thereunder. This provision for collection is in addition to the remedies for non-payment provided by the Rules and Regulations of the NKSA.

(3) **Extraordinary Customer Fees.**

An extraordinary customer fee may be billed separately, and shall be due at a time specified in the bill, within not less than 14 days. In the alternative, the City may include an extraordinary customer fee on a periodic sewer and water billing. Extraordinary customer fees shall be collected in the same manner as regular rates and charges for the system, including all penalties and placement on the tax roll if remaining unpaid.

(N) **Penalties.**

(1) **Civil infractions.** Any person, including a discharger, user, or other person who:

- (a) Violates this section; or
- (b) Knowingly makes any false statement, representation, or certification in any application, record, report or plan, or other document filed or required to be maintained pursuant to this section; or
- (c) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this section,

shall be responsible for a civil infraction pursuant to the provisions of Chapter 10 of the Rockford City Code, unless such violation is designated to be a misdemeanor pursuant to (2) below.

(2) **Misdemeanor penalties.** Any person who willfully or knowingly violates Section 2.3(K) shall be guilty of a misdemeanor, subject to the penalties provided in Section 1.1(K)(1) of the Rockford City Code. For these purposes, there shall exist a rebuttable presumption that any person who introduces a substance prohibited by Section 2.3(K) into the public sewer through a manhole, lift station, opening made by such person into the public sewer, or other than through a sewer lateral, has introduced such substances knowingly and willfully in violation of this sub-section.

- (3) **Responsibility for violation.** All Dischargers or users of this system pertaining to which a violation occurs, and all contractors, agents, and other persons acting at their direction, on their behalf or in concert therewith shall be jointly and severally responsible for a violation which is determined to be a civil infraction, for any Extraordinary Customer Fee pertaining to that violation, or any cost or expense resulting from such violation. The City Manager may take legal action against any person who has violated this ordinance to recover costs for damage or expense as permitted by this section.
- (4) **Injunctive relief.** It is declared that violations of this Ordinance constitute a nuisance per se, an immediate and irreparable danger to public health and the public infrastructure, and the City Manager is authorized to seek injunctive relief to prevent or restrain any violation of this section, or any other action which would injure the sewer system, or cause a public health hazard or danger to public or private property.
- (5) **Cumulative remedies.** The remedies provided in this section are cumulative, and the City may, in its sole discretion, pursue one or more of the remedies available to it with respect to a particular violation or situation, without having been deemed to have made any election of remedies.

SECTION 2.4 WATER AND SEWER RATES

- (A) **Definitions.** Unless the context specifically indicates other-wise, the meanings of terms used in this Chapter shall be as follows:
 - (1) “Premises” shall mean each lot or parcel of land, building, premises, dwelling unit or apartment unit having any connection to the water distribution system of the City, or the sewage disposal system of the City.
 - (2) “Department” shall mean the City Department of Water or the City Department of Public Services as applicable.
- (B) **Basis of Charges.** Except as otherwise provided in this Chapter, all water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the Department. All sewage disposal service shall be charged for on the basis of water consumed. No free water service or sewage disposal service shall be furnished to any person.
- (C) **Water Rates and Charges**
 - (1) Water rates and charges shall be levied periodically at such intervals as shall be established from time to time by resolution of the City Council against each premises having any water connection to the water distribution system.
 - (2) Said water rates and charges shall be based on the quantity of water used on or in the property, as measured by the water meter therein used, except as otherwise

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provided. If a meter cannot be read, an estimated charge will be made and adjustment, if necessary, will be made when the meter reading can be obtained. Rates and charges for users inside and outside the City shall be in amounts to be established from time to time by the City Council.

- (3) Any charges remaining unpaid shall be charged against the real property on which the service was rendered, and may be spread on the next regular City ad valorem property tax roll after the date on which such charge shall become due and payable, and shall become a lien of the same character and effect as the lien created by State of Michigan and County taxes, until paid.

(D) Sewer Rates and Charges.

- (1) A sewer service charge shall be levied periodically at such intervals as shall be established from time to time by resolution of the City Council against each Premises having any sewer connections with the sewage disposal system.
- (2) Said sewer rates and charges shall be based on the quantity of water used on or in the property, as measured by the water meter therein used, except as otherwise provided. If a meter cannot be read, an estimated charge will be made and adjustment, if necessary, will be made when the meter reading can be obtained. Rates and charges for users inside and outside the City shall be in amounts to be established from time to time by the City Council.
- (3) The sewer service charge for any property which is not a completely metered water user and which discharges sewage into the sewage disposal system shall be estimated and determined by means and methods satisfactory to the City.
- (4) In the event City metered water is used in large quantities by commercial or industrial establishments which does not enter the sewage disposal system, the owner of such Premises may at his own expense, and with the prior approval of the City, install a meter for the measure of water so used, and in the event such meter is installed, the City shall make proper allowance and deductions from sewer service monthly bills for the water used which does not enter the sewage disposal system.
- (5) Charges for sewer service shall be billed and collected by the City at the same time and as a part of the water bill. Any such charges remaining unpaid shall be charged against the real property on which the service was rendered, and may be spread on the next regular City ad valorem property tax roll after the date on which such charge shall become due and payable, and shall become a lien of the same character and effect as the lien created by State of Michigan and County taxes, until paid.

(E) Turn-on and Turn-off Fees. The City may charge fees for turning on and turning off water and sewer service in amounts to be established from time to time by the City Council.

- (1) Billing and Penalties and Remedies for Nonpayment or Late Payment. The owner of the Premises serviced and the occupants thereof shall be jointly and severally liable for the water and sewage service provided such said Premises. However, in all cases where a tenant is, by the terms of a lease, responsible for water and/or sewer charges and the City is notified by an affidavit signed by the landlord and a true copy of the lease, as provided by state law, then the charges shall not become lien on the Premises as provided in Section 2.4(C) and Section 2.4(D) of this Code. But, from and after such notice, no further water or sewer service shall be rendered to the Premises until a cash deposit of not less than the estimated bill for three (3) months service shall have been made as security for payment of the charges. Deposits shall be applied to any bill, including interest, for sewage or water service more than thirty (30) days delinquent. Any deposit so applied shall be promptly refunded by the user. The deposit shall be returned without the payment of any interest and less any balance due when service is discontinued.
- (2) Bills for rates and charges as herein established shall be mailed to users periodically at such intervals as shall be established from time to time by resolution of the City Council. All bills shall be payable on the 30th day of the month following the period of service and shall be paid at the office of the City Treasurer or his duly appointed agent. If any bill shall not be paid by the 30th of the month in which it is due, a late charge of 10% shall be applied to the current amount past due and collected therewith.
- (3) Water and/or sewer service may be discontinued to any premises to enforce the payment of rates and charges after the user has been given the opportunity for a hearing before the City Manager or his designated representative to show cause why service should not be discontinued. Services so discontinued shall not be restored until such time as all the rates, charges, penalties are paid or satisfactory arrangements made for the payments thereof.
- (4) There shall be a lien in favor of the City for water and sewer rates, effective immediately upon the distribution of the water or provision of sewage system service to the premises. Delinquent bills may be collected by any method authorized by law. Charges delinquent for six months or more shall be certified annually to be City Treasurer, who shall enter the lien on the next tax roll against the premises to which the services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of a lien for such taxes.

(F) Meter Failure. If any meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.

- (G) Inaccurate Meters. A customer may require that the meter be tested. If the meter is found accurate, a charge as set from time to time by the City Council will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.
- (H) Accuracy Required. A meter shall be considered accurate if, when tested, it registers not to exceed two percent (2%) more to two percent (2%) less than the actual quantity of water passing through it. If a meter registers in excess of two percent (2%) more than the actual quantity of water passing through it, it shall be considered “fast” to that extent. If a meter registers in excess of two percent (2%) less than the actual quantity of water passing through it, it shall be considered “slow” to that extent.
- (I) Bill Adjustment. If a meter has been tested at the request of a consumer and shall have been determined to register “fast,” the City shall credit the consumer with a sum equal to the percent “fast” multiplied by the amount of all bills incurred by said consumer, within the three (3) months prior to the test, and if a meter so tested is determined to register “slow” the department may collect from the consumer a sum equal to the percent “slow” multiplied by the amount of the bills incurred by the consumer for the prior three (3) months. When the department, on its own initiative, makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the City for water used by him as above provided, if the meter is found to be “slow.”
- (J) Charges in Error - Overcharges. If it has been determined by the City that a customer has been overcharged for water or sewer services, the customer shall be credited for the overcharged amount. Credits are limited to the three years preceding the discovery of the error. If the overcharges have not been paid by the customer, the customer’s account will be credited upon the books and records of the City. If the overcharges have been paid by the customer, the overcharges are payable to the customer with interest in an amount as determined from time to time by the City Council. However, any amounts payable to a customer under this Section will first be applied to any other accounts of the customer which are past due.
- (K) Condominium Projects. Each unit intended for separate occupancy in a condominium project shall be provided with a separate water meter for billing purposes. If it is demonstrated to the satisfaction of the City Manager that the provision of separate meters is technically infeasible, or would cause an undue expense in light of the scope of the project (as, for example, in the case of an apartment complex converted to condominiums), then the City Manager may permit a single connection to the premises, and the account shall be in the name of the Condominium Association. Service shall not be provided until the Condominium Association or Developer has filed with the City of Rockford Utilities Department written proof that it has the authority to enter into such an arrangement. In the event of non-payment, the City shall be entitled to impose delinquent billings on the tax roll pro rata against the units served by public sewer as determined by the City, in the manner provided by the Michigan Condominium Act for property taxes. For new condominium projects with a single connection, notice of this manner of collection shall be provided in the condominium documents.

SECTION 2.5 SEWER AND WATER MAIN EXTENSIONS

(A) SEWER COLLECTION LINES

- (1) Purpose of Rates and Charges. Charges for the installation of local sewer collection lines of the Sewer System are hereby established for the purpose of recovering the costs of construction, reconstruction, maintenance, operation and replacement of said local sewer collection lines of the Sewer System. Such charges shall be made in accordance with the provisions hereinafter set forth.
- (2) Definitions. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section unless the context in which they are used specifically indicates otherwise.
 - (a) “Commercial user” shall mean a person whose premises are used to offer services and/or products such as retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, private clubs, theaters and governmental buildings.
 - (b) “Domestic user” shall mean a person whose premises are domiciles for single or multiple family use.
 - (c) “Industrial user” shall mean a person who operates a manufacturing or process facility which is engaged in producing a product.
 - (d) “Local collection lines” shall mean those pipes which serve only the abutting property within only one local service area.
 - (e) “Premises” shall mean each lot or parcel of land or building having any connection to the Sewer System.
 - (f) “Sewermain” shall mean the primary and intermediate transmission and local collection lines of the System.
 - (g) “Sewer System” or “System” shall mean the City Sewer System consisting of all plants, works, instrumentalities, lines and properties now or hereafter existing, used or useful in connection with the obtaining of a sewer supply, its treatment, distribution and all other necessary functions.
- (3) Local Collection Line Installation Charges.
 - (a) Payment of Local Collection Line Installation Charges. Whenever a sewermain used for local collection is constructed, except if pursuant to a

special assessment project, the property owners whose property is served by the line and on which property the line is used by a commercial user, a domestic user or an industrial user shall pay their share of the cost of construction and installation as herein established at the time of construction. Any property owner requesting service who has not previously paid his share of the cost of constructing the sewermain used for local collection shall pay those costs as established by the then effective resolution of the City Council setting the local sewer collection line installation charges. Any property owner whose property is served by a local collection line constructed and installed prior to August 12, 1981, but has not been connected to the line as of August 12, 1981, shall, upon connection to the line, pay the local collection line charges set by the latest effective resolution passed pursuant to this Chapter to set such charges.

- (b) Computation of Local Collection Line Installation Charges and Annual Review. The charge shall be known as the front foot rate and be determined by multiplying the applicable rate per foot by the number of feet the property owner has fronting on the sewermain used for local collection. The front foot rate shall be as set from time to time by resolution of the City Council. Following an annual review of the charges, the City Council may change the charges to reflect the current cost of the construction and installation of local collection lines.
- (c) Assessment of Charges. Upon completion of construction or at the time connection is requested (if this cost has not been paid at the time of construction), the City Manager shall certify to the City Treasurer the cost to be charged to the property owner. The City Treasurer shall bill the owner of the premises affected advising him that the amount so billed is to be paid prior to connection to the local collection line serving the property of said property owner.
- (d) Deferral of Assessments. If the City Council so decides, such installations and connections may be made at the expense of the System when the owner of the premises signs a written agreement agreeing to pay the expense of such installation and connections upon terms agreeable to the City Manager and that the unpaid balance shall constitute a lien upon his property of the same character and subject to the same methods of collection as prescribed for special assessments.

(4) Oversizing.

- (a) Oversizing shall mean the enlargement of a local collector sewer so that the enlargement will serve as a trunk or interceptor sewer. When the System requires a local collector sewer line to be oversized, it will pay the cost of such oversizing as computed in the following manner:

- (i) In a residential assessment district or a new residential plat, the oversizing share is the material difference in cost of the oversized sewer;
 - (ii) In a commercial, industrial or high density residential development assessment district, the oversizing share is the material difference in the cost of the oversized sewer; and
 - (iii) In cases where the larger than normal size sewer line is required solely to provide adequate service to a local service area and is not used as part of the larger network, then the entire cost of the enlargement will be treated in the same manner as a normal sized local collector line and the System will not participate in the oversizing cost.
- (b) All new sewer lines shall conform to the City of Rockford Standard Specifications for Sanitary Sewage Collection Systems and shall be a minimum of eight (8) inches in diameter in most areas.

(B) WATER DISTRIBUTION LINES

- (1) Purposes of Rates and Charges. Charges for the installation of local water distribution lines of the Water System are hereby established for the purpose of recovering the costs of construction, reconstruction, maintenance, operation and replacement of said local water distribution lines of the Water System. Such charges shall be made in accordance with the provisions hereinafter set forth.
- (2) Definitions. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section unless the context in which they are used specifically indicates otherwise.
- (a) “Commercial user” shall mean a person whose premises are used to offer services and/or products such as retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, private clubs, theaters and governmental buildings.
 - (b) “Domestic user” shall mean a person whose premises are domiciles for single or multiple family use.
 - (c) “Industrial user” shall mean a person who operates a manufacturing or process facility which is engaged in producing a product.
 - (d) “Local distribution lines” shall mean those pipes which serve only the abutting property within only one local service area.
 - (e) “Premises” shall mean each lot or parcel of land or building having any connection to the Water System.

- (f) “Watermain” shall mean the primary and intermediate trans-mission and local distribution lines of the System.
- (g) “Water System” or “System” shall mean the Rockford Water System consisting of all plants, works, instrumentalities, lines and properties now or hereafter existing, used or useful in connection with the obtaining of a water supply, its treatment, distribution and all other necessary functions.

(3) Local Distribution Line Installation Charges.

- (a) Payment of Local Distribution Line Installation Charges. Whenever a water main used for local distribution is constructed, except if pursuant to a special assessment project, the property owners whose property is served by the line and on which property the line is used by a commercial user, a domestic user or an industrial user shall pay their share of the cost of construction and installation as herein established at the time of construction. Any property owner requesting service who has not previously paid his share of the cost of constructing the watermain used for local distribution shall pay those costs as established by the then effective resolution of the City Council setting the local water distribution line installation charges. Any property owner whose property is served by a local distribution line constructed and installed prior to August 12, 1981, but has not been connected to the line as of August 12, 1981 shall, upon connection to the line, pay the local distribution line charge set by the latest effective resolution passed pursuant to this Chapter to set such charges.
- (b) Computation of Local Distribution Line Charges and Annual Review. The charge shall be known as the front foot rate and be determined by multiplying the rate per foot by the number of feet the property owner has fronting on the water main used for local distribution. The front foot rate shall be as set from time to time by resolution of this City Council. Following an annual review of the charges, the City Council may change the charges to reflect the current cost of the construction and installation of local distribution lines.
- (c) Assessment of Charges. Upon completion of construction or at the time connection is requested (if this cost has not been paid at the time of construction), the City Manager shall certify to the City Treasurer the cost to be charged to the property owner. The City Treasurer shall bill the owner of the premises affected advising him that the amount so billed is to be paid prior to connection to the local distribution line serving the property of said property owner.
- (d) Deferral of Assessments. If the City Council so decides, such installations and connections may be made at the expense of the System when the

owner of the premises signs a written agreement agreeing to pay the expense of such installation and connections upon terms agreeable to the City Manager and that the unpaid balance shall constitute a lien upon his property of the same character and subject to the same methods of collection as prescribed for special assessments.

SECTION 2.6 PUBLIC UTILITY FRANCHISES

(A) MICHIGAN CONSOLIDATED GAS COMPANY FRANCHISE

- (1) Grant of Gas Franchise and Consent to Laying of Pipes, Etc. Subject to all the terms and conditions mentioned in this Ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the “Company”), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the City of Rockford, Kent County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said City of Rockford for the purposes of conveying gas into and through and supplying and selling gas in said City of Rockford and all other matters incidental thereto.
- (2) Gas Service and Extension of System. If the provisions and conditions herein contained are accepted by the Company, as in Section 2.6(A)(6) hereof provided, then the Company shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company’s Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.
- (3) Use of Streets and Other Public Places. The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said City of Rockford and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said City of Rockford for all damages and costs which may be recovered against City of Rockford arising from the default, carelessness, or negligence of the Company or its officers, agents, and servants. No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Highway Commissioner or the City of Rockford or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Highway Commissioner or the City Council or such other

authority as may have jurisdiction, to issue a permit to the Company to do the work proposed.

- (4) Standards and Conditions of Service: Rules, Regulations and Rates. The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the City of Rockford under the orders, rules and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.
- (5) Successors and Assigns. The words "Michigan Consolidated Gas Company" and "the Company," wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.
- (6) Effective Date: Term of Franchise Ordinance; Acceptance by Company. This Ordinance shall take effect seven (7) days after the date of its adoption, shall be published in a newspaper of general circulation in the City within two (2) weeks after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter, subject to revocation at the will of the City of Rockford at any time during said thirty (30) year period; provided, however, that when this Ordinance shall become effective the City Clerk shall deliver to the Company a certified copy of the Ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, sixty (60) days after the date this Ordinance takes effect, file with the City Clerk its written acceptance of the conditions and provisions hereof.
- (7) Effect and Interpretation of Ordinance. All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Ordinance are hereby rescinded. In the case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control. The catch line headings which precede each Section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Ordinance.

SECTION 2.7 TELECOMMUNICATION PROVIDERS

- (A) Purpose. The purposes of this ordinance are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and to exercise reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of

2002) and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(B) Conflict. Nothing in this ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

(C) Terms Defined. The terms used in this ordinance shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

City means the City of Rockford.

City Council means the City Council of the City of Rockford or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

City Manager means the City Manager or his or her designee.

Permit means a nonexclusive permit issued pursuant to the Act and this ordinance to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

All other terms used in this ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication Facilities or Facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the

Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications Provider, Provider and Telecommunications Services mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband internet transport access service.

(D) Permit Required.

- (1) *Permit Required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this ordinance.
- (2) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with the Act.
- (3) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from Michigan's Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (4) *Application Fee.* Except as otherwise provided by the Act, an application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.00.

- (5) *Additional Information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (6) *Previously Issued Permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of 1991, as amended, and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this ordinance.
- (7) *Existing Providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of 1991, as amended, shall submit to the City an application for a permit in accordance with the requirements of this ordinance. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under Section 2.7(D)(4) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority for good cause, as provided in Section 5(4) of the Act.

(E) Issuance of Permit.

- (1) *Approval or Denial.* The authority to approve or deny an application for a permit is delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit in accordance with Section 2.7(D)(2) of this ordinance for access to a public right-of-way within the City. The City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.
- (2) *Form of Permit.* If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

- (3) *Conditions.* Pursuant to Section 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and use of the public right-of-way.
- (4) *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on Section 2.7(E)(3) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
- (F) Construction/Engineering Permit. A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required by this Code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.
- (G) Conduit or Utility Poles. In accordance with the Act, obtaining a permit or paying the fees required under the Act or under this ordinance does not give a telecommunications provider a right to use conduit or utility poles.
- (H) Route Maps. Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.
- (I) Repair of Damage. A telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
- (J) Establishment and Payment of Maintenance Fee. In addition to the non-refundable application fee paid to the City set forth in Section 2.7(D)(4) above, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.
- (K) Modification of Existing Fees. In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and use of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority.

In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee a copy of this ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

- (L) Savings Clause. Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 11 above shall be void from the date the modification was made.
- (M) Use of Funds. Pursuant Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951.
- (N) Annual Report. Pursuant to Section 10(5) of the Act, the City Manager may file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.
- (O) Cable Television Operators. Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.
- (P) Existing Rights. Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this ordinance shall not affect any existing rights that a telecommunications provider or the City may have under a permit issued by the City or under a contract between the City and a telecommunications provider related to the use of the public rights-of-way.
- (Q) Compliance. The City declares that its policy and intent in adopting this ordinance is to fully comply with the requirements of the Act, and the provisions of this ordinance should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:
 - (1) Exempting certain route maps from disclosure consistent with the Act and state law as provided in Section 2.7(D)(3) of this ordinance;

- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 2.7(D)(6) of this ordinance;
 - (3) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 2.7(E)(1) of this ordinance;
 - (4) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 2.7(E)(2) of this ordinance;
 - (5) Not unreasonably denying an application for a permit, in accordance with Section 2.7(E)(1) of this ordinance;
 - (6) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 2.7(E)(2) of this ordinance;
 - (7) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and use of the public right-of-way, in accordance with Section 2.7(E)(3) of this ordinance;
 - (8) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 2.7(E)(4) of this ordinance;
 - (9) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 2.7(F) of this ordinance;
 - (10) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this ordinance, in accordance with Section 2.7(K) of this ordinance;
 - (11) Submitting an annual report to the Authority, in accordance with Section 2.7(N) of this ordinance; and
 - (12) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 2.7(O) of this ordinance.
- (R) Reservation of Police Powers. Pursuant to Section 15(2) of the Act, this ordinance shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public.
- (S) Severability. The various parts, sentences, paragraphs, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section,

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or clause of this ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this ordinance.

- (T) Authorized City Officials. The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal Chapter violations bureau) for violations under this ordinance as provided by the City Code.
- (U) Municipal Civil Infraction. A person who violates any provision of this ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to such civil infraction fines and costs as provided for in this Code. Nothing in this Section 2.7(U) shall be construed to limit the remedies available to the City in the event of a violation by a person of this ordinance or a permit.

SECTION 2.8 GREASE TRAP

- (A) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.
 - (1) “Grease Trap” means a device designed to intercept, separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the sewer system.
 - (2) Customer means the owner of the premises and/or the person or entity having possession of the premises served by public sanitary sewer.
- (B) Grease Traps. Grease Traps shall be installed at the sole expense of the Customer
 - (1) if the City determines they are necessary for the proper handling of liquid wastes containing grease in excessive amounts; or
 - (2) if the City, State of Michigan, or County of Kent regulations or plumbing codes require such installation; or
 - (3) if any regulatory agency having jurisdiction determines that existing installations are inadequate to protect the sewer system. All grease traps shall be of a type and capacity approved by the City or by other regulatory agencies having jurisdiction and shall be located so as to be readily accessible for cleaning and inspection.
 - (4) Grease Traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight. Grease Traps shall be installed in compliance with current plumbing codes adopted by the City or other regulatory agency. There shall be ample room and reasonable access to interceptors to

allow accurate sampling and preparation of samples for transport and analysis. After the effective date of this ordinance, all newly constructed Grease Traps shall be accessible for maintenance and cleaning outside of enclosed buildings in a place that is easily accessible for that purpose.

- (5) After a newly constructed Grease Trap has been inspected by the plumbing inspector, the Customer responsible for maintaining the Grease Trap shall contact the City to arrange for an initial inspection and registration to facilitate the administration of the requirements of this ordinance.
- (6) The Customer shall maintain Grease Traps at his expense, in continuously efficient operation at all times. Grease shall be removed from a Grease Trap in a manner in accordance with the requirements of the United States Environmental Protection Agency, the Michigan Department of Environmental Quality, and this Ordinance. The City shall have the right to require evidence of records of maintenance and disposal related to the operation of Grease Traps and oil and sand interceptors or to inspect said records without prior notification.
- (7) No later than the ninety (90) days following the effective date of this Ordinance, the Customer served by a Grease Trap shall arrange for and carry out the inspection, cleaning and maintenance of the device by a licensed qualified contractor and shall submit to the City, within ten (10) days of the inspection, cleaning, and maintenance, a report of such inspection, cleaning and maintenance on a form approved by or acceptable to the City, and signed by the contractor and thereafter repeat this inspection, cleaning, maintenance and reporting every sixty (60) days. The Customer shall accomplish said reporting by requiring the contractor to forward a copy of his receipt and statement of services rendered directly to the City or its designee. The receipt and statement must state;
 - (a) the condition of the operation (“adequate” or “inadequate”),
 - (b) whether the inlet and outlet of the Grease Trap was open or closed,
 - (c) whether the Grease Trap and appurtenances require jetting and whether this service was refused, and
 - (d) what services were rendered.
 - (e) The City, in its sole discretion, may determine that conditions on the premises of a user require cleaning and/or maintenance more often or less often than every sixty (60) days. Said determination shall be in writing and signed by the City or its designee.
 - (f) Regular Grease Trap pumping and cleaning requires pumping out all liquids and solids and not leaving any pumpable material remaining in the trap.

- (g) No decanted liquid from the pumped Grease Trap shall be returned to the Grease Trap.
- (h) An Administrative Charge, in an amount established by resolution of the City Council, shall be levied against a Customer for each month or portion of a month following the date by which the required report is not submitted. Failure to provide the report or failure to pay any Administrative Charge shall be grounds for disconnection of the premises by turning off the public water supply or other means, in addition to all other remedies provided by law and ordinance.
- (i) In the event that the licensed contractor fails to provide the required report, and notice of said failure is provided to the owner of the premises, the City shall accept written evidence of the services provided from the owner, in the form of a copy of the inspection and report of services provided by the licensed contractor. Said written evidence must be provided within ten (10) business days of the first class mailing of the notice.

(C) Penalty – Municipal Civil Infraction.

- (1) Any person who shall violate any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of up to Five Hundred Dollars (\$500) plus any costs, damages, expenses, and other sanctions as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws. Each day a violation occurs or continues shall constitute a separate offense and shall make the violator liable for the imposition of a fine for each day.

(D) Severability.

- (1) If any section, phrase, or portion of this Ordinance is held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

(E) Conflict.

- (1) Any portion of any ordinance inconsistent with this Ordinance is hereby repealed.

(F) (1) This ordinance shall be in full force and effect upon publication.

CHAPTER 3 PARKS AND PUBLIC GROUNDS

SECTION 3.1 PARKS

- (A) Damage to Park Property. No person shall obstruct any walk or drive in a public park or playground and no person shall injure, mar or damage in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplaces, or other public property within or pertaining to said parks.
- (B) Waste Containers. No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.
- (C) Ball Games. No baseball, football or softball throwing, or other violent or rough exercises or play shall be engaged in, in any public park or other public place, except in areas designated therefore by the City Manager who is also authorized to designate hours when City parks and recreation areas shall be closed to public use.
- (D) Additional Rules. The City Manager shall have general supervision of all City parks and every matter pertaining thereto. Subject to the approval of the Council, the City Manager shall have the power to make pursuant to Section 1.1(N) of this Code, alter and enforce rules and regulations for the maintenance of order, safety and sanitation in all City parks, and for the protection of trees and other property and the preservation of the natural beauty thereof. Such rules and regulations shall be posted in conspicuous places in said parks. No person shall fail to comply with such rules and regulations. The following are rules and regulations applicable to City parks:
- (1) City parks shall be open to the public between dawn and dusk unless otherwise posted by the City.
 - (2) No hunting or trapping shall occur in a City park or in any rivers or lakes adjacent thereto.
 - (3) All boating in a City park shall comply with rules and regulations applicable to inland rivers and lakes under State law.
 - (4) No fire or grill shall be built or used in a City park except at those locations provided for that purpose by the City.
 - (5) No person shall possess or ignite fireworks, rockets or sparklers in a City park unless a permit has been obtained from the City Manager.
 - (6) No domestic animal shall be permitted in a City park unless it is on a leash not exceeding 10 feet in length, controlled by the animal's owner or other

person accompanying the animal. The owner or other person accompanying the animal shall immediately remove from City park property all such animal's fecal discharge.

- (7) No dangerous or vicious animals shall be permitted in a City park.
- (8) The use of sound amplification equipment in a City park shall not disturb the quiet enjoyment of the park by park users unless a permit has been obtained from the City Manager.
- (9) No person shall camp or remain overnight in a City park unless a permit has been obtained from the City Manager.
- (10) No person shall operate a motor vehicle in a City park except within established roadways, drives and parking lots designated by the City unless authorized by the City Manager.
- (11) No alcoholic beverages shall be possessed or consumed in a City park unless a permit has been obtained by the City Manager or Police Chief.
- (12) All persons using a City park shall not use profanity or offensive language within the park.
- (13) All disorderly conduct as described in Section 8.2 of this Code is prohibited in a City park.
- (14) No person shall, in a City park, use a skateboard, roller blades, roller skates, in-line skates, scooter, bicycle, tricycle or similar item, or apply any wax on any playground equipment or other park property and furnishings including, but not limited to, railings, stairs, curbs, benches, concrete walls, bike racks, planters and trash cans.
- (15) No person shall possess, transport, shoot, fire or discharge in a City park any firearm, air rifle, air pistol, paint gun, bow and arrow, crossbow or any other weapon or instrument which can cause damage to person or property.
- (16) The City may exclude and expel any person from a City park when such person violates any park rule or regulation, this Code or State law. When asked to leave a City park by a City employee for such reason a person shall immediately leave the park. Expulsion from a City park shall be for a period of time as determined by the City Manager.

(E) Designation as a Historical Building. The Rockford Community Cabin is hereby designated as a Historical Building in the City of Rockford.

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SECTION 3.2 CEMETERIES

- (A) Definitions. Unless the context specifically indicates otherwise, terms used in this Chapter shall have the meanings set forth in this section:
- (1) “Cemetery” shall mean Rockford Cemetery as heretofore established, and any other public cemetery owned, managed or controlled by the City.
 - (2) “Burial space” shall mean a lot or portion of lot in any cemetery designated and maintained for the interment of a human body or bodies and for no other purpose.
 - (3) “Owner” shall mean any person or persons owning or possessing the privilege, license or right of interment in any burial space.
- (B) City Cemeteries. The cemeteries which have been or may hereafter be established by the City and maintained either within or without its limits, of which plats have been or shall be filed in the office of the City Clerk, shall be under the management and supervision of the City Manager. He shall, if necessary, cause such cemeteries to be laid out in lots, drives and walks; the lots to be numbered, drives and walks therein to be named, and plats thereof to be made. The City Council shall fix the price of lots and other services necessary thereto.
- (C) Rules and Regulations. Pursuant to Section 1.1(N), rules and regulations may be promulgated for the burial of the dead, care, improvement and protection of the grounds, mausoleums, monuments and appurtenances of the cemeteries and orderly conduct of persons visiting the same, as may be deemed necessary. The City Clerk shall cause to be kept a register of all interments made in any City cemetery, in which shall appear the name of the deceased, the date and place of interment and such other information as may be required.
- (D) Sale of Burial Rights. All deeds for burial rights shall be executed on behalf of the City by the City Clerk. Any person desiring to purchase burial rights in any City cemetery shall make application and pay the required amount for the lot selected to the City Clerk. Upon the purchase of burial rights, the City Clerk shall prepare and deliver to the purchaser, a duly executed deed for said burial rights. Such deed shall convey to the purchaser the right of interment only, and shall be held subject to the provisions of this Code, existing rules and regulations, and such Ordinances, rules and regulations as may hereafter be adopted.
- (1) The price paid for burial rights sold shall include perpetual care. Where the owner of any lot for which perpetual care has not been paid seeks to use the lot for a burial, no lot opening shall be made or burial permit issued until perpetual care has been paid for in full.
 - (2) Deeds for burial rights acquired hereunder may not be transferred, assigned or conveyed except back to the City in exchange for the return of the original purchase price.

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- (E) Lot Owner's Burial Rights. The owner of any burial space in any City cemetery shall have the right of burial of the dead only and shall allow no interments for remuneration. All interments in burial spaces shall be restricted to members of the family and immediate relatives of the owner thereof, unless written permission by the owner be filed in writing in the office of the City Clerk, and written permission is granted by the City.
- (F) Lot Records. The City Clerk shall keep proper records in which the deeds to all burial spaces shall be recorded at length. In connection with all such records, the City Clerk shall keep also a general index in which shall be noted alphabetically the name of the party or parties to every such instrument of conveyance.
- (G) Labor Charges. The City Treasurer shall charge and cause to be collected on behalf of the City, such fees for work performed in the City cemeteries as may be from time to time established by resolution of the City Council. All such fees shall be paid to the City Treasurer or his designee. No person other than an employee of the City shall dig or open any grave, nor shall any person grade or fill in a burial space or otherwise do any work in connection therewith, unless such work be done under supervision of the City employees in charge of such cemetery.
- (H) Trespass. No person shall trespass on any lot or burial space within any City cemetery, nor pick or cut flowers or shrubs except on his own burial space, or cut down, injure or disturb any tree or shrub or otherwise commit any desecration within any City cemetery.
- (I) Perpetual Care. The City Council shall, from time to time, establish by resolution the amounts to be paid for cemetery lots which amounts shall include a sufficient sum to provide for perpetual care of the lots so sold. The City may accept sums donated by any testator, trustee or other person for the care of the cemetery or any lots therein. The City shall be obligated to maintain and care for all lots in the cemetery for which perpetual care has been paid except as otherwise provided by the statutes of the State of Michigan. Any money available in any perpetual care fund or other cemetery fund belonging to the City shall be used for such cemetery purposes as the City Council shall determine.

SECTION 3.3 LIBRARY

- (A) Designation as a Historical Building. The Krause Memorial Library building, a branch of the Kent District Library System, is hereby designated as a Historical Building in the City of Rockford.

SECTION 3.4 TREES

- (A) Intent. It is the intent of this article to promote and protect the public health, safety and welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other woody plants within the city. It is the further intent of this article to cause the replacement of each approved tree species that is removed from public street right-of-ways, city parks and other city-owned property. Such replacements shall be of an approved species as designated by the city and at locations as shall be determined by

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the city manager or his/her designee; thereby ensuring the variety and longevity of the city tree inventory.

- (B) Permits for Tree Planting, Care and Removal. The city manager or his/her designee shall have control of the planting, removal and care of trees, shrubs and other woody plants in the public street right-of-ways, city parks and other city-owned property subject to the provisions of this article. The owner of land abutting a public street right-of-way may, upon obtaining a written permit from the city manager or his/her designee, prune, plant, remove, spray and otherwise maintain trees, shrubs and other woody plants in that part of the street right-of-way abutting such owners land not used for pedestrian or vehicular travel. No person shall otherwise prune, plant, remove, spray or otherwise maintain trees, shrubs and other woody plants in any public street right-of-way, city park or other city-owned property. Each permit shall specify the extent and conditions of authorization.
- (C) Tree Removal and Replacement. If the city manager or his/her designee shall determine that an existing tree, shrub or other woody plant located in the public street right-of-way, a city park or other city-owned property has died or is diseased, disfigured or partially destroyed, he/she shall authorize its removal. All trees, shrubs and other woody plants that are removed from public street right-of-ways, city parks and other city-owned property shall be replaced as deemed appropriate by the city manager or his/her designee on a one-to-one basis at a location to be determined by the city manager or his/her designee.
- (D) Planting and Spacing of Trees. The planting of trees, shrubs and other woody plants in public street right-of-ways, city parks and other city-owned property shall be authorized by the city manager or his/her designee in accordance with prescribed planting practices and their location and spacing shall be determined by the city manager or his/her designee.
- (E) Covering Soil Surface Near Trees; Sidewalks. No person shall place within the public street right-of-ways any material which will impede or redirect the full and free passage of water, air or fertilizer or other plant food to the roots of any tree, shrub or other woody plant except for a sidewalk of authorized width and location.
- (F) Clear Vision Clearance. No trees, shrubs, woody plants, other plantings, fencing or other obstruction shall be located or maintained on a corner lot which will obstruct the view of the driver or operator of a vehicle within the public street right-of-way. Such unobstructed view area shall mean a triangular area formed by the private property lines along each public street right-of-way and a line connecting them at a point twenty (20) feet from the private property lines extended. Trees, shrubs, woody plants and other plantings may be located in such unobstructed view area provided they will not achieve a height at maturity greater than thirty (30) inches. In addition, no trees, shrubs, woody plants or other plantings shall be located or maintained in any front, side or rear yard of a lot which, in the opinion of the city manager or his/her designee will obstruct the view from vehicles entering or leaving the lot from driveways or adjacent private roadways.

- (G) Tree Removal for Utility Operation or Public Safety. If a public or private utility company or the city manager or his/her designee determines that a tree, shrub or other woody plant located in a public street right-of-way, city park or other city-owned property is a detriment to utility operations or a public safety concern it may be trimmed or removed to provide the necessary and appropriate clearance or to otherwise eliminate the operational or public safety concern as approved by the city manager or his/her designee. Any tree, shrub or other woody plant removed shall be replaced at a location determined by the city manager or his/her designee. At the time of removal, a fee as established from time to time by resolution of the city council shall be paid by the party responsible for the removal and deposited in a designated city tree fund to pay for the replacement unless otherwise provided by resolution of the city council.
- (H) Maintenance of Trees on Private Property. The owner of a tree located on private property which overhangs onto a public street right-of-way shall periodically be responsible for trimming its branches (a) so the tree does not obstruct the light from any street lamp or the clear view of any public street intersection, and (b) so there is a clear space of thirteen (13) feet above the surface of the public street right-of-way. The owner of a dead, diseased, infested or dangerous tree or a tree with broken or decayed limbs on private property which constitutes a danger to public safety shall promptly remove such tree or limbs. The city has the right to trim any tree, shrub or other woody plant that obstructs the light of any street lamp in the public street right-of-way or interferes with the visibility of any traffic control device or sign. Such trimming shall be confined to the area immediately above the public street right-of-way.
- (I) Tree Trimming Standards. All trees, shrubs and other woody plants that are subject to this article shall be trimmed and pruned in accordance with the then current standards established by the American National Standard Institute for tree care operations (ANSI A-300).
- (J) Persons Engaged in Trimming, Pruning and Removal. All persons, firms and companies providing trimming, pruning and removal services of trees, shrubs and woody plants within the public street right-of-ways or in city parks or other city-owned property shall be, if required, currently licensed by the appropriate state authority, if any, and shall have in effect a general liability policy of insurance which names the city as an additional or co-insured. A copy of the policy or a certificate of insurance shall be filed with the city clerk before beginning work within the city.

CHAPTER 4 STREETS AND SIDEWALKS

SECTION 4.1 STREETS

- (A) Definitions. Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:
- (1) “Street” shall mean all of the land lying between property lines on either side of all streets, alleys and boulevards in the City, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.
 - (2) “Department” shall be deemed to refer to the Department of Public Services of the City.
- (B) Damage and Obstruction Prohibited. No person shall make any excavation in, or cause any damage to any street in the City, except under the conditions and in the manner permitted in this Chapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this Chapter, but this provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.
- (C) Permits and Insurance. Where permits are authorized in this Chapter, they shall be obtained upon application to the City Manager or his designee, upon such forms as he shall prescribe, and there shall be a charge as provided from time to time by the City Council. Such permit shall be revocable by the City Manager for failure to comply with this Chapter, rules and regulations adopted pursuant to Section 1.1(N) hereof, and the lawful orders of the City Manager or his designee, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this Chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent ordinances, laws, rules and regulations of the City in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the City from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Proof of liability insurance shall be filed on making application for a permit. Said insurance shall include the types and minimum amounts set from time to time by resolution of the City Council.
- (1) The City shall be named as a co-insured or additional insured and beneficiary on all such policies of insurance and said policies shall provide that cancellation or termination will not occur unless the City Manager has been given written notice

of cancellation or termination at least 20 days in advance. Performance and labor and materialmen's bonds shall also be provided as required by the City Manager.

- (D) Street Openings. No person shall make any excavation or opening in or under any street without first obtaining a written permit from the City Manager. No permit shall be granted until the applicant shall post proof of liability insurance and bonds required by Section 4.1(C).
- (E) Emergency Openings. The City Manager may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency provided that a permit shall be obtained on the following business day and the provisions of this Chapter shall be complied with.
- (F) Backfilling. All excavations in a public street or other public place, except by special permission, shall be excavated, backfilled and restored in accordance with rules and regulations developed by the Department and approved by the City Council in accordance with Section 1.1(N) of this Code. Any further settlement shall be so corrected within twenty-four (24) hours after notification to do so.
- (G) Utility Poles. Utility poles may be placed in such streets as the City Manager shall prescribe and shall be located thereon in accordance with the directions of the City Manager. Such poles shall be removed or relocated as the City Manager shall from time to time direct.
- (H) Maintenance of Installation in Street. Every owner of, and every person in control of, any property hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his property, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the City to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the City against all damages or actions of law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control. The construction, installation, operation or maintenance of such structures may be performed on or affect property owned by the City only after paying a fee as established from time to time by the City Council and obtaining an Encroachment Permit from the City Manager which permit shall not be issued unless the property owner first obtains insurance and bonds in accordance with Section 4.1(C) of this Code.
- (I) New Paving. Whenever the City Council shall determine to pave or resurface any street, the City Manager shall, not less than thirty (30) days prior to commencement of construction, serve notice upon all public utilities, requiring them to install all necessary underground work.

- (J) Sewer and Water Connections. When such paving or resurfacing shall have been ordered or declared necessary by the City Council, such sewer and water connections as are necessary shall be installed in advance of such paving or resurfacing, and the cost thereof shall be charged against the premises adjacent thereto, as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed otherwise than by special assessment, the cost of the sewer and water connections so installed, shall be a lien on said premises adjacent thereto, or to be served thereby, and shall be collected as provided for assessments on single lots pursuant to the provisions of Section 1.1(L) of this Code.
- (K) Determination of Necessity. The necessity for such sewer and water connections shall be determined by the City Manager, which determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the City, the character of the locality and the probable future development of each abutting lot or parcel of land. The City Manager shall give written notice of the intention to install such sewer and water connections and to charge the cost of the same to the premises to each owner of land abutting the street to be furnished with such connections as shown by the records of the City Assessor in accordance with Section 1.3(A) of this Code. Any owner objecting to the installation of any such sewer or water connection shall file his objections in writing within seven (7) days after service of such notice, with the City Manager who shall, after considering each such objection made in writing, make a final determination of the sewer and water connections to be installed.
- (L) Prohibited Openings. No permit to make any opening or excavation in a paved street shall be granted to any person within a period of three (3) years after the completion of any paving or resurfacing thereof. If a street opening is necessary as a public safety measure, the City Manager or his designated representative may suspend the operation of this section, as to such street opening.
- (M) Curb Cuts. No opening in or through any curb or any street shall be made without first obtaining a written permit from the City Manager which shall not be granted until the applicant shall post proof of insurance and bonds as required by Section 4.1(C). Curb cuts and sidewalks driveway crossings to provide access to private property shall comply with the following:
- (1) No single curb cut shall exceed twenty-five (25) feet nor be less than ten (10) feet.
 - (2) The minimum distance between any curb cut and a public crosswalk shall be five (5) feet.
 - (3) The minimum distance between curb cuts, except those serving residential property, shall be twenty-five (25) feet.
 - (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise, shall be forty-five (45%) percent of the total abutting street frontage up to and including two hundred (200) lineal feet

of street frontage plus twenty (20%) percent of the lineal feet of street frontage in excess of two hundred (200) feet.

- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the City.
- (6) All construction shall be in accordance with plans and specifications approved by the City Manager.
- (N) Street Obstructions. No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to said street, or for any other purpose, without first paying a fee as may be established from time to time by the City Council, obtaining a permit from the City Manager or his designee and posting proof of insurance and bonds as required by Section 4.1(C).
- (O) Pedestrian Passage. At least six (6) feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians, and if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter built in accordance with this Code, shall be provided around such construction.
- (P) Safeguards. All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with amber warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three (3) feet apart, and parallel to the flow of traffic not over fifteen (15) feet apart.
- (Q) Shoring Excavations. All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or sub-surface structure of the street.
- (R) Moving of Buildings, Etc. No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers larger in width than fourteen (14) feet, into, across or along any street, alley or other public place in the City, without first paying a fee as may be established from time to time by the City Council, obtaining a permit from the City Manager which permit shall not be issued until the applicant shall post proof of insurance and bonds as required by Section 4.1(C). The applicant shall file written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the City Police Department, approving the proposed route through the City streets and the time of moving, together with an estimated cost to the Police Department due to the moving operations.

- (S) Additional Regulations. The City Manager or his designee may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions, and house moving in accordance with Section 1.1(N) of this Code.
- (T) Removal of Encroachment. Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this Chapter. The procedure for collection of such expenses shall be as prescribed in Section 1.1(L) of the Code.
- (U) Temporary Street Closing. The City Manager or his designee shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on said street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over said street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this Section without authority from the City Manager.

SECTION 4.2 SIDEWALKS

- (A) Definition of Sidewalk. When used in this Chapter “Sidewalk” shall mean the portion of the street right of way designed for pedestrian travel.
- (B) Specifications and Permits. No person shall construct, rebuild, repair or remove any sidewalk except in accordance with the line, grade, slope, and specifications established by the City Manager nor without first obtaining a written permit from the City Manager which shall not be issued until the applicant shall post proof of insurance and bonds as required by Section 4.1(C). The said written permit shall be prominently displayed on the construction site. The fee for such permit shall be as established from time to time by the City Council.
- (C) Line and Grade Stakes. The City Manager may furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the City Manager.
- (D) Sidewalk Specifications. Sidewalks shall be constructed in accordance with specifications on file in the office of the City Manager, copies of which shall be available to the public.
- (E) Permit Revocation. The City Manager may revoke any permit issued under the terms of this Chapter for incompetency or failure to comply with the terms of this Chapter, or the rules and regulations, established pursuant to Section 1.1(N) and plans and specifications

for the construction, reconstruction or repair of any sidewalk. The City Manager may cause work to be stopped under any permit granted for the construction, reconstruction or repair of any sidewalk for any of the causes enumerated in this Section.

- (F) Ordering Construction. The City Council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the City Clerk shall give notice thereof, in accordance with Section 1.1(J) of this Code, to the owner of such lot or premises requiring him to construct or rebuild such sidewalk within such period of time as may be set by the City Manager.
- (G) Construction by City. If the owner of any lot or premises shall fail to build any particular sidewalk as described in said notice, and within the time and in the manner required thereby, the City Manager is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, cause such sidewalk to be constructed and the expense thereof shall be charged to such premises and the owner thereof, and collected as provided for single lot assessments in Section 1.1(L) of the Code.
- (H) Sidewalk Maintenance. No person shall permit any sidewalk which adjoins property owned by him to fall into a state of disrepair or to be unsafe.
- (I) Sidewalk Repair. Whenever the City Manager shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon said sidewalk of such determination which notice shall be given in accordance with Section 1.1(J) of this Code. Thereafter, it shall be the duty of the owner to place said sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven (7) days, within which such work shall be commenced, and shall further provide that the work shall be completed with due diligence. If the owner of such lot or premises shall refuse or neglect to repair said sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this Chapter, the City Manager shall have said sidewalk repaired. If the City Manager determines that the condition of said sidewalk is such that immediate repair is necessary to protect the public, he may dispense with said notice. The cost of repairs hereunder may be shared by the City as provided by the City Council, and shall be charged against the premises which said sidewalk adjoins and the owner of said premises, and shall be collected as provided for single lot assessments in Section 1.1(L) this Code.
- (J) Sidewalks to be Cleared. The occupant of every lot or premises adjoining any street, or the owner of such lot or premises, if the same are not occupied, shall clear all ice and snow from sidewalks adjoining such lot or premises within the time herein required. When any snow or ice shall cease to fall during the daylight hours, such snow or ice shall be cleared from the sidewalks within twenty-four (24) hours after such cessation. When a fall of snow or ice shall have ceased during the night time, it shall be cleared from the sidewalks by 6:00 p.m. of the day following.

- (K) Failure to Clear. If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his premises within the time limited, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this Chapter and in addition, the City Manager may cause the same to be cleared and the expense of removal shall become a debt to the City from the occupant or owner of such premises, and shall be collected as provided for single lot assessments in Section 1.1(L) of this Code.

SECTION 4.3 SNOW REMOVAL AND PLOWING

- (A) Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:
- (1) “Motor vehicle” means any self-propelled vehicle of any size which carries or is capable of carrying its operator.
 - (2) “Public way” means any street, alley, sidewalk, driveway, parking lot, park or any other place which is opened to or frequented by the public or to which the public has access.
- (B) Snow Removal from Private Property Onto Public Way Prohibited. No person shall remove snow or ice from private property and deposit or leave it upon any public street or sidewalk or any public way owned by another person.
- (C) Snow Removal Onto Property of Another Prohibited. No person shall deposit or leave snow or ice upon the property of another person without the permission of the other person.
- (D) Snow Removal So as to Block Public Way or Access to Property of Another Prohibited. No person shall deposit or leave snow in a place or manner which blocks or interferes with the use of a public way or which blocks or interferes with access to or the use of property of another person.
- (E) License Required. No person shall operate or cause to be operated upon any Public Way or upon the property of another person a motor vehicle for the purpose of moving, removing or plowing snow or ice without first obtaining a license from the City for each vehicle operated therefor.
- (F) License Application. Any person desiring a license as required by Section 4.3(E) of this Code shall file an application with the City Manager or his designee on a form approved by the City Manager which application shall contain, in addition to any other information the City Manager may require, the applicant’s full name, address, telephone number and driver’s license number and the manufacturer’s name, model name, type, license number and vehicle identification number of the motor vehicle to be licensed.
- (G) Insurance and Bonds. Prior to the issuance of a license pursuant to this Chapter, the applicant shall file proofs of insurance policies and/or bonds of the type, coverage and

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amounts required from time to time by the City Council. Said insurance policies and/or bonds shall provide that they will not be canceled or terminated unless the City Manager has been given written notice of cancellation or termination at least 20 days in advance.

- (H) License Fee. Any applicant for a license issued pursuant to this Chapter shall pay a license fee established from time to time by the City Council.
- (I) Inspection. Any motor vehicle for which a license application has been made or a license has been issued pursuant to this Chapter may be inspected by the City Manager or his designee at any reasonable time prior to or after the issuance of the license.
- (J) License Tag or Decal. For each motor vehicle for which a license has been issued the City Manager or his designee shall issue a license tag or decal containing a number assigned by the City Manager or his designee corresponding to that vehicle which tag or decal shall be affixed to the motor vehicle in a position so as to be readily seen.
- (K) Warning Lights. In addition to any equipment required by applicable laws, rules or regulations, each motor vehicle for which a license is issued pursuant to this Chapter shall be equipped with lights mounted in such position as to be clearly visible to any approaching or following traffic or pedestrians, but not such as to blind or confuse such traffic or pedestrians. Such lights shall be turned on and be operating at all times during any time such vehicle is used for snow or ice moving, removing or plowing.
- (L) Operation. A person licensed pursuant to this Chapter may operate a snowplow over any public sidewalk for purposes of snowplowing or reaching a segment of public sidewalk for which a private person, firm, or corporation has requested snowplowing.
- (M) Damage to Property. Any person licensed pursuant to this Chapter shall be responsible for repairing any damage to a public way as a result of said snowplowing operations. If said person shall fail to make repairs sufficient to place the property in the same condition as it existed prior to the aforementioned damage, the City may cause the same to be repaired and the cost thereof shall become a debt to the City from said person, and shall be collected as any other debt to the City.
- (N) Rules and Regulations. The City Manager may promulgate rules and regulations regarding snow and ice removal and equipment used therefor pursuant to Section 1.1(N) of this Code.
- (O) Denial, Suspension or Revocation. Failure to repair damage caused by snow or ice moving, removing or plowing or by operation of equipment therefor, or to comply with any provision of this Code or, any rule or regulation promulgated pursuant hereto shall, in addition to any other penalty, liability or remedy, be grounds for the denial, suspension or revocation of any license issued pursuant to this Chapter.
- (P) Penalties. Anyone violating any provision of this Chapter or any rule or regulation promulgated pursuant hereto shall, upon conviction, be penalized in accordance with Section 1.1(K) of this code.\

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SECTION 4.4 MAINTENANCE OF PUBLIC ACCESS AREAS.

- (A) Definition. When used in this Chapter “public access areas” shall mean the following:
- (1) The city right-of-way on either side of a public street, including but not limited to, any sidewalk, walkway, driveway or parkway (the area between the sidewalk and street pavement) located therein;
 - (2) A public or utility easement to the centerline;
 - (3) An alley or alleyway to the centerline.
- (B) Maintaining Public Access Areas. Every owner or occupant of, and every person in control of, any property in the City of Rockford shall maintain, free of grass or undergrowth six inches or higher, any public access areas abutting such property. Except as otherwise approved by the City Manager due to special circumstances applying to the particular parkway, no such owner, occupant or person shall place or cause the placement of ground cover (including but not limited to stones, wood chips or plantings) in any parkway or remove or trim trees located in any parkway. Special circumstances shall include whether or not said material would interfere with maintenance within the right-of-way, impact on sight distances, impact on vehicular/pedestrian traffic, impact on public safety and whether or not said material is considered to be noxious or offensive.
- (C) Notice to Remove or Cease Activity. The City Manager or his/her designee is authorized to notify in writing the owner or occupant of any property or the agent of such owner or occupant to (i) cut, destroy, clean up, and/or remove any grass or undergrowth six inches or higher within or found growing on such abutting public access areas or (ii) cut, destroy, clean up, and/or remove ground cover so placed in any parkway or (iii) cease the removal or trimming of trees located in any parkway. Such notice shall be given in the manner provided in Section 1.1(J) of this Code.
- (D) Violations. Any person who violates, disobeys, fails, neglects or refuses to comply with the provisions of this Chapter and the written notice of the City Manager or his/her designee within 10 days after mailing of the written notice to said person’s last known address, according to the latest City tax assessment roll, shall be in violation of this Code and upon conviction be penalized in accordance with Section 1.1(K) of this Code.
- (E) Violation a Nuisance. The presence of any grass or undergrowth six inches or higher upon or within any public access areas located within the City is hereby declared to be a public nuisance. The placement of ground cover in any parkway and the trimming or removal of any trees located in any parkway by owners, occupants or persons in control of abutting property are also declared to be public nuisances.
- (F) Abatement by City. Upon the failure, neglect or refusal of any abutting owner or occupant, or agent thereof, to comply with the provisions of this Chapter, the City Manager or his/her designee is hereby authorized to provide for and to make payment for the cutting, destroying, cleaning up and/or removal of such grass or undergrowth, ground

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cover and cut or trimmed trees. Additionally, the City Manager or his/her designee is authorized to provide and pay for the replacement of trees removed in violation of this Chapter.

- (G) Collection of Cost. When the City has provided for the cutting, destroying, cleaning up and/or removal of such grass or undergrowth, ground cover, or trimmed or cut trees, or has provided for the replacement of cut trees, the actual cost thereof, including those instances when performed by the City, and including all costs, shall be charged to the owner or occupant of such property and collected as provided in Section 1.1(L) of this Code.

CHAPTER 5 HEALTH REGULATIONS

SECTION 5.1 HOUSING REGULATIONS

(A) TITLE AND PURPOSE

- (1) Short Title. This Chapter shall be known and may be cited as the “Housing Ordinance” of the City of Rockford.
- (2) Purpose. The purpose of this Chapter is to provide minimum standards for existing dwellings and dwelling units; to provide for the elimination of overcrowding; to provide for a basis of enforcement of sanitary conditions in and around structures used for human habitation; to effectively eliminate and prevent the development of slum conditions and to protect the health and safety of the people of the City of Rockford.

(B) TO WHOM IT SHALL APPLY

- (1) Applicability. This Chapter shall apply to all persons, firms, partnerships, associations and corporations owning, occupying or having control or management of any building or premises used for dwelling purposes which is located within the City.

(C) DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Chapter:

- (1) **BASEMENT** shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (2) **BUILDING** shall mean any structure, framework or housing, public or private, and includes tanks and/or receptacles for the storage of materials or commodities.
- (3) **DWELLING** shall mean any building, house, or structure which is wholly or partially used or intended to be used as the home, residence, living or sleeping place of human occupants, either permanently or transiently; provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.
- (4) **CELLAR** shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

- (5) DWELLING UNIT shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.
- (6) EXTERMINATION shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the Health Officer.
- (7) GARBAGE shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (8) HABITABLE ROOM shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.
- (9) HEALTH OFFICER shall mean the City Manager or his designee.
- (10) INFESTATION shall mean the presence, within or around a dwelling, of any insects, rodents or other pests.
- (11) MULTIPLE DWELLINGS shall mean any dwelling containing more than two dwelling units.
- (12) OCCUPANT shall mean any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.
- (13) OPERATOR shall mean any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.
- (14) OWNER shall mean any person who, alone or jointly with others;
 - (a) Shall have legal or equitable title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 - (b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
- (15) PERSON shall mean and include any individual, firm, corporation, association, or partnership or other entity comprised of any or all of the foregoing.
- (16) PLUMBING shall mean and include all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs,

shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

- (17) PREMISES shall mean any dwelling or building, or other place where human beings reside, are employed, or congregate.
 - (18) ROOMING UNIT shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
 - (19) ROOMING HOUSE shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.
 - (20) RUBBISH shall mean combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.
 - (21) SUPPLIED shall mean paid for, furnished, or provided by or under the control of, the owner or operator.
 - (22) TEMPORARY HOUSING shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, or another structure or to any utilities system on the same premises for more than 30 consecutive days.
 - (23) MEANING OF CERTAIN WORDS. Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” “premises,” are used in this Chapter, they shall be construed as though they were followed by the words “or any part thereof.”
- (D) INSPECTION OF DWELLINGS, DWELLING UNITS, ROOMING UNITS AND PREMISES
- (1) Inspections. The Health Officer is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units, and premises located within the City, in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the Health Officer is hereby authorized to enter, examine and survey at all reasonable times all premises. The owner, operator or occupant of all premises shall give the Health Officer free access to such premises, at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or

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dwelling unit shall give the owner or operator thereof, or their agents or employees, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Chapter or with any rule or regulation promulgated or any lawful order issued pursuant to the provisions of this Chapter and Section 1.1(N) of this Code.

(E) ENFORCEMENT; SERVICE OR NOTICES AND ORDERS; HEARINGS

- (1) Notices. Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:
 - (a) Be put in writing;
 - (b) Include a statement of the conditions that constitute violations of the Chapter and what must be done to correct the same;
 - (c) Specify a time limit for the performance of any acts it requires, which shall be a reasonable time for the correction of the violation or violations;
 - (d) Be served upon the owner, the operator, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner, operator or occupant, if a copy thereof is served upon him personally; if a copy thereof is sent by registered mail to his last known address; if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice.
 - (e) Notify the owner, operator, or the occupant as the case may require, of his right to appeal from the notice or order to the Housing Board of Appeals as set forth in this Chapter.
- (2) Appeals. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Housing Board of Appeals; provided that such person shall file in the office of the City Clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Housing Board of Appeals shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 30 days after the day on which the petition was filed.

- (3) After such hearing, the Housing Board of Appeals may, in writing, sustain, modify or withdraw the notice, depending upon their finding as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant hereto have been complied with. If the Housing Board of Appeals sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the City Clerk within 10 days after such notice is served. After a hearing in the case of any notice suspending any permit required by this Chapter or by any rule or regulation adopted pursuant hereto, when such notice has been sustained by the Housing Board of Appeals, the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the City Clerk within 10 days after such notice is served.
- (4) Hearings. The proceedings at such hearing, including the findings and decision of the Housing Board of Appeals, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Health Officer. Such record shall also include a copy of every notice or order or modification or withdrawal issued in connection with the matter. Any person aggrieved by the decision of the Housing Board of Appeals may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the State.
- (5) Emergencies. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Housing Board of Appeals shall be afforded a hearing as soon as possible. After such hearing, depending upon its finding as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant to Section 1.1(N) of this Code have been complied with, the Housing Board of Appeals shall continue such order in effect, modify if or withdraw it.
- (6) Board of Appeals. In order that the provisions of this Chapter may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of this Chapter, a Housing Board of Appeals is hereby created. The duty of said Board shall be to consider appeals from the decision of the officials charged with the enforcement of this Ordinance and to determine, in particular cases, whether any deviation from the strict enforcement of the Chapter will violate the intent of said Chapter or jeopardize public health and safety.
- (7) Board Members. The Board shall consist of three members, who shall be appointed by and serve at the will and pleasure of the Mayor. Such appointments

shall be confirmed by the City Council. The Mayor shall appoint to said Board one member from the Fire Department and one member from a City Service Department. The other member shall have such qualifications as the Mayor shall consider essential to enable him to act intelligently in matters pertaining to housing and building conditions. The Board shall elect from its membership a Chairman.

(F) RULES AND REGULATIONS

- (1) Rule-Making. The Health Officer is hereby empowered to make such rules and regulations as shall be necessary for the enforcement of this Chapter in accordance with Section 1.1(N) hereof.

(G) MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

- (1) Compliance Required. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, which does not comply with the following minimum requirements:
- (a) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the Health Officer.
 - (b) Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the Health Officer.
 - (c) Every dwelling unit shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the Health Officer.
 - (d) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of Section 5.1(G)(1)(a), Section 5.1(G)(1)(b), and Section 5.1(G)(1)(c) of this code, shall be properly connected with both hot and cold water lines.
 - (e) Every dwelling unit shall be supplied with adequate rubbish storage facilities, type and location of which are approved by the Health Officer.
 - (f) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, type and location of which are approved by the Health Officer.
 - (g) Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are

properly connected with the hot water lines required under the provisions of Section 5.1(G)(1)(d), and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees F. Such supplied water-heating facilities shall be capable of meeting the requirements of this Section when the dwelling or dwelling unit heating facilities required under the provisions of Section 5.1(H) of this Code are not in operation.

- (h) Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level.
- (i) The roof of every dwelling shall be maintained in a serviceable condition.
- (j) Every dwelling shall be clean so as not to be a menace to health or a dangerous fire hazard.

(H) MINIMUM STANDARDS FOR LIGHT, VENTILATION AND HEATING

- (1) Compliance Required. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:
 - (a) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10 per cent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15 per cent of the total floor area of such room.
 - (b) Every habitable room shall have at least one window or skylight which can easily be opened, and which shall face directly to the outdoors, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 per cent of the minimum window area size or minimum skylight-type window size, as required in Section 5.1(H)(1)(a), except where there is supplied some other device affording adequate ventilation and approved by the Health Officer.

- (c) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in Section 5.1(H)(1)(a) and Section 5.1(H)(1)(b), except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the Health Officer.
- (d) Every habitable room of such dwelling shall contain at least two separate floor or wall type electric convenience outlets, or one such convenience outlet and one supplied ceiling type electric light fixture; and every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
- (e) Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 70 degrees F., at a distance three feet above floor level under winter conditions of at least 0 degrees F.
- (f) Every public hall and stairway in every multiple dwelling and rooming house shall be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed.
- (g) During that portion of each year when the health officer deems it necessary for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens, provided that such screens shall not be required during such period in rooms deemed by the health officer to be located high enough in the upper stories of buildings as to be free from such insects, and in rooms located in areas of this City, which are deemed by the health officer to have too few such insects as to render screens unnecessary.
- (h) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

(I) GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS

- (1) Compliance Required. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:
- (a) Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight, watertight and rodent proof; shall be capable of affording privacy; and shall be kept in good repair.
 - (b) Every window, exterior door and basement hatchway shall be reasonably weathertight; watertight and rodent proof; and shall be kept in sound working condition and good repair.
 - (c) Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereupon; and shall be kept in sound condition and good repair.
 - (d) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks and obstructions.
 - (e) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
 - (f) Every supplied facility, piece of equipment, or utility which is required under this Chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
 - (g) No owner, operator or occupant shall cause any service, facility, equipment or utility, which is required under this Chapter, to be removed from or shut off from or discontinued for any occupied dwelling, let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies when discontinuance of service is approved by the Health Officer.
 - (h) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary and fit for human occupancy.

(J) MINIMUM SPACE, USE AND LOCATION REQUIREMENTS

- (1) Compliance Required. No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:
- (a) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
 - (b) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.
 - (c) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
 - (d) At least one-half of the floor area of every habitable room shall have a ceiling height of at least 7 feet; and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
 - (e) No cellar space shall be used as a habitable room or dwelling unit.
 - (f) No basement space shall be used as a habitable room or dwelling unit unless:
 - (i) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.
 - (ii) The total of window area in each room is equal to at least the minimum window area sizes as required in Section 5.1(H)(1)(a).
 - (iii) Such required minimum window area is located entirely above the grade of the ground adjoining such window area.
 - (iv) The total of openable window area in each room is equal to at least the minimum as required under Section 5.1(H)(1)(b), except where

there is supplied some other device affording adequate ventilation and approved by the Health Officer.

(K) RESPONSIBILITIES OF OWNERS AND OCCUPANTS

(1) Duties.

- (a) Every owner and/or operator of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (c) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by Section 5.1(G)(1)(e).
- (d) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by Section 5.1(G)(1)(f). It shall be the responsibility of the owner and/or operator to supply such facilities or containers for all dwelling units in a dwelling containing more than two dwelling units and for all dwelling units located on premises where more than two dwelling units share the same premises. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.
- (e) Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this Chapter or of any rule or regulation adopted pursuant hereto, except where the owner has agreed to supply such service.
- (f) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner and/or operator to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner and/or operator. Whenever infestation exists in two or more of the dwelling units in any dwelling, or

in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner and/or operator.

- (g) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(L) DESIGNATION OF DWELLINGS UNFIT FOR HUMAN HABITATION AND LEGAL PROCEDURE FOR CONDEMNATION

- (1) Procedure. The designation of dwellings or dwelling units as unfit for human habitation, the declaration of the same to be a public nuisance and provisions for their vacation, removal, repair, condemnation and demolition shall be carried out in compliance with the following requirements:

- (a) Any dwelling or dwelling unit, which shall have any of the following defects, shall be deemed “unfit for human habitation”:
 - (i) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the residents of the City of Rockford.
 - (ii) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide amenities essential to decent living or are likely to cause sickness or disease so as to work injury to the health, safety, or general welfare of those living therein.
 - (iii) Those having light, air or sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
 - (iv) Those having inadequate means of egress as required by Section 5.1(G) hereof.
 - (v) Those which have parts thereof which are so attached that they may fall and injure occupants or members of the public or property.
 - (vi) Those, which, because of their conditions, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the residents of this City.

- (vii) Those in which owner, operator or occupant fails to comply with orders of the Health Officer, based on the provisions of this Chapter or on rules and regulations adopted pursuant thereto.
- (b) Any dwelling or dwelling unit may be condemned as unfit for human habitation if, in the opinion of the Health Officer, that dwelling or dwelling unit fails to meet the standards and requirements of Section 5.1(L)(1)(a). Whenever the Health Officer determines a dwelling or dwelling unit is unfit for human habitation, he shall give notice to the owner or operator that the dwelling or dwelling unit shall be condemned and of his intent to placard the same as unfit for human habitation. Such notice shall:
 - (i) Be in writing;
 - (ii) Include a description of the real estate sufficient for identification.
 - (iii) Include a description of the repairs and improvements required to bring the condemned dwelling or dwelling unit into compliance with the provisions of this Chapter and any rules or regulations adopted pursuant hereto.
 - (iv) Set a reasonable time limit for making the repair and improvements.
 - (v) Include an explanation of the owner's right to seek modification or withdrawal of the notice by petition to the Housing Board of Appeals in accordance with the provisions of this Chapter.
 - (vi) Be served upon the owner in accordance with Section 5.1(E) hereof.
- (c) After the owner fails to make the repairs and improvements required in Section 5.1(L)(1)(b) within the specified time limit, the Health Officer shall post, in a conspicuous place or places, a placard or placards bearing the following words: "CONDEMNED AS UNFIT FOR HUMAN HABITATION."
- (d) Any dwelling or dwelling unit, which has been condemned and placarded as unfit for human habitation by the Health Officer, shall be vacated within a reasonable time, as required by said Health Officer. No owner or operator shall let to any person for human habitation and no person shall occupy any dwelling or dwelling unit, which has been condemned and placarded by the Health Officer, after the date on which said Health Officer has required the affected dwelling or dwelling unit to be vacated.

- (e) No dwelling or dwelling unit, which has been condemned and placarded as unfit for human habitation, shall again be used for human habitation until written approval is secured from, and such placard is removed by the Health Officer. The Health Officer shall remove such placard whenever the defect or defects, upon which the condemnation and placarding action were based, have been eliminated.
- (f) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in Section 5.1(L)(1)(e).
- (g) A dwelling or building, which has been designated as unfit for human habitation and/or is damaged by wear and tear, deterioration, depreciation, fire, collapse or an act of God to such an extent that the cost of repair and rehabilitation to place it in safe, sound and sanitary condition exceeds 100 per cent of the assessed valuation of the dwelling or building at the time when the repairs or rehabilitation are to be made, shall not be so repaired or rehabilitated unless made to comply in all respects to the Rockford Building Code. In case such dwelling or building is not so repaired and rehabilitated within six months of the date on which it was designated as unfit for human habitation, it shall be ordered demolished and removed.
- (h) If the owner fails to comply with the order to demolish, the Health Officer shall notify the City Attorney, who shall then take such action as may be necessary to effectuate the purposes of this Chapter.
- (i) In the event of expense being incurred by the Health Officer in the work of demolishing or removing any dwelling or building, the Health Officer shall report the amount thereof to the City Treasurer, it shall be assessed against the property involved, as prescribed in Section 1.1(L) of this Code.

(M) VIOLATIONS AND PENALTIES

- (1) Violations. Any person who shall violate any provision of this Chapter, or any provision of any rule or regulation adopted pursuant to this Chapter shall be penalized in accordance with Section 1.1(K) of this Code.
- (2) Conflict. In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of this City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Chapter is found to be in conflict with a provision of any other ordinance or code of this City which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Chapter shall be deemed to prevail.

(N) PUBLIC NUISANCES

Any violation of this Chapter is hereby declared to be a public nuisance and in addition to the above named remedies, the City may institute appropriate legal proceedings to enjoin, abate and remove such nuisance or to prevent the continued violation.

(O) IMPERSONATION OF HEALTH OFFICER

No person shall impersonate or falsely represent himself or herself to be the Health Officer of the City of Rockford, a member of the Housing Board of Appeals, or other representative of the City.

SECTION 5.2 LITTER

(A) Litter and Weeds. No person, whether as owner or occupant, shall suffer or permit upon any premises, whether said premises be any lot, or place, or area, or building or structure, within the City, any of the following conditions:

- (1) Any trash, litter, junk, rags, garbage, rubbish or anything of like nature and import in or around which flies, insects, rodents or vermin may exist, breed or multiply.
- (2) Any ragweed, poison ivy, poison sumac, poison oak, or any other woods, grass, bushes, or undergrowth twelve inches or higher, rubbish, stagnant or filthy water, dead animals or putrid or unwholesome meat, decayed fruit or vegetable, or any foul or offensive drain, sink or privy, or any other unwholesome, filthy, deleterious or offensive thing or substance.

(B) Notice to Remove. The City Manager or his designee is hereby authorized and empowered to notify in writing the owner or occupant of any such premises located within the City or the agent of such owner or occupant, to cut, destroy, clean up, and/or remove any such matter heretofore mentioned located upon or within or found growing on such premises. Such notice shall be given in the manner provided in Section 1.1(J) of this Code.

(C) Violations. Any person who violates, disobeys, fails, neglects or refuses to comply with the provision of this Chapter and the notice of the City Manager or his/her designee within forty-eight (48) hours after notice to said person, shall be in violation of the Code and upon conviction be penalized in accordance with Section 1.1 (K) of this Code.

(D) Violation a Nuisance. The presence of any trash, litter, junk, rags, weeds, grass, rubbish or deleterious matter heretofore mentioned upon or within any premises located within the City is hereby declared to be a public nuisance.

(E) Abatement by City. Upon the failure, neglect or refusal of any owner or occupant, or agent thereof, to comply with the provisions of this Chapter, the City Manager or his designee is hereby authorized and empowered to provide for and to make payment for the cutting, destroying, cleaning up and/or removal of such deleterious matter heretofore

mentioned, and such cutting, destroying, cleaning up and/or removal may be accomplished by the City.

- (F) Collection of Cost. When the City has effected the cutting, destroying, cleaning up and/or removal of such trash, litter, junk, rags, weeds, grass, rubbish or deleterious matter heretofore mentioned or has paid for its cutting, destroying, cleaning up and/or removal, the actual cost thereof, including those instances when performed by the City, and including all costs shall be charged to the owner or occupant of such property and collected as provided in Section 1.1(L) of this Code.

SECTION 5.3 JUNK AUTOMOBILES

- (A) Storage of Dismantled, Partially Dismantled, or Inoperable Motor Vehicles, Machinery and Equipment or any Parts Thereof. It is hereby declared to be unlawful for any person to store on, place on, or permit to be stored or placed on or allowed to remain on any platted or unplatted parcel of land a dismantled, partially dismantled or inoperable motor vehicle, boat, machinery or equipment, or any parts thereof, which land is located in the City, except as the same may be permitted under the pertinent provisions of the Zoning Ordinance unless said dismantled, partially dismantled, or inoperable motor vehicle, boat, machinery or equipment, or parts thereof, shall be kept in a wholly enclosed garage or other wholly enclosed structure; provided, however, that any bona fide owner, co-owner, tenant or co-tenant may store, permit to be stored or allow to remain on the premises of which he is the owner, co-owner, tenant or co-tenant, any one such dismantled, partially dismantled or inoperable motor vehicle, for a period of not to exceed one week if such motor vehicle is registered in his, her or its name. This Chapter shall not be construed to permit parking or placing of dismantled or partially dismantled motor vehicles, boat, machinery or equipment on any street area in the City or in any front yard, as now or hereafter defined by Chapter 20.

- (B) Definitions.

- (1) “Boat” shall mean a vehicle for use on the water which is self-propelled or intended to be self-propelled either mechanically or manually.
- (2) “Dismantled or partially dismantled machinery and equipment” shall mean machinery and equipment from which some part of parts which are ordinarily a component of such machinery or equipment has been removed or is missing.
- (3) “Dismantled and partially dismantled motor vehicle or boat” shall mean a motor vehicle or boat from which some part of parts which are ordinarily a component of such motor vehicle has been removed or is missing.
- (4) “Inoperable machinery and equipment” shall mean any item or piece of machinery or equipment which by reason of dismantling, disrepair, or other cause incapable of functioning or being operated as it was intended to function or be operated.

- (5) “Inoperable motor vehicle or boat” shall mean a motor vehicle or boat which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power, and an unlicensed motor vehicle or boat without a current valid registration.
- (6) “Motor vehicle” shall mean any wheeled or unwheeled vehicles for use on land, in or on water, or in the air which is self-propelled or intended to be self-propelled either mechanically or manually.
- (C) Nuisance. The presence of a dismantled, partially dismantled or inoperable motor vehicle, boat, machinery or equipment, or any parts thereof on any platted or unplatted parcel of land in violation of the terms of this Chapter is hereby declared to be a public nuisance.
- (D) Penalties. Any person who shall violate this Chapter shall, upon conviction, be penalized as provided in Section 1.1(K) of this Code. Every day that such violation shall continue shall constitute a separate and distinct violation under the provisions of this Chapter.

SECTION 5.4 SOIL EROSION AND SEDIMENTATION CONTROL

- (A) Legislative findings. The City Council hereby finds that excessive quantities of soil are eroding certain areas that are undergoing development for nonagricultural uses, such as housing developments, industrial areas, recreational facilities and private roads. This erosion would make necessary costly repairs to gullies, washed-out fills, roads and embankments. The resulting sediment clogs storm sewers and road ditches, muddy streams and place silt in lakes and reservoirs and is considered a major water pollutant.
- (B) Purposes. The purpose of this chapter is to prevent soil erosion and sedimentation from occurring as a result of agricultural development other than plowing and tilling for crop production and nonagricultural development within the City by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community. Unless otherwise specifically permitted by this chapter, it shall be unlawful to alter or restrict the flow of any natural or man-made (if the City or other governmental entity has an easement), public or private, drainage course.
- (C) Adoption by Reference. Pursuant to the provisions of the Home Rule City Act, Act No. 279 of the Public Acts of Michigan of 1909, as amended, MCL 117.1, *et seq.*, the City adopts and incorporates by reference, Part 91 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan of 1994, as amended (previously known as Act 347 of the Public Acts of Michigan of 1972, as amended) and the accompanying Rules promulgated pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, except as modified herein to be more restrictive.

(D) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

- (1) *Accelerated soil erosion.* The increased removal of the land surface that occurs as a result of human activities.
- (2) *Act.* Part 91 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan of 1994, as amended (previously known as Act 347 of the Public Acts of Michigan of 1972, as amended).
- (3) *Application for Termination.* A signed, written statement by the Permittee that the permitted site has been permanently stabilized and can be inspected for final completion.
- (4) *Certification of Completion.* A signed, written statement by the City Manager that the permitted construction has been inspected and found to comply with all grading plans, specifications and supplementary requirements.
- (5) *City Manager.* The City Manager if he or she has the necessary soil erosion and sedimentation control training, or any other person designated by the City Manager who has obtained the necessary soil erosion and sedimentation control training under the Act.
- (6) *Earth change.* A man-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to accelerated soil erosion. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.
- (7) *Erosion.* The process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.
- (8) *Excavation or cut.* Any act by which soil or rock is cut into, dug, uncovered, removed, displayed, or relocated, and shall include the conditions resulting therefrom.
- (9) *Floodplain.* That area which would be inundated by storm runoff or floodwater having a one percent (1%) chance of being equaled or exceeded in any given year.
- (10) *Grading.* Any stripping, excavating, filling, stockpiling, or any combination thereof, and also included shall be the land in its excavated or filled condition.
- (11) *Municipal Enforcing Agency (MEA).* The MEA is the agency designated by a municipality under Section 9106 of Part 91 to enforce a local ordinance. Under this Ordinance, the MEA will be the City Manager.
- (12) *Notice of Deficiency.* A written statement by the City Manager which indicates specific deficiencies of on-site soil erosion and sedimentation control measures,

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either temporary or permanent, which are required to control soil erosion and sedimentation.

- (13) *Notice of Violation.* A written statement by the City Manager which indicates specific failures and/or deficiencies of on-site soil erosion and sedimentation control measures, either temporary or permanent which are required to control soil erosion and sedimentation and identifies the Permittee as in violation of the conditions of the issued soil erosion permit.
 - (14) *Permanent soil erosion and sedimentation control measure.* Those control measures that are installed or constructed to control soil erosion and sedimentation and that are maintained after project completion.
 - (15) *Permittee.* The owner of land for whom a valid soil erosion permit has been issued.
 - (16) *Person.* A natural person, firm, corporation, partnership, limited liability company or partnership, or association.
 - (17) *Soil erosion permit.* A permit issued to authorize work to be performed under this chapter.
 - (18) *Stripping.* Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.
 - (19) *Temporary soil erosion and sedimentation control measures.* Interim control measures that are installed or constructed for the control of soil erosion and sedimentation until permanent soil erosion control is effected.
- (E) Compliance required for site plan/plat approval. No site plan, plot plan or preliminary plat shall be approved under the terms and conditions of Title 5 of the Code of the City, "Zoning and Planning," unless said site plan, plot plan or preliminary plat includes soil erosion and sediment control measures consistent with the requirements of this chapter, related land development regulations, and is in general accord with the Michigan Department of Environmental Quality Guidebook of Best Management Practices for Michigan Watersheds.
- (F) Compliance required for occupancy. No certificate of occupancy for any building will be issued unless the applicant for said certificate shall have obtained a Certification of Completion indicating compliance with all grading plans and specifications and completion of all permanent soil erosion and sedimentation control measures.
- (G) Compliance required for zoning permit. No zoning permit will be issued, or an existing permit shall be revoked if the applicant or permittee is found to be in violation of this ordinance.

(H) Permits and fees.

- (1) *Permit requirement.* Except as exempted by sections of this chapter, no person shall do any grading, stripping, excavating, or filling, nor undertake any earth change (including any landscaping or construction activities involving such work after a premises has been constructed) unless a valid soil erosion permit is issued by the City Manager for said work. If a building permit is required with respect to activity on a parcel, a soil erosion permit shall be obtained at the same time the building permit is obtained. Even though exempted by sections of this chapter, such activities may require permits from one or more other governmental agencies.
- (2) *Permit application.* A separate application shall be required for each soil erosion permit. Plans, specifications and timing schedules shall be submitted with each application for a soil erosion permit. The plans shall be prepared by a person who is trained and experienced in soil erosion and sedimentation control methods and techniques. The City Manager may waive this requirement if the work entails little hazard to the adjacent property and does not include the construction of a fill upon which a structure may be erected.
- (3) *Application/plan data required.* The plans and specifications accompanying the soil erosion permit application shall contain the following data unless waived by the City Manager upon determining that any such data is not required in order to issue the soil erosion permit (provided, however, the City Manager may not waive that information required in (i) the State of Michigan prescribed soil erosion and sedimentation pollution control application or (ii) Rule 323.1703 of the Michigan Administrative Code):
 - (a) A vicinity sketch at the scale of one (1) inch equals two hundred (200) feet indicating the site location as well as the adjacent properties within five hundred (500) feet of the site boundaries.
 - (b) A boundary line survey of the site on which the work is to be performed.
 - (c) A plan of the site at a scale of one (1) inch equals one hundred (100) feet showing:
 - (i) Name, address and telephone number of the landowner, developer and applicant.
 - (ii) A timing schedule indicating the anticipated starting and completion dates of the development's construction sequence and the time of exposure of each area prior to the installation of permanent soil erosion and sediment control measures.
 - (iii) Physical limits of proposed earth change.

- (iv) A certified statement of the quantity of excavation and fill involved.
- (v) Existing topography at a maximum of two (2) foot contour intervals.
- (vi) Proposed topography at a maximum of two (2) foot contour intervals.
- (vii) Location of any structure or natural feature on the site.
- (viii) Location of any structure or natural feature on the land adjacent to the site and within fifty (50) feet of the site boundary line.
- (ix) Location of any proposed additional structures or development on the site.
- (x) Location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
- (xi) Location and description of all proposed permanent soil erosion and sediment control measures.
- (xii) Program proposal for the continued maintenance of all permanent soil erosion and sediment control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.
- (xiii) Elevations, dimensions, location, extent and the slope of all proposed grading (including building and driveway grades).]
- (xiv) The estimated total cost of the required temporary and permanent soil erosion and sedimentation control measures.
- (xv) Plans of all drainage provisions, retaining walls, cribbing, planting, and any temporary or permanent soil erosion and sedimentation control measures to be constructed in connection with, or as a part of, the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains.
- (xvi) Existing soil types based on the Unified Soil Classification System.

(xvii) Other information or data as may be required by the City such as a soil investigation report which shall include, but not be limited to; data regarding the nature, distribution and supporting ability of existing soils and rock on the site.

(4) *Fees.* At the time of filing an application for a soil erosion permit, a nonrefundable fee shall be paid to the City Manager in accordance with the fee schedule adopted from time to time by resolution of the City Council.

(I) Bond requirement.

(1) A soil erosion permit shall not be issued unless the Permittee shall first post with the City Manager a bond executed by the landowner and a corporate surety with authority to do business in this State as a surety, provided, however, the City Manager may waive the requirement of a bond if he/she shall determine that the cost of all required temporary or permanent soil erosion and sedimentation control measures is minimal and that the City's interests are otherwise adequately protected by other provisions of this chapter.

(2) The bond shall be in a form approved by the City Manager, payable to the City and in the amount of the estimated total cost of all temporary or permanent soil erosion and sedimentation control measures. The total cost shall be estimated by the applicant and reviewed by the City Manager. The bond shall include penalty provisions for failure to complete the work on schedule as specified on the soil erosion permit. In lieu of a surety bond, the applicant may file with the City Manager a letter of credit or cash bond equal to that which would be required for the surety bond.

(3) Every bond and instrument of credit shall include, and every cash deposit shall be made on the condition that the Permittee shall comply with all of the provisions of this chapter and all of the terms and conditions of the soil erosion permit and shall complete all of the work contemplated under the soil erosion permit within the time limit specified in the soil erosion permit, or if no time limit is specified, within one hundred eighty (180) days after the date of the issuance of the soil erosion permit.

(J) Extension of time. If the Permittee is unable to complete the work within the specified time, the Permittee may, at least ten (10) days prior to the expiration of the permit, present, in writing, to the City Manager, a request for an extension of time setting forth the reasons for the requested extension. In the event such an extension is warranted, the City Manager may grant additional time for the completion of the work, but no such extension shall release the landowner or the surety on the bond or the person furnishing the letter of credit or cash bond.

- (K) Failure to complete work. In the event of failure to complete the work or failure to comply with all the requirements, conditions, and terms of the permit, the City Manager may proceed with corrective actions as described in 5.4(Q).
- (L) Denial of permit. Soil erosion permits shall not be issued where:
- (1) The proposed work would cause hazards to the public safety and welfare; or
 - (2) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to an adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property; or
 - (3) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or
 - (4) The land area for which the grading is proposed may lie within the 100-year floodplain of any stream or watercourse (not specifically designated and delineated by the City Manager as an area subject to flood hazard), unless a hydrologic report prepared by a professional engineer is submitted to certify that the proposed grading will have no detrimental influence on the public welfare or upon the total development of the watershed.
 - (5) For those applicants who have a previously permitted site or sites that are not in compliance with this chapter, additional permit granting will be postponed until said site(s) is/are verifiably compliant with this chapter.
- (M) Modifications of approved plans. All modifications of the approved grading plans and specifications must be submitted and approved by the City Manager. All necessary sustaining reports shall be submitted with any proposal to modify the approved grading plan. No grading work in connection with any proposed modification shall be permitted without the approval of the City Manager. In the event that grading work in connection with any proposed modification commences or is completed prior to approval of the proposed change by the City Manager, the City Manager will issue a Notice of Violation and the existing permit for the site will be revoked. No further work on the site will be allowed until a new permit has been issued by the City Manager and all applicable permit fees paid.
- (N) Responsibility of Permittee. During grading operations, the Permittee shall be responsible for:
- (1) The prevention of damage to the waters of the State of Michigan and to any public utilities or services within the limits of grading and along any routes of travel of the equipment.

- (2) The prevention of damage and/or repair of damage caused to adjacent property. (No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result.).
 - (3) Carrying out the proposed work in accordance with all the requirements of the permit and this chapter.
 - (4) The prompt removal of all soil, miscellaneous debris or other materials applied, dumped, or otherwise deposited on streets, highways, sidewalks, or other thoroughfares, either public or private, during transit to and from the construction site.
- (O) General requirements.
- (1) Any earth changes shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation.
 - (2) All persons engaged in earth changes shall design, implement and maintain acceptable soil erosion and sedimentation and control measures, in conformance with the Act, administrative rules promulgated pursuant thereto, and in general accord with the Guidebook of Best Management Practices for Michigan Watersheds to effectively reduce accelerated soil erosion.
 - (3) All earth changes shall be designed, constructed and completed such that the time which an area of disturbed land is exposed shall be as limited as possible.
 - (4) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change. Any sediment caused by accelerated soil erosion which is deposited on any lands not specifically covered by an authorized soil erosion permit or deposited in any waterway shall be promptly removed by and at the sole expense of the Permittee. Any restoration and/or stabilization measures required due to said sediment removal shall also be installed by and at the sole expense of the Permittee.
 - (5) Any temporary or permanent facility designed and constructed for the conveyance of water around, through or from the earth change area shall be designed to limit the water flow to a nonerosive velocity.
 - (6) A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is stabilized. A person shall stabilize the area with permanent solid erosion control measures under approved standards and specifications as prescribed by R323.1710.

- (7) A person shall complete permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area within five (5) calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or significant earth change activity ceases, then a person shall maintain temporary soil erosion control and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.
- (P) Maintenance requirements. Persons implementing soil erosion and sediment control measures under this chapter, and all subsequent owners of property on which such measures have been taken, shall maintain all permanent erosion control measures, retaining walls, structures, plantings and/or other protective devices.
- (Q) Variances and exceptions.
- (1) No permits shall be required for the following:
- (a) Those activities exempted from permitting by the Act, e.g., mining, logging, plowing and tilling.
 - (b) A sidewalk or single family use driveway authorized by a valid permit that is more than 500 feet from a lake or stream (as those terms are defined in Rule 323.1701 of the Michigan Administrative Code) and will disturb less than one acre.
 - (c) An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams.
 - (d) Where the City Manager grants a permit waiver for an earth change after receiving a signed affidavit from the land owner stating that the earth change will disturb less than 225 sq. feet and that the earth change will not contribute sediment to lakes and streams.
 - (e) Even though no permits are required under the preceding subsections of this section, those operations and constructions which are exempted from obtaining permits must still be in compliance with the rules and regulations concerning grading and erosion specified in this chapter.
- (2) Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant or refusal made by the City Manager, the Board of Zoning Appeals shall have the power to hear specific requests of appeal and may amend or change such order, requirements, decisions, grant or refusal so that it is in harmony with the general purpose and intent of the requirements. The procedural requirements for appeals under Chapter 17 of the City of Rockford Zoning Ordinance shall be applicable to appeals under this chapter.

(R) Inspection.

- (1) The requirements of this chapter shall be enforced by the City Manager. The City Manager shall inspect the work and may require inspection or compaction testing by a soil engineer or by a soil testing agency, approved by the City Manager, unless it is determined by the City Manager that such inspection requirements may be waived due to the nonhazardous nature of the grading.
- (2) Upon execution of all approved grading plans and other requirements, the applicant shall file with the City Manager an Application for Termination. The City Manager shall inspect the executed work and upon determination of satisfactory completion, issue a Certification of Completion. If the City Manager finds any existing conditions not in accordance with any application, soil erosion permit, approved plan or subsequent requirements, further work shall not be allowed until approval of a revised grading plan has been granted by the City Manager.

(S) Enforcement.

- (1) If the Permittee is unable to complete the work or fails to comply with all the requirements, conditions and terms of the permit, and/or subsequent requirements, the City Manager shall issue a Notice of Deficiency. The issued notice shall provide a description of any deficiencies as well as the required corrective action(s). The Permittee shall complete the required corrective actions within the time frame indicated on the issued notice. Generally, the required corrective action must take place within twenty-four (24) hours of the issuance of the Notice of Deficiency unless otherwise specified in the Notice of Deficiency. In the event that the permittee fails to comply with all requirements, the City Manager will issue a Notice of Violation.
- (2) In the event that the Permittee is issued a Notice of Violation, the City Manager may order such work as is necessary to eliminate any danger to persons, property, or natural resources. Such work will be completed by an assigned agent of the City. The Permittee and the surety executing the bond or person issuing the letter of credit or making the cash deposit, shall be firmly bound under a continuing obligation for the payment of all costs and expenses that may be incurred by the City in causing any and all such work to be performed. In the case of a cash deposit, any unused portion thereof will be refunded to the Permittee.
- (3) If the City Manager finds it necessary to issue a Notice of Violation to a Permittee, the City Manager may require a one thousand dollar (\$1,000) cash performance deposit for each subsequent single residential soil erosion permit issued to that applicant. The amount of the performance deposit required for any other type of soil erosion permit shall be determined by the City Manager at the time of application.

- (1) Notwithstanding the existence or pursuit of any other remedy, the City may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this chapter.
- (2) The City Manager may enter at all reasonable times in, or upon, any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this chapter.

(T) Penalty.

- (1) Any person who shall violate the provisions of this chapter shall be guilty of a civil infraction and upon being found responsible thereof, shall be subject to a penalty as provided in Section 1.1(K)(2) hereof; provided further, that each day's violation of this chapter shall constitute a separate offense.
- (2) No building construction or occupancy permit shall be issued to any person or for any property violating any provision of this Chapter.
- (3) The land owner and/or the person undertaking the earth change is/are responsible for any violations of this ordinance or Part 91.

SECTION 5.5 ILLICIT DISCHARGE AND CONNECTION

(A) Statutory Authority and Title.

- (1) This Ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.
- (2) The City of Rockford shall administer, implement, and- enforce the provisions of the ordinance. Any powers granted, or duties imposed, upon the City of Rockford may be delegated in writing by the City Manager of the City of Rockford to persons or entities acting in the beneficial interest of, or in the employ of the City of Rockford.

(B) Findings.

- (1) Illicit discharges contain pollutants that will significantly degrade the waterbodies and water resources of the City of Rockford, thus threatening the health, safety, and welfare of the citizenry.

- (2) Illicit discharges enter the storm water drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this Ordinance and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

(C) Purpose.

- (1) To regulate the contribution of pollutants to the storm water drainage system and waterbodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connections to the storm water drainage system and waterbodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.
- (4) To provide appropriate remedies for failure to comply with this Ordinance.

(D) Applicability and General Provisions.

- (1) This Ordinance shall apply to all discharges entering the storm water drainage and waterbodies generated on any developed and undeveloped lands.

(E) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

- (1) Authorized Enforcement Agency: The City of Rockford, and/or any persons or agencies designated to act as the Authorized Enforcement Agency by the City of Rockford.
- (2) Best Management Practices (BMPS): Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) shall be as determined by the City of Rockford.

- (3) Clean Water Act: The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated there under.
- (4) Discharge: means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a storm water drainage system or water body.
- (5) Discharger: Any person who directly or indirectly discharges storm water from any premises. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this Ordinance.
- (6) Drain: Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.
- (7) Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.
- (8) Drainageway: A drain, water body, or flood plain.
- (9) EPA: The U.S. Environmental Protection Agency (EPA).
- (10) Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, which has been or may be covered by floodwater.
- (11) Hazardous Materials: Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.
- (12) Illicit Connection: Any method, means, or conduit for conveying an illicit discharge into a water body or a storm water drainage system.
- (13) Illicit Discharge: Any discharge to a water body or a storm water drainage system that does not consist entirely of storm water, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this Ordinance.
- (14) MDEQ: Michigan Department of Environmental Quality.

- (15) National Pollutant Discharge Elimination System (Npdes) Permit: A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.
- (16) Non-Storm Water Discharge: Any discharge to the storm water drainage system or a water body that is not composed entirely of storm water.
- (17) Person: An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.
- (18) Pollutant: The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- (19) Premises: Any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.
- (20) Property Owner: Any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.
- (21) State Of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.
- (22) Storm Water Drainage System: Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying storm water.
- (23) Storm Water Pollution Prevention Plan: A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm water drainage system, and/or a water body to the maximum extent practicable.
- (24) Storm Water Runoff (Or Storm Water): The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

- (25) Toxic Material: Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.
- (26) Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.
- (27) Water Body: A river, lake, stream, creek, or other watercourse or wetlands.

(F) Prohibited Discharges.

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a storm water drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a storm water drainage system or water body.
- (2) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (3) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, using Storm Water Pollution Prevention Plans and BMPs, as determined necessary by the Authorized Enforcement Agency to prevent or reduce the discharge of pollutants to a storm water drainage system or water body.
- (4) The discharge prohibitions of this section shall not apply to any non-storm water discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water drainage system.

(G) Prohibited Illicit Connection.

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Ordinance, and regardless of whether the

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connection was permissible under law or practices applicable or prevailing at the time of connection.

(H) Authorized Discharges.

- (1) The following non-storm water discharges are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:
 - (a) Water supply line flushing.
 - (b) Landscape irrigation runoff.
 - (c) Diverted stream flows.
 - (d) Rising groundwater.
 - (e) Uncontaminated groundwater infiltration to storm drains.
 - (f) Uncontaminated pumped groundwater.
 - (g) Discharges from potable water sources.
 - (h) Foundation drains.
 - (i) Air conditioning condensate.
 - (j) Irrigation water.
 - (k) Springs.
 - (l) Water from crawl space pumps.
 - (m) Footing drains and basement sump pumps.
 - (n) Lawn watering runoff.
 - (o) Waters from non-commercial car washing.
 - (p) Flows from riparian habitats and wetlands.
 - (q) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.
 - (r) Residual street wash water.
 - (s) Discharges or flows from emergency fire fighting activities.

- (t) Discharges specifically authorized in writing by the Authorized Enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

(I) Storage of Hazardous or Toxic Materials in Drainageway.

- (1) Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system or water body.

(J) Inspection and Sampling.

- (1) The Authorized Enforcement Agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow properly identified representatives of the Authorized Enforcement Agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this Ordinance.

(K) Stormwater Monitoring Facilities

- (1) If directed in writing to do so by the Authorized Enforcement Agency, a discharger of storm water runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water drainage system, as specified by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

(L) Accidental Discharges.

- (1) Any discharger who accidentally discharges into a storm water drainage system or a water body any substance other than storm water or an authorized discharge shall immediately notify the Authorized Enforcement Agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within 5 days. The written report shall specify all of the following:
 - (a) The composition of the discharge and the cause thereof.
 - (b) The exact date, time, and estimated volume of the discharge.
 - (c) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
 - (d) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

(M) Record Keeping Requirement.

- (1) Any person that violates any requirement of this Ordinance or that is subject to monitoring under this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any premises connected with the violation or subject to monitoring.

(N) Sanctions For Violation.

- (1) Violation; Municipal Civil Infraction. Except as provided by Section 5.5(N) (6), and notwithstanding any other provision of the City of Rockford laws, ordinances, and regulations to the contrary, a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$250 per day for each infraction and not more than \$1,000 per day for each infraction, plus costs and other sanctions.
- (2) Repeat offenses; increased fines. Increased fines may be imposed for repeat offenses. As used in this section, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or

provision of this Ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

- (a) The fine for any offense that is a first repeat offense shall be not less than \$2,500, plus costs.
 - (b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000, plus costs.
- (3) Amount of Fines. Subject to the minimum fine amounts specified in Sections 5.5(N)(2)(a) and 5.5(N)(2)(a), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be" considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- (4) Authorized Local Official. Notwithstanding any other provision of the City of Rockford laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the City of Rockford Municipal Violations Bureau, as applicable) for violations of this Ordinance (in addition to any other persons so designated by the Authorized Enforcement Agency): and any police officer.
- (5) Other Requirements and Procedures. Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or, pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.
- (6) Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated,

issued or made by the Authorized Enforcement Agency under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

(7) Any person who aids or abets another person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

(O) Failure to Comply; Completion.

(1) The Authorized Enforcement Agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this Ordinance or damage or impairment to the storm water drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the Authorized Enforcement Agency under other sections of this Ordinance.

(P) Emergency Measures.

(1) If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the City of Rockford for all of such costs.

(Q) Cost Recovery for Damage to Storm Water Drainage System.

(1) Any person who discharges to a storm water drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction or otherwise damages or impairs a storm water drainage system, or causes or contributes to a violation of any federal, state, or local law governing the City of Rockford, shall be liable to and shall fully reimburse the City of Rockford for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the City of Rockford as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be

reimbursed to the City of Rockford shall include, but shall not be limited to, all of the following:

- (a) All costs incurred by the City of Rockford in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (b) All costs to the City of Rockford of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.
- (c) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the City of Rockford, or any City of Rockford representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.
- (d) The full value of any City of Rockford staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the City of Rockford legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this Ordinance.

(R) Collection of Costs; Lien.

- (1) Costs incurred by the City of Rockford pursuant to Sections 5.5(O)(1), 5.5(P)(1), 5.5(Q)(1), and 5.5(S)(1) shall constitute a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Any such charges that are delinquent for 6 months or more may be certified annually to the City of Rockford Treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City of Rockford shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the City of Rockford as provided by this Ordinance shall constitute an additional violation of this Ordinance.

(S) Suspension of Access to the Storm Water Drainage System.

- (1) Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water drainage system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm water drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the City of Rockford in taking such steps.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the storm water drainage system in violation of this Ordinance may have their access to the system terminated, if the Authorized Enforcement Agency determines that such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the storm water drainage system to a premises terminated pursuant to this section without the prior written approval of the Authorized Enforcement Agency.

(T) Appeals.

- (1) Any person to whom any provision of this Ordinance has been applied may appeal in writing to the City of Rockford, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The City of Rockford shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the City of Rockford may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the City of Rockford may grant a temporary variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:
 - (a) The application of the Ordinance provisions being appealed will present or cause unnecessary hardship for the person appealing; provided, however, that unnecessary hardship shall not include the need for a property owner to incur additional reasonable expenses in order to comply with the Ordinance; and

- (b) The granting of the relief requested will not prevent accomplishment of the goals and purposes of this Ordinance, nor result in less effective management of storm water runoff.

(U) Judicial Relief.

- (1) With the approval of the City of Rockford the Authorized Enforcement Agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, which a court may order. The Authorized Enforcement Agency may also seek collection of fines, penalties and any other amounts due to the City of Rockford that a person has not paid.

(V) Cumulative Remedies.

- (1) The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued, or entered into under this Ordinance, shall not preclude the imposition by the City of Rockford, the Authorized Enforcement Agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

(W) Responsibility to Implement BMPs.

- (1) The owner or operator of a premises used for commercial or industrial purposes shall provide, at the owner or operator's own expense, reasonable protection from an accidental discharge of prohibited materials or other wastes into the storm water drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm water drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

CHAPTER 6 BUSINESS AND TRADES

SECTION 6.1 LICENSES

- (A) Licenses Required. No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining such license from the City in the manner provided for in this Chapter. Any person duly licensed on the effective date of this Code shall be deemed licensed hereunder for the balance of the current license year.

- (B) Multiple Businesses. The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

- (C) State Licensed Businesses. The fact that a license or permit has been granted to any person by the State of Michigan to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the City, if such license or permit is required by this Code.

- (D) License Application. Unless otherwise provided in this Code, every person required to obtain a license from the City to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for said license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation such facts, as may be required for, or application to, the granting of such license. No person shall make any false statement or representation in connection with any application for a license under this Code.

- (E) License Year. Except as otherwise herein provided as to certain licenses, the license year shall begin January 1, of each year and shall terminate at midnight on December 31, of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be accepted and licenses issued for a period of fifteen (15) days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one (1) year, the effective date of such licenses shall commence with the date of issuance thereof.

- (F) Conditions for Issuance. No license or permit required by this Code shall be issued to any person who is required to have a license or permit from the State of Michigan, until such person shall submit evidence of such State license or permit and proof that all fees

appertaining thereto have been paid. No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this Code applicable to the trade, profession, business or privilege for which application for license is made, nor unless the applicant agrees in writing to permit inspection of the licensed premises at reasonable hours by authorized officers of the City.

- (G) Where Certification Required. No license shall be granted where the certification of any officer of the City is required prior to the issuance thereof until such certification is made.
- (H) Health Officer's Certificate. In all cases where the certification of the State of Michigan, County Health Department or a local health officer is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposed to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the State of Michigan, the County and the City as the case may be.
- (I) Fire Chief's Certificate. In all cases where the certification of the City Fire Chief is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the State of Michigan and of the City.
- (J) Zoning Administrator's Certificate. In all cases where the carrying on of the trade, profession, business or privilege involves the use of any structure or land, a license therefor shall not be issued until the Zoning Administrator shall certify that the proposed use is not prohibited by the City Zoning Ordinance.
- (K) Fees, Bonds and Insurance. The amount of any license fee and bond and liability insurance, when required in connection with the issuance of any license, shall be established and may be revised from time to time by the City Council.
- (L) Late Renewals. All fees for the renewal of any license shall be paid at the time said fees shall be due and thereafter the license fee shall be that established for such licenses, plus twenty-five (25%) percent of such fee.
- (M) Right to Issuance. If the application for any license is approved by the proper officers of the City, as provided in this Code, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.
- (N) Fee - When Paid. The fee required for any license shall be paid at the office of the City Treasurer upon or before the granting of said license or permit.
- (O) Licenses; Denial, Revocation, Suspension; Causes Enumerated. The issuance of licenses applied for under this Code may be denied by the City Clerk, and licenses issued may be revoked or suspended by the City Clerk at any time, for any of the following causes:

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- (1) Fraud, misrepresentation, or any false statement made in the application for license.
 - (2) Fraud, misrepresentation or any false statement made in the operation of a business.
 - (3) Any violation of this Code pertaining to the licensed business.
 - (4) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or welfare of the public.
 - (5) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this Code.
- (P) Licenses; Suspension, Revocation; Notice. Written notice of suspension or revocation, stating the cause or causes therefor, shall be delivered to the licensee personally or mailed to his address as shown in his application for license.
- (Q) Licenses; Denial Revocation, Suspension. Any person whose license is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the City Manager, provided a written request therefor is filed with the City Manager within ten (10) days following the delivery or mailing of the notice of revocation or suspension, or within ten (10) days following the denial of the application for a license.
- (1) The City Manager may reverse any determination to issue or to deny the issuance of a license or any revocation of a license, and the City Manager may grant or reinstate any license. No person shall operate any business during any time when his license therefor has been suspended, revoked or denied.
- (R) License Renewal. Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.
- (S) Exhibition of License. No licensee shall fail to carry any license issued in accordance with the provisions of this Chapter upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the City authority.
- (T) Exhibition on Vehicle and Machine. No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the City Clerk or licensing authority for such purpose.

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- (U) Displaying Invalid License. No person shall display any expired license or any license for which a duplicate has been issued.
- (V) Transferability; Misuse. No license issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his license to another nor shall he make any improper use of the same.

SECTION 6.2 SOLICITORS AND PEDDLERS

- (A) Definitions. Unless the context specifically indicates other-wise, the meaning of terms used in the Chapter shall be as follows:
 - (1) “Peddler” means any person:
 - (a) who travels, by any means, from house to house, street to street or place to places, carrying, conveying or transporting goods of any type and who offers or exposes for sale or sells and delivers to purchasers goods of any type;
 - (b) who, without traveling, offers or exposes for sale or sells and delivers to purchasers goods of any type from a wagon, motor vehicle or other vehicle or means of conveyance; or
 - (c) who travels, by any means, from house to house, street to street or place to place, and offers or exposes for sale or sells and delivers to purchasers services of any type; or
 - (d) who, without traveling, offers or exposes for sale or sells and delivers to purchasers services of any type from a wagon, motor vehicle or other vehicle or means of conveyance.
 - (2) “Route Salesperson” means any person who represents a manufacturer, wholesaler or distributor which has an established and permanent principal place of business and who travels and peddles goods or solicits orders among commercial and industrial establishments only.
 - (3) “Solicitor” means any person:
 - (a) who travels, by any means, from house to house, street to street or place to place and who takes or attempts to take orders for goods or services of any type for future delivery, whether by the use of samples or otherwise and whether collecting deposits or advance payments or not; or
 - (b) who, without traveling, takes or attempts to take orders for goods or services of any type for future delivery, whether by the use of samples or otherwise and whether collecting deposits or advance payments or not; or

- (c) who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel or motel room, lodging house, apartment, shop or any other place in the City for less than one year for the sole purpose of taking orders or attempting to take orders for goods or services of any type for future delivery, whether by the use of samples or otherwise and whether collecting deposits or advance payments or not.
- (B) License Required. No peddler or solicitor shall conduct business in the City unless and until he/she has obtained a license therefor from the City Manager or his designee.
- (C) License Application. Applicants for a license under this Chapter must file with the City Manager or his designee a sworn statement in writing, in duplicate, on a form furnished by the City Manager, which shall include the following information:
 - (1) Name and description of the applicant.
 - (2) Permanent home address and full local address of the applicant.
 - (3) A brief description of the nature of the business and the goods or services to be sold.
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (5) The length of time for which the right to do business is desired.
 - (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification.
 - (7) The place where the goods or property to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
 - (8) If services are being offered for future delivery, the approximate date and/or time such services will be performed and the applicant's anticipated location between the time the orders are taken and the services are performed.
 - (9) Applicants for a license under this Chapter must submit to a voluntary background check as conducted by the Rockford Police Department.
- (D) License Fee. The fee for a license required by this Chapter shall be established pursuant to Section 6.1 of this Code.
- (E) Loud Noises and Speaking Devices. No peddler or solicitor nor any person on his behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loudspeaker, radio or sound amplifying system upon any of the streets, alleys, parks or other public places of said City or upon any private premises in the City where sound

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of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

- (F) Use of Streets and Public Places. No peddler or solicitor shall have any exclusive right to any location in any public streets or public places, nor shall any be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this Chapter, The judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- (G) Exempt Persons. The following shall be exempt from the licensing requirements of this Chapter but shall be subject to the other provisions hereof:
- (1) Persons engaged in peddling or soliciting in the neighborhood of their residence or business under the direct supervision of any school organization, charitable non-profit organization, charitable non-profit organization or religious organization.
 - (2) Any business or employee or agent of business licensed under Section 6.1 of this Code.
 - (3) Route Salespersons.
- (H) Violations and Penalties. Any persons who violates any provision of this Chapter shall be punished in accordance with Section 1.1(K) of this Code. Each day or fraction of a day on which a violation occurs shall be deemed a separate offense.

SECTION 6.3 SECOND HAND AND JUNK DEALERS

- (A) License Required and Fee. No person shall engage in the business of dealer in secondhand goods or junk dealer without first obtaining a license therefor. Such license shall be issued by the Mayor or his designated representative in accordance with the provisions of Act 350 of the Public Acts of Michigan of 1917, as amended. The fee for such licenses shall be as established pursuant to Section 6.1 of this Code.
- (B) Statutes Applicable. Except as otherwise provided in this Chapter, the provisions of Act 350 of the Public Acts of Michigan of 1917, as amended, shall apply to licensees under this Chapter. Any licensee who shall violate any provision of said statutes shall be guilty of a violation of this Code and upon conviction punished as prescribed in Section 1.1(K) hereof.

SECTION 6.4 COIN-OPERATED AMUSEMENT DEVICES

- (A) Definition. A “Coin-Operated Amusement Device” is hereby defined as any device, which upon the insertion of a coin or slug, is operated, or may be operated for use as a

game, contest, entertainment or amusement of any description or which the same may be used for any such game, contest or amusement of any description.

(B) License Required.

(1) No person shall operate, manage, control or locate any coin-operated amusement device without first obtaining a license to operate such devices, except those located and operated exclusively in a private residence and not available or use by the general public.

(2) No license shall be issued to operate, manage, control or locate any coin-operated amusement device that is adaptable to or may be readily converted into a gambling device.

(C) License Fee. The fee for license required by this Chapter shall be established pursuant to Section 6.1 of this Code.

(D) Persons Under 16 Years. It shall be unlawful for and no license operator shall permit any person under the age of sixteen (16) to operate, play or use any coin-operated amusement device.

SECTION 6.5 COMMUNITY ANTENNA TELEVISION SYSTEMS

(A) Authorization to Operate. No person shall install or operate a Community Antenna Television System within the City, without having first obtained a formally executed Consent Agreement between the proposed installer or operator and the City.

(B) Definition. Community Antenna Television System or “CATV” means a system of coaxial cables or other electrical conductors and equipment used, or to be used, primarily to receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or a variable fee, including the receipt, transmission and distribution of voices, sound, signals, pictures, visual images or any other type of close circuit transmission by means of electrical impulses.

(C) Application. Any proposed installer or operator of a Community Antenna Television System shall make formal application in writing to the City Council. The application shall include the following information:

(1) The name, mailing address and telephone number of the proposed operator.

(2) The corporate charter, partnership agreement or other similar document which sets forth the legal status of the proposed operator.

(3) A list of the owners and officers of the proposed operator.

(4) The most recent annual financial statement of the proposed operator.

- (5) A list of the proposed television and/or radio signals to be carried.
 - (6) A statement of the estimated cost of providing service to the City and how the proposed operator will bear this cost.
 - (7) A detailed description of the method of installation of cable and other electrical conductors and equipment.
 - (8) Evidence of all necessary easements or agreements to use or go upon the property of another for installation, operation and maintenance of the system.
 - (9) Evidence that the operator can obtain performance and labor and material bonds.
 - (10) A schedule of all rates and charges to subscribers and users of the system.
 - (11) A specific timetable for providing service to residents within the City.
 - (12) Description of services other than existing television signals which the proposed operator intends to offer subscribers. Such services may include two-way communications, public access channels, educational access channels and local government access channels.
 - (13) A statement that the operator will comply with all the Federal Communication Commission Rules and Regulations related to CATV.
 - (14) Any other information, as may be requested, by the City Council.
- (D) Public Hearing. The City Council shall hold a public hearing prior to selecting an operator to provide CATV services within the City. At such public hearing, the applicant shall make a formal presentation describing the services he intends to provide. Citizens of the City shall be permitted to comment on the applicants proposal.
- (E) Review Board. A Review Board is hereby created which shall evaluate, monitor and review the performance and service of CATV operators. The City Council shall act as the Review Board and shall meet as often as necessary to carry out the duties herein described. The Review Board shall have the duties of:
- (1) Holding public hearings on all aspects of a CATV operator's performance at three (3) year intervals following the formal execution of a Consent Agreement;
 - (2) When applicable, reviewing the effectiveness of an operator in insuring public access to the CATV medium;
 - (3) Providing the appeal and hearing mechanism for customer complaints which are not resolved to the mutual satisfaction of the customer or the system operator. The procedures established by the Review Board shall be consistent with the

operator's Consent Agreement with the City, and shall at all times insure and preserve the full measure of due process of law; and

- (4) Any additional responsibilities which may from time to time be necessary to assure a CATV operator is performing consistent with the public health, safety and welfare of the citizens of the City.

The Review Board shall have complete access to any and all records, documents or information of a CATV operator necessary to evaluate and monitor the performance of such operator and to resolve customer complaints.

(F) **RATE REGULATION**

- (G) Definitions. For purposes of this Chapter, "Act" shall mean the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385), and as may be amended from time to time; "FCC" shall mean the Federal Communications Commission; "FCC Rules" shall mean all rules of the FCC promulgated from time to time pursuant to the Act; "basic cable service" shall mean "basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the City pursuant to the Act and the FCC Rules; "associated equipment" shall mean all equipment and services subject to regulation pursuant to 47 CFR § 76.923; and an "increase" in rates shall mean an increase in rates or a decrease in programming or customer services, as provided in the FCC Rules. All other words and phrases used in this Chapter shall have the same meaning as defined in the Act and FCC Rules.

- (H) Purpose; Interpretation. The purpose of this Chapter is to: 1) adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and 2) prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the City. This Chapter shall be implemented and interpreted consistent with the Act and FCC Rules.

- (I) Rate Regulations Promulgated by FCC. In connection with the regulation of rates for basic cable service and associated equipment, the City of Rockford shall follow all FCC Rules.

(J) Filing; Additional Information; Burden of Proof.

- (1) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten (10) copies of the schedule or proposed increase with the City Clerk. For purposes of this Chapter, the filing of the cable operator shall be deemed to

have been made when at least ten (10) copies have been received by the City Clerk. The City Council may, by resolution or otherwise, adopt rules and regulations as allowed by law prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

- (2) In addition to information and data required by rules and regulations of the City pursuant to Section 6.5(J)(1) above, a cable operator shall provide all information requested by the Manager that is related and helpful in connection with the City's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The City Manager may establish reasonable deadlines for submission of the requested information and the cable operator shall comply with such deadlines.
- (3) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules including, without limitation, 47 USC § 543 and 47 CFR §§ 76.922 and 76.923.

(K) Proprietary Information.

- (1) If this Section 6.5, any rules or regulations adopted by the City pursuant to Section 6.5(J) or any request for information pursuant to Section 6.5(K)(2) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the City determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The City shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, (1) where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.
- (2) Any interested party may file a request to inspect material withheld as proprietary with the City. The City shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable

operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

- (3) The procedures set forth in this Section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR § 0.459.
- (L) Public Notice; Initial Review of Rates. Upon the filing of ten (10) copies of the schedule of rates or the proposed increase in rates pursuant to Section 6.5(J)(1) above, the City Clerk shall publish a public notice in a newspaper of general circulation in the City which shall state that: 1) the filing has been received by the City Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and 2) interested parties are encouraged to submit written comments on the filing to the City Clerk not later than seven (7) days after the public notice is published. The City Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the City Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three (3) days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the City Council, then the City Clerk shall mail a copy of the report by first-class mail to the cable operator at least three (3) days before the meeting at which the City Council shall first consider the schedule of rates or the proposed increase.
- (M) Tolling Order. After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after thirty (30) days from the date of filing under Section 6.5(J)(1) above unless the City Council (or other properly authorized body or official) tolls the thirty (30) day deadline pursuant to 47 CFR § 76.933 by issuing a brief written order, by resolution or otherwise, within thirty (30) days of the date of filing. The City Council may toll the thirty (30) day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.
- (N) Public Notice; Hearing on Basic Cable Service Rates Following Tolling of 30-Day Deadline. If a written order has been issued pursuant to Section 6.5(M) and 47 CFR § 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the City any additional information required or requested pursuant to Section 6.5(J) of this Ordinance. In addition, the City Council shall hold a public hearing to consider the comments of interested parties within the additional 90 day or 150 day period, as the case may be. The City Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the City which shall state: 1) the date, time, and place at which the hearing shall be held, 2) interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates, and 3) copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may

be withheld as proprietary) are available for inspection or copying from the office of the Clerk. The public notice shall be published not less than fifteen (15) days before the hearing. In addition, the City Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than fifteen (15) days before the hearing.

- (O) Staff or Consultant Report; Written Response. Following the public hearing, the Manager shall cause a report to be prepared for the City Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the City Council pursuant to Section 6.5(P). The City Clerk shall mail a copy of the report to the cable operator by first-class mail not less than twenty (20) days before the City Council acts under Section 6.5(P). The cable operator may file a written response to the report with the City Clerk. If at least ten (10) copies of the response are filed by the cable operator with the City Clerk within ten (10) days after the report is mailed to the cable operator, the City Clerk shall forward it to the City Council.
- (P) Rate Decisions and Orders. The City Council shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules. If the City Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR § 76.933. The order specified in this Section shall be issued within 90 days of the tolling order under Section 6.5(M) in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under Section 6.5(M) in all cases involving a cost-of-service showing.
- (Q) Refunds; Notice. The City Council may order a refund to subscribers as provided in 47 CFR § 76.942. Before the City Council orders any refund to subscribers, the City Clerk shall give at least seven (7) days written notice to the cable operator by first-class mail of the date, time, and place at which the City Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the City Council.
- (R) Written Decisions; Public Notice. Any order of the City Council pursuant to Section 6.5(P) or Section 6.5(Q) shall be in writing, shall be effective upon adoption by the City Council, and shall be deemed released to the public upon adoption. The Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the City which shall: 1) summarize the written decision, and 2) state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the City Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

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- (S) Rules and Regulations. In addition to rules promulgated pursuant to Section 6.5(J), the City Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules.
- (T) Failure to Give Notice. The failure of the City Clerk to give the notices or to mail copies of reports as required by this Chapter shall not invalidate the decisions or proceedings of the City Council so long as there is substantial compliance with this ordinance.
- (U) Additional Hearings. In addition to the requirements of this Chapter, the City Council may, in its sole discretion, hold additional public hearings upon such reasonable notice as the City Council shall prescribe.
- (V) Additional Powers. The City shall possess all powers conferred by the Act, the FCC Rules, the cable operator’s franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this Chapter shall be in addition to powers conferred by law or otherwise. The City may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.
- (W) Failure to Comply; Remedies. The City may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator’s franchise with the City) for failure to comply with the Act, the FCC Rules, any orders or determinations of the City pursuant to this Chapter, any requirements of this Chapter, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the City pursuant to this Chapter, any requirements of this Ordinance, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator’s franchise.
- (X) Severability. The various parts, sections, and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be affected thereby.
- (Y) Conflicting Provisions. In the event of any conflict between this Section and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this Section shall control.

SECTION 6.6 PRECIOUS METAL AND GEM DEALERS

- (A) Definitions. The meaning of terms in this Chapter shall be as follows:
 - (1) “Agent or employee” means a person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

- (2) “Dealer” means any person, corporation, partnership or associations, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.
- (3) “Jewelry” means an ornamental item made of a material that includes a precious gem.
- (4) “Precious gem” means a diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise or pearl.
- (5) “Precious item” means jewelry, a precious gem or an item containing gold, silver or platinum. Precious items do not include the following:
 - (a) Coins, commemorative medals and tokens struck by, or in behalf of, a government or private mint.
 - (b) Bullion bars and discs of the type traded by banks and commodity exchanges.
 - (c) Items at the time they are purchased directly from a dealer registered under this act, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.
 - (d) Industrial machinery or equipment.
 - (e) An item being returned to or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt.
 - (f) An item which is received for alteration, redesign or repair in a manner that does not substantially change its use and returned directly to the customer.
 - (g) An item which does not have a jeweler’s identifying mark or a serial mark and which the dealer purchases for less than \$5.00.
 - (h) Scrap metal which contains incidental traces of gold, silver or platinum which are recoverable as a by-product.
 - (i) Jewelry which a customer trades for other jewelry having a greater value and which difference in value is paid by the customer.

(B) Certificate of Registration. A Dealer shall not conduct business in the City without first obtaining a valid certificate of registration from the City Police Department which shall not be issued until the applicant has paid a fee established from time to time by the City Council and has disclosed the following information:

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- (1) The name, address and thumbprint of the applicant.
- (2) The name and address under which the applicant does business.
- (3) The name, address and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the City Police Department the name, address and thumbprint of the new employee.

In addition, all applicants, dealers and agents and employees of a dealer shall comply with the meet all the provisions and requirements of The Precious Metal and Gem Dealer Act, Act No. 95 of the Public Acts of Michigan of 1981, as amended from time to time. Failure to comply with any requirements thereof or hereof shall be grounds for the denial, suspension or revocation of any certification of registration. Upon receipt of the certificate of registration, the Dealer shall post it in a conspicuous place in the dealer's place of business.

- (C) Change of Name of Address. Not less than 10 days before a Dealer changes the name of address under which the Dealer does business, the Dealer shall notify the City Police Department of the change.

SECTION 6.7 DISTRESS SALES

- (A) Definitions. The meaning of terms in this Chapter shall be as follows:

- (1) "Going out of business sale" means any sale, whether described by such name or by any other name such as, but not limited to, "closing out sales," "liquidation sales," "lost our lease sale," "forced to vacate sale," held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.
- (2) "Goods" means all goods, wares, merchandise and other personal property, excepting, choses in action and money.
- (3) "Removal sale" means any sale held in such a manner as to induce a belief that upon dismissal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted and thereafter will be moved to and occupy another location.

- (B) License. No person shall advertise, represent or hold out that any sale of goods is an insurance, bankruptcy, mortgage, insolvent, assignee's executor's, administrator's, receiver's trustee's, removal sale, going out of business sale or sale of goods damaged by fire, smoke, water or otherwise, unless be first obtains a license to conduct the sale from the City Clerk. This Chapter shall not apply to any sales by a person regularly engaged in insurance or salvage sale of goods, or the sale of goods which have been damaged by fire, smoke, water or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

- (C) License Application. Any applicant for a license under this Chapter shall file an application in writing and under oath with the City Clerk setting out the following facts and information regarding such a proposed sale:
- (1) The name and address of the applicant for the license, who must be the owner of the goods to be sold, and in addition, if the applicant is a partnership, corporation, firm or association, the name and the position of the individual filing such application.
 - (2) The name and style in which such sale is to be conducted and the address where the sale is to be conducted.
 - (3) The dates and period of time during which the sale is to be conducted.
 - (4) The name and address of the person who will be in charge and responsible for the conduct of the sale.
 - (5) A full explanation with regard to the condition or necessity which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. If the application is for a license to conduct a going out of business sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall also contain a statement as to the time, location and cause of the damage.
 - (6) A full, detailed and complete inventory of the goods that are to be sold, which inventory shall:
 - (a) Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it.
 - (b) List separately any goods which were purchased during a 60-day period immediately prior to the date of making application for the license.
 - (c) Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant and the total value of the inventory at cost.
 - (d) In no case exceed 200% of the total value of merchandise upon which personal property tax was paid by the applicant or his predecessor as evidenced by a copy of the last personal property tax receipt issued.

- (7) A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.

(D) License; Issuance and Restrictions.

- (1) The City Clerk, upon receipt of an application giving fully and completely the information under oath as required by Section 6.7(C) and upon receipt of the fee provided for in Section 6.7(E), may issue a license to the applicant, authorizing the applicant to advertise, represent and sell the particular goods so inventoried at the time and place stated in the application and in true accordance with the provisions of this Chapter. The license shall be issued in duplicate and shall bear a number and date of its expiration. A license issued under this Chapter shall be granted and valid only for the sale of the inventoried goods which are the property of the licensee. The license shall apply only to the premises specified in the application, and it may not be transferred or assigned. If a licensee under this Chapter is engaged in business in other locations, advertising or offering of goods on behalf of such location shall not represent or imply any participation in or cooperation with the sale on the premises specified in the license, nor shall any advertising or other offering of goods on behalf of the premises where the licensed sale is being conducted represent or imply any participation in or cooperation with such sale at other locations. No license under this Chapter shall be issued to any person:

- (a) To conduct a sale in the trade name or style of a person in whose goods the applicant for the license has acquired a right or title thereto within 6 months prior to the time of making application for such a license.
- (b) To continue a sale in the name of a licensee under this Chapter whose goods such person acquired a right or title while such a sale is in progress.
- (c) To conduct a sale, other than an insurance sale, a salvage sale or a sale of damaged goods, on the same premises within 1 year from the conclusion of a prior sale of the nature covered by this Chapter.

- (2) Section 6.7(D)(1)(a), Section 6.7(D)(1)(b), and Section 6.7(D)(1)(c) shall not apply to any person who has acquired a right, title or interest in goods as an heir, devisee or legatee or pursuant to an order or process of a court of competent jurisdiction.

- (E) License; Term, Renewal, Fees. A license to conduct a sale issued pursuant to this Chapter shall not be issued or valid for a period of more than 30 days from the start of the sale and the sale may be conducted only during the period set forth in the license. The license may be renewed not more than twice for a period not to exceed 30 days for each renewal upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously

filed pursuant to this Chapter, by purchase, acquisition on consignment or otherwise. The application for renewal of the license shall be made not more than 5 days prior to the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee in an amount established from time to time by the City Council shall accompany an application for the license and for the renewal of a license.

- (F) Clerk's Records. The City Clerk shall endorse upon the application the date of its filing, shall preserve the same as a record of his office, and shall make an abstract of the facts set forth in the application in a book kept for the purpose, properly indexed, containing the name of the person asking such license, the nature of the proposed sale, the place where the sale is to be conducted, its duration, the inventory of the goods to be sold and a general statement as to where the same came from and shall make in the book a notation as to the issuance or refusal of the license applied for together with the date of the same. The City Clerk shall endorse on the application the date the license is granted or refused, and the application and abstract shall be prima facie evidence of all statements therein contained.
- (G) Other Requirements. Every applicant and licensee under this Chapter shall comply with all requirements of Act No 39 of the Public Acts of Michigan of 1939, as amended from time to time. Failure to comply therewith or with the provisions hereof shall, in addition to any other penalties or remedies, be grounds for the denial, suspension or revocation of any license obtained hereunder.

SECTION 6.8 TAXATION OF ASSISTED LOWER-INCOME HOUSING

- (A) Nonapplication of Tax Exemption. The *ad valorem* property tax exemption available pursuant to Section 15a of the State Housing Development Authority Act of 1966, Act 346 of the Public Acts of Michigan of 1966, as amended, shall not apply to housing projects financed with a federally-aided or Michigan State Housing Development Authority-aided mortgage, advance or grant owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association, provided, however, the tax exemption shall apply to housing projects owned by the City and controlled by the Rockford Housing Commission pursuant to the Housing Facilities Act, Act 18 of the Public Acts of Michigan of 1933 (extra session), as amended.
- (B) Effective Date Pursuant to the requirement of Act 346 this Chapter shall be effective for *ad valorem* property taxes levied on and after December 31, 1996.

CHAPTER 7 BUILDING REGULATIONS

SECTION 7.1 GENERAL BUILDING REGULATIONS

- (A) Code Adopted. Pursuant to the provisions of the State Construction Code Act, Act 230, Public Acts of Michigan of 1972, as amended, the State of Michigan Building Code as promulgated, published and adopted by the State of Michigan Construction Code Commission, including any and all amendments thereto is hereby adopted by reference and made part of this Chapter. A printed copy of said code shall be kept in the City Offices by the City Clerk and made available for inspection by the public during regular business hours.

SECTION 7.2 ELECTRICAL WIRING

- (A) Code Adopted. Pursuant to the provisions of the State Construction Code Act, Act 230, Public Acts of Michigan of 1972, as amended, the State of Michigan Building Code as promulgated, published and adopted by the State of Michigan Construction Code Commission, including any and all amendments thereto is hereby adopted by reference and made part of this Chapter. A printed copy of said code shall be kept in the City Offices by the City Clerk and made available for inspection by the public during regular business hours.
- (B) Adoption of the Michigan Electrical Code. Pursuant to Act 245 of the Public Acts of Michigan of 1999, the City hereby adopts the Michigan Electrical Code and the City is hereby designated the enforcing agency to enforce the provisions of such Code within the boundaries of the City. A printed copy of such Code shall be kept in the City offices by the City Clerk and made available for inspection by the public during regular business hours.
- (C) Definition. “Inspector” means the City Electrical Inspector who shall be designated by the City Manager.
- (D) Notice to Inspect. No person shall install, alter or use any electrical wiring, apparatus or equipment subject to the terms of this Chapter, without first notifying the Inspector and giving him ample opportunity to inspect the same. Such notice shall in all cases be given before any wiring or equipment becomes concealed by structural work.
- (E) Certificate of Compliance. It shall be the duty of the Inspector to examine each electrical installation made in the City and to determine if the same conforms to this Chapter. Said Inspector shall issue a certificate to the owner of each electrical installation when, and as soon as the same conforms to this Chapter, but no such certificate shall be issued until there has been such compliance, in the judgment of said inspection. It shall be unlawful to use such installation or equipment, or to furnish electrical energy for the same until a certificate has been issued under this Chapter. The Inspector shall keep a record in his office, of each examination made by him, and a copy of each certificate issued.

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- (F) Inspections. The Inspector shall have the right to cause all present installations in the City be inspected in order to ascertain if they are in any respect dangerous to life or property, and if any such installation be found dangerous to life or property, the owner thereof shall be notified by the inspector and given a reasonable length of time, not exceeding thirty days, to remedy the same. If, after the expiration of the time specified in such notice, the defects are not remedied, the Inspector shall notify the owner or his agent to cease using such dangerous wiring, apparatus, or equipment and it shall be unlawful thereafter for such owner or his agent to use or permit the use thereof.
- (1) The Inspector is also authorized to give to the electric utility furnishing electric energy to the wiring, apparatus or equipment found to be in dangerous condition, notice to cease supplying the same until the defects complained of are repaired, and upon receipt of such notice, the furnishing of such electric energy shall terminate.
- (G) Inspection Fees. For the inspection of all installations of electric wiring, apparatus or equipment hereafter installed in the City, the owner thereof, before the issuance of the Inspector's certificate, shall pay to the City fees to be established from time to time by the City Council.

SECTION 7.3 MECHANICAL CODE

- (A) Mechanical Code. Pursuant to the provisions of the Michigan Mechanical Code (hereinafter referred to as the "Code") in accordance with the State Construction Code Act, Act 230 of the Public Acts of Michigan of 1972, as amended from time to time (hereinafter referred to as the "Act") the City hereby elects to administer and enforce the applicable provisions of the Act and the Code.
- (B) Mechanical Inspector. Pursuant to the provisions of the Act and Code, the mechanical official, who shall be designated by the City Manager, is hereby designated as the enforcing agency to discharge the responsibilities of the City under the Act and Code, Public Acts of Michigan of 1972, as amended from time to time. The City hereby assumes responsibility for the administration and enforcement of said Act and Code within its corporate limits.
- (C) Permit Fees. All applications for permits as prescribed by the Code shall be accompanied by a permit fee in an amount to be established from time to time by the City Council.

SECTION 7.4 PLUMBING CODE

- (A) Plumbing Code. Pursuant to the provisions of the Michigan Plumbing Code, in accordance with the State Construction Code Act, Act 230 of the Public Acts of Michigan of 1972, as amended from time to time (hereinafter referred to as the "Act"), the City hereby elects to administer and enforce the applicable provisions of the Act and the Code.

- (B) Plumbing Inspector. Pursuant to the provisions of the Act and the Code, the plumbing official, who shall be designated by the City Manager, is hereby designated as the enforcing agency to discharge the responsibilities of the City under the Act and the Code. The City hereby assumes responsibility for the administration and enforcement of said Act and Code within its corporate limits.

- (C) Permit Fees. All applications for permits as prescribed by the Code shall be accompanied by a permit fee in an amount to be established from time to time by the City Council.

CHAPTER 8 POLICE REGULATIONS

SECTION 8.1 NUISANCES

(A) PUBLIC NUISANCE GENERALLY

- (1) Public Nuisance Defined and Prohibited. Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any streets, highway, navigable lake or stream; or in any way renders the public insecure in life of property is hereby declared to be public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Chapter. No person shall commit, create, or maintain any nuisance.

(B) DANGEROUS STRUCTURES

- (1) Dangerous Structures. No person shall maintain any structure which is unsafe or which is a menace to the health or safety of the public.
- (2) Notice and Hearing. City Manager may, after notice to the owner and holding a hearing thereon, condemn such structure by giving notice to the owner of the land upon which such structure is located, specifying in what respects said structure is a public nuisance and requiring said owner to alter, repair, tear down or remove the same within such reasonable time, not exceeding sixty (60) days, as may be necessary to do or have the work done. The notice may also provide a reasonable time within which such work shall be commenced.
- (3) Abatement. If, at the expiration of any time limit set pursuant to paragraph notice hereof, the owner has not complied with the requirements of the notice, the City Manager may abate or cause the abatement of the public nuisance. The cost of such abatement shall be charged against the premises in accordance with the provisions of Section 1.1(L) of this Code.
- (4) Emergency Abatement. The City Manager may abate any such public nuisance, if the public safety requires immediate action, without notice. Thereafter the cost of abating such nuisance shall be charged against the premises in accordance with the provisions of Section 1.1(L) of this Code.

(C) NUISANCES *PER SE*

- (1) Nuisances Per Se. The following acts, services, apparatus and structures are hereby declared to be public nuisances per se:
 - (a) The maintenance of any pond, pool of water, or vessel holding stagnant water.

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- (b) The throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, or in any private place or premises where such throwing, placing, depositing, or leaving is dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person, of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass, or other rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid or gaseous fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever.
- (c) The pollution of any stream, lake or body of water or the depositing or permitting to be deposited into or upon any highway, street, lane, alley, public street or square or into any adjacent lot or grounds any refuse, foul or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas.
- (d) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities.
- (e) Any vehicle used for illegal purpose.
- (f) All obscene pictures, books, pamphlets, magazines and newspapers.
- (g) Betting, bookmaking, prize fighting and all apparatus used in such occupations.
- (h) All gambling devices, slot machines and punch boards, except as otherwise provided by law.
- (i) All houses kept for the purpose of prostitution or promiscuous sexual intercourse and gambling houses.
- (j) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person, except as otherwise permitted by law.
- (k) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this Code, or statute of the State of Michigan.
- (l) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks, unless otherwise permitted by the City.

- (m) All buildings, walls and other structures which have been damaged by fire, decay, or otherwise remaining unrepaired and all excavations remaining unfilled or uncovered for a period of ninety (90) days, and which are so situated as to endanger the safety of the public.
- (n) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated on private property as to attract the public.
- (o) The owning, driving or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of its load or contents to blow, fall, or be deposited upon any street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires or other parts onto the street, alley, sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind. Provided, however, that under circumstances determined by the City Manager to be in the public interest, he may grant person temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the condition at least once daily and execution of an agreement by such person to reimburse the City for all costs and expenses incurred by the City in connection with such exemption.

(D) NOISE CONTROL

- (1) Purposes. The purposes of Section 8.1(D)(1) through and including Section 8.1(D)(6) hereof are to abate certain loud, unnecessary, unnatural and/or unusual noises, sounds and/or vibrations.
- (2) Excessive Noise Declared Nuisance. All loud, unnecessary, un-natural and/or unusual noises or sounds and/or annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities and/or which adversely affect the public health, safety or welfare are hereby declared to be public nuisances.
- (3) Specific Offenses. Each of the following acts is declared un-lawful and prohibited, but this enumeration shall not be deemed to be an exclusive list of sources of public nuisance, namely:
 - (a) Animal and Bird Noises. The keeping of any animal or bird which by causing frequent or long continued noise, shall disturb the comfort or repose of any person.
 - (b) Construction Noises. The erection, construction (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, on Sundays, and other days, except between the hours of 7 o'clock A.M. and 6 o'clock P.M., unless a permit or variance be first obtained from the City Manager, pursuant to paragraph permits.

- (c) Sound Amplifiers. Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is non-commercial in character and when so use shall be subject to the following restrictions, and a permit or variance shall be first obtained from the City Manager pursuant to Section 8.1(D)(5):
- (i) The only sounds permitted are music or human speech.
 - (ii) Operations are permitted for four (4) hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four (4) hours of operation shall be as designated by the City Police Chief.
 - (iii) Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when said truck is stopped or impeded by traffic, and except when used in a City park or other place with permission of the City Police Chief.
 - (iv) Sound shall not be issued within one hundred (100) yards of hospitals, schools or churches.
 - (v) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.
- (d) Engine Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
- (e) Handling Merchandise. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (f) Blowers. The discharge into the open air of noise from a compressor, blower or power fan unless the noise from such compressor, blower or fan is muffled sufficiently to deaden such noise.
- (g) Hawking. The hawking of goods, merchandise or newspapers in a loud and boisterous manner.
- (h) Horns and Signal Devices. The sounding of any horns, sirens, bells or signal device on any automobile, motorcycle, bus or other vehicle while

not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

- (i) Radio and Musical Instruments. The playing of any radio, television set, phonograph, or any musical instrument in such a manner or with such volume, particularly during the hours between 11 o'clock P.M. and 7 o'clock A.M., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons.
- (j) Shouting and Whistling. Yelling, shouting, hooting, crying, calling, whistling or singing or the making of any other loud noise on the public streets between the hours of 11 o'clock P.M. and 7 o'clock A.M., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons.
- (k) Whistle or Siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.
- (l) Use of Premises. The use of any premises under a person's care or control which shall destroy the peace and tranquility of the surrounding neighborhood.
- (m) Large Vehicles and Motors. The operation of any motor or engine of a motor vehicle which weighs in excess of five tons (10,000 lbs.) for a consecutive period of longer than two minutes while such vehicle is in a stationary location on private property located within 150 feet of property devoted to residential uses. Except that, the provisions of this subsection shall not apply:
 - (i) When such operation of the vehicle or motor is necessary in the course of normal productive work.
 - (ii) When the vehicle or motor is being used by a public utility, municipal department, commission or other governmental agency to provide essential services.
 - (iii) To buses operated for the transportation of passengers while standing in established bus turnarounds, terminals of storage yards.
 - (iv) To any vehicle standing within a completely enclosed structure.

- (n) Alteration of Muffler. Altering, modifying or changing any exhaust muffler, intake muffler or other equipment designed to abate noise on any motor equipment unless such alteration, modification or change shall reduce the noise emitted by such equipment. Nothing in this subsection shall be interpreted to prohibit the replacement of worn noise abatement equipment certified as meeting or exceeding specifications of the manufacturer's original equipment.

- (4) Regulations. Regulations for the further delineation of each act, prohibited in Section 8.1(D)(3) or for the delineation of other noise standards of greater specificity than those contained in Section 8.1(D)(2) and Section 8.1(D)(3) may be promulgated pursuant to Section 1.1(N) of this Code, but the fact that such regulations have not been promulgated will not affect the enforceability of said paragraphs.

- (5) Permits and Variances. Permits may be granted by the City Manager for continuous acts or acts lasting more than 4 hours which would otherwise violate the provisions of this Code, if such a permit is permitted by the specific provision of this Code. Variances may be granted by the City Council for any one-time acts or act not continuing for more than 4 hours which would otherwise violate this Code. Permits and variances shall be granted only if and as permitted within the following requirements, procedures and criteria:
 - (a) Any person seeking a permit or variance shall file an application with the City Manager on a form prescribed by the City Manager. The application shall contain, in addition to such information as shall be required by the City Manager, information demonstrating that bringing the source of sound for which the permit or variance is sought or the activity involved into compliance with this Code, would cause an unreasonable hardship for the applicant. Upon receipt of an application, the City Manager shall cause such investigation as he deems necessary to be made concerning the application. This investigation may include, but need not be limited to, consulting with such other persons as he may deem necessary or desirable. The City Manager, in addition to such other investigation as he may deem necessary, shall permit the applicant to offer such evidence as he desires to establish applicant's position that a permit or variance should be granted, and shall permit those opposing applicant's request for a permit or variance to offer evidence in opposition to the granting of a permit or variance, but may, in his discretion, refuse to receive or hear evidence that is merely cumulative, and may reasonably limit the time allowed to present evidence by those supporting and those opposing the application.

 - (b) The City Manager shall consider all evidence received pursuant to this paragraph and based upon this evidence and the results of his investigation, shall issue the permit or make a recommendation to the City Council as to whether a variance should be granted. The City Manager

shall issue the permit or make his recommendation for a variance based upon the factors set out in Section 8.1(D)(5)(c).

- (c) The following factors shall be considered in determining whether to grant a permit or variance:
 - (i) The hardship to the applicant in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the permit or variance.
 - (ii) The number, if any, of previous permits or variances granted to the applicant, or for the same location or activity.
 - (iii) The nearness of any residence or residences, or any other use which would be adversely affected by noise in excess of the limits prescribed herein.
 - (iv) The sound level of the sound to be generated by the event or activity.
 - (v) Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the permit or variance is requested.
 - (vi) The density of population of the area in which the event or activity is to take place.
 - (vii) The time of day or night which the activity or event will take place.
 - (viii) The nature of the sound to be produced, including but not limited to, whether the sound will be steady, intermittent or of a repetitive impulse nature.
- (d) Neither the City Manager nor the City Council shall consider the communicative content of the activity or event in determining whether to grant or deny a permit or variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.
- (e) Permits or variances issued shall be subject to such reasonable conditions, including but not limited to:
 - (i) Limiting the days of the week for which the permit or variance is valid.
 - (ii) Limiting the number of days for which the permit or variance is valid.

- (iii) Limiting the hours of the day, or days, for which the permit or variance is valid.
 - (f) Such conditions shall be noted on the permit or variance issued to the applicant and noncompliance with any condition of the permit or variance shall terminate the variance and subject the applicant, event or activity to the provisions of paragraph penalty of this Code. The permit or variance shall not be valid unless all conditions thereof are agreed to by the applicant in writing.
 - (g) Any permit or variance issued pursuant to this section shall be kept at the site of the event or activity for which the permit or variance was obtained. The variance shall be displayed, on request, to any police officer or other representative of the City. The requirements of this subsection are hereby made express conditions of the granting of a permit and variance and failure to comply with these conditions shall cause the permit or variance to terminate as provided for in Section 8.1(D)(5)(e) hereof.
- (6) Exceptions. None of the terms or prohibitions of Section 8.1(D)(2) through Section 8.1(D)(5) shall apply to or be enforced against:
- (a) Emergency Vehicles. Any police or fire vehicle or any ambulance, while in the course of official business.
 - (b) Highway Maintenance and Construction. Excavations or repairs of bridges, streets or highways by or on behalf of the City or the State of Michigan, during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.

(E) **ABANDONED REFRIGERATORS**

- (1) Abandoned Refrigerators. No person shall have in his possession, either inside or outside of any building's structure of dwelling, any abandoned, unattended or discarded icebox, refrigerator or any other similar airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device, or the doors, from such icebox, refrigerator or other container.

(F) **BILL POSTING**

- (1) Bill Posting in Public Right-of-Way. No person shall attach, place, paint, write, stamp or paste any sign, advertisement, or any other matter upon any lamp post, electric light, railway, telegraph, or telephone pole, shade tree, fire hydrant in the public right-of-way; or on any thing within any public park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this section.

- (2) Bill Posting on Private Property. No person shall attach, place, paint, write, stamp or paste any sign, advertisement or other matter upon any private house, wall, fence, gate, post or tree without first having obtained the written permission of the owner, or occupants of the premises and having complied with all provisions of this Code pertaining thereto.

SECTION 8.2 DISORDERLY CONDUCT

- (A) Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

- (1) “Alcoholic beverage” means any spirituous, vinous, malt, fermented liquor, beer, wine, spirits, alcoholic liquids and compounds whether or not medicated, proprietary, patented and by whatever name called, containing one-half of one percent (1/2 of 1%) or more of alcohol by volume, which are fit for beverage purposes.
- (2) “Drug” means any drug or other substance, the sale and distribution and/or possession of which is prohibited or restricted by federal or state law, including without limitation, prescription drugs, narcotics and substances inhaled or smelled to create a euphoria, excitement, exhilaration, stupefaction or dulled senses.
- (3) “Police officer” as used in this Chapter shall mean regular, commissioned police officer or any reserve police officer, or any officer or agent of any law enforcement agency of the State of Michigan or any other state or any federal officer.
- (4) “Public place” means street, alley, park, public building, or any place of business or assembly opened to or frequented by the public or any place which is opened to the public view or to which the public generally has access.

- (B) Aiding and Abetting. Any person who aids, abets, counsels, pro-cures, commands or assists in the commission of any offense prohibited by this Chapter shall be punishable as a principal.

- (C) Offenses Against Persons. No person shall:

- (1) Commit an assault or battery upon another person.
- (2) Accost, molest or otherwise willfully annoy any person by whatever means.
- (3) Recklessly endanger the life, health or well-being of any person.
- (4) Willfully obstruct the free or uninterrupted passage in any public place.

(D) Property Offenses. No person shall:

- (1) Mark or post hand bills on, or in any manner mar the walls of any public building or any fence, tree, or pole within the City, or take, or meddle with any property belonging to the City or remove the same from the building or place where it may be kept, placed, standing or stored, without authority from the City Manager or other official custodian of said property.
- (2) Enter any garden or orchard located within the City without the consent of the owner or tenant, or his agent, and there cut down, damage, destroy, eat, or carry away any portion of said garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence, or any other protective device or any other thing used for the development, cultivation, maintenance and use of the aforesaid gardens or orchards.
- (3) Trespass upon the premises of another or unlawfully remain upon the premises of another to the annoyance or disturbance of the lawful occupants.
- (4) Prowl about the premises of any other person in the nighttime without authority or the permission of the owner of such premises.
- (5) Lurk, lie in wait or be concealed in any business, yard or other premises with intent to commit any crime or offense whatsoever.
- (6) Willfully, wantonly or recklessly damage, destroy, alter or deface public property or the property of any other person.
- (7) Take or remove or attempt to take or remove any property not his own.
- (8) Obtain or attempt to obtain goods or money by fraud, trick or under false pretenses.
- (9) Meddle with, tamper with, interfere with, move, damage or disconnect any property not his own.
- (10) Destroy, damage or in any manner alter or deface any drinking fountain or public toilet or restroom; or deposit or throw any substance in any water fountain for drinking; or in any manner pollute the water therein.
- (11) Expectorate, urinate, defecate, litter, deposit trash or rubbish, or perform any act which creates a hazardous or deleterious condition in any public place or upon the property of any other person, except in receptacles placed there for such purposes.
- (12) Affix, paste or otherwise attach to any vehicle owned by another person any notice, poster, leaflet, broadside or other item or device which interferes with the vision of the driver or causes or tends to cause damage to said vehicle. This subsection shall not apply to parking violation notices placed on motor vehicles

by duly authorized representatives of the City or by law enforcement officers of any other governmental unit when acting in the course of their official duties.

(E) Substance Offenses. No person shall:

- (1) Be intoxicated or under the influence of any drug in any public place.
- (2) Be intoxicated or under the influence of an alcoholic beverage in any public place.
- (3) Be intoxicated or under the influence of any drug or any alcoholic beverage in a public place and either endangering the safety of another person or property of another person or breaching the peace.
- (4) Knowingly sell, convey, give or transfer any alcoholic beverage to a person who is breaching the peace, is disorderly or is under the influence of an alcoholic beverage or drug or intoxicated.

(F) Offenses Against the Public Order. No person shall:

- (1) Turn in any false fire alarm.
- (2) Obstruct, resist, hinder or oppose any member of the police force or any police officer in the discharge of his duties as such.
- (3) Knowingly furnish to any police officer or other official or employee of the City a false name, address, age or date of birth in connection with the investigation of the commission of any violation of this Code or any other City, State of Michigan or federal law.
- (4) Knowingly make or furnish to any police officer or other official or employee of the City, when said officer, official or employee is acting in his official capacity, a false or fictitious report of the purported commission of any violation of this Code or any violation of any City, State of Michigan or federal law.
- (5) Escape or attempt to escape while lawfully confined by or in the custody of police officer of the City.
- (6) When operating a motor vehicle which has been stopped in response to a police officer's signal, leave or attempt to leave the scene unless and until he has identified himself to the police officer.
- (7) Impersonate, attempt to impersonate, falsely pretend to be, or hold himself out as a police officer or other officer or employee of the City without due authority.
- (8) Conceal knowledge of the actual commission of a violation of this Code from a court or from a police officer investigating said violation. This subsection shall

not be interpreted to conflict with the right of any person not to be a witness against himself.

- (9) Willfully fail to obey the command of any police officer to stop or halt, provided that any such officer identifies himself or herself as a police officer and provides or offers to provide identification as such, and, provided that a police officer is attempting to apprehend such person for a violation of any City, State of Michigan or federal law.

(G) Breach of the Peace Offenses. No person shall:

- (1) Engage in any disturbance, fight or quarrel in any public place.
- (2) Disturb, without lawful authority, any service of worship or any other assembly gathered for a lawful purpose.
- (3) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons.
- (4) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct.
- (5) Engage in, participate in or attempt to engage in or participate in a riot.
- (6) Incite, cause or attempt to incite or cause a riot.
- (7) Utter profane, obscene or injurious language directed at or in the presence of another person, which language causes, is intended to cause or would tend to cause an immediate breach of the peace.

(H) Vice Offenses. No person shall:

- (1) Attend, frequent, operate or be an occupant of any place where prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal business or occupation is permitted or conducted.
- (2) Engage in prostitution or solicit or accost any person for the purpose of inducing the commission of any illegal act.
- (3) Knowingly transport any person to a place for the purpose of enabling such person to engage in gambling, except as permitted by law, or in any illegal act.
- (4) Keep or maintain, or permit the use of a gambling room, table or equipment or any policy or pool tickets, to be used for gambling on any premises occupied or controlled by him; conduct or transmit any bet on the outcome of any race, contest or game of any kind whatsoever, except as otherwise permitted by law.

(I) Miscellaneous Offenses. No person shall:

- (1) Make any indecent exposure of his person.
- (2) Discharge any firearms, air gun, spring gun, bow and arrow or other dangerous weapon or instrument, within or into the City or have any such dangerous weapon in any public street, park or place; provided, however, this subsection shall not apply to a police officer.
- (3) Engage in any window peeping.
- (4) Beg in any public place.
- (5) Swim or bathe in the nude in any public place.
- (6) Tell or pretend to tell fortunes for hire, gain, regard or profit, whether by means of cards, tokens, trances, inspection of the hands or skull, and reading, consulting the movements of the heavenly bodies, or otherwise; or for hire, gain, reward or profit, pretend to enable another to recover lost or stolen property, pretend to give success in any business, enterprise, speculation or game of chance, or induce any person to dispose of property in favor of another.
- (7) Have in his possession in any public place a weapon or instrument described in Section 8.2(I)(2) except when the same has been licensed as required by law and is securely wrapped or encased; provided, however, this subsection shall not apply to a police officer.
- (8) Remain in a public place so as to obstruct or restrict ingress to or egress from or the normal use of such a public place after having been requested to leave by the lawful owner or occupant or by a representative of the owner or occupant.

(J) Offenses on and Around School Property.

- (1) **Definitions.** For purposes of this section, the term “school” shall mean any pre-elementary, elementary (grades K-6), secondary (grades 7-12) school, any college or combination thereof and the term “principal” shall mean any Principal of any elementary or secondary school or the Chief Administrative Officer of any elementary or secondary school or college.
- (2) **Unauthorized Persons.** No regularly enrolled student who has been suspended or expelled from any public, private, or parochial school nor any person who is not a regularly enrolled student or parent or guardian thereof or a school official, teacher or other public or school employee shall enter or trespass upon or loiter in or upon any public, private or parochial school building or school property in the City for any reason whatever unless such person has received written permission from the principal or other person designated by the principal to be in or upon or to remain in or upon such public, private or parochial school building or school

property; provided, however, that such written permission need not be secured by persons engaging in or attending a school or other authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school, school principal or other person, board or committee with the authority to prohibit such use or entry.

- (3) **Disturbing Schools.** No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quiet, or good order of any public, private or parochial school is disturbed.
 - (4) **Duty of Person Creating Disturbance to Leave Premises.** Any person, whether lawfully or unlawfully in or upon any public, private or parochial school building or school property who is found to be creating a disturbance in or upon any such school building or property shall leave immediately when so directed by the principal or by any other person designated by the principal.
 - (5) **Extortion.** No person shall, by violence, threats of violence or other forms of coercion, force or attempt to force any public, private or parochial school student or other person to give or to lend any money or other thing of value to any person at any time.
 - (6) **Unauthorized Borrowing of Money or Things of Value from Students in School or Traveling to or from School.** No person shall borrow or attempt to borrow any money or thing of value from any student in or upon any public, private or parochial school building or school property in the City or during any time when such student is engaging in, going to or returning from any regularly scheduled session or activity of any such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval; provided, however, that this section shall not apply to college students who borrow money or things of value from other college students or adults.
 - (7) **Destruction of School Property.** No person shall damage, destroy or deface any public, private or parochial school building or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.
- (K) **Violations and Penalties.** Any person convicted of a violation of any provision of this section shall be punished in accordance with Section 1.1(K) of the Code.

SECTION 8.3 LIBRARY OFFENSES

- (A) **Failure to Return Library Property.** Any person who fails to return or delays the return beyond the date due, to the public library managed and controlled by the Library Board of the City, any book, magazine, manuscript, pamphlet periodical, picture, clipping, exhibit or other property belonging to such library, or to pay the reasonable value thereof,

within thirty (30) days from the date of mailing a notice to such person at the last address furnished to the library, and which notice may be given any time after the date on which such person should have returned the property of the library, shall be guilty of a violation of this Code and shall be penalized as provided in Section 1.1(K) of the Code.

- (B) Overdue Charges. Nothing contained in Section 8.3(A) shall be construed as eliminating the charges for overdue library materials as established by the Library Board.

SECTION 8.4 FIREWORKS

- (A) Definitions. As used in this section, the following definitions shall apply:

- (1) “Act 256” means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011 as amended from time-to-time.
- (2) “Consumer fireworks” mean fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer fireworks do not include low-impact fireworks.
- (3) “Display fireworks” mean large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or deterioration and are identified as such in Act 256.
- (4) “Articles pyrotechnic” means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as provided in Act 256.
- (5) “Fireworks” mean any composition or device, except for a starting pistol, a flare gun or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.
- (6) “Low-impact fireworks” mean ground and handheld sparkling devices as provided in Act 256.
- (7) “Retailer” means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.
- (8) “Special effects” means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

- (9) “Wholesale” means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.
- (B) Sale of Consumer Fireworks. A retailer or other person may not sell consumer fireworks within the City unless such person has obtained and has in effect a valid consumer fireworks certificate issued by the Michigan Department of Licensing and Regulatory Affairs and otherwise complies with the requirements of Act 256 and any rules and regulations promulgated thereto included those related to storage.
- (C) Sale of Low-Impact Fireworks. A retailer or other person may not sell low-impact fireworks unless such person is actively registered, in accordance with Act 256, with the low-impact fireworks retail registry maintained by the Michigan Department of Licensing and Regulatory Affairs.
- (D) Compliance with Applicable Ordinances and Codes. Unless otherwise provided in this section, a retailer or wholesaler of fireworks located within the city must comply with the requirements of the City’s zoning ordinance and building codes and regulations.
- (E) Use of Consumer Fireworks. Except as otherwise provided in this section, a person may not ignite, discharge or use consumer fireworks in the City on the day preceding, the day of, or the day after a national holiday between the hours of 1:00 a.m. and 8:00 a.m. On any other day, no person may ignite, discharge or use consumer fireworks in the City between the hours of 11:00 p.m. and 11:00 a.m.
- (F) Firework Safety. No person shall endanger the life, health or safety of any other person by the sale, use, possession, transport, display or discharge of any fireworks.
- (G) Prohibition On or Near Certain Property. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued to this section, any fireworks upon another person’s property or within 15 feet of another person’s property without such property owners permission. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property or any other place of public assembly.
- (H) Permits. Provided the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a non-transferrable permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit may not be issued to a person under 18 years of age. The issuance of a permit shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

- (I) Permit Application. An application for a permit, on the form prescribed by the city, shall be made for use of fireworks requiring a permit at least 15 days in advance of such use.
- (J) Permit Fee. The fee for a fireworks permit as established from time-to-time by the city council shall accompany the application for a permit.
- (K) Proof of Financial Responsibility. In order to receive a permit for articles pyrotechnic or a display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city manager or his/her designee to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant, and to protect the public.
- (L) Storage of Fireworks. The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.

SECTION 8.5 ANIMALS

(A) ANIMALS GENERALLY

- (1) Cruelty to Animals. No person shall cruelly treat or abuse any animal or bird.
- (2) Poisoning Animals. No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers or is likely to endanger any animal or bird.
- (3) Birds and Birds' Nests. No person, except a police officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.
- (4) Domestic Animals. No person shall keep or house any animals within the City except dogs, cats, canaries or animals commonly classified as pets which are customarily kept or housed inside dwellings as household pets, and except horses kept or housed at a lawfully established stable and competitive doves kept or housed in a lawfully established shelter.

(B) DOGS

- (1) Definitions. The following terms when used in this Section shall have the following meanings:
 - (a) The word "owner" when applied to the proprietorship of a dog shall include every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such dog to remain in or about any premises occupied by him.

- (b) “Reasonable control” shall mean keeping a dog on a suitable leash and under control at all times by the owner or custodian of the property while on public or private property unless the dog is contained in a closed automobile, shipping container, or confined by a suitable fencing system, in accordance with the City ordinance.
- (2) Vicious Dogs. No person shall permit any vicious dog of which he is the owner to be unconfined unless securely muzzled and lead by a leash. A dog shall be deemed to be vicious which has attacked or bitten a person or domestic animal without provocation, which shows vicious habits or displays aggressive behavior or which by its size exhibits vicious propensities or other characteristics would constitute a danger to human life or property or domestic animal if not restrained or kept in a safe manner.
- (3) Female Dogs. No person who is the owner of any female dog shall permit or allow such female dog to go beyond the premises of such owner when said dog is in heat.
- (4) Unconfined Dogs. No person who is the owner of any dog shall:
- (a) Permit it to be unconfined unless under the reasonable control of some person.
- (b) Permit it to be unconfined at any time unless licensed as required by law and unless wearing its license tag and evidence of rabies immunization.
- (5) Barking Dogs. No person shall own any dog which by loud, frequent or habitual barking, yelping or howling, shall cause annoyance to the people in the neighborhood.
- (6) Seizure and Impounding of Dogs. Any dog found violating any of the provisions of this Section may be seized and impounded by any police officer of the City or animal control officer of the County.
- (7) Rabies Prevention. Any person who shall have in his possession a dog which has contracted rabies or which has been subject to the same or which is suspected of having rabies or which has bitten any person, shall upon demand of the City Police Department or animal control officer of the County, produce and surrender up such dog to be held for observation as hereinafter provided.
- (8) Exposure to Rabies - Notice. It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or other animal showing the symptoms of rabies, immediately to notify the City Police Department of his possession of such dog.
- (9) Rabies Observation - Impounding and Release. Any dog impounded for observation for rabies shall be held until released or otherwise disposed of. Any dog impounded for having bitten any person shall be held for not less than five (5)

days and in case any complaint shall have been made before the District Court asking that said dog be killed or confined, then said dog shall be confined until the case is finally disposed of.

- (10) Notice of Owner of Impoundment. It shall be the duty of the City Police Department to notify the owner of every dog which shall be impounded, if the owner of such dog can be ascertained, as soon as possible after said dog has been impounded.
- (11) Release of Dogs from Dog Pound. No dog shall be released from the pound unless the owner or person entitled to claim the same shall pay the fees established by the County Animal Shelter.
- (12) Injury to Property; Waste Products.
 - (a) No person owning or possessing a dog shall permit such dog to go upon any sidewalk, parkway or private lands or premises without the permission of the owner of such premises and bruise, break, tear up, crush or injure any lawn, flower bed, plant, shrub, trees or garden in any manner whatsoever or to defecate thereon.
 - (b) No person owning or possessing a dog shall cause or permit such dog to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement to a receptacle located on property owned or possessed by such person. This Section shall not apply to a person who is visually or physically handicapped.
- (13) Violations and Penalties. Every person who shall violate any provision of this Section shall be guilty of misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars or imprisonment in the county jail for a period not to exceed ninety (90) days, or both.
- (14) Prohibition of Dogs at Special Events. No person owning or possessing a dog shall permit such dog to be present within the area(s) where a special event is being held where the City Council as a part of its approval of a Special Events Application for such event shall prohibit the presence of dogs for the health and safety of event participants and attendees. As a condition of approval of such special event, the event sponsor shall promptly post such prohibition throughout the special event area. Any such prohibition shall not apply to service dogs assisting persons visually impaired or otherwise disabled.

(C) DOMESTICATED FOWL.

- (1) Purpose. The purpose of this section is to provide standards for the keeping of domesticated fowl. It is intended to enable residents to keep a small number of

female domesticated fowl on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may result from keeping of domesticated fowl as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This article is intended to create standards and requirements and ensure that domesticated fowl do not adversely impact the neighborhood surrounding the property on which the domesticated fowl are kept. For the purpose of this ordinance, domesticated fowl shall be defined as egg laying hens of the chicken breed.

- (2) Permits. No person shall permit the keeping of domesticated fowl without first securing a permit from the City on a form provided and without paying a permit fee as prescribed from time to time by the Rockford City Council. Permits shall be obtained on an annual basis. Permits shall be issued by the Zoning Administrator and permits obtained following the initial permit shall be accompanied by an inspection by the Zoning Administrator or his/her designee to ensure that all conditions within this ordinance are met.
- (3) Number and types of chicken allowed. The number and type of domesticated fowl allowed are restricted to the following:
 - (a) Maximum number of domesticated fowl allowed is five (5) per lot regardless of how many dwelling units are on the lot.
 - (b) Only female domesticated fowl are allowed.
- (4) Non Commercial Use Only. Domesticated fowl shall be kept for personal use only; no person shall sell eggs or engage in chicken breeding, or fertilizer production for commercial purposes. The slaughtering of domesticated fowl is prohibited.
- (5) Enclosures. The keeping of domestic fowl within the City limits is restricted to the following:
 - (a) Domesticated fowl must be kept in an enclosed henhouse or fenced in chicken pen at all times. Domesticated fowl must be secured within the henhouse during non-daylight hours.
 - (b) Henhouses must be clean, dry, and odor free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impacts. No exterior lighting shall spill onto adjacent properties.

- (c) The henhouse and chicken pen must provide adequate ventilation and adequate sun and shade and must both be impenetrable to rodents, wild birds, and predators, including dogs and cats.
- (6) Henhouses. Henhouses shall be provided and shall be designed to provide safe and healthy living conditions for the domesticated fowl while minimizing adverse impacts to other residents and the neighborhood.
- (a) The structure shall be enclosed and secured on all sides and shall have a roof, floor and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one inch openings.
 - (b) The materials used in making the structure shall be uniform for each element of the structure such that the walls are made of the same materials, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The henhouse shall be well maintained and kept in a clean and sanitary manner at all times.
 - (c) The structure shall be painted; the color shall be uniform around the structure and shall be in harmony with the surrounding area.
 - (d) The maximum size of the henhouse may not exceed twenty-five (25) square feet or eight (8) feet in height.
 - (e) The henhouse shall only be located in the rear yards. In no case, may a henhouse be placed in the side or front yards.
 - (f) The henhouse must be located no less than twenty (20) feet from the owner's dwelling and no less than thirty-five (35) feet from any neighbors dwelling and ten (10) feet from any property line. Henhouses may be moveable, only if the dimensional restrictions contained in this ordinance are held in compliance. The domestic fowl pen is limited to no more than forty (40) square feet in area.
- (7) Chicken Pens. An enclosed chicken pen must be provided attached to the henhouse consisting of sturdy wire and fencing buried at least twelve (12) inches in the ground, or may include a floor made of the same material as the pen secured completely to all sides. The chicken pen must be covered with wire, Avery netting, or solid roofing. The use of chicken wire is not permitted. The chicken pen must also include a self-latching door. The first eighteen (18) inches of the chicken pen must be made of sight obscuring material or screened with sight obscuring landscaping around all sides. The chicken pen must meet the same setback requirements as the henhouse.

- (8) Single-Family Residence. Only single-family residences qualify for the keeping of domestic fowl.
- (9) Odor and Noise Impacts.
 - (a) Odors from domestic fowl, domestic fowl manure, or other domestic fowl related substances shall not be perceptible at the property boundaries, in conformance with the City's nuisance ordinance. Perceptible odor shall be abated within 48 hours of notification by the City of violation.
 - (b) Perceptible noise from domestic fowl shall not be loud enough at the property boundaries to disturb neighboring property owners in conformance with the City's nuisance ordinance. Perceptible noise shall be abated within 48 hours of notification by the City of violation.
- (10) Predators, Rodents, Insects and Parasites. The property owner shall take the necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Domestic Fowl found to be infested with insects and parasites that may result in unhealthy conditions to human habitation must be treated immediately.
- (11) Feed and Water. Domestic Fowl must be provided with access to clean feed and water at all times; such feed and water shall be unavailable to rodents, wild birds, predators.
- (12) Waste Storage and Removal. Provisions must be made for the storage and removal of domestic fowl manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored on site at any time. All other manure not used for composting or fertilization shall be removed. In addition, the henhouse, domestic fowl pen, and surrounding area must be kept free from trash and accumulated droppings. Uneaten food shall be removed in a timely manner.
- (13) Violations of this ordinance will result in the revocation of the permit allowing the keeping of domesticated fowl. All hen houses and chicken coops shall be removed within thirty (30) days from revocation of the permit or at such time as chickens are no longer kept.

SECTION 8.6 ALCOHOLIC LIQUOR

(A) RECOMMENDATIONS FOR LICENSE

- (1) Interpretation. This Chapter shall be interpreted in harmony with Act No. 8 of the Public Acts of Michigan of the Extra Session of 1933, as amended, and the rules

promulgated thereunder, and where the provisions of this Section and said Act or rules conflict, the provisions of said Act or rules shall control.

- (2) Definitions. The terms used in this Chapter shall have the following definitions:
- (a) “Alcoholic liquor” means any spirituous, vinous, malt, fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented and by whatever name called, containing one-half of one percent (0.5%) or more of alcohol by volume which are fit for use for beverage purposes.
 - (b) “Class A License” shall mean a hotel or motel licensed to sell beer, wine, alcoholic beverages and spirits for consumption on the premises at retail.
 - (c) “Class B License” shall mean a hotel or motel licensed to sell beer, wine, alcoholic beverages and spirits for consumption on the premises at retail.
 - (d) “Class C License” shall mean any place licensed to sell, at retail, beer, wine, alcoholic beverages and spirits for consumption on the premises.
 - (e) “Licensee” shall mean any person who has been granted a license to sell alcoholic beverages in the City by the Michigan Liquor Control Commission.

All other terms and phrases used in this Chapter shall be interpreted using the definitions provided in Act No. 8 of the Public Acts of Michigan of the Extra Session of 1933, as amended.

- (3) Recommendation for Approval. No recommendation for approval by the City required for the granting of a license to sell, distribute or convey liquor, spirits, alcoholic beverages, etc. shall be given:
- (a) If the City Council shall find that the conduct of the applicant for a license has been such as to reasonable justify the conclusion that the applicant would either intentionally violate or neglect to comply with the provisions of this Chapter.
 - (b) If the applicants for a Class “C,” Class “B” and Class “A” license have the following accommodation:
 - (i) All motels and/or hotels selling alcoholic beverages for consumption on the premises with a Class “A” or Class “B” license shall be required to have twenty (20) or more guest rooms and have a dining table capacity for not less than seventy-five (75) persons and if additional counter space is provided for the dispensing and sale of alcoholic beverages, said counter space shall accommodate not more than twenty (20) percent of the seating capacity of the entire dining room.

- (ii) All restaurants selling alcoholic beverages for consumption on premises shall have a dining table capacity for not less than one hundred (100) persons, and if additional counter space is provided for the dispensing and sale of alcoholic beverages, said counter space shall occupy not more than twenty (20) percent of the seating capacity of the dining room.
 - (iii) Not less than fifteen (15) square feet of space per person seated.
 - (iv) Suffer of or allow in or upon licensed premises the annoying or molesting of patrons or employees by other patrons or employees.
 - (v) Permit the licensed premises to be frequented by or become the meeting place, hangout or rendezvous for known prostitutes, or those who are known to engage in the use, sale or distribution of drugs or any other illegal activity or business.
 - (vi) Allow upon licensed premises slot machines, punch or pullboards, dice games or any gambling or gaming devices, machines or apparatus, or gambling or gaming of any kind whatsoever. The presence of any such device, machine or apparatus upon the premises of any licensed establishment shall be prima facie evidence of a violation of this subsection.
 - (vii) Serve to or permit any patron to consume an alcoholic beverage or spirit unless such patron is either seated or standing at a bar or seated at a table or counter.
 - (viii) No licensee shall have or permit any inside connection, entrance, doorway or aperture, between licensed premises and the premises of another person.
 - (ix) Permit the sale of alcoholic beverages and spirits upon any portion of the premises which shall have been leased, sold or the right to possession of which shall have been transferred to another person not licensed.
- (c) Until the City council shall be satisfied that adequate off-street parking is available.

(4) Conduct on the Premises.

- (a) Prohibitions. No licensee or agent, servant or employee of a licensee shall:
 - (i) Either directly or indirectly sell, furnish, or deliver any alcoholic beverage, beer or wine to any person unless such a person shall

have attained the age of twenty-one (21) years; nor shall any licensee, either directly or indirectly, by himself, or by any agent, servant or employee, at any time sell, furnish or deliver any alcoholic beverage to any person who is under the influence of intoxicating beverages.

- (ii) Be in an intoxicated condition upon the licensed premises or allow an intoxicated person to frequent, loiter or be employed upon the licensed premises.
 - (iii) Allow in or upon his licensed premises any improper conduct, disturbances, entertainment or advertising materials.
- (b) Price List. Every licensee shall have posted in a conspicuous place on the licensed premises a plainly visible printed list or menu showing the various types and prices of alcoholic drinks which he offers for sale.

(5) Application and Recommendation.

- (a) The restrictions and requirements set forth in this Chapter shall be applicable:
 - (i) To all new applicants for a license, and such applicants shall not receive a favorable recommendation unless and until he complies with all of the requirements and restrictions herein set forth.
 - (ii) To transfer of any license, whether the transfer is of ownership, location or both.
- (b) All personal property taxes and all real property taxes and all other obligations due and payable to the City, including installments of special assessments, which shall relate to any premises for which recommendation for approval of a license is sought, or to which or from which transfer of a license is sought, shall be paid in full before the City Council shall recommend the issuance or transfer of such license.
- (c) Prior to the applicant's approval of a license by the Michigan Liquor Control Commission to sell alcoholic beverages and spirits for consumption on the premises, or for a transfer of such license, the City Council shall recommend for approval of the license. A fee in an amount to be established from time to time by the City Council shall be paid by the applicant before the City Council considers the request. Upon receipt of the request from the Michigan Liquor Control Commission, the City Manager shall transmit the same to the City Police Chief, who shall endorse thereon his recommendations concerning the application. The City Manager shall also transmit such request to the City Treasurer, who shall endorse thereon a statement as to whether there is any default to the

City in connection with the payment of any of the taxes and other obligations due the City. The request shall likewise be referred by the City Manager to the City Fire Chief and to the County Health Department for appropriate investigations to be made of the persons and premises involved to determine whether or not the premises conform to all applicable and appropriate City, County and State fire and public health requirements. The City Manager shall have the authority to request of the applicant such additional information as may be necessary to determine whether the requirements of this Section have been met. The findings of all such investigations shall be reported to the City Council and the favorable recommendation of the application shall be by a majority vote of the members of the Council.

- (d) If other provisions of this Code or any ordinances of the County, or any statutes of the State of Michigan, shall impose greater restrictions than herein set forth, then such provisions, ordinances or statutes shall control.
- (6) Authority of City Council. This Chapter shall not operate to limit any power or authority vested in the City Council by virtue of any existing constitutional or statutory provision and shall be considered to be only supplementary to the exercise or use of such vested authority and not in derogation thereof.

(B) SUNDAY SALES

SECTION 8.7 FIRE PREVENTION AND LIFE SAFETY

(A) FIRE PREVENTION

- (1) Adoption of National Fire Prevention Code. Pursuant to the provisions of Section 3(k) of Act 279 of the Public Acts of Michigan of 1909, as amended, the BOCA National Fire Prevention Code/1993, as published by the Building Officials and Code Administrators, Inc., is hereby adopted by reference. A copy of BOCA National Fire Prevention Code/ 1993, is available for public use and inspection at the office of the City Clerk.
- (2) Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter:
 - (a) BUREAU OF FIRE PREVENTION shall mean the City Fire Department.
 - (b) CHIEF OF THE BUREAU OF FIRE PREVENTION shall mean the City Fire Chief.
 - (c) CORPORATION COUNSEL shall mean the City Attorney.
 - (d) JURISDICTION AND NAME OF JURISDICTION shall mean the City.

- (e) MUNICIPALITY shall mean the City.
- (3) Modifications to BOCA National Fire Prevention Code. The following provisions of the BOCA National Fire Prevention Code/1993 are amended as follows:
- (a) F 112.3 Penalty for Violations: Any person who shall violate any provision of the BOCA National Fire Prevention Code, 1993, shall be subject to the penalties specified for violation in Section 1.1(K) of the City Code.
 - (b) F 113.1 Appeals: Appeals to the board may be taken by any person aggrieved by any decision or interpretation by the fire official made under the provisions of this code. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better method of fire prevention is used. At the time of making application shall pay to the City Clerk a fee established by resolution of the City Council. The application for appeal shall be filed with the City Clerk within 20 days after the appellant received notice of the applicable decision or interpretation on a form obtained from the fire official.
 - (c) F 113.2 Board of Appeals: The Board of Appeals shall be the Construction Board of Appeals.
 - (d) F 113.2.6 Compensation of Members: Compensation of members shall be established by resolution of the City Council.
 - (e) F 113.4.2 Quorum: A majority of the board shall consist of a quorum.
 - (f) F 113.6 Action of the Board: The board shall affirm, modify or reverse the decision of the fire official by majority vote of those members present.
- (4) Additional Modifications. The City Fire Chief shall have the power to modify any of the provisions of the Fire Prevention Code hereby adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the City Fire Chief thereon shall be entered upon the records of the Fire Department and a signed copy shall be furnished to the applicant.
- (5) Appeals. Whenever the City Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision

of the City Fire Chief to the City Manager within 30 days from the date of the decision appealed.

- (6) Penalties. Any person who shall violate any of the provisions of this Section shall be subject to the penalties specified for a violation in Section 1.1(K) of the City Code.

(B) LIFE SAFETY

- (1) Adoption of NFPA 101 Life Safety Code. Pursuant to the provisions of Section 3(k) of Act 279 of the Public Acts of Michigan of 1909, as amended, the NFPA 101 Life Safety Code, 1991 Edition, as published by the National Fire Protection Association is hereby adopted by reference. A copy of the NFPA 101 Life Safety Code, 1991 Edition, is available for public use and inspection at the office of the City Clerk.
- (2) Penalties. Any person who shall violate any of the provisions of the NFPA 101 Life Safety Code, 1991 Edition, shall be subject to the penalties specified in Section 1.1(K) of the City Code.

(C) LIABILITY AND DAMAGES.

- (1) Neither the BOCA National Fire Prevention Code/1993 nor the NFPA 101 Life Safety Code, 1991 Edition, shall be construed to relieve or lessen the responsibility or liability of any persons owning, operating, controlling or installing any wiring or equipment, or making any use of any premises, or maintaining, storing or handling any flammable materials, for damage to persons or property caused by any improper or negligent use, operation, installation or storage; nor shall the City be deemed to have assumed any liability by reason of any inspection or the issuance of any license or permit, nor by reason of the approval or disapproval of any equipment, or the use thereof, or the maintenance, handling or storage of materials.
- (2) 2. NUISANCE PER SE. Any building, structure or premises erected, used, occupied or maintained in violation of this chapter is hereby declared to be a nuisance per se. Upon application to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation or threatened violation, restrained and enjoined.

SECTION 8.8 WATERWAYS

- (A) Definitions. The following definition shall apply in the interpretation and enforcement of this Chapter:
 - (1) WATERWAY shall mean any waterway, lake, river, canal, stream or connecting waters within the boundaries of the City of Rockford, and under its jurisdiction.

- (B) Pollution. No person shall put into the waters of any waterway or on the ice covering any of said waters, any filth of any description or throw or deposit or permit to be deposited or placed in any of the waters of any waterway, or on ice covering said waters, any glass, cans or bottles, any metal object, rubbish, garbage, refuse, sewage or any other substance likely to injure any person, fish, bird or animal or cause any unsightly or unsanitary conditions, either in or upon said waters or on the shoreline adjacent thereto.
- (C) Obstructions. No person shall place any obstruction, or permit the placing of any obstruction, within any waterway which would tend to endanger or impede navigation or the flow of such waterway. Any person offending against the provisions of this Section shall be liable to the City of Rockford for all costs and expense incurred by it in the removal of such obstruction, in addition to the punishment prescribed in Section 1.1(K).
- (D) Bathing and Swimming.
- (1) No person shall bathe, swim, wade or enter the waters of the Rogue River, except for fishing, within 200 feet north of the Rockford Dam and south of the Dam to the Bridge Street bridge at any time, except such as has been designated by an order of the City Manager; provided, however, that this Section shall not apply to any person whose trade, business or occupation requires him to enter said waters.
- (2) The City Manager shall in his discretion from time to time adopt regulations designating the places or localities and time in which bathing and swimming shall be lawful.
- (E) Fishing. No person shall be allowed to fish from the Bridge Street bridge.

SECTION 8.9 FRAUDS

(A) DISHONORED CHECKS

- (1) Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter:
- (a) CHECK shall mean any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository.
- (b) DISHONORED shall mean:
- (i) Any check, draft or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of same when presentment is made to the drawee.
- (ii) Any check, draft or order drawn or written on any account which has been closed with or by the bank or other depository upon which it is drawn.

- (2) ADDRESS OF RECORD shall mean the address that appears on the check or the last known address of record with the Secretary of State at the time the check was presented for payment of goods or services.
- (3) EXPENSES OF DISHONORED CHECK RESPONSE shall mean the direct and reasonable cost incurred by the City of Rockford or to a private person or corporation operating at the request or direction of the City of Rockford, when responding to a reported dishonored check, including the cost of providing police, City attorney and/or administrative services in response to any reported dishonored check. These costs further include all of the salaries and wages of the City of Rockford personnel and/or contractors engaged in investigation, supervision and report preparation, and all costs connected with the administration and provision of the person responsible for the dishonored check.
- (4) Checks Drawn without Sufficient Funds.
- (a) No person shall with intent to defraud, make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of the making, drawing, uttering or delivering, that the maker or drawer does not have sufficient funds in or credit with the bank or other depository, for the payment of the check, draft, or order, in full upon its presentation, of the amount payable in such check, draft or order in any amount.
- (b) No person shall with intent to defraud, make, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank, or other depository, unless the person has sufficient funds for payment for same when presentment is due to the drawee in any amount, except where the lack of funds is due to garnishment, attachment, levy, or other Lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing.
- (c) As against the maker or drawer thereof, the making, drawing, uttering or delivering, of a check, draft or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all cost and protest fees, within five (5) business days after receiving notice that such check, draft or order has not been paid by the drawee.
- (5) Penalty. The penalty for a person convicted of this violation shall be a fine of not more than \$500.00 and costs of prosecution and cost recovery or by imprisonment for not more than 90 days, or both such fine and imprisonment in

the discretion of the court. Each act of this violation and every day upon which any such violation shall occur shall constitute a separate offense.

(6) **Liability for the Expense of Dishonored Check Response**

- (a) **Person Responsible:** Any person is liable for the expense of a dishonored check response if such person, with intent to defraud, makes, draws, utters or delivers any dishonored check which proximately causes a dishonored check response.
- (b) **Presumption:** For the purpose of this Chapter, a person is presumed to have acted with intent to defraud if said person failed to pay the drawer thereof the amount due thereon, together with all costs and protest fees, including the fees assessed hereunder, within five (5) business days after receiving notice by first class mail to the last known address of record that such check, draft or order has not been paid by the drawee.
- (c) **Charges Against Person:** The expenses of a dishonored check response shall be a charge against the person liable for the expense under this Chapter. The charge constitutes a debt of that person and is collectible by the City of Rockford for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
- (d) **Cost Recovery Schedule:** The City Council shall, by resolution, adopt a schedule of costs included within the expense of a dishonored check response. This schedule shall be available to the public from either the City Clerk, City Treasurer or Police Department.
- (e) **Billing:** The City Treasurer, or his/her designee, may submit a bill for the dishonored check response by first class mail to the last known address of record or personal service to the person liable for the expenses as enumerated under this Chapter. The bill(s) shall require full payment within thirty (30) consecutive days from the date of service. Service by mail shall be effective upon depositing said bill in a United States Postal Service receptacle. In no event shall billing be permitted after one year from the last expense incurred.
- (f) **Failure to Pay; Procedure to Recover Cost:** Any failure by the person described in this Chapter as liable for the expense of a dishonored check response, to pay the bill within thirty (30) consecutive days of service shall be considered in default. In case of default, the City of Rockford may commence civil suit to recover the expenses any costs allowed by the law.

(7) **Severability.** The phrases, sentences, sections and provisions of this Chapter are severable and the finding that any portion hereof is unconstitutional or otherwise

unenforceable shall not detract from or affect the enforceability of the remainder of this Chapter.

SECTION 8.10 HAZARDOUS MATERIALS RESPONSE COST RECOVERY.

- (A) Purpose. In order to protect the City from extraordinary expenses resulting from the utilization of City resources in response to an incident involving hazardous materials, this Chapter authorizes the imposition of charges to recover actual costs incurred by the City in responding to calls for assistance in connection with a hazardous incident or emergency.
- (B) Definitions. Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:
- (1) **ASSESSABLE COSTS** mean those costs for services incurred by the City in connection with a hazardous material incident or emergency, including, but not limited to, the actual labor and material costs of the City (including, without limitation, employee wages, fire run fees paid to on-call fire fighters, fringe benefits, medical and hospital expenses not covered by insurance, administrative overhead and expenses, costs of equipment, costs of replacement of equipment that is contaminated beyond reuse or repair, costs of equipment operation, costs of cleaning and decontaminating equipment, costs of materials, costs of transportation, laboratory costs of analyzing samples of materials, costs of materials disposal, clean-up and storage, technical consulting services and costs of contracted labor) whether or not the services are provided by the City or by a third party on behalf of the City; service charges and interest; engineering fees; attorneys' fees; litigation costs; billing and collection costs and any costs, charges, fines or penalties to the City imposed by any court or state or federal governmental entities. Personnel related costs shall commence at the time City personnel begins responding to a hazardous materials incident or emergency and continue until all such City personnel have concluded their work related to such incident or emergency.
 - (2) **HAZARDOUS MATERIALS** mean those elements, substances, wastes or by-products, including, but not limited to, combustible liquid, flammable gas, explosives, flammables, radioactive materials, poisons, organic peroxides, oxidizers, pyrophorics, unstable reactive matter, water reactive matter, petroleum products, anti-freeze, polychlorinated biphenyls and asbestos, which are or are potentially harmful to the environment or human or animal life, or which pose an unreasonable or imminent risk to life, health or safety of persons or property, or to the ecological balance of the environment.
 - (3) **HAZARDOUS MATERIAL INCIDENT OR EMERGENCY** means any occurrence, incident, activity, accident or emergency where a release of hazardous materials occurs or is reasonably imminent.

- (4) RELEASE means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment, including, but not limited, the air, soil, groundwater and surface water.
- (5) RESPONSIBLE PARTY means any individual, firm, corporation, association, partnership, commercial entity responsible for a hazardous material incident or emergency or any owner, tenant, occupant or party in control of real and personal property from which or onto which there is a hazardous material incident or emergency and their heirs, estates, successors and assigns.

(C) COST RECOVERY AUTHORIZATION AND PROCEDURE.

- (1) The City may recover all assessable costs in connection with a hazardous material incident or emergency from any or all responsible parties jointly and severally.
- (2) The City Treasurer or his or her designee shall determine the total assessable costs and shall determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determinations, the City Treasurer shall consider the following:
 - (a) the total assessable costs;
 - (b) the risk the hazardous material incident or emergency imposed on the City, its residents and their property;
 - (c) whether there was any injury or damage to persons or property;
 - (d) whether the hazardous material incident or emergency required evacuation; and
 - (e) whether there was any damage to the environment.
- (3) After consideration of the factors in (b) immediately above, the City Treasurer may allocate assessable costs among and between responsible parties including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefore or is legally at fault.
- (4) If the City Treasurer determines not to assess all or a part of assessable costs against any responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to the other parties.

(D) BILLING AND COLLECTION OF ASSESSABLE COSTS.

After determining to assess assessable costs against a responsible party, the City Treasurer shall mail an itemized invoice to the responsible party at its last known address.

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Such invoice shall be due and payable within thirty (30) days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to one percent (1%) per month or fraction thereof that the amount due and any previously imposed late payment fees remain unpaid. If a responsible party shall appeal an assessable costs pursuant to Section 8.10(E) hereof, such costs, if upheld, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(E) PROCEDURE FOR APPEALING ASSESSABLE COSTS.

Any responsible party who receives an invoice for assessable costs shall be given an opportunity to appear before the City Council to request a modification of assessable costs. A responsible party who desires to appear before the City Council shall file a written request to appear before the City Council with the City Clerk within fourteen (14) calendar days of the date of the invoice assessing assessable costs. Upon receipt of such request the City Clerk will place the responsible party on the agenda of the next regularly scheduled City Council meeting, which meeting shall be at least fourteen (14) calendar days after the date on which the responsible party files the request to appear. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Any reason, basis or argument for modification of assessable costs not set forth in the request to appear shall be deemed waived by the responsible party. Failure to timely file a written request to appear shall constitute a waiver of the responsible party's right to appear before the City Council; and shall further constitute the responsible party's agreement to pay the assessable costs. After a responsible party has been given an opportunity to appear before it, the City Council shall promptly determine whether to confirm, modify or void the payment of assessable costs.

(F) ASSESSABLE COSTS A LIEN UPON PROPERTY.

Assessable costs assessed against a responsible party not paid when due, including late payment fees, shall constitute a lien upon the real property of the responsible party in the City upon which or related to which the hazardous material incident or emergency occurred. Such lien shall be of the same character and effect as the lien created by City Charter for City real property taxes and shall include accrued interest and penalties. The City Treasurer shall, prior to March 1 of each year, certify to the City Assessor the fact that such assessable costs are delinquent and unpaid. The City Assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

(G) CIVIL INFRACTION.

A violation of this Chapter shall be a civil infraction enforceable in accordance with the provisions of this Code and applicable State Law.

(H) OTHER REMEDIES.

In addition to the remedies set forth in Section 8.10(G) and Section 8.10(F) above, the City shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

(I) NO LIMITATION OF LIABILITY.

The recovery of assessable costs pursuant hereto does not limit the liability of a responsible party under other applicable, local, state or federal law.

(J) NORMAL FIRE PROTECTION.

The authority to recover assessable costs pursuant hereto shall not include the costs of ordinary fire protection or suppression services not related to the release of hazardous materials which are normally and customarily provided by the City's fire department.

(K) SEVERABILITY.

Should any provision or part of this chapter be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision or part which shall remain in full force and effect.

SECTION 8.11 FALSE ALARMS

(A) DEFINITIONS

- (1) **ALARM SYSTEM.** Alarm system means any device or piece of equipment or any assembly of equipment and devices designed or arranged to signal visibly, audibly, electronically, mechanically or by any combination of these methods the presence of a hazard to which the police and/or fire departments are expected to respond.
- (2) **ALARM USES.** Alarm user means any person, whether owner, occupant or tenant, upon whose premises an alarm system is maintained or operated within the City of Rockford.
- (3) **ALARM BUSINESS.** Alarm business means the business of any individual, partnership, corporation or other entity selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold leased, maintained, serviced, repaired, altered, replaced, moved, or installed any alarm system in or on any building, structure or facility.
- (4) **FALSE ALARM.** False alarm means any activation of an alarm system through mechanical failures, malfunction, improper installation, or the negligence of the user of an alarm system or of his employee or agent; but does not include an alarm

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caused by violent conditions of nature, interruption of electrical or telephone service to the alarm user, visible signs of attempted break-ins, or false activation by a third party not within the control of the alarm user. For the purposed of this section, a “third party not within the control of the alarm user” shall not include any employee, agent, licensee, or invitee of the alarm user. Neither shall it include any independent contractor while that independent contractor is working for the alarm user.

- (5) **ENFORCING AUTHORITY.** Enforcing authority refers to the Rockford Police Department or Rockford Fire Department which is or would be expected to respond to any alarm system within the City of Rockford.

(B) **PROHIBITION**

No alarm user shall maintain, use or allow the use of an alarm system, which signals repeated false alarms.

(C) **ENFORCEMENT AND PENALTIES.**

- (1) For the purpose of this section, different businesses within the same building or with the same street address shall be considered separate establishments. Also, if a business has more than one building located at a single street address, then each such building shall be considered a separate establishment for the purposes of this section.

- (2) If the enforcing authority records two (2) false alarms at one (1) establishment within a three hundred sixty-five (365) day period which commences on the day period which commences on the date of the first false alarm the enforcing authority shall send a notice of violation to the alarm user or the alarm user and the alarm business providing service or inspection to the user by certified mail of such fact. Said notice shall direct that the user submit a written report to the enforcing authority within fifteen (15) calendar days of receipt of the notice describing actions taken or to be taken to discover the cause of the false alarms, specifying the time limit within which the necessary work will be completed.

Failure of the alarm user or the alarm user and the alarm business to comply with these provisions shall cause an automatic billing by the enforcing authority to the alarm user of a fee established by resolution of the City Council.

The notice of violation shall also advise that if there is a third (3rd) false alarm at the establishment within the remainder of the three hundred sixty-five (365) day period, a fee shall be charged in accordance with the schedule that shall be adopted by resolution of the City Council.

The enforcing authority shall attempt to send the notice in a timely manner. Failure of the enforcing authority to send or the alarm user to receive a notice of violation does not nullify the penalty provisions of this ordinance.

- (3) The alarm user may request that an alarm incident at issue not be considered a false alarm pursuant to Section 8.11(A)(4) above. Any explanation for, or reasoning behind, such a request shall be in writing and shall accompany the request.

The enforcing authority shall determine whether the alarm incident at issue shall be considered a false alarm and notify the alarm user in writing of its decision in a timely manner.

- (4) Upon the third and each subsequent false alarm within the three hundred sixty-five (365) day period, the enforcing authority shall bill the alarm user the fee set forth in the resolution establishing the fee schedule.
- (5) If the alarm user fails to pay the City's costs within thirty (30) days after billing by the enforcing authority, such costs shall be added to and made a part of the next City tax bill against the subject premises and collected in the same manner as provided by law for the collection of City taxes.

(D) APPEALS

Appeals of any provision of this section shall be by written notice of appeal files with the chief of the enforcing authority within five (5) days of receipt of the notice of violation.

Appeals shall be heard by the Safety Committee of the City Council within thirty (30) days after the filing of the appeal or at the next regularly scheduled meeting of the Safety Committee.

SECTION 8.12 REGULATED ADULT USES

(A) Purposes.

- (1) In the development and execution of this Chapter, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one (1) or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this Chapter. These controls are for the purpose of preventing a concentration of these uses within any one (1) area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other Ordinances of the City.

- (a) Uses subject to these controls are as follows:

- (i) Adult book stores;

- (ii) Adult cabarets;
- (iii) Adult motion picture theaters;
- (iv) Amusement establishments;
- (v) Massage establishments;
- (vi) Nude artist and photography studios;
- (vii) Pawnshops or second-hand stores.

(2) Permitted Uses. Any of the regulated uses listed in Section 8.12(A) are permitted if:

- (a) The use is located within a zone district where the use is normally permitted under the City Zoning Ordinance;
- (b) The use is located outside a five hundred (500) foot radius of a residential zone district unless a petition requesting waiver of this requirement is received and verified by the City Clerk, signed by fifty-one percent (51%) of those adult persons residing within, or owning residential property within, a five hundred (500) foot radius of the proposed location, in which case the Board of Zoning Appeals may waive this requirement; and
- (c) The use is not located within a one thousand (1,000) foot radius of one other such use, except that such restriction may be waived by the board of Zoning Appeals if the following findings are made:
 - (i) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Chapter will be observed.
 - (ii) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (iii) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
 - (iv) That all applicable State laws and local Ordinances will be observed.

(3) Conditions and Limitations. Prior to the granting of any waiver as herein provided, the Board of Zoning Appeals may impose any such conditions or

limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may, in its judgment, be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

- (4) Limit on Reapplication. No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.
- (5) Expansion and Discontinuance of Use. Establishments where uses, subject to the control of this Section 8.12 are located shall not be expanded in any manner without first applying for, and receiving the approval of, the Board of Zoning Appeals as provided in the City Zoning Ordinance. Further, if a use, subject to the control of this Chapter is discontinued, the use may not be re-established without applying for, and receiving the approval of, the Board of Zoning Appeals as provided in the City Zoning Ordinance.
 - (a) Nothing in this Chapter shall prevent the reconstruction, repairing or rebuilding and continued use of any building or structure, the uses of which make it subject to the controls of this Chapter which is damaged by fire, collapse, explosion or act of God.

SECTION 8.13 DISCHARGE OF A FIREARM

- (A) The discharge of any firearm, air gun, spring gun, bow and arrow, or other dangerous weapon or instrument or the act of hunting within or into the City or to have any such dangerous weapon uncontained in any public street, park, or place shall be strictly prohibited except as permitted in this Ordinance, however, this section will not apply to a police officer.
- (B) No person shall hunt, pursue, or kill any animal or discharge any dangerous device within the City limits except in compliance with the following definitions and regulations:
- (C) Definitions. For purposes of this section, the following terms and phrases shall be defined as follows:
 - (1) “Arrow” means a target arrow constructed of wood, aluminum, fiberglass, graphite (carbon) shaft, or similar material, bolt or quill capable of being moved, propelled, or shot by a bow or cross bow.
 - (2) “Bow” means a device for propelling an arrow from a string drawn, held, and released by hand, including hand-held mechanical release devices, where the force used to hold the string in the drawn position is provided by the person’s muscles.

- (3) “Cross-bow” means a device consisting of a bow (limbs) mounted transversely on a stock or frame and designed to propel an arrow by the release of a string, which release is controlled by a mechanical or electric trigger.
 - (4) “Dangerous device” means including but is not limited to the following: arrows, bows, cross-bows, slingshots, and firearms.
 - (5) “Firearms” means a rifle, a shotgun, a revolver, a pistol, a pellet gun/pistol, a BB gun/pistol (except one having a smooth bore and capable of propelling BBs not exceeding .177 caliber), or any other device from which a projectile may be propelled by use of explosives, gas, air, or spring.
 - (6) “Home target range” means a target range located on a parcel of private real property designed for the sole use of the owner or legal occupant of the property on which it is located and not used for commercial purposes.
 - (7) “Person” means an individual, firm, partnership, association, company, corporation, club, or organization of any kind.
- (D) Exemptions. The limitations of this section shall not apply to the following:
- (1) A person who discharges a dangerous device in the lawful defense of a person or property
 - (2) The discharge of a toy bow and arrow, which is a bow having a draw weight of 18 pounds or less and an arrow having a rubber/plastic tip or target point.
 - (3) The discharge of toy guns which propel only rubber, plastic, or foam projectiles by spring, air, or mechanical means.
 - (4) The discharge of a dangerous device by members of any law enforcement or public safety agencies while in the discharge of their official duties.
 - (5) A target range as permitted in Section 8.13(D)(5).
 - (6) A home range target as permitted in Section 8.13(D)(6).
 - (7) Nothing in this section is intended to regulate or limit the rights of a person to possess or to carry dangerous devices within the City limits which are possessed and carried in compliance with state or federal laws, regulations, and/or permits.
- (E) No person shall conduct, maintain, operate, or hold open for operation any target range without first obtaining a license therefor pursuant to this section.
- (1) License application and initial review. Upon receipt of a license application filed by the owner and/or operator of a proposed target range to be located within the City, which license application is on a form provided by the City for that purpose,

and accompanied with any license fee required by the City for the processing of such an application, the application shall be referred to the chief of police and his appointed designees, for initial review and evaluation. The application in reference will be reviewed with respect to the overall impact of the proposed target range on the health, safety, and welfare of the citizens of the City including evaluation of the proposed project in reference to the following factors:

- (a) Size of the property.
 - (b) Location of the property.
 - (c) Anticipated hours of operation.
 - (d) Use of surrounding properties.
 - (e) Safety features, including but not necessarily limited to backstops or other methods of containing discharged projectiles.
 - (f) Proximity to public park land and waterways.
 - (g) Conformance with all applicable federal, state, and local health, fire, and safety ordinances or codes.
 - (h) Noise considerations.
 - (i) Comments from any adjoining landowner or occupant within 150 feet of the proposed target range.
 - (j) Lighting considerations.
 - (k) Rule of operations including but not limited to the number of individuals allowed to use the target range at any one time.
 - (l) Required use of personal safety equipment.
- (2) The chief of police shall, within fourteen (14) calendar days of their receipt of a target range application, forward a report to the City Manager detailing his/her review of each target range application. Upon receipt of the application, the City Manager will forward a letter to all adjacent property owners asking for public comments regarding the application. The City Manager shall consider all public comment, the reports prepared and presented by the Chief of Police, and any application provisions. Within ten (10) days, the City Manager shall approve, approve with conditions, or deny the application.

- (F) Home target range. A home target range shall meet the following requirements:
- (1) Only the following dangerous devices may be discharged at a home target range: bows, cross-bows, pellet guns/pistols and BB guns/pistols.
 - (2) The home target range shall have and maintain a backstop or other safety feature designed and constructed and maintained to contain all projectiles discharged from the allowed dangerous device used on or at the home target range, which backstop or safety feature is located so that if any projectiles discharged from the dangerous device miss or are not contained by the backstop or safety feature, such projectiles will not leave the boundaries of the real property on which the home target range is located.
 - (3) A permit for a home target range shall not be granted to a parcel less than one (1) acre in size, unless there are unique characteristics that apply to this parcel that would warrant the granting of a permit at the sole discretion of the City.
 - (4) A home target range for archery shall meet at a minimum all range guidelines as established by the National Field Archery Association.
 - (5) The City reserves the right to establish stricter guidelines on the design and location of a proposed home archery range at its sole discretion and interest of health, safety, and welfare of the community.

CHAPTER 9 TRAFFIC

SECTION 9.1 TRAFFIC

(A) Michigan Vehicle Code.

- (1) Michigan Vehicle Code adopted. Pursuant to the provisions of the Home Rule Cities Act, Act No. 279 of the Public Acts of Michigan of 1909, as amended, MCL 117.1, *et seq.*, the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, as amended, MCL 257.1, *et seq.*, is adopted by reference, as if fully set forth herein.
- (2) References in code. References in the Michigan Vehicle Code to “local authorities” shall mean the City of Rockford, Kent County, Michigan.
- (3) Enforcement; sanctions.
 - (a) The Michigan Vehicle Code may be enforced by any police officer or other employee of the City authorized to enforce criminal ordinances or authorized to issue civil infractions.
 - (b) The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the City may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.
 - (c) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to which the City has been put in connection with the violation or infraction up to the entry of judgment.

(B) Uniform Traffic Code.

- (1) Uniform Traffic Code adopted. The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002 is adopted by reference, as if fully set forth herein.
- (2) References in code. References in the Uniform Traffic Code to “governmental unit” or “municipality” shall mean the City of Rockford, Kent County, Michigan.

(3) Enforcement; sanctions.

- (a) The Uniform Traffic Code may be enforced by any police officer or other employee of the City authorized to enforce criminal ordinances or authorized to issue civil infractions.
- (b) The penalties provided by the Uniform Traffic Code are adopted by reference, provided, however, that the City may not enforce any provision of the Uniform Traffic Code for which the maximum period of imprisonment is greater than 93 days.
- (c) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to which the City has been put in connection with the violation or infraction up to the entry of judgment.

(C) Current Regulations. All intersection stops and yield right-of-way requirements, regulations on stopping, standing or parking; one-way streets, roadways and alleys, crosswalks; restricted turns; through streets, play streets; angle parking zones; parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic control devices heretofore established and effective on the effective date of this Code shall be deemed established hereunder and shall remain effective until rescinded or modified as herein provided.

(D) Public School Property.

- (1) Application of Vehicle Code. The operator of every vehicle upon public school property shall operate the same only upon those portions thereof which are set aside for vehicular use and shall conform to and observe all the rules of the road as set forth in the Michigan Vehicle Code (Act No. 300, P.A. 1949, as amended), and the order and direction of any law enforcement officer, notwithstanding the provisions of existing traffic laws, when such officer is directing or regulating traffic in the interest of public safety. Any reference to street or highway in the Michigan Vehicle Code shall for the purposes of this ordinance be defined to include public school property open to use of public vehicular travel.
- (2) Enforcement. The City Police Department is authorized to enforce this ordinance pursuant to the Regulation of Vehicles on School Property Act (Act No. 175 P.A. 1958) as amended.
- (3) Speed. Notwithstanding any provisions of the Michigan Vehicle Code to the contrary and except in those instances where a different speed is specified by means of traffic control devices, it shall be prima facie unlawful for the operator of a vehicle to drive at a speed exceeding fifteen (15) miles an hour on public school property set aside for vehicular use.

(E) City Parking Lots.

- (1) Time Limit for Motor Vehicles Parked in City Lots. The parking of motor vehicles in City owned or City controlled parking lots shall be limited to 24 consecutive hours, unless otherwise posted by direction of a traffic control order.
- (2) Method of Parking. Motor vehicles parked in City parking lots shall be parked only within the lines or markings of a designated parking space.

SECTION 9.2 TRUCK TRAFFIC

(A) TRUCK ROUTES

- (1) Purpose. The purpose of this chapter is to (a) promote the health, safety and welfare of the residents of the City; (b) avoid unreasonable or unnecessary noise, vibration and air pollution; and (c) protect City streets and roadways not designated, pursuant to this chapter, as truck routes against deterioration and abnormal wear and tear.
- (2) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.
 - (a) *Local truck traffic.* Traffic which is used to transport products, goods, commodities or raw materials from an origin inside of the City to a place or destination within the limits of the City.
 - (b) *Truck.* A motor vehicle having a gross vehicle weight loaded or unloaded of more than 10,000 pounds.
 - (c) *Truck routes.* The following (a) streets and roadways or (b) portions of street and roadways plus any additional streets and roadways or portions thereof designated from time to time by the City Council as truck routes:
 - Bridge Street
 - Byrne Court
 - Byrne Industrial Drive
 - Childsdale Avenue
 - Courtland Street
 - Courtland Drive
 - Division Street
 - Eleven Mile Road
 - Fox Row Court
 - Fremont Street
 - Lewis Street between Monroe Street and North Main Street
 - Main Street between Division Street and Lewis Street
 - Division Street and Courtland Street
 - Northland Drive

- Spring Street
 - Summit Avenue
 - Squires Street
 - South Squires Street
 - Towers Drive
 - Wolverine Boulevard
 - Twelve Mile Road
 - Industrial Drive
 - North Rockford Industrial Drive
- (3) Prohibited Truck Traffic. It shall be unlawful for any truck, as defined in this chapter, to be operated on any street or roadway within the City except those designated as truck routes pursuant to this chapter and except as provided in 10.5.4 hereof
- (4) Exceptions. The following are exceptions to the prohibition of truck traffic contained in 10.5.3 hereof:
- (a) The operation of emergency vehicles.
 - (b) The operation of trucks owned and/or operated by the City, any public or private utility company, and any contractor or material provider while engaged in the repair, maintenance or construction of streets, roadways, street improvements or street utilities.
 - (c) The operation of trucks upon any officially established detour.
 - (d) Local truck traffic.
 - (e) The operation of trucks for pick-up of goods on a street not designated as a truck route and/or for delivery of goods on a street not designated as a truck route, provided, however, upon completion of the pick-up and/or delivery said trucks shall return to the nearest truck route by the most direct route.
- (5) Design and Placement of Truck Route Signage. All designated truck routes shall contain appropriate signage designed and placed along such truck routes in accordance with the requirements of Section 608 of Chapter VI of the Michigan Motor Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended.

SECTION 9.3 DRUNK DRIVING COST RECOVERY

- (A) PURPOSE. The City finds that a significant number of traffic arrests and traffic accidents in the City involve drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances. In addition, the City finds that in traffic accidents involving drivers who were operating a motor vehicle while under

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the influence of alcoholic beverages and/or controlled substances there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and financial burden is placed upon the City's police, fire fighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances.

(B) DEFINITIONS. When used in this Chapter, the following terms shall have the following meanings:

(1) "Emergency Response" shall mean:

(a) The providing, sending and/or utilizing of police, fire fighting, emergency medical and rescue services by the City, or by a private individual or corporation operating at the request or direction of the City, to an incident resulting in an accident involving a motor vehicle where one or more of the drivers were operating a motor vehicle while under the influence of an alcoholic beverage and/or controlled substance.

(b) An incident resulting in a traffic stop and arrest by a police officer when a driver was operating the motor vehicle while under the influence of an alcoholic beverage and/or controlled substance.

(2) "Expense of an emergency response" means the direct and reasonable costs incurred by the City of Rockford, or to a private person or corporation operating at the request or direction of the City, when making an emergency response to the incident, including the costs of providing police, fire fighting and rescue services at the scene of the incident. These costs further include all of the salaries and wages of the City personnel responding to the incident, all salaries and wages of the City personnel engaged in investigation, supervision and report preparation, all costs connected with the administration and provision of all chemical tests of his or her blood, breath or urine and all costs related to any prosecution of the person causing the incident.

(C) PERSON RESPONSIBLE. Any person is liable for the expense of an emergency response, if while under the influence of an alcoholic beverage and/or controlled substance such person's operations of a motor vehicle proximately causes any incident resulting in an emergency response.

(D) PRESUMPTIONS. For the purpose of this Chapter, a person is under the influence of an alcoholic beverage and/or controlled substance when his or her physical or mental ability are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of seven hundredths of one percent (0.07%).

- (E) CHARGE AGAINST PERSON. The expense of an emergency response shall be a charge against the person liable for the expenses under this Chapter. The charge constitutes a debt of that person and is collectible by the City of Rockford for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
- (F) COST RECOVERY SCHEDULE. The Rockford City Council shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from either the City Clerk or the Police Department.
- (G) BILLING. The Chief of Police, or his or her designee, may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for the emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this Chapter. The bill(s) shall require full payment in thirty (30) days from the date of conviction.
- (H) FAILURE TO PAY; PROCEDURE TO RECOVER COSTS. Any failure by the person described in this Chapter as liable for the expenses of an emergency response, to pay the bill within thirty (30) days of date of conviction shall be considered a default. In case of default, the City of Rockford may commence civil suit to recover the expenses and any costs allowed by law.

SECTION 9.4 PARKING VIOLATIONS BUREAU

- (A) Parking Violations Bureau Established. Pursuant to Section 8395 of the Revised Judicature Act, State of Michigan, as added by Public Act 154 of 1968, a Parking Violations Bureau, for the purpose of handling alleged parking violations within the City, is hereby established. The Parking Violations Bureau shall be under the supervision and control of the City Manager.
- (B) Location, Rules. The City Manager shall, subject to approval of the City Council, establish a convenient location for the Parking Violations Bureau and adopt rules and regulations for the operation thereof.
- (C) Offenses, Disposition of. No Violation not scheduled in this Chapter shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau and in any case the person in charge of such Bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.
- (D) Procedure. No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the Bureau determine, or attempt to determine, the truth or falsity of

any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him/her or in any way diminish the rights, privileges and protection accorded by law.

- (E) Notice of Violation. The issuance of a traffic ticket or notice of violation by a police officer of the City shall be deemed an allegation of a parking violation. Such ticket or notice of violations shall indicate the length of time in which the person to whom the same was issued must respond to the Parking Violations Bureau. It shall also indicate the address of the Bureau and the amount of the penalty scheduled for the offense for which the ticket was issued.
- (F) Evidentiary Presumption Relating to Violators. In any proceeding for a violation of this ordinance relating to the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.
- (G) Evidentiary Presumption Leased Vehicles. In a proceeding for a violation of this ordinance involving a leased motor vehicle, proof that the particular vehicle described in the citation, complaint of warrant was used in the violation, together with proof that the defendant named in the citation, complaint or warrant was the lessee of the vehicle at the time of the violation, constitutes in evidence a presumption that the lessee of the vehicle, not the registered owner, was the person who parked or placed the vehicle at the point, and for the time during which, the violation occurred.

SECTION 9.5 SCHOOL BUS OPERATION

- (A) School Bus Defined. “School bus” means every motor vehicle, except a station wagon, with a manufacturers’ rated seating capacity of eight (8) or more children, owned by a public, private or governmental agency and operated for the transportation of children to or from school. The term also means every motor vehicle, except station wagons, that is privately owned and operated for compensation of the transportation of children to or from school. The term does not include buses operated by a municipally owned transportation system or by a common passenger carrier certificated by the public service commission.
- (B) Stopping For; Resumption of Motion; Passengers. The driver of a vehicle overtaking or meeting a school bus in the City which has stopped and is displaying two alternately flashing red lights located at the same level, shall bring the vehicle to a full stop at least 10 feet from the school bus, and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming

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motion, shall deactivate flashing lights and permit stopped traffic to proceed and shall, when resuming motion, proceed in a manner which will allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road or being discharged from a school bus shall cross in front of the stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles an hour and with due caution for the safety of passengers being received or discharged from the school bus.

- (C) Posting Notice. Signs giving notice of this ordinance shall be posted upon, or at the entrance to, the City as may be most appropriate, and shall be sufficiently legible as to be seen by an ordinarily observant person.
- (D) Divided Highway. The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by physical barrier or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.
- (E) Visibility of Stopped Bus. A school bus driver shall not stop the school bus in the City for the purpose of receiving or discharging passengers unless the school bus is clearly visible in its stopped position to approaching or overtaking drivers of vehicles for a distance of at least 500 feet.
- (F) Presumption, Registered Owner as Driver; Sufficiency of Evidence. In a proceeding for a violation of Section 9.5(B), proof that the particular vehicle described in the citation, complaint, or warrant was in violation of Section 9.5(B), together with proof that the person named in the citation, complaint, or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.
- (G) Penalties. Any person who shall violate any of the provisions of this Chapter shall be subject to the penalties specified for a violation in Section 1.1(K) of the City Code.

SECTION 9.6 MOTORCYCLES AND ALL-TERRAIN VEHICLES

- (A) Definitions. In the interpretation of this Chapter the following definitions shall apply:
 - (1) The term “motorcycle” means every motor-driven vehicle having a saddle or seat for the use of the operator and designed to travel with no more than three wheels in contact with the ground, but excluding farm tractors and domestic garden vehicles. The term includes those vehicles commonly called “mini bikes,” “trail bikes,” “motor-driven cycles,” “motorbikes,” “motorscooters” and “mopeds.”
 - (2) The term “all terrain vehicle” means a motor-driven vehicle capable of cross country travel without benefit of road or trail on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not

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limited to, a multi-wheel drive or low pressure tire vehicle, motorcycle and related 2-wheel vehicle, amphibious machine, ground effect air cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. The term includes, for example, those vehicles commonly called “go-carts” and “dune-buggies” but excludes farm tractors, domestic garden vehicles and snowmobiles.

- (3) The term “vehicle” means both motorcycles and all terrain vehicles as defined herein.
- (B) Driver and Vehicle Licenses. No motorcycle or all terrain vehicle shall be operated on public streets or public property within the City by any person who does not then have in his possession the required valid license issued by the State of Michigan and appropriate for the vehicle driven, nor shall such vehicle be operated on such public streets or public places unless such vehicle is properly equipped and licensed in accordance with the laws of the State of Michigan.
- (C) Operating on Private Property. No motorcycle or all terrain vehicle shall be operated on private property within the City or on property owned by the City (unless specifically designated for such use) or by the Rockford Public Schools located in the City, except upon the express written permission of the owner of such private property or the proper public authority. Nor shall any such vehicle be operated on any private property by any unlicensed person without his or her parent’s permission unless operated exclusively on private property owned by the parent or guardian of such operator.
- (D) Operating Hours; Driving on Sidewalks. No unlicensed vehicle or licensed vehicle operated by an unlicensed driver shall be operated on private property with or without the permission of the owner of such property between the hours of 9:00 o’clock p.m. and 7:00 a.m. No motorcycle or all-terrain vehicle shall be operated upon the sidewalks at any time.
- (E) Noise
- (1) Every vehicle shall at all times be equipped with a muffler in good working order and in constant operation to proven excessive or unusual noise and annoying smoke, and no person shall remove, destroy or damage any or all of the baffles contained in such muffler, nor shall any person use a muffler cutout, bypass or similar device upon a motorcycle or motor driven cycle operated in the City.
- (2) An exhaust system consisting of one or more pipes without baffles or sound absorbing means, whether straight or curved and whether of constant or varying cross section, shall be deemed not to contain an effective muffler.
- (3) It shall be unlawful to modify or remove parts of a standard muffler, or to utilize trumpet or expansion chambers or other amplifiers as part of the exhaust system of a vehicle.

- (F) Owner's Responsibility. The legal owner of every motorcycle or all-terrain vehicle shall be responsible as to all use made of the vehicle within the City. The legal owner shall be responsible for any damage to person or property cause by the operation of such vehicle on private and public property. No such owner shall knowingly authorize or permit such vehicle to be operated by any person in violation of any part of this Chapter.
- (G) Violation; Impounding. It shall be a violation of this Chapter for any person to do any act forbidden or fail to perform any act required herein. Any motorcycle or all-terrain vehicle operated in violation of this Chapter by any person may be impounded by the City Police Department. Such vehicle will be released to the legal owner thereof upon request of such legal owner and upon payment of an impounding and storage fee established from time to time by the City Council. If such owner is a minor, his parent or guardian shall accompany him in requesting the release of the impounded vehicle. If, within any twelve (12) month period, a motorcycle or all-terrain vehicle has been impounded more than two times under this Chapter, such vehicle shall not be released to the legal owner after being impounded for the third time until after 60 days have elapsed from the date of the third such impoundment.
- (H) Penalty. In addition to the provisions of Section 9.6(G) provided every person convicted of a violation of any provision of this Chapter shall be punished pursuant to the provisions of Section 1.1(K) of the Code.
- (I) Conflict with Traffic Code. The provisions of this Chapter shall not supersede the provisions of Section 9.1 of the Code and in case of conflict Section 9.1 shall prevail.

SECTION 9.7 SKATEBOARDS

- (A) Definitions. The following words, when used in this ordinance, shall have the following meanings:
- (1) "Skateboard" shall mean a board or object that is mounted on roller skate type wheels and which lacks a hand-held steering mechanism and which is intended to be ridden by standing or sitting thereon. Any apparatus used to assist the physically disabled, bicycles, and carts shall be specifically excluded from the above definition.
 - (2) "Uneven or variable surface" shall mean a surface with a slope, tilt, grade or curvature exceeding 5 degrees off level.
 - (3) "No skate zone" shall mean any sidewalk, public parking area, roadway, alley, street or other area open to the general public in the portion of the Central Business District (C-2 Zoning District) bounded by 10 Mile Road (Division Street), the centerline of Main Street, the north right-of-way of Courtland Street, and the east boundary line of the White Pine Trail.

- (B) Purpose. The purpose of this Section 9.7 shall be to place reasonable limits on the use for recreation of skateboards to protect the public safety and to protect public and private property from damage or liability occasioned as a result of that recreational activity.
- (C) Prohibitions on the use of Skateboards. No person shall:
- (1) Operate a skateboard upon a public street or roadway within the City or within the no skate zone. However, skateboards may be used on sidewalks within the Bridge Street right-of-way as a corridor to pass through the no skate zone.
 - (2) Operate a skateboard upon an uneven or variable surface on public property.
 - (3) Operate a skateboard upon any private property, including, without limitation, private parking garages and parking lots, without the prior express permission of the owner.
 - (4) Cause or utilize a skateboard to ride upon or come into contact with buildings, stairs, planters, railings, benches, curbs, chairs, plants or shrubbery, signs, light poles, or any other improvements or fixtures on public property or on private property without the prior express permission of the owner.
 - (5) Use a skateboard carelessly and heedlessly or without due caution and circumspection, or at a speed or in a manner as to endanger or be likely to endanger any person or property.
 - (6) Apply “curb wax,” paraffin or other similar substance to any buildings, stairs, planters, railings, benches, curbs, chairs, plants or shrubbery, signs, light poles, or any other improvements or fixtures on public property or on private property without the prior express permission of the owner.
- (D) Parental Civil Liability. In addition to any other remedy provided by law, the parent, parents or other persons with legal custody of a minor child found responsible for a municipal civil infraction pursuant to this Section 9.7 shall be liable for the penalties provided herein and shall be liable for actual damages to persons or property resulting from the minor child’s violation of this Section 9.7.

SECTION 9.8 PARKING REGULATIONS

- (A) Parking Restrictions. Where density of traffic, protection of life and of property, construction, condition of the roadway or any hazardous condition make it advisable, parking may be limited, restricted or prohibited by order of the Chief of Police or his or her designee and when so regulated such limitation, restriction or prohibition shall be indicated by paint of distinguishing color and uniform character, by traffic control devices, or other notice, including stickering of the vehicle, reasonably intended to notify the owner or operator of the vehicle of such limitation, restriction or prohibition, and no person shall park a vehicle in violation of such limitation, restriction or prohibition.

- (B) Snow Removal. Parking may be restricted because of the necessity to remove snow along those streets where density of traffic, protection of life and property, construction, condition of the roadway, or any hazardous condition make it advisable. Such restriction shall be made by the Chief of Police or his or her designee and shall be indicated by appropriate traffic control signs. No person shall park a vehicle between the hours of 2:00 a.m. and 6:00 a.m. on any street, provided this restriction shall not apply from April 2 through November 14, inclusive, of any year.
- (C) Temporary Rules. Where temporary parking or regulatory signs are placed because of emergency or special events, such signs shall take precedence over any other parking or regulatory signs and shall be complied with accordingly.

SECTION 9.9 HORSE-DRAWN CARRIAGES FOR HIRE

- (A) Purpose. It is the purpose of this Chapter to establish regulations and procedures for the conduct of horse-drawn carriages for hire within the City of Rockford; to promote the safety and enjoyment by the general public; to safeguard the treatment of the horses and to support area business enterprise.
- (B) Definitions.
 - (1) “Equine Diaper.” A bag or receptacle used to contain fecal droppings and placed in the area of the rear of the horse in such a manner that it will contain all fecal droppings deposited from the horse.
 - (2) “For-Hire.” For purposes of this Chapter, the operation or use of a horse-drawn carriage for compensation.
 - (3) “Horse-drawn Carriage.” A vehicle intended to be drawn by a horse and in which any person may be transported or carried.
 - (4) “Operator.” The person, firm, partnership, corporation, association or group or combination acting in concert and is vested with the ownership, control or title of a horse-drawn carriage trade enterprise.
- (C) License.
 - (1) License Required. It shall be unlawful to drive or otherwise operate within the City of Rockford any for-hire horse-drawn carriage, unless a Rockford issued Carriage Driver’s License has been issued and has not expired, been suspended or revoked under this Chapter for:
 - (a) the horse-drawn carriage business (operator), and
 - (b) the horse-drawn carriage driver.

- (2) Application. An application for the Rockford issued Carriage Driver's License to operate a for-hire horse-drawn carriage business shall be filed with the City Clerk, upon a form provided for that purpose. The following information shall be provided:
- (a) name and address of the applicant, specifying whether the applicant is a person, partnership, corporation or other legal entity;
 - (i) name, address and relevant qualifications of any person(s) who will drive the carriage;
 - (ii) experience of the driver(s) in the transportation of passengers for hire;
 - (iii) criminal history, if any, of the operator and driver(s) and the driving record of each; and
 - (iv) type and make of horse-drawn carriage(s) to be used.
- (3) Fee. An applicant for a license under this Chapter shall submit with the application a nonrefundable license fee in an amount established by the City Council.
- (4) Review. Upon receipt of the application and required documentation, the City Manager shall review the materials. The application shall be denied unless the manager determines:
- (a) the applicant and driver(s) have appropriate training and/or experience in the horse-drawn carriage business and transportation of passengers;
 - (b) that the applicant and driver(s) have no criminal history or record of violations relating to the operation of a motor vehicle that, in the opinion of the public safety department, may endanger passengers or the public;
 - (c) that the carriage or carriages to be used appear to be in good mechanical condition; and
 - (d) the public convenience and necessity will be served by issuance of the license.
- (5) Term. A license under this Chapter shall be valid for one year from the date of issuance.
- (6) Insurance. Each horse-drawn carriage application and subsequent renewal must be accompanied by proof of liability insurance issued by a company authorized to do business in the State of Michigan. Minimum coverage for each carriage shall be \$50,000 for property damage, \$100,000 for injuries to or death of any one

person, and \$300,000 for injuries or death of more than one person in any one accident. Any insurance policy obtained pursuant to this requirement shall not be subject to cancellation, except with 30 days prior notice to the City Manager.

(D) Operating Requirements.

(1) Safety.

- (a) Traffic Regulations. Drivers of a horse-drawn carriage must comply with all State of Michigan and City of Rockford traffic regulations.
- (b) Visibility. All carriages shall be equipped with:
 - (i) rear view mirrors enabling the driver to see at least 200 feet behind the horse-drawn carriage;
 - (ii) two electrified white headlights, one on each side of the front of the carriage, meeting the requirements of the Michigan Vehicle Code;
 - (iii) two electrified red taillights, one on each side of the rear of the carriage, meeting the requirements of the Michigan Vehicle Code;
 - (iv) a light on each side of the carriage to assist passengers entering and exiting the carriage; and
 - (v) a reflective, slow-moving vehicle emblem and other reflectors, as required by the Michigan Vehicle Code.
- (c) Brakes. The carriage shall be equipped with working brakes.
- (d) Mechanically Sound. Each carriage shall be mechanically sound and shall not be of such condition as to jeopardize the safety of the passengers.
- (e) Fixed Route. The horse-drawn carriage shall only operate on fixed routes approved by the City Manager.

(2) Driver.

- (a) Traffic Laws. The driver shall possess a valid Michigan driver's license and obey and observe all traffic laws.
- (b) Distractions. The driver shall not smoke, eat, drink or wear headphones while the carriage is in motion.

- (c) Speed. The carriage shall not be driven at a speed that exceeds a walk or slow trot, except as necessary to cross a traffic intersection or to refrain from impeding traffic.
 - (d) Attendance. The driver shall not leave the horse and carriage unattended at any time.
 - (e) Passenger Safety. The driver shall not drive the carriage at any time when a passenger is standing in the carriage or not seated securely inside the carriage.
 - (f) Care of Horse. The driver shall at all time provide humane care and treatment of the horse under his or her direct supervision and control.
- (3) Carriage.
- (a) Passenger Limits. The carriage shall not carry more passengers at any one time than the number recommended by the carriage manufacturer, but in no case more than six plus the driver.
 - (b) Waste Containment. All horse-drawn carriages must be equipped with a device for catching horse fecal droppings. Urine must be immediately diluted with a deodorizing liquid. The liquid used shall be eco-friendly, safe, recyclable, non-toxic and non-harmful to people and property. The driver shall be responsible for carrying and using the diluting liquid. The carriage operator shall be responsible for providing the liquid and shall maintain documentation in the carriage as to the composition of the liquid used.
 - (c) Cleanliness. The interior and exterior of the carriage shall be kept clean.
 - (d) Hours of Operation. A horse-drawn carriage shall only be permitted to operate on city streets between the hours of:
 - 6 p.m. and 10 p.m., Monday through Thursday;
 - 6 p.m. and midnight, Friday;
 - 10 a.m. and midnight, Saturday and holidays; and
 - 10 a.m. and 10 p.m., Sunday
- (4) Horse.
- (a) Work Hours. No horse may be worked more than six hours in any 24 hour period and no more than five days in a given week.
 - (b) Equine Diaper. All horses shall wear an equine diaper to contain all fecal droppings while drawing a for-hire horse-drawn carriage or walking on public property.

(c) Weather Conditions.

- (i) The horse shall not be driven, worked or used on a public street during periods when the temperature exceeds 89 degrees Fahrenheit or is below 25 degrees Fahrenheit, as determined and announced by the National Weather Service.
- (ii) A horse in use during such times of extreme temperature shall be immediately returned by most direct route to a stable.

(5) Standing and/or Parking.

- (a) The driver of a horse-drawn carriage shall not stand or park a carriage on any public right-of-way, parking lot or other public space, except for immediately picking up or dropping off patrons. The immediate picking up or dropping off of patrons within any public space shall not block any public parking spaces or impede the flow of traffic as designed. When not in motion, the carriage shall remain entirely within the private parking lot, which the operator has obtained written permission to use, which said written permission must be furnished to the City of Rockford prior to issuance of a permit.
- (b) The horse-drawn carriage operator and driver shall be responsible for the sanitary condition of any area in which they operate and any private parking lot used for staging.

(E) Penalties.

- (1) Violations of any Section of this ordinance shall constitute a civil infraction in addition to the following:
 - (a) Suspend the horse-drawn carriage operator's or Rockford issued Carriage Driver's License for up to 30 days; or
 - (b) Revoke the horse-drawn carriage operator's or driver's license.
- (2) Each day that a violation continues shall be deemed a separate and distinct offense.

CHAPTER 10 MUNICIPAL CIVIL INFRACTIONS

SECTION 10.1 DEFINITIONS

As used in this chapter the following words and terms shall have the following meanings:

(a) “Authorized City official” means a City police officer, director of public works, building inspector, zoning administrator, plumbing inspector, electrical inspector, mechanical inspector, City Manager, City Clerk and Fire Chief and Assistant Fire Chief.

(b) “Bureau” means the municipal ordinance violations bureau, as currently existing or as may be established.

(c) “Municipal civil infraction action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

(d) “Municipal civil infraction citation” means a written complaint or notice prepared by an authorized City official, directing a person to appear in 63rd District Court regarding the occurrence or existence of a municipal civil infraction violation by the person cited and to answer to the allegations contained in the citation.

(e) “Municipal civil infraction determination” means a determination that a defendant is responsible for a municipal civil infraction by one of the following:

(i) an admission of responsibility for the municipal civil infraction;

(ii) an admission of responsibility for the municipal civil infraction “with explanation;”

(iii) a preponderance of evidence at an informal hearing or formal hearing pursuant to Michigan Compiled Laws, Section 600.8719 or 600.8721, respectively; or

(iv) a default judgment for failing to appear as directed by a citation or other notice at a scheduled appearance pursuant to Michigan Compiled Laws Sections 600.8715(3)(b) or (4), at an informal hearing pursuant to Section 600.8719, or at a formal hearing under Section 600.8721.

(f) “Municipal civil infraction violation notice” means a written notice, prepared by an authorized City official, directing a person to appear at a municipal ordinance violations bureau now existing or hereafter established to answer to the allegations made in the municipal civil infraction violation notice and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the City, as authorized by State law.

(g) “State law” means the statutory law enacted by the State of Michigan, including but not limited to, the Home Rule City Act, Act 279 of the Public Acts of Michigan of 1909, as amended (Michigan Compiled Laws Section 117.1 et seq.), the Revised Judicature Act, Act 236 of the Public Acts of Michigan of 1961, as amended (Michigan Compiled Laws Section 600.1 et seq.) and the City and Village Zoning Act, Act 207 of the Public Acts of Michigan of 1921, as amended (Michigan Compiled Laws Section 125.581 et seq.)

SECTION 10.2 ADOPTION AND INCORPORATION OF STATE LAW BY REFERENCE

As provided for in State law, the City hereby adopts and incorporates the provisions of State law enabling municipalities to adopt and enforce ordinances declared to be municipal civil infractions to the fullest extent possible.

SECTION 10.3 COMMENCEMENT OF MUNICIPAL INFRACTION ACTION

A municipal civil infraction action may be commenced upon the issuance by an authorized City official of a municipal civil infraction citation directing the alleged violator to appear in 63rd District Court or a municipal civil infraction violation notice directing the alleged violator to appear at the municipal ordinance violations bureau.

SECTION 10.4 ISSUANCE AND SERVICE OF MUNICIPAL CIVIL INFRACTION CITATIONS

Municipal civil infraction citations shall be issued and served by authorized City officials as follows;

(a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(b) The place for appearance specified in a citation shall be the 63rd District Court.

(c) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the 63rd District Court and copies of the citation shall be retained by the City and issued to the alleged violator as provided for in state law.

(d) A citation for a municipal civil infraction signed by an authorized City official shall be treated as if it were made under oath if the violation alleged in the citation occurred in the presence of the official signing the citation and if the citation contains the following statement above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

(e) An authorized City official may issue a citation to a person if:

(i) based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(ii) based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and the City Attorney approves in writing the issuance of the citation.

(f) Municipal civil infraction citations shall be served by an authorized City official as follows:

1) Except as provided immediately below, an authorized City official shall personally serve a copy of the citation upon the alleged violator.

(2) If the municipal civil infraction involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching a copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

SECTION 10.5 CONTENTS OF MUNICIPAL CIVIL INFRACTION CITATIONS

(A) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction(s) alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.

(B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction(s) by mail, in person or by representation, at or by the time specified for appearance.

- (2) Admit responsibility for the municipal civil infraction(s) “with explanation” by mail by the time specified for appearance in person or by representation.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - (a) Appearing in person for an informal hearing before a 63rd District Court judge or magistrate without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City.
 - (b) Appearing in 63rd District Court for a formal hearing before a judge with the opportunity of being represented by an attorney.
- (C) The citation shall also inform the alleged violator of all of the following:
- (1) That if the alleged violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the 63rd District Court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the 63rd District Court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing unless a hearing date is specified on the citation.
 - (3) That the hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the City.
 - (4) That at an informal hearing the alleged violator must appear in person before a 63rd District Court judge or magistrate without the opportunity of being represented by an attorney.
 - (5) That at a formal hearing the alleged violator must appear in person before a 63rd District Court judge and will have the opportunity of being represented by an attorney retained at his or her own expense.
- (D) The citation shall contain a notice in boldfaced type stating that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

SECTION 10.6 MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- (A) Establishment. There is hereby established a municipal ordinance violations bureau, as authorized by state law, to accept responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized City officials and to collect and retain civil fines.
- (B) Location and Supervision. The bureau shall be located at City Hall and be under the supervision and control of the City Treasurer.
- (C) Disposition of Violations. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice, and not a municipal civil infraction citation, has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle a person to dispose of the violation at the bureau. Nothing in this Chapter shall prevent or restrict the City from issuing a municipal civil infraction citation for any violation or from taking other action permitted by law. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed by the 63rd District Court. The unwillingness of a person to dispose of a violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protections accorded by law.
- (D) Scope of Authority. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining scheduled civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility "only with explanation," and in no event shall the bureau determine or attempt to determine the truth or falsity of any fact or matter related to an alleged violation.
- (E) Municipal Civil Infraction Violation Notices. Municipal civil infraction violation notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as are provided for citations in this chapter. In addition to any other information required by this Code, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine for the alleged violation and the consequences for failure to appear and pay the required fine within the required time.
- (F) Appearance and Payment of Fine and Costs. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs on or before the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person or by representation.

- (G) Procedure Where Admission of Responsibility Not Made or Fine Not Paid. If an authorized City official issues and serves a municipal civil infraction violation notice and if an admission of responsibility is not made and the fine and costs prescribed by the schedule of fines set forth in this Chapter are not paid for the violation at the bureau, a municipal civil infraction citation shall be filed with the 63rd District Court and a copy of the citation shall be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by State law, but shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction violation notice and shall fairly inform the alleged violator how to respond to the citation.

SECTION 10.7 SCHEDULE OF MUNICIPAL CIVIL INFRACTION FINES

- (A) A schedule of civil fines payable to the bureau for admissions of responsibility served with municipal civil infraction violation notices is hereby established as follows:

Initial offense - \$100.00
First repeat offense - \$250.00
Second or any subsequent repeat offense - \$500.00

- (B) A copy of the schedule, as amended from time to time by resolution of the City Council, shall be posted at the bureau.

SECTION 10.8 VIOLATIONS CONSTITUTING MUNICIPAL CIVIL INFRACTIONS

A municipal civil infraction shall include the following offenses set forth in this Code:

- (a) Violations of Chapter 2, "UTILITIES AND SERVICES," of this Code, except Section 2.3(N)(2).
- (b) Violation of Chapter 3, "PARKS AND PUBLIC GROUNDS," of this Code.
- (c) Violations of Chapter 4, "STREETS AND SIDEWALKS," of this Code.
- (d) Violations of Chapter 5, "HEALTH REGULATIONS," of this Code.
- (e) Violations of Chapter 6, "BUSINESS AND TRADES," of this Code.
- (f) Violations of Chapter 7, "BUILDING REGULATIONS," of this Code.
- (g) Violations of Chapter 8, "POLICE REGULATIONS," of this Code except Sections 8.1(A), 8.1(E), 8.2, 8.2(C)(1), 8.4, 8.5(A), 8.5(B), 8.6, 8.7, 8.8(B), 8.9, 8.12 and 8.13.

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- (h) Violations of Chapter 9, “TRAFFIC,” of this Code except Section 9.6.

Upon the effective date of this Chapter, the offenses noted above are municipal civil infractions only and shall no longer constitute misdemeanor criminal offenses or subject the violator to any criminal sanctions, except as provided for by State law. This, however, shall not affect the sanctions provided for by State law or this Chapter for a violator’s or alleged violator’s failure to comply with an order or judgment of the 63rd District Court nor shall this Section limit or restrict the authority of the court to enforce its orders by appropriate sanctions or actions. This Section shall not restrict, limit or bar any action permitted under any other provision of law.

- (i) Violations of Appendix A, “Zoning Ordinance,” of this Code.

SECTION 10.9 MISCELLANEOUS MUNICIPAL CIVIL INFRACTION PROVISIONS

- (A) If a person is cited as a minor, he or she shall be permitted to appear in court or to admit responsibility for a civil infraction without the necessity of the appointment of a guardian. A court having jurisdiction over a municipal civil infraction shall have jurisdiction over the minor and may proceed in the same manner as if he or she were an adult.
- (B) A municipal civil infraction action is a civil action in which the defendant is alleged to be responsible for a municipal civil infraction as defined by State law and this Code. The plaintiff in a municipal civil infraction action shall be the City if the alleged civil infraction is a violation of this Code, any other City ordinance designating the violation as a municipal civil infraction or a State law designating a violation as a municipal civil infraction.
- (C) Each act of violation and every day upon which any violation is permitted or suffered to exist or continue shall constitute a separate violation and shall be subject to a separate fine upon admission or determination of responsibility. The fines provided by this Chapter shall apply to any amendment or addition to this Chapter or to the provisions elsewhere in this Code defining a municipal civil infraction whether or not such fines are reenacted in the amendment or addition.
- (D) Municipal civil infractions shall be disposed of as follows:
 - (1) If a defendant is determined to be responsible or responsible “with explanation” for a municipal civil infraction, the 63rd District Court judge or magistrate may order the defendant to pay a civil fine, costs as provided by law and, if applicable, damages and expenses as provided in Michigan Compiled Laws Section 600.8733(2). In the order of judgment, the judge or magistrate may grant a defendant permission to pay a civil fine, costs and damages and expenses within a

specified period of time or in specified installments; otherwise the civil fine, costs and damages and expenses are due immediately.

- (2) If a defendant is ordered to pay a civil fine, the judge or magistrate shall determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the city has been put in connection with the municipal civil infraction up to the entry of a judgment, of not less than \$25.00 or more than \$500.00. Except as otherwise provided by State law, costs shall be payable to the general funds of the city.
 - (3) In addition to ordering the defendant to pay a civil fine, costs and damages and expenses, the judge or magistrate may issue a writ or order under Michigan Compiled Laws Section 600.8302.
 - (4) A judge or magistrate may impose the sanctions permitted under subsections (1) and (3) above only to the extent expressly authorized by the chief judge of the 63rd District Court.
 - (5) The schedule of civil costs and fines and costs to be imposed for municipal civil infractions shall be posted at City Hall and readily available for public inspection. The schedule need not include all municipal civil infractions, but shall be regularly updated.
 - (6) A default in the payment or the payment of an installment of a civil fine, costs or damages and expenses may be collected by any means authorized for enforcement of a judgment under State law.
 - (7) If a defendant fails to comply with an order or judgment issued pursuant to State law within the time prescribed by the judge or magistrate, the 63rd District Court may proceed under Michigan Compiled Law Sections 600.8729, 600.8731 or 600.8733, as applicable.
 - (8) A defendant who fails to answer a notice to appear or citation for a municipal civil infraction is guilty of a criminal misdemeanor as provided for in state law.
- (E) The following shall apply with respect to the default in the payment of fines, costs, damages and expenses:
- (1) If a defendant defaults in the payment or the payment of an installment of a civil fine, costs or, if applicable, damages and expenses as provided in State law, upon the motion of the City or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.

- (2) If a corporation, partnership, limited liability company or other entity is ordered to pay a civil fine, costs or damages and expenses, the individual authorized to make disbursement on behalf of such entity shall timely pay the fine, costs or damages and expenses and his or her failure to do so shall be civil contempt unless he or she makes the showing in Subsection (3) below.
- (3) Unless the defendant shows to the satisfaction of the court that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant imprisoned until all or a specific part, as determined by the court, of the amount due is paid.
- (4) If it appears to the court that the default in the payment of a fine, costs or damages and expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the payment or of any installment(s), or revoking the fine, costs or damages and expenses.
- (5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs or damages and expenses shall be specified in the order or commitment and shall not exceed 1 day for each \$50.00 due. A person imprisoned for nonpayment of a civil fine, costs or damages and expenses shall be given credit toward payment for each day of imprisonment at the rate of \$50.00 per day.
- (6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages and expenses shall not be released from custody until one of the following occurs:
 - (a) the defendant is credited with the amount due pursuant to subsection (5) above;
 - (b) the amount due is collected through execution of process or otherwise; or
 - (c) the amount due is satisfied pursuant to a combination of (A) and (B) above.
- (7) The civil contempt shall be purged by the court upon satisfaction of subsection (6) above.