

CHAPTER 6
STREETS, ALLEYS AND SIDEWALKS

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6.01 COMMON BASE OF LEVEL.

A horizontal plane 100 feet below and parallel with the top of a stone sill or step under the lower door of the main entrance to the City Hall is hereby established as a common base of levels, and that all grades, or lines or levels shall be referred to this common base.

6.02 OBSTRUCTING STREETS, ALLEYS, SIDEWALKS.

Except as provided for in Chapter 23 "Unified Development Ordinance", Article 13 "Signs", no person shall obstruct any street, alley, sidewalk, gutter or drain within the City by placing any substance or thing thereupon or therein in such manner as to interfere with or obstruct the full, free and proper use thereof, nor erect or place any building, fence or obstruction in whole or in part upon any street, alley, sidewalk or other public grounds within the City, or cause to be placed upon any street or sidewalk in the City any goods, wares or merchandise, for sale or show, without a permit approved by the City Manager and issued by the City Clerk. (1993-043, 2005-055)

6.03 CLEATED VEHICLES.

No person shall move, or assist in moving any engine or machine or vehicle having wheels with projections on the under or road face of the tire, along, upon, over or across any paved street, alley or bridge within the City, unless such wheels shall be so covered as to present a smooth and even surface to pavement or bridge, or unless such pavement or bridge is planked so as to prevent such wheels from coming in contact with the pavement

or bridge for the entire distance said machinery is to move along, upon, over or across such pavement or bridge.

6.04 ENCROACHMENT PERMITS.

- a) Permit required. A person or group of persons may be granted the privilege of encroaching upon any public highway, street, sidewalk, alley, or other publicly-owned common area (hereinafter referred to as public right of way) within the Central Business District of the City of DeKalb by the issuance of an encroachment permit. All encroachments shall not unreasonably interfere with access to building entrances or pedestrian and traffic safety. A minimum sidewalk width of five (5) feet must be maintained free and clear of any encroachment. Permittees shall be responsible for compliance with the Ordinances of the City of DeKalb, the City of DeKalb's Unified Development Ordinance and all other applicable county, state and federal regulations. There shall be five types of encroachment permits: (2010-048)
1. Temporary Encroachment Permit. That issued for encroachments which shall be adjacent to an existing building, may be readily moved, and which are to be of a duration of one (1) day per week.
 2. Continuous Encroachment Permit. That issued for encroachments which are permanently affixed to the sidewalk. The applicant will be required to enter into a permit agreement with the City of DeKalb, the terms of which may include, but not be limited to, provisions for insurance, maintenance, indemnity, as a condition of receiving the permit.
 3. Outdoor Café Permit. That issued for encroachments for which any person owning, leasing, managing or operating a cafe or restaurant which abuts public right of way may maintain or operate an outdoor cafe in an area adjacent to its premises.
 4. Farmer's Market Permit. That issued for encroachments which may be readily moved, and which are intended by the holder of the permit to be of a duration of one (1) day per week. These permits are limited to an area mutually agreed upon between the City and the sponsoring organization. The Farmer's Market Sponsor may request to have permit fees waived if they choose not to utilize the sidewalk. (2010-033)
 5. Frank VanBuer Plaza (FVB Plaza) Permit. That issued for temporary encroachments in Frank VanBuer Plaza, where such encroachments may be readily moved, and which are intended by the holder of the permit to be of a duration of a maximum of three 3 days. (2010-048)
- b) All encroachment permits shall be issued for only the purpose of public convenience or public necessity. The issuance of the encroachment permit shall grant the person the privilege of using the public right-of-way for the purposes set forth in said permit, subject to the terms and conditions set forth in the permit and this Section. This permit to encroach upon public right of way granted by the City is only permission to use the

property in question; it is neither an easement nor a conveyance of real property.

- c) Application for Permit; Fees. Any person or group seeking the privilege of encroaching upon any public right of way in the Central Business District of the City of DeKalb shall file an application for a permit with the City Clerk on a form provided by the City. Frank Van Buer Plaza permit applications must be submitted at least thirty days in advance of the event. The applicant must comply with the requirements of this subsection, unless such compliance is waived by the City Manager. The application shall include the following: (2010-048)
1. The name, address, and phone number of the person(s) or group that will be responsible for the operation and/or maintenance of the encroachment; if the person or group is a corporation, the applicant shall list the name and addresses of all officers and the registered agent of the corporation.
 2. A detailed map of the proposed location.
 3. A description of the proposed encroachment including nature of construction, material to be used, the exact dimensions, a drawing of the encroachment, and explanation of any utility requirements and location of such utilities.
 4. A certificate of insurance indicating the applicant has purchased and maintains public liability and property damage insurance in an amount of at least One Million Dollars (\$1,000,000.00) to secure payment for any loss or damage caused by the encroachment. The certificate of insurance shall name the City as an additional insured, and the permittee shall indemnify and hold the City harmless from any action, proceeding or claim of liability asserted against it as a result of the operation of an encroachment. The insurance shall be maintained in full force and effect at all times during the permit period. Proof of insurance shall be presented to the City Clerk prior to the issuance of a permit under this Section. Each certificate or policy of insurance shall provide for notice in writing to the City Clerk at least thirty days (30) prior to cancellation or policy lapse. Failure by the permittee to maintain the insurance required by this Section shall result in the forfeiture of the encroachment permit.
 5. A statement providing that in consideration of receiving the encroachment permit, the applicant shall pay any and all expenses, including compensation for damages, caused by the encroachment and that the applicant shall indemnify and hold harmless the City from any action, proceeding or claim of liability asserted against the City resulting from the encroachment or from the issuance of the encroachment permit.
 6. Frank Van Buer Plaza Permit Applications shall also require the following information: (2010-048)
 - (a) A site plan showing the lot or tract of land where the event will be held, including any existing or proposed structure (including accessory structures) thereon, location of existing or proposed easements, fire lanes, parking arrangements

and vehicle access points, electrical supply sources, location of portable fire extinguishers, location of refuse and portable restroom facilities, any existing as well as proposed screening or barricading and a detailed description of available means of egress or temporary alteration thereof.

- (b) A statement that of understanding that property maintenance inspections and fire/life safety code inspections may be performed prior to the issuance of the “Encroachment Permit”, and that the applicants shall make themselves and the event location available for said inspections, and further that the applicant understands that in the event that the application results in the need for an inspection by City inspection staff after 5:00 p.m. on Monday through Friday, or on Saturday, Sunday or a City recognized Holiday, an additional fee of One Hundred Dollars (\$100.00) shall be submitted prior to issuance of permit.
 - (c) A detailed description of the hours of operation of any proposed live and/or amplified sound entertainment activities. The issuance of an Encroachment Permit does not exempt the holder of the permit from the obligation to abide by all sound regulations set forth in Chapter 52.35 of this Code. In no event shall the hours of live and/or amplified sound entertainment activities extend beyond 10:00 p.m. on Sundays through Thursdays and beyond 11:00 p.m. on Fridays and Saturdays.
7. The period of time for which the encroachment permit is sought (date(s) and hours).
8. The non-refundable application fee of Twenty-Five dollars (\$25.00)
- d) Approval by the City Manager. Upon submission of a complete application and the payment of the application fee, the City Manager or shall forward the application to the Director of Public Works, or his designee, who shall obtain comments from the various departments of the City and other applicable regulatory agencies as deemed appropriate, and forward any required revisions, considerations, conditions or comments to the applicant. It shall be the applicant's responsibility to amend, delete, add or alter any conditions as prescribed by the City of DeKalb which are deemed necessary to comply with the regulations set forth in the DeKalb Municipal Code. It is further the responsibility of the applicant to resubmit a revised plan to the Director of Public Works, or his designee, for final consideration. The City Manager reserves the right to refuse any permit application which he/she deems an inappropriate use of public right-of-way. If the application is denied, the applicant will be so notified. (2010-048)
 - e) Conditions for approval. The applicant, owner or permittee may not have any debt owed to the City. Upon review of the application, the City Manager may grant an encroachment permit subject to any conditions or terms he/she deems appropriate to protect the public health, safety, or welfare including, but not limited to the following: (2010-048)

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1. The encroachment shall be constructed, operated, and maintained in a clean, safe, and sanitary manner, and kept free from trash, weeds or other debris.
 2. The encroachment shall be designed, constructed, and maintained without the presence of any overhead wiring.
 3. The specific time when the encroachment permit will expire.
 4. The prohibition of any relocation or design modification of the encroachment without prior approval of the City.
 5. Encroachments shall be firmly secured and able to withstand wind and storm conditions or be removed by the permit holder prior to such weather events.
- f) Permit Fees. The fees for encroachment permits are due and payable upon notice of approval of the permit application. No permit will be issued until payment has been received. The fees for encroachment permits are as follows:
1. Temporary Encroachment Permit: \$10 per day, up to a maximum of \$100.00, April 1st – November 1st.
 2. Continuous Encroachment Permit: \$100.00 (one-time fee).
 3. Outdoor Café Permit: \$100.00 per year, April 1st – November 1st.
 4. Farmer's Market Permit: \$100.00 per year, June 1st – November 1st.
 5. FVB Plaza: \$100.00 per event, April 1st – November 1st. (2010-048)
 - i. Standard Event. In addition to the permit fee, a cash deposit in the amount of \$100.00 must be deposited with the City to insure the cleanup of all trash, garbage, and debris within one (1) day after the event. If all the cleanup is found to be satisfactory by the Assistant Director of Public Works – Operations & Maintenance, the deposit will be returned within twenty (20) working days. However, if it is necessary for City staff to perform significant additional cleanup, all or a portion of the \$100.00 will be used to defray expenses of said cleanup, and the City will assess a fine of \$50.00.
 - ii. Event with Food Component. Events that include the preparation and distribution of food to patrons will require a minimum cash deposit in the amount of \$150.00. This amount will be deposited with the City to insure the cleanup of all trash, garbage, and debris within one (1) day after the event. Additional deposit may be required based on the number of food vendors proposed to participate in the event, and is shown as follows:
 - 1 – 3 Food Vendors: No additional deposit required.
 - 4 – 6 Food Vendors: Add \$50.00 to the base deposit amount of \$150.00.

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- 7 – 10 Food Vendors: Add \$100.00 to the base deposit amount of \$150.00.
- 11 or More Food Vendors: Add \$150.00 to the base deposit amount of \$150.00.

If the cleanup is found to be satisfactory by the Assistant Director of Public Works – Operations & Maintenance, the deposit will be returned within twenty (20) working days. However, if it is necessary for City staff to perform significant additional cleanup, all or a portion of the deposited monies will be used to defray expenses of said cleanup, and the City will assess a fine of \$50.00.

- iii) **Electrical Fee.** Should the event require electrical connection to the City’s outlets within FVB Plaza, a fee of \$25.00 shall be added to the \$100.00 base fee for the permit.
 - iv) **Water Fee.** Should the event require water connection to the City’s faucets within FVB Plaza, a fee of \$25.00 shall be added to the \$100.00 base fee for the permit.
 - v) **Inspection Fee.** In the event that the application results in the need for an inspection by City inspection staff after 5:00 p.m. on Monday through Friday, or on Saturday, Sunday or a City recognized holiday, an additional fee of \$100.00 shall be submitted prior to issuance of the permit.
- g) **Appeal of Permit fees.** Requests for reduction or waiver of permit fees shall be subject to a demonstrated hardship and submitted in writing stating the reason for such request. The City Manager may approve or deny such requests.
- h) **Expiration of Permit.** Permits shall be granted for the period requested, provided no permit shall be granted for a period in excess of twelve (12) months from the date of issuance. Continuous encroachment permits are excluded from this provision.
- i) **Persons requesting continuance of the permit after the expiration period may do so upon payment of the requisite fee for a new permit, and upon signing a form which specifies that no changes have been made from the original application. Should change of such a nature be made as to warrant further investigation, such application shall be handled in the manner specified for in the original permit.**
- j) **Exceptions.** The Annual DeKalb Corn Fest is excluded from these requirements.
- k) **Restrictions.**
1. **Maximum Encroachment height shall not exceed five (5) feet except for FVB Plaza permits, in which case the maximum height shall not exceed 15 feet. (2010-048)**
 2. **White Goods intended for sale, herein defined as refrigerators, ranges, water heaters, freezers, air conditioners, washing machines, dryers and other large appliances, including those containing chlorofluorocarbons (CFCs), switches**

containing mercury and polychlorinated biphenyls (PCBs), shall not be placed in the encroachment area. (2010-048)

l) Outdoor Café Permits.

1. Shall not be valid the Thursday, Friday, Saturday and Sunday of the annual DeKalb Corn Fest.
2. Outdoor cafes permitted under this Chapter shall not operate earlier than 5:00 a.m. nor later than 10:00 p.m. Monday through Sundays. Furniture shall be removed from the area no later than 10:30 p.m.
3. Items Restricted: No alcoholic beverages shall be served or consumed in an outdoor café receiving a permit under the provisions of this Section.
4. Additional Requirements: Every permittee shall be responsible for the prompt collection and removal of all litter, food scraps, and any other debris or garbage generated by the serving of food and beverages under the provisions of this Chapter.

m) FVB Plaza Permits.

1. Due to the location of FVB Plaza and the occasional unpredictable high wind gusts, a total of 100 pounds in weights will be required to be secured to any tent or umbrella of any kind set up during the event. Affixing tents, umbrellas, or any other device via ground stakes or any other method which requires propelling objects into the brick surface is strictly prohibited.
2. No permits will be issued in FVB Plaza for events associated with carnivals, amusement rides, live animal displays, or the operation of motor vehicles.
3. Every permittee shall be responsible for the prompt collection and removal of all litter, food scraps, and any other debris or garbage generated by the serving of food and beverages under the provisions of this Chapter.
4. Vendors are responsible for obtaining individual City of DeKalb Itinerant Merchant Permits, DeKalb County Health Permits, and collecting and paying all state and local sales tax.
5. Vendors are not permitted to yell, taunt, or aggressively pursue sales with customers, vendors or event staff.
6. All vendor vehicles that are not used in the event should be parked in the nearby 12 hour lots to allow patrons to have primary access to optimal parking spaces.

n) Obstructions Removed.

1. The owner of any building, fence, or other obstruction erected or placed upon any street, alley, sidewalk or any other public grounds within the City, shall remove the same within one (1) day after receiving notice in writing signed by the City Manager. In the event of an emergency situation, the City is hereby authorized to remove the encroachment.
2. Whenever the owner of any building, fence or other obstruction upon any street, alley, sidewalk or public grounds shall refuse or neglect to remove the same, after notice, the obstruction shall be deemed a nuisance, and it shall be lawful for the City Manager to cause the same to be removed or taken down, in his discretion, and the expense thereof shall be recovered from the owner in an action in the name of the City.

6.05 DISTURBING STREET OR SIDEWALK.

No person shall plow, dig, scrape or in any way disturb or interfere with the materials in any street, alley, or sidewalk in the City, or make any excavation therein, or remove any sidewalk except as permitted under this Chapter.

6.06 GUARDS ON OPENINGS.

No owner or person having possession of any lot or premises in the City shall leave or keep open, unguarded or uncovered, any cellar door, pit, grating, trap door or other street, alley or sidewalk in the City, nor suffer any basement stairway to be left open and unprotected on each side by a good and sufficient railing or balustrade, nor suffer or permit any such cellar door, pit, vault, grating, trap door, basement stairway or other opening or place of a like nature in or about or connected with such lot or premises to be or remain in an insecure or unsafe condition.

6.07 PROJECTING SIGNS.

- a) No person shall place, or suspend from any building, lot, or other place, over or into the roadway of any street any sign, marquee or canopy.
- b) No person shall place or suspend from any building, lot or other place, over or into the sidewalk, any sign, marquee or canopy so that the same projects from the wall or front of the building, lot or place, more than three feet over the sidewalk, nor at a height less than nine feet above the sidewalk.
- c) It shall be the duty of the Chief of Police to cause such obstruction to be removed from over any sidewalk or street.

6.08 WIRES OVER STREETS.

The owner of any overhead wires or poles along and upon the streets and alleys and public places of the City, whenever the same interfere with any work contemplated by the City or any driveway for ingress to premises desired by the owner thereof, shall take the same down temporarily or when necessary, remove the same permanently, as may be necessary

to avoid interference with such work or driveway, upon five working hours notice by the City or its authorized representative.

6.09 AWNINGS.

- a) Any awning over a sidewalk shall be elevated at least seven (7) feet at the lowest part thereof above the top of the sidewalk and shall not project over the sidewalk to exceed three fourths of the width thereof. It shall be supported by iron brackets or by an iron framework attached firmly to the building, and covered with cloth, leather or other light and pliable substance.
- b) No awning may be constructed extending over any sidewalk adjacent to any north/south street within the Central Business District, excluding those portions of such streets within the state right-of-way, except by permit issued by the Director of Public Works, or his designee, and subject to the terms and conditions contained in such permit, including but not limited to, elevation, distance from any curb, materials, maintenance, pedestrian and vehicular access, insurance, etc.

6.10 GATES.

All gates opening upon any public street shall be constructed so that no part of such gate shall swing over the roadway of the street, nor over the sidewalk upon which it opens unless such gate be so constructed or hung and maintained as to be self-shutting.

6.10-5 MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES/MOST RECENT EDITION ADOPTED. (2006-029)

The manual on Uniform Traffic Control Devices/most recent Edition, with all subsequent amendments thereto, as approved and issued by the Federal Highway Administrator and adopted by the State of Illinois through Section 11-301 of the Illinois Vehicle Code, is hereby adopted as the Manual on Uniform Traffic Control Devices for the City of DeKalb. The Manual specifies traffic control devices and warrants for their use to help insure roadway safety by providing for the orderly and predictable movement of all traffic, motorized and non-motorized, throughout the DeKalb transportation system and provides such guidance and warnings as are needed to insure the safe and informed operation of individual elements of the traffic stream. Traffic control devices are used to direct and assist vehicle operators in the guidance and navigation tasks required to traverse safely any facility open to public travel. Each and all of the regulations of the Manual on Uniform Traffic Control Devices/most recent Edition with all subsequent amendments thereto, are hereby referred to, adopted and made a part hereof, as is fully set out in this Section. (88-68, 06-29)

6.11 STREET CONSTRUCTION, MAINTENANCE OPERATIONS AND UTILITY WORK.

Any person, contractor or corporation whose construction or maintenance operation may occur within a City right-of-way, including but not limited to any street, alley, parkway, roadway or sidewalk, or which may require traffic control within any City right-of-way, shall

be licensed, bonded and permitted for such activity in the manner prescribed by this Section.

- a) Bond required. An annual performance bond of not less than \$10,000.00 shall be required for any work in the public right-of-way, including, but not limited to, any public sidewalk construction, curb cut or street breaking operations, tree trimming, building moving or the installation of any traffic control devices. However, no work in the public way shall be performed unless a bond is established in sufficient amount, as determined by the Director of Public Works, to pay for any and all damages which occur to any tree, street, sidewalk, roadway or to other appurtenance belonging to the City, or to any telegraph, cable, telephone or electric pole or wire, or to trees or other property of adjacent private property holders, whether or not such damage was inflicted by the permit holder or his agents or employees.

All Street Construction, Maintenance and Operations Bonds shall provide good and sufficient sureties to save and indemnify the City of DeKalb against all liabilities, judgments and expenses which may accrue against the City in consequence of the granting of any permit to perform construction or repair work or to use traffic control devices, within the public rights-of-way or in consequence of any substandard work. No bond will be accepted which is not accompanied by a certificate showing:

1. Liability Insurance in force, the limits of which are not less than \$250,000 for injury to one (1) person and \$500,000 for injuries arising out of an accident in which more than one (1) person is involved.
2. Property damage insurance in force, with a minimum coverage of \$250,000 and a deductible clause not exceeding \$500.00. Each certificate of insurance must indicate the policy's expiration date.

- b) License Required. An annual license, as established in Chapter 24.04 under Building Permit Fees, shall be required for the activities identified in Subsection a) above.
- c) Permit Required. A permit application must be completed and approved by the Director of Public Works and the Director of Building and Community Services for each project that impinges upon the public right-of-way. The application shall include a plan for the installation and supervision of traffic control devices that conforms with the Manual on Uniform Traffic Control Devices. A permit for routine maintenance activities performed by utility companies or other governmental bodies within the public right-of-way may be issued on an annual basis at the discretion of the Director of Public Works and the Director of Community Development.
- d) The permit fees described in Chapter 24.04 shall apply to the proposed construction or maintenance activity.
- e) Permits shall only be issued to persons who have obtained the required performance bond and license as set forth in Subsections a) and b) above.

- f) It shall be unlawful for persons to perform construction or maintenance operations in the public right of way without either having first obtained a permit or a license. Persons violating this Subsection shall be fined not less than \$250.00. In addition to the fine imposed, violators shall be directed to reimburse the City for all costs incurred by the City in barricading and properly signing the construction site in accordance with the Manual on Uniform Traffic Control Devices.
- g) License Review. All licenses are subject to an annual performance review. No license shall be issued, and any license may be revoked if any of the following has occurred:
1. Any material information furnished by the applicant has been falsely stated;
 2. The applicant or license holder has any out-standing financial obligation to the City of DeKalb, including, but not limited to, past due water bills, past due property tax payments, weed mowing and nuisance abatement liens or charges, parking or nuisance ticket violations, or any past due loan payment owed to the City of DeKalb.
 3. The applicant or license holder has demonstrated either consistent or gross indifference to City standards for performance and safety in the public way.
- h) License Revocation. A license issued under this Chapter 6 may be revoked by the City Manager after due process notice and hearing as provided herein for cause as listed in g) above. Upon a determination by the City Manager that probable cause exists for the revocation of a Street Construction, Maintenance and Operations License, the licensee and other interested parties shall be given written notice that a due process hearing will be held to determine if there is cause to revoke the license. Such notice shall be issued at least five (5) days prior to such hearing and shall be mailed to the licensee's last known address or delivered in person and shall state as follows:
1. Specific grounds for revocation.
 2. Date, time and place of hearing.
 3. The right of the licensee to participate or to be represented.
 4. Possible penalties. These penalties shall include:
 - (a) A fine of not less than \$250.00;
 - (b) A fine of not less than \$250.00, as well as compensation to the City for all costs incurred by the City in remedying substandard work.
 - (c) License revocation. Failure to pay any fine ordered by the City Manager shall be grounds for the revocation of the license under this Section.

The City Manager may, at his/her discretion, continue the hearing from time to time.

The City Manager shall issue a written decision within five (5) days of the hearing. Should the City Manager determine that cause exists for the revocation of the license, such license shall be revoked upon the issue of the written decision.

- i) Appeals from Decisions of the City Manager. Any person who is a party to the revocation hearing and aggrieved by the decision of the City Manager in regard to the revocation of a license under this Section shall have the right to appeal to the City Council. Such appeal shall be taken by filing a written notice of appeal setting forth the grounds for the appeal. Said notice shall be filed with the City Clerk and the City Manager within ten (10) days after notice of the decision by the City Manager has been rendered. The City Council shall then hold a hearing on such appeal at a special or regular Council meeting occurring at least seven (7) days but not more than fourteen (14) days after the filing of the notice of appeal. The decision of the Council shall be rendered no later than the following regular Council meeting.

The Mayor, upon finding that the interest of the public or parties other than the licensee would be better served, may issue a stay of the revocation issued by the City Manager, but shall report such stay of revocation to the City Council at its next regular Council meeting, specifying therein the reasons for issuing the stay at which time the stay shall expire. The City Council may, in its discretion, continue the stay until a final decision is reached on the matter by the City Council.

- j) It shall be unlawful for persons licensed in accordance with this Section to work within the public right-of-way without first obtaining a permit at least 48 hours in advance of beginning work within said right-of-way. The Director of Building and Community Services or Public Works Director may waive the 48-hour requirement if he should determine that extraordinary or emergency conditions exist which prevent the 48-hour requirement from being met. Persons violating this Subsection shall be fined not less than Fifty Dollars (\$50.00) for the first offense, and not less than One Hundred Dollars (\$100.00) and a thirty (30) day license suspension for the second and each subsequent offenses.
- k) It shall be unlawful for persons doing work within the public right-of-way to fail to notify the Director of Building and Community Services at least 12 hours in advance of beginning work within said right-of-way. Persons violating this Subsection shall be fined not less than \$50.00 for the first offense in a calendar year and not less than \$300.00 for the second and each subsequent offense occurring in the same calendar year.
- l) Persons who perform construction or maintenance operations in the public right-of-way without either a permit or a license, or in a manner contrary to the provisions of a permit or the Manual on Uniform Traffic Control Devices will be directed to immediately cease their operations and shall be informed about the conditions under which work may be permitted to resume.
- m) Any person who shall continue any work after having received a Stop Work order, except such work as that person is directed to perform to remedy any unsafe or dangerous condition, shall be liable to the fines enumerated in Chapter 13, Subsection

13.04, of this Municipal Code.

- n) Persons who are licensed to perform construction or maintenance operations in the public right-of-way and who do so in a manner contrary to the provisions of their permit and/or the Manual on Uniform Traffic Control Devices (MUTCD) shall be directed to cease operations and shall be given a reasonable time period, not to exceed one hour, to correctly sign and barricade the construction site in accordance with the MUTCD. Should such persons fail to correctly sign and barricade the construction site within the allowable time period, the City shall properly sign and barricade the same. All costs incurred by the City in signing and barricading the site shall be deducted from the licensee's performance bond according to its provisions. It shall be unlawful for persons licensed to perform construction or maintenance operations within the public right-of-way to fail to provide traffic control devices in accordance with the MUTCD. Persons violating this Subsection shall be fined not less than \$75.00 for each offense in addition to any other penalties provided herein.
1. Enforcement Officials. It shall be the duty of the Director of Building and Community Services, or his designee, and the Public Works Director, or his designee, to enforce the provisions of Section 6.11 as herein set forth.

6.11-5 TEMPORARY CONSTRUCTION AND EMERGENCY TRAFFIC SIGNALS

The Public Works Director, City Engineer or the Police Chief may authorize the temporary placement of traffic control signage and traffic markings. Signs and markings shall be erected and placed in general conformance with the Manual on Uniform Traffic Control Devices. It shall be unlawful for any driver or operator of a motor vehicle to disobey any traffic control signage or traffic markings erected or placed pursuant to this section.

6.12 DELETED. (1989-073)

6.13 BARBED WIRE.

No person shall erect or maintain or permit to be erected or maintained in or about entrance to any building, or adjoining any street, within two feet of the sidewalk thereon, any railing, fence, guard or protection of any kind, upon which there shall be affixed or placed any spike, nail, barb, or other instrument or thing which is dangerous or likely to cause injury to the person or wearing apparel of any person traveling upon the sidewalk.

6.14 ADVERTISEMENTS IN STREETS.

No person shall post or paint any sign, bill, placard or other advertisement upon any curb, street, gutter, sidewalk, hydrant, tree, bridge, telephone, telegraph, fire alarm or other pole located upon any public street or alley of the City, except as provided in Chapter 23 Unified Development Ordinance, Article 13 "Signs". (1993-043)

6.15 RUBBISH IN STREETS.

No person shall throw, cast or put into or drop or leave in or on any street, alley, sidewalk, public place or any public grounds in the City any snow, dirt, stones, missiles, nails, ice, glass, ashes, iron or any other metal, rubbish or any other article or thing. (2012-078)

6.16 GAMES IN STREETS.

No person shall engage in any game, sport, amusement, business, or exhibit any machine, show or animal in the streets or upon the sidewalks of the City so as to interfere with the passage of vehicles or persons passing along the streets or sidewalks.

6.17 TOY VEHICLES.

It shall be unlawful for any person upon skates, a coaster, sled or other toy vehicle, to go upon any roadway other than at a crosswalk.

6.18 DRIVEWAY OPENINGS, LINCOLN HIGHWAY.

No person shall constrict a driveway or entrance opening on Lincoln Highway or Fourth Street (Illinois State Route 23) in the City without first securing the consent of the State of Illinois for each such opening cut or constructed. Such consent shall be a prerequisite to obtaining any permit from this City for such openings in the curbs along said streets.

6.19 PARKWAYS, COVERING.

No parkway between the sidewalk and paving curb shall be paved with any material or covered with gravel or any other substance without permission to do so from the Council.

6.20 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTIC FOR TREES AND SHRUBS ON PUBLIC AND PRIVATE PROPERTY. (2007-045, 2008-009; 2015-014)

- a) Purpose. It is hereby declared to be the policy of the City of DeKalb, Illinois, to promote and enhance the beauty and general welfare of the City; to regulate and control the planting, transplanting, removal, maintenance and protection of trees, plantings and shrubs in the City in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the City; to prevent damage to any public sewer or water main, street, sidewalk or other public property and to protect trees, plantings and shrubs located in or upon public property from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees, plantings and shrubs within the City against the spread of disease or pests. It is the intent of the City Council that the provisions of this Section 6.20 shall apply, as defined, to all trees, shrubs, or plants growing or hereafter planted in or upon any public right of way, public property, or other premises owned or controlled by the City, and also to all trees, plantings or shrubs growing or to be planted in or upon private property, where indicated, which shall threaten the lives, health,

safety or welfare of the public. All parkway tree, plantings and shrub maintenance will be done so under the guidelines set forth by the National Tree Care Industry. (2015-014)

- b) Definitions. Whenever the following words or terms are used in this Section 6.20 they shall be construed to have the following meanings:
1. Adjacent Private Property Owner. The term “adjacent private property owner” shall mean the person whose private property boundary abuts a public right-of-way. The adjacent area is limited to the entire width of the public right-of-way between the private property boundary lines and the parkway.
 2. Person. The word "person" shall mean any person, firm, association, partnership or corporation.
 3. Public Trees, Plantings and Shrubs. The words "public trees, plantings and shrubs" shall mean all trees, plantings or shrubs located or to be planted on any property owned or controlled by the City and in or upon any public right of way or public easement.
 4. Roadway. That portion of a street improved, designed or ordinarily used for the vehicular travel exclusive of the berm or shoulder; in the event a street includes two or more separate roadways the term "roadway", as used herein, shall refer to any such roadway separately, but not to all roadways collectively.
 5. Street. The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of pedestrian or vehicular traffic. For the purpose of this Section 6.20 highway, avenue or alley shall mean a street.
 6. Public Property. The words "Public Property" shall mean any property owned or controlled by the City, including public rights-of-way and easements.
 7. Public Right-of-Way or Parkway. The term "Public Right-of-Way or Parkway" shall mean all property between the curb or paved street or roadway and the private property line adjacent thereto.
 8. Private Property. The words "Private Property" shall mean any property that does not fall under the definition of either "Public Property" and/or "Public Right-of-Way or Parkway".
- c) Enforcing Authority. The Director of Public Works or his designee shall be charged with the enforcement of this ordinance.
- d) Planting of Public Trees, Plantings or Shrubs on Public Property.
1. Any adjacent private property owner owning any lot or parcel of land abutting the public right-of-way within the corporate limits of the City of DeKalb shall submit an

application for approval to plant shade or ornamental trees, plantings or shrubs in the public right-of-way. Trees, plantings or shrubs shall not be planted on the roadway, sidewalk or an area where the ordinances of the City of DeKalb would normally permit or require a sidewalk. Any and all hedge plantings are prohibited within or upon the public rights-of-way. A tree planting application and a \$10.00 application fee shall be submitted to the Director of Public Works, or designee. (2007-045)

Trees, plantings or shrubs that are planted on public property, including public rights-of-way and utility easements, without the approval of the Director of Public Works or his designee, are subject to removal and disposal for which any and all associated costs for removal shall be assessed to the person, firm or corporation that planted said trees, plantings or shrubs.

2. Public Right of Way Tree Planting Guidelines. (2007-045)

- (a) Standard trees shall be a minimum diameter of two (2) inches. Utility trees shall be a minimum diameter of one (1) inch. Standard and utility trees shall be single stem. (2007-045)
- (b) Trees that are requested for placement in the parkway will be approved on an individual basis. Tree species, sidewalk and other obstructions are too numerous and varied to be covered by a "blanket" policy. Final approval shall be granted by the City of DeKalb's Director of Public Works or his designee.
- (c) Proper planting distance shall be maintained between trees and shall include proper separation distances from existing trees on both public and/or private property.
- (d) No tree shall be planted within a sight distance triangle as stipulated in Section 7.10 "Sight Distance Triangle" of the City's Unified Development Ordinance, Article 7 "Supplemental District Regulations", Section 7.10 "Sight Distance Triangle". (2006-038)
- (e) Underground Utilities, any recorded utility drainage easements, etc., shall be given due consideration in the placement of any new tree. No species of trees shall be planted where their growth will interfere with overhead utilities. The selection of species shall be reviewed on a site-specific basis.
- (f) No tree shall be installed where, because of topography, drainage, road design or other considerations, the planting at such a location would result in the creation of a health or safety hazard.
- (g) The care and maintenance needed to nurture and protect newly planted trees in accordance with these guidelines be the responsibility of the adjacent private property owner for a period of twelve (12) months after the initial planting date. If the tree dies, after twelve (12) months of the planting date, it will be at the

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discretion of the Director of Public Works, or his designee, to determine if the City will replace said tree. (2015-014)

(h) Trees planted in the parkway shall become the responsibility of the City of DeKalb after twelve (12) months. (2007-045, 2015-014)

(i) The approval of the specific species of tree for replacement purposes may depend upon results of soil sample testing for appropriate soil conditions. The City or its representative will perform this test at no additional cost to the adjacent private property owner.

e) Prohibited Trees.

1. It shall be unlawful to plant on public property, in the public right-of-way or easement, any trees with the following undesirable growth habits:

- soft brittle wood
- harbor insects
- malodorous vegetation
- water seeking root system
- wide and/or low branching
- suckering habit
- pendulous
- deciduous thorns
- domestic fruit trees

Examples of such trees include, but are not limited to the following:

Genus	Species	Common Name
Crataegus	All	Hawthorne (2007-045)
Fraxinus	All	Ash (2007-045)
Populus	All	Poplar, Cottonwood and Aspen
Betula	All	Birch
Salix	All	Willow
Maclura	All	Osage Orange or Boxwood
Acer	Negundo	Box Elder or Ashleafed Maple
Acer	Saccharinum	Silver (Soft) Maple
Ailanthus	Altissima	Tree of Heaven
Juglans	Nigra	Black Walnut
Ulmus	Parvifolia	Chinese Elm
Ulmus	Pumila	Siberian Elm
Ulmus	Racemosa Thomasi	Rock Elm or Cork Elm
Ulmus	Fulva	Slippery Elm or Red Elm
Robinia	Pseudoacacia	Black Locust or Common Locust or Yellow Locust or False Acacia or Black Acacia

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All conifers to include all species of:

Genus	Species	Common Name
Abies	All	Fir
Cedrus	All	Cedar
Chamaecyparis	All	False Cypress
Juniperus	All	Juniper
Libocedrus Decurrens	All	Incense Cedar or White Cedar
Picea	All	Spruce
Pinus	All	Pine
Pseudotsugo Taxifolia	All	Douglas Spruce, Douglas Fir or Red Fir
Sciadopitys Verticillata	All	Umbrella Pine
Taxus	All	Yew
Thuja	All	Arborvitae
Thujopsis Dolobrata	All	Hiba Arborvitae or False Arborvitae
Tsuga	All	Hemlock

2. It shall be unlawful to plant trees of the genus Populus (poplar, cottonwood, etc.) or Salix (willow) anywhere in the City on either public or private property, public right-of-way or easements, unless the Director of Public Works, or his designee, approves the site as one where the trees roots and its crown will not interfere with any public or privately owned utility. The Director of Public Works, or designee, may approve the planting of a conifer in the public right of way provided there is no threat to public health or safety. (2007-045)

f) Utilitrees. (2006-038)

The following is a list, including but not limited to, non-fruit bearing trees approved for planting underneath overhead utility lines:

- Ivory Silk Japanese Lilac
- Serviceberry (tree form)
- Callery Pear
- Autumn Blaze Pear
- Bradford Pear
- Chanticleer Pear

g) General Tree, Planting and Shrub Regulations for trees, plantings and shrubs located on public property and in public rights-of-way and easements.

1. Injury to Trees, Plantings and Shrubs Prohibited. No persons, except the City of DeKalb or public utility companies holding franchises from the City of DeKalb, in the normal course of installing and maintaining service, shall, without a written permit from the Director of Public Works, or his designee, do, or cause to be done by others, any of the following acts:

- (a) Secure, fasten or run any rope, wire, sign, unprotected electrical installation or other device of material to, around or through a tree or shrub.
 - (b) Cut down, injure, mutilate, deface, kill or in any way destroy or permit any fire to burn where it will injure any tree, planting or shrub.
 - (c) Permit any toxic chemical, gas, smoke, salt brine, oil or any other injurious substance to seep, drain or be emptied upon or within ten feet of any tree, planting or shrub.
 - (d) Excavate any ditch, tunnel or trench within a distance of 10 feet from any tree, planting or shrub.
 - (e) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby trees or shrubs which may be injured by such operations.
 - (f) Knowingly permit any unprotected electric service wires to come in prolonged contact with any tree or shrub.
 - (g) Remove any guard, stake or other device or material for the protection of the public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (h) Public utility companies must use reasonable care to avoid unnecessary damage to trees, plantings and shrubs, both public and private in the normal conduct of their business. Permits will be required by the Department of Public Works prior to any utility work involving public or private trees located within the City of DeKalb. A detailed description outlining said work will be reviewed by an arborist, acceptable to the City, prior to any work. All work performed will be done in compliance with all ANSI A300 regulations. (2015-014)
2. Trees, Plantings and Shrubs to be Kept Trimmed. Trees, plantings and shrubs standing upon any private property adjacent to any public street, roadway, right-of-way, park, or playground shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees, plantings or shrubs are standing so that the lowest branches projecting over the public streets, roadways, sidewalks or other public right-of-way provide a clearance of not less than nine feet above the level of the sidewalk and not less than fourteen feet above the level of the street. The Director of Public Works, or his designee, may waive the provisions of this section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety. (2015-014)
3. Private plantings shall be kept trimmed by the adjacent private property owner so that no stems, leaves or other parts of a plant lay upon, across or extend over a public sidewalk, curb or edge of pavement. For purposes of this Section, the placement of plantings and shrubs shall be at the sole risk and expense of the

adjacent private property owner of the premises whose property fronts the right-of-way where such plantings are located. Plant and shrub height shall not interfere with vision triangle regulations as prescribed in the Unified Development Ordinance nor impede the path of travel or safe use of the public right-of-way. The Director of Public Works or his designee may waive the provisions of this section if determined that a planting or shrub does not interfere with public travel, the vision triangle or endanger public safety. (2015-014)

4. **Obstructing Street Lights or Injuring Sidewalks.** In no case may any tree, planting or shrub obscure or prevent any street lamp from properly lighting such street or injure the sidewalk of such street under or near such tree.
 5. **Dangerous Trees, Plantings and Shrubs.** Any tree, planting or shrub located on public or private property, which is endangering or which in any way may endanger the security of persons or the maintenance and usefulness of any public street, sewer, sidewalk or water main, is hereby declared to be a public nuisance.
- h) **Authority of the Director of Public Works to Preserve or Remove Public Trees, Plantings or Shrubs located on public and private property.**
1. **Authority over Public and Private Trees, Plantings and Shrubs Located on Public Property, Public Right-Of-Way and Easements, and Private Property.** The Director of Public Works, or his designee, shall have the authority to plant, trim, spray, preserve, renew and remove trees, plantings and shrubs located on public property, public right-of-way and easements, and private property, or cause such work to be done as may be necessary to insure public safety and preserve the symmetry and beauty of public streets, alleys or grounds and to protect public sidewalks, streets, alleys sewers and water mains from damage or injury.
 2. **Notice to Remove Trees, Shrubs or Other Plantings.** Whenever the Director of Public Works, or his designee, shall find on examination that any tree, planting or shrub or part thereof located on public property, public right-of-way or easements, or private property violates any provision of this Section 6.20, or if any tree, planting or shrub located on public property, public right-of-way or easement, or private property is infested with parasites or insects or disease which may spread or scatter to other public or private trees or shrubs, he shall notify the property owner, or his agent, on which property said tree or shrub exists or adjacent to whose property said tree or shrub exists (if said tree is located in a public right-of-way or easement) in writing that the violation or condition must be corrected, or otherwise abated as directed in the notice within the time specified, which shall not be less than ten days, unless the Director of Public Works, or his designee, shall determine that immediate correction or removal is necessary for public safety. Said notice shall also recite Section 6.20 (h).
 3. **Abatement by the City.** If any person who, after proper notification as prescribed in this Section 6.20, Subsection (g), 2., "Trees, Plantings and Shrubs to be Kept Trimmed", shall refuse or neglect to comply with said notification, or resist or

oppose the enforcement of any provisions of this Section 6.20 or the rules and regulations authorized by this Section 6.20, then the Director of Public Works, or his designee, shall cause the violation or condition to be abated (whether by spraying, trimming, removal or any other method of abatement as deemed appropriate by the Director of Public Works or his designee) at the expense of the person to whom notice was served.

4. Upon completion of any City sponsored abatement, and within thirty (30) days of said abatement, the City shall forward a billing statement for all associated costs of said abatement including fines and/or penalty(s) incurred, to the property owner, agent or legal representative, or occupant in legal possession or control of the subject property. If the property owner fails to pay the abatement billing within thirty (30) days after issuance of the billing statement, the City Attorney shall file a Notice of Lien against the subject property with the DeKalb County Recorder's Office. Said notice shall set forth (1) description of the subject real estate sufficient for identification thereof, (2) the amount of money due for abatement services including any and all associated costs thereto, and (3) the date when said amount became delinquent. Subsequent to the filing of said lien, the City may, at its discretion, file a complaint for foreclosure of said lien, or upon becoming a defendant in a pending suit affecting the subject real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint, proceed in its corporate name to initiate foreclosure of said lien.
- i) Appeals. A property owner or duly authorized agent thereof, served with a notice of abatement proceedings as described in Subsection g), 2., of this Section 6.20, except in cases of declared emergency, may appeal the decision of the Director of Public Works or his designee, by filing written notice of said appeal to the City Manager within ten (10) calendar days of date of the origin of a notice of abatement. The appeal shall state the reasons for the appeal and shall stipulate why the abatement notice is unnecessary, improper or unreasonable. The Administrative Hearing Officer shall thereupon establish a date and time to conduct a hearing to examine all the evidence of the appellant and appellee. The Administrative Hearing Officer will render a decision identifying what, if any, action shall be taken, in which the Administrative Hearing Officer's decision shall be final and conclude the appeal proceedings.
 - j) Interference with the Director of Public Works Prohibited. The Director of Public Works, or his designee, shall have the authority to enter upon private premises at all reasonable times for the purpose of examining any tree, planting or shrub located upon or over such premises and carrying out any of the provisions of this Section 6.20. No person shall prevent, delay or interfere with the Director of Public Works, or his designee, agents, or employees while they are engaged in carrying out any work or activities authorized by this Section 6.20.
 - k) Penalties. Any person who shall violate any provision of this Chapter 6.20 shall upon a plea or finding of guilty or liability thereof be fined not less than \$250.00 nor more than \$500.00, the value of the tree removed together with the costs of prosecution. In determining the amount of the fine, the Court or Administrative Hearing Officer may

consider the cost of remedying the violation or condition. A separate offense shall be deemed committed on every day on which a violation occurs or continues. (1996-047)

6.20-5 VEGETATION AND MANAGED NATURAL LANDSCAPE. (2018-045)

- a) Purpose. It is the purpose of this Section to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of Planned Natural Landscaping that add diversity and richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public’s interests to provide standards regarding the maintenance of vegetation because vegetation that is not managed can decrease the value of nearby properties and threaten the public health and safety. It is also in the public’s interest to encourage diverse landscaping treatments, particularly those that encourage the preservation, restoration, and management of native plant communities, which can be economical, low-maintenance and effective in soil and water conservation. The City enacts this section to balance these competing interests.
- b) Definitions. Whenever the following words or terms are used in this Section 6.20, they shall be construed to have the following meanings:
1. *Planned Natural Landscaping*: A planned, intentional and maintained planting of plants, grasses and/or groundcovers, rain gardens and bioswales, or shrubs and/or trees. Planned Natural Landscaping does not include any species of turf grasses and is not intended to allow a property owner to ignore yard care duties nor to allow for unmowed/unmaintained areas to be deemed naturalized.
 2. *Garden*: A cultivated area dedicated to growing any combination of fruits or vegetables in a well-defined and well-maintained location.
 3. *Landscape Beds*: Cultivated areas with a defined and maintained border that contains plants that are intentionally planted, cultivated and maintained. Plantings may include native or non-native ornamentals, trees and/or shrubs. Allowable groundcovers include tilled earth, crushed stone, gravel, mulch or vegetative groundcovers or other groundcovers acceptable to the Community Development Director or designee.
 4. *Lot Lines*: The edge of a property. The “front lot line” is presumed to be coincident with the edge of sidewalk furthest from the roadway. In the absence of sidewalk, the “front lot line” is presumed to be 10 feet off the back of curb, or in the absence of curb, 10 feet from the edge of pavement. Property owners may request the City approve an alternate measurement for ‘lot lines’ for the purposes of this Ordinance and subject to the approval of the Community Development Director.
 5. *Rain Garden*: A plant garden that is designed not only to improve properties aesthetically, including bioswales, but also to enhance infiltration or reduce the amount of storm water and accompanying pollutants that may enter streams, rivers, lakes, or other bodies of water.

6. *Turf Grasses*: Grasses commonly used in regularly cut lawns or play areas and include bluegrass, fescue or rye grass blends or any other similar grasses.
7. *Unmanaged Plant Growth*: Any grass, hay, weeds, brush, volunteer trees or similar vegetation which has grown to a height of more than eight (8) inches, but does not include planted and cultivated plants located:
 - (a) in gardens;
 - (b) in landscape beds;
 - (c) on agricultural land (which is zoned for such use, taxed at the rate applicable to agricultural use, and actively utilized in commercial agricultural production, with a minimum size of not less than 10 acres);
 - (d) adjacent to streams, rivers, lakes or detention ponds, when within areas that are defined on approved plans as being naturalized;
 - (e) within steep slopes (greater than 3:1), ditches and drainage ways that include steep slopes or which have been approved by the City for utilization of plantings for sediment control or erosion protection, and delineated wetlands;
 - (f) in planned natural landscape areas that are in compliance with the standards in this ordinance and which are wholly contained within the parcels on which they are planted and maintained; and
 - (g) within areas owned and operated by the State of Illinois or a unit of government.

c) Planned Natural Landscaping.

1. Planned Natural Landscaping Guidelines:

- (a) In order to establish Planned Natural Landscaping areas, turf grass shall be completely eliminated, and the plants, trees and shrubs included in the planned natural landscaped area shall be planted through transplanting or seeding by human or mechanical means.
- (b) Residential Standards (Illustrated in Exhibit A):
 - i. Setbacks:
 - a. Two (2) feet from front lot lines when adjacent to a public sidewalk and zero (0) feet from front lot lines when there is no public sidewalk.
 - b. Two (2) feet from rear and side lot lines and zero (0) feet from rear and side lot lines when the lot lines abut forests or other open-space use areas that are lawfully not regularly mowed or maintained.

- c. The setback areas may include regularly cut turf grass, low-growing (not greater than eight (8) inches) sedges, regularly maintained garden and landscape beds, intentionally planted and maintained trees, shrubs, hedges, mulch, wood chips or commercial landscaping materials, such as stones or bricks. Plants, shrubs or other vegetation must be maintained in a manner that does not obstruct or interfere with public or private sidewalks or other access points.

The foregoing standards are outlined in the attached Exhibit A, which is incorporated herein by reference.

- ii. All plants, excluding trees and shrubs, in Planned Natural Landscaping and located in a front yard shall not be taller than 24 inches.
 - iii. City of DeKalb Municipal Code Chapter 6 “Streets, Alleys and Sidewalks”, Section 6.19 “Parkways, Covering” and 6.20 “Arboricultural Specifications and Standards of Practice for Trees and Shrubs on Public and Private Property” shall also govern plantings in the parkway and the more restrictive of this ordinance or those ordinances shall govern.
 - iv. Planned Natural Landscaping must allow a three (3) foot wide access route to utility meters, valve boxes, vaults, grates, and other utility structures for access by service personnel. The access route should be regularly cut turf grass, mulch, wood chips or commercial landscaping materials, such as stones or bricks, which permit ready access by utility crews or first-responders.
 - v. Planned Natural Landscaping less than 24 inches high is allowed within a five (5) foot radius of a private mailbox.
 - vi. No landscaping, including but not limited to Planned Natural Landscaping, may alter, relocate, or otherwise modify the drainage of surface waters, sump pump discharges, gutter drainage or any other form of surface, manmade or subsurface drainage without a drainage permit or completion of a full site review process in accordance with City Code.
 - vii. Planned Natural Landscaping shall be mechanically cut to a maximum height of eight (8) inches at least once annually. Burning shall not be allowed.
- (c) Commercial/Industrial Standards: Areas that are zoned Commercial/Industrial may include Planned Natural Landscaping as approved in site plans for any given parcel. Site plans shall meet the Residential Standards as a minimum, unless specific exemptions are provided in the approved plans.
- (d) Farmland: Areas that are zoned for use as farmland, which are at least five (5) acres in size, which are recognized on County tax rolls as being utilized for farmland, and which are actively in use as productive farmland (i.e., the property

is used for the purpose of growing a commodity) shall be permitted to have naturalized ditches, waterways, filter strips and similar areas, with grasses not exceeding three (3) feet in height, provided that such areas are periodically (at least semi-annually) mowed to a height of not greater than eight (8) inches.

d) Unmanaged Plant Growth

1. A person owning, occupying, or controlling any lot or property shall mechanically cut down and remove any plant growth that is not in compliance with this ordinance (or other applicable City codes), and shall otherwise maintain such land in accordance with the requirements of this ordinance and other applicable City codes.
2. The presence of turf grass in excess of eight (8) inches in height shall be a *per se* violation of this Ordinance.
3. If a person neglects to cut and/or remove unmanaged plant growth as required under Paragraph 1. of this section or otherwise violates any provision of this ordinance or any other ordinance regulating plantings or property maintenance, the City shall have the option to enter upon the premises and cut down and remove the unmanaged or non-compliant plant growth or cause it to be cut down and removed. The cost of cutting down and removing the growth shall be a debt due and owing from the owner and occupants of the property (jointly and severally) and shall be a lien against the property (along with any costs incurred in recording, enforcing or collecting such costs).

e) Control of Noxious Weeds

1. It shall be unlawful to maintain or permit to grow any weeds prohibited by the Illinois Noxious Weed Law (505 ILCS 100/) within the corporate limits of the City of DeKalb. Property owners and occupants have an affirmative duty to remove such weeds.

6.21 DELETED. (1989-073)

6.22 SIDEWALK CONSTRUCTION AND REPLACEMENT.

- a) License Required. No person shall construct or replace any public sidewalk along any street, alley or public place in the City of DeKalb, without a license as defined in Section 6.11 “Street Construction, Maintenance Operations and Utility Work”, Subsection (b) of this Chapter.
- b) Bond Required. Every application for an annual Street Construction, Maintenance and Operations License shall be accompanied by a bond, as defined in Section 6.11 “Street Construction, Maintenance Operations and Utility Work”, Subsection (a) of this Chapter.
- c) Specifications. The Director of Public Works shall, for the purpose of providing for suitable materials and manner of construction for sidewalks and the performance of the

work in a proper and workmanlike manner, prepare specifications not inconsistent with the ordinances of the City describing materials and manner of construction of sidewalks, which specifications shall be submitted by him to the Council, and when approved by the Council, shall be filed in his office. When such specifications are approved and filed, they shall have the same force and effect as if specifically set forth herein, and all sidewalk work shall conform thereto.

- d) Inspection and Approval. All work done by any licensed sidewalk builder shall be subject to the inspection, supervision and approval or rejection of the Director of Public Works. All faulty or defective work or material, at any time discovered, shall be made satisfactory to the Director of Public Works and no further permits will be issued to any licensed sidewalk builder, doing faulty work or furnishing improper material, until such work or material shall have been made to conform or have been furnished in accordance with the ordinances, specifications and regulations of the City, governing such work.
- e) Permit Exhibition. Every licensed sidewalk builder, while performing work under any permit, shall retain the same in the possession of himself or of one of his employees at the site of the proposed work, which permit shall, at any time, be exhibited by the licensee or his employee having the custody thereof, to any Code Enforcement officer or other official of the City, upon request.

6.23 DRIVING ON SIDEWALKS.

No person shall drive any vehicle over or upon any sidewalk, except where suitable crossings or sufficient protection to avoid injury to such sidewalks are provided.

6.24 SIDEWALK OPENINGS.

No opening for any coal hole, grating nor any other opening shall be placed in any sidewalk, except by consent of the Council. All gratings in sidewalks must have openings not exceeding one inch in space between the bars.

6.25 WATER CUT OFF BOXES.

No water cut off box shall be covered or concealed by any sidewalk. Whenever the building of any sidewalk necessitates raising any cut off box to prevent covering or concealing the same, the same shall be raised by the Director of Public Works on 24 hours notice.

6.26 SURFACE WATER DRAINAGE.

It shall be unlawful for the owner, agent or other person in control of any premises to suffer or permit any eaves trough, downspout or other device or appliance for collecting or discharging surface or rain water to be so located or constructed as to permit discharge of water passing through the same to be discharged upon any sidewalk.

The owner, agent or other person in control of any premises shall upon five days notice from the City so arrange any such eaves trough, downspout or other device or appliance as to prevent water being discharged on the sidewalks. Upon failure to comply with such notice, the Director of Community Development may remedy such defective condition, and the owner, agent or person responsible therefor shall be liable to the City for the expense thereof.

6.26-5 SURFACE AND SUBSURFACE WATER DRAINAGE.

It shall be unlawful for the owner, agent or other person in control of any premises to suffer or permit any eaves trough, footing drain, drain, downspout, sump pump or other device or appliance for collecting and discharging surface water, rain water or any other source of surface runoff water, ground water or subsurface water to be so designed, located or constructed so as to permit discharge of said water upon, over or across any street, alley, public way or public property other than via an approved storm sewer, drainage swale, system or structure, without approval from the Director of Public Works. The owner, agent or other person in control of any premises shall, at his own expense, within thirty (30) days of a written notice from the City, correct any such eaves trough, footing drain, drain, downspout, sump pumps or other device or appliance found to be improper by the City and detrimental to the health, safety and welfare of the City and shall make such correction so as to prevent any water from being discharged upon, over or across any street, alley, public way or public property. Any person, firm or corporation that fails to comply with such a notice shall be subject to a fine of \$25.00 per day for each day that a violation continues, after written notice has been given. (1988-046)

EXCEPTION: A property owner may discharge sump pump water overland to a street gutter or flow line between April 15th and October 1st, provided that such surface drainage is approved by the Director of Public Works and permitted by the Code Enforcement Coordinator.

6.27 NUMBERING OF BUILDINGS.

- a) Base Lines. The following basis is hereby established for the numbering of houses, lots and buildings in the City, to wit:
1. As a base or dividing line east and west, First Street shall be taken; and as a dividing line north and south, Lincoln Highway shall be taken. All blocks and streets except as hereinafter provided shall be divided into as many 20-foot spaces as possible.
 2. When numbering east from First Street measurements shall commence from the east side of First Street, and when numbering west from First Street, said measurements shall commence from the west side thereof.
 3. When numbering north from Lincoln Highway measurements shall commence from the north side, and when numbering south therefrom measurements shall commence from the south side thereof.

4. Measurements shall extend from the starting points respectively along the block frontage and across the next street, which place shall be a new starting point, and measurements shall in a similar manner be continued along the whole street.
- b) Spaces. Each block and street except as hereinafter provided shall be divided into as many 20-foot spaces as possible. In that portion of the City contained in the fire limits, except that portion thereof east of Seventh Street, and west of First Street, ten feet shall be the unit measurement of all spaces except that portion fronting upon the boundary streets thereof.
- c) Unit System. The numbering shall be made on the unit system; each block and street shall be 100 and multiples of 100. All spaces above mentioned shall be numbered from the base of the dividing lines. All the spaces on the east or south side of any street shall be numbered with even numbers, commencing at the base line with number 102 and numbering consecutively therefrom to the next starting point. All spaces on the west or north side of any street shall be numbered with odd numbers, commencing at the base line with number 101 and numbering consecutively therefrom to the next starting point, and then in each case the second multiple of 100 shall be used, and so on along the length of the streets.
- d) All Buildings Numbered. All buildings situated on any street or public highway (except alleys) shall be numbered as herein provided.
- e) Size and Location of Numbers. Each of the figures of every number shall be at least three inches in length, being so marked as to be easily and distinctly read. The numbers shall be placed by the owner of the building in a conspicuous place on the side or above the front door of the building to which the same are attached.

6.28 SUBSTANDARD OR UNSAFE SIDEWALKS.

- a) Determination of Substandard, Missing or Unsafe Sidewalks. The Public Works Director shall declare sidewalks substandard and/or unsafe if:
 1. Sidewalks are broken, have sections of different height, have excessive grade, or have any other defects, such that walking on such sidewalks presents a danger under normal weather conditions.
 2. Sidewalks constructed after passage and approval of this ordinance do not conform to the specifications on file in the office of the Director of Public Works as required by Section 6.22 “Sidewalk Construction and Replacement” of the Municipal Code.
 3. Sidewalk is missing and installation of same is necessary to join existing walks or for the protection of pedestrians due to traffic hazards.
- b) Improvement of Substandard or Unsafe Sidewalks. It is hereby made the duty of the City Manager to serve a notice in writing upon the agent, owner, occupant or person in possession of any lot, improved or unimproved, in any improved subdivision or

improved area of the City, upon which sub-standard, or unsafe sidewalks are found, requiring them or either of them to make such improvements as have been deemed necessary by the Public Works Director at the time he shall have declared such substandard and/or unsafe.

- c) Financing the Improvements of Substandard or Unsafe Sidewalks.
 - 1. Sidewalks deemed unsafe and/or substandard under Subsection (a), Paragraph 1, of this Section, constructed before the passage and approval of this Section, and ordered improved under Subsection (b) of this Section, shall be financed jointly by the City and the owner, agent, occupant or person in possession of any lot as described in Subsection (b) of this Section. The City will share in the cost of repairs at 75% reimbursement based on an annual household income of less than \$40,000 and 50% reimbursement based on an annual household income of \$40,000 or greater, except for change of grade or retaining walls for private property support which shall be the responsibility of the property owner.
 - 2. Sidewalks deemed unsafe, or substandard under Subsection (a) paragraph 2 of this Section, shall be installed or repaired at the expense of the owner, agent, occupant or person in possession of any lot as described in Subsection (b) of this Section.
 - 3. Where sidewalks are missing, and installation is deemed necessary under Subsection (a), Paragraph 3, of this Section, the City Council may require sidewalk installed at the expense of the owner, agent, occupant or person in possession of any lot as described in Subsection (b) of this Section.
- d) Contracting of Sidewalk Improvements to be Done by the City Under Specified Conditions. If such owner, agent, occupant or person in possession of such described lot as in Subsection (b) does not comply with such served notice in the time allowed in such notice, the City shall contract to have such necessary repairs made and shall bill said owner, agent, occupant or person in possession of such lot according to the schedule set forth in Subsection (c).
- e) Improvement of Sidewalks Not Deemed Unsafe or Substandard by the Director of Public Works. Persons may improve sidewalks not deemed unsafe and/or substandard by the Director of Public Works, provided that such persons fulfill the requirements of Section 6.22 of the Municipal Code. Such improvements shall be made at the expense of such person.

6.29 ENCROACHMENTS ON PUBLIC RIGHT OF WAY.

Whereas, the City of DeKalb, hereinafter known as the City, and the State of Illinois, acting by and through its Department of Public Works and Buildings, Division of Highways, have entered into agreements relative to the improvement of certain State marked routes and/or city streets; and,

Whereas, in order to facilitate said improvement it is necessary for the City to adopt an

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ordinance regulating encroachments on the right of way for said improvements in accordance with the following definitions:

Roadway Right-of-Way is defined as those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect;

Project Right-of-Way is defined as those areas within the project right-of-way lines established jointly by the City, State and the United States Bureau of Public Roads which will be free of encroachments except as hereinafter defined:

Encroachment is defined as any building, fence, sign or any other structure or object of any kind (with the exception of utilities and public road signs), which is placed, located or maintained in, on, under or over any portion of the project right-of-way or the roadway right of way where no project right-of-way line has been established;

Permissible Encroachment is defined as any existing awning, marquee, advertising sign or similar overhanging structure supported from a building immediately adjacent to the building line and which does not impair the free and safe flow of traffic on the highway; the permissive retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right-of-way line and not confined by adjacent buildings;

Construction Easement Area is defined as that area lying between the project right of way limits and the platted street limits within which the City by concurrence in the establishment of the project right-of-way lines, will permit the State to enter to perform all necessary construction operations; and

Whereas, representatives of the City and the State, by visual inspection cooperatively established project right of-way lines and have mutually determined the disposition of encroachments; now, therefore, be it ordained:

- a) It shall be unlawful for any person, firm or corporation to erect, or cause to be erected, to retain or cause to be retained, any encroachment (herein above defined), except as provided in subsection (c), and as provided in Chapter 23, "Unified Development Ordinance", Article 13, "Signs", within the limits of the project right-of-way or roadway right-of-way where no project right-of-way lines have been established for said improvements as provided in Subsection (b). (1993-043)
- b) Improvement Descriptions. (1984-076)
 1. The width of North First Street Bridge (60 feet), which includes the roadway, the clearance area and the sidewalk area, also known as FAU Project M-5017 (2), Section 75-00072 -00-BR. (1976-071)
 2. Along both sides of Sycamore Road between North First Street and North Fourth Street (Illinois Route 23), also known as Section 75-00071-00-CH. (1976-089)

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3. Along both sides of North First Street beginning South of Fisk Street and extending South to Oak Street, 744 feet; along both sides of Augusta Avenue and Pine Street beginning East of Linden Place and extending East on Augusta Avenue and Pine Street, 717 feet just West of Second Street, also known as Section 76-00077-00-CH. (1979-020)
 4. Deleted. (1990-107)
 5. Along both sides of Illinois Route 23 (Sycamore Road), from Kendall Lane to Ninth Street; along both sides of Seventh Street from Sycamore Road Southerly 400 feet; along both sides of Hillcrest Drive from Sycamore Road Northwesterly 500 feet, also known as Section 78-00038-01-SP. (1979-086)
 6. Along both sides of Sycamore Road, Illinois Route 23, from Kendall Lane to Ninth Street; along both sides of Seventh Street from Sycamore Road Southerly 400 feet; along both sides of Hillcrest Drive from Sycamore Road Northwesterly 500 feet, also known as Section 80-00105-00-TL. (1980-061)
 7. Deleted. (1990-107)
 8. Along both sides of South Fourth Street (State Route 23, FA Route 68) from Taylor Street to Charter Street, also known as Section 28 (W&RS) RS-1. (1984-004)
 9. Along both sides of Bethany Road from the Easterly right-of-way of Illinois Route 23, to a point 400 feet East and along both sides of Illinois Route 23, F.A. Route 68, State Section 27-28M, from a point 850 feet South of the South right-of-way line, extended, of Bethany Road to a point 400 feet North of the North right-of-way line, extended, of Bethany Road, and known as Section 84-00109-00-TL. (1984-042)
 10. Deleted. (1990-107)
 11. Seventh Street (FAU 4354) from Oak Street to Sycamore Road (IL Route 23) designated City Section 85-00078-01-WR 85-00078-02 WR). (1988-038)
 12. West Lincoln Highway from Annie Glidden Road West to Station 196+00 the west City Limits, (Section 83-00112-00-WR). (1989-034)
 13. Illinois Route 23 (Sycamore Road) from Oakland Drive to Dresser Road - FA324 - State Section (27R & 28R) W&RS-2, City Section 93-00101-01-WR. (1993-090)
- c) Project right-of-way lines have been established at the following locations: (84-76)
1. Along both sides of Lincoln Highway (Illinois Route 23) from the Kishwaukee River Bridge to North First Street (Section 76-00079-00-WR), Lincoln Highway (Illinois Route 38) from first Street to Fourth Street (FA Route 567, Section 7W&RS-1), Lincoln Highway (Illinois Route 38) from Fourth Street to the railroad tracks 150 feet

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west of Dodge Avenue (Section District #1, BRS 1970-25, City Section 61CS), First Street from the Chicago and Northwestern Railroad North to Oak Street (Section 76-00079-00-WR) and Seventh Street (FAU 4354) from Franklin Street North to Oak Street, including the intersection of Lincoln Highway (Illinois Route 38) with Seventh Street (City Section 76-00078-00-WR, FAU Project M-5017 (3), State Section 7M+TS-1, FAP 567), two (2) feet in back of and parallel with the back of the curb as measured at a point within a block at the widest point on the street roadway inclusive of any parking stall or lane. Said project right-of-way line as determined above for each side of said street shall be extended for the entire subject block length and shall constitute the project right-of-way line for said block and shall be extended parallel with the street right-of-way line for the entire length of said block. Said project line shall be independently established for each side of each block of the above noted street sections. (1990-107)

2. Along the North side of East Lincoln Highway, 33 feet from the center of the proposed improvement, from the railroad tracks 150 feet West of Dodge Avenue to the East corporate limit, known as State Section District #1, BRS 1970-25 City Section 61CS. (1970-025)
 3. Along the South side of East Lincoln Highway, 40 feet from the centerline of the proposed improvement, from the railroad tracks 150 feet West of Dodge Avenue to the East Corporate limit, known as State Section District #1, BRS 1970-25 City Section 61CS. (1970-025)
 4. Along both sides of West Lincoln Highway, 2 feet in back of and parallel to the curbs within the limits of the improvement known as State Section 34-1, City Section 63-CS. (1973-074)
 5. Along both sides of Illinois Route 23 (Sycamore Road) from Fifth Street north to Dresser Road, designated FA324, State Section 27R & 28R) W&RS-3, City Section 93-00101-02-WR. (1995-002)
 6. Along both sides of Illinois Route 23 (Sycamore Road) from Fifth Street, South to Davy Street, designated FA324, State Section 27R & 28R, M-2, City Section 96-00147-00-TL. (1996-075)
- d) This Section is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith.
- e) Any person, firm, or corporation violating this section shall be fined not less than \$25.00 nor more than \$500.00 for each offense and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

6.30 ACCESS DRIVEWAYS.

No driveway along a public right-of-way and no openings in any curbs shall be allowed unless a permit has been obtained from the Building and Community Services Department of the City of DeKalb, with the written concurrence of the Director of Public Works or his designee. A brief description of the proposed work shall be included in an application, together with the location of the work. The name, address, and telephone number of the applicant, and fee title owner shall also be included. No work shall be undertaken on the City's right-of-way until a formal permit has been received by the applicant, as defined in Section 6.11 of this Chapter.

- a) No permit shall be granted unless it conforms to the guidelines contained in the latest edition of the Policy on Permit for Access Driveways to State Highways published by the Department of Public Works and Buildings of the State of Illinois, three copies of which are on file with the City Clerk and have been on file with the City at least 10 days prior to the passage of this ordinance.

Any driveway approach hereafter constructed on public right-of-way shall be paved with bituminous concrete (six inches thick gravel or crushed stone base (CA-6) with two inches of bituminous concrete surface) or Portland cement concrete (six inches thick).

- b) Whenever a driveway approach on a public right-of-way or an opening in any curb is abandoned by the property owner of adjacent land, said property owner shall remove at his expense the driveway or curb opening at the time of abandonment and restore the right-of-way to its proper grade and condition. It shall be a violation of this Chapter 6.30 not to restore the abandoned driveway and/or curb opening, and no permit for new driveways or curb cuts shall be granted to any person who does not comply with this Chapter 6.30. (1979-015)
- c) Penalty. Failure to comply with the provisions of this Chapter 6.30 and the permits issued hereunder is punishable by a fine of not less than \$100.00 nor more than \$500.00 and an additional fine of \$10.00 for each day such failure continues.

6.31 STREET NAMES.

The official street names for streets and highways within the corporate limits of the City of DeKalb shall be the names shown on the “Official Zoning Map” as of the last day of March of each year, which has been approved by the City Council. The “Official Zoning Map” is required by Chapter 23 "Unified Development Ordinance", Section 23.01 "Unified Development Ordinance", of the Municipal Code of the City of DeKalb and Article 4 "Zoning Districts and Official Zoning Map, Section 4.03 Official Zoning Map of the Unified Development Ordinance of the City of DeKalb. (1981-079, 1994-129, 2001-098)

- a) Street name revisions shall be approved by ordinance of the City Council of the City of DeKalb and while effective immediately, shall be posted to the next succeeding official "Official Zoning Map". All street name revisions made following the passage and approval of this Ordinance on October 26, 1981, shall be as follows:

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New Name	Previous Name	Limits
Ash Court (1992-096)	Ashley Court	Located in Phase I of The Knolls at Prairie Creek P.U.D.
Challenger Drive (2001-098)		Commerce Street Extending West from Peace Road.
Corporate Drive (1984-008)		Unnamed Harvestore Drive to Gurler Road.
County Farm Road	Loves Road	Commencing at the south right-of-way line of Barber Greene Road and extending southeasterly to a point 365 feet southeasterly of the intersection of Peace Road.
Fox Hollow (2003-123)	Fox Hollow Court	From 680 feet north of Hillcrest Drive north right-of-way to north terminus.
Gurler Street (1981-079)	Unnamed	Hickory Street to Clifford Drive (southwesterly intersection).
Lincoln Way (1981-079)	Unnamed	John Street to Harrison Street.
Pearl Street (1981-079)	Unnamed	Lincoln Highway and Lincoln Way.
Palmer Court (1990-115)	Unnamed	Public way between 1 st and 3 rd Streets named for Dee Palmer and the Palmer Family.
Pleasant Street (1996-026)	Loves Road / Unnamed	Commencing at a point on Pleasant Street 1,250 feet east of the west line of Section 19, T40N, R5E of the 3 rd Principal Meridian, and continuing easterly along the newly constructed (1995) circuitous northerly and easterly street traversing the west, north and east sides of the DeKalb Taylor Municipal Airport to a point 11.2 feet south of and adjacent to the north east corner of lot A, Section 19 in T40N, R5E of the 3 rd Principal Meridian, DeKalb County, said point being one and the same as a point on the center line of Pleasant Street east of Section 19 and the DeKalb Taylor Municipal Airport.
Pride Avenue (2010-062)	Wildflower Lane	Extending north from Dresser Road.
Saint Andrews Drive (2005-019)	Grand Avenue	Extending east/southeast from South Pointe Drive.
Wirsing Parkway (2005-004)	Oakland Drive	Extending west from Peace Road.

John Huber Parkway (2009-007)	Bethany Road	The north-south terminus of the Bethany Road extension.
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6.32 PLACEMENT OF MAILBOXES WITHIN THE PUBLIC RIGHT-OF-WAY.

For the purpose of this Section, a mailbox shall include rural route mailboxes, newspaper boxes, fast freight drop-off boxes and any similar devices intended for use as curbside drop-off or delivery.

- a) Mailboxes located in the public right-of-way shall be placed to safely and conveniently serve mail carriers.
- b) Mailboxes shall be located on the right-hand side of the road in the direction of travel established for vehicular traffic.
- c) Mailboxes shall be installed in accordance with the following setbacks:
 - 1. A minimum 12-inch and a maximum 14-inch setback from the face of the curb to the face of the mailbox.
 - 2. An 18-inch setback from the back of the curb to the face of the mailbox support.
 - 3. A maximum of 38-inches and a minimum of 36-inches between the top of the curb and the bottom of the mailbox. (2006-083)
 - 4. Mailboxes and their supports shall not encroach in or upon any public sidewalk.
- d) Mailbox supports shall be constructed of nominal four inch (4") by four inch (4") or four-and one-half inch (4-1/2") diameter wood posts, or one and one half inch (1-1/2") to two inch (2") diameter standard steel or aluminum pipe posts, buried no more than twenty-four inches (24") into the ground.
- e) The mailbox shall be securely attached to its support to prevent it from separating from the support if struck by a vehicle.
- f) The mailbox shall display the appropriate address assigned, visible to the mail carrier.
- g) The property owner shall be responsible for the replacement, repair and maintenance of said mailboxes.
- h) A mailbox located in the public right-of-way that is damaged by the City will be replaced or repaired by the City provided said mailbox had been properly installed and maintained in accordance with the ordinance regulations prescribed in this Section 6.32, excepting the maximum height requirement for a mailbox installed prior to September 21, 2006. (2006-083)
- i) The placement of "cluster boxes" may be approved by the Public Works Director or

his/her designee.

- j) If the owner of any premises within the City fails to correct or remove an unapproved mailbox/support installation after seven days from the issuance of a written order by the City Manager or the Director of Building and Community Services, they shall cause the summary abatement of such nuisance at the expense of the person responsible for the same. (1992-041)

6.33 NON-CONFORMING MAILBOX/SUPPORT INSTALLATIONS.

The use of existing mailbox/support installations which do not conform to the Provisions of the ordinance may be continued, although such use does not conform with the provisions hereof, and such use may be extended provided no structural alterations are made therein. Whenever a non-conforming use of a mailbox/support has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

- a) No mailbox/support installation which has been damaged by fire, explosion, act of God, the public enemy, intentional or unintentional causes, to the extent of more than seventy-five (75) percent of its value, shall be restored except in conforming with the regulations of this ordinance.
- b) No existing mailbox/support installation devoted to a use not permitted by this ordinance, shall be enlarged, extended, reconstructed, or structurally altered, unless such use is changed in conforming with the regulations of this ordinance.
- c) The following mailbox/support installation locations are exempt from the provisions of Section 6.33; however, shall comply with the nonconforming conditions as prescribed in Section 6.33, a) and b) of this ordinance:

List of Known Unapproved Mailbox Installations: (1992-041)

- 2820 Country Club Lane
- 2700 Country Club Lane
- 430 Greenwood North
- 438 Greenwood North
- #5 Arrowhead Lane
- #10 Arrowhead Lane
- 2501 Greenwood Acres
- 2575 Greenwood Acres
- 2640 Greenwood Acres
- 2657 Greenwood Acres
- 622 Oakland Drive
- 2502 Pleasant Street
- 2766 Country Club Lane

6.58 REVOCATION - SUSPENSION OF PERMIT.

Prior to suspension or revocation, the permit holder shall be given notice, in writing, from the City Manager, of the proposed action to be taken and shall have an opportunity to be heard. All decisions by the City Manager are final and not subject to appeal. (2005-055)

6.59 VIOLATION - PENALTY.

Any person who violates or who resists enforcement of any of the provisions of this Chapter shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and each day a violation continues shall be deemed a separate and distinct offense. (1994-098)

6.60 SMALL WIRELESS FACILITIES. (2018-040)

a) Purpose and Scope.

1. Purpose. The purpose of this Ordinance is to establish regulations, standards, regulations and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City’s jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent the Small Wireless Facilities Deployment Act, Public Act 100-0585.
2. Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.
3. Conflicts with State, Federal and Local Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations. Nothing contained herein shall be construed to permit or authorize the construction, installation or maintenance of small wireless facilities within the corporate limits of the City outside of rights of way, nor outside of properties zoned exclusively for commercial or industrial use, nor in any manner inconsistent with the aforementioned Act. Any such construction, installation or maintenance not permitted or authorized herein is expressly prohibited.

b) Definitions.

All terms defined in this section have the meaning provided in Section 10 of the Small Wireless Facilities Deployment Act (PA 100-0585).

Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable Codes: Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those

codes, including the National Electric Safety Code.

Applicant: Any person who submits an application and is a wireless provider.

Application: A request submitted by an applicant to an authority for a permit to collocate small wireless facilities, which may include a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Authority: A unit of local government that has jurisdiction and control for use of public rights-of-way as provided by the Illinois Highway Code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way.

Authority Utility Pole: A utility pole owned or operated by an authority in public rights-of-way.

Collocate or Collocation: To install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications Service: Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications Service Provider: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC: The Federal Communications Commission of the United States.

Fee: A one-time charge.

Historic District or Historic Landmark: A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the authority pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law: A federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro Wireless Facility: A small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Permit: A written authorization required by an authority to perform an action or initiate, continue, or complete a project.

Person: An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

Public Safety Agency: The functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate: A recurring charge.

Right-of-Way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or public utility easement dedicated for compatible use. Right-of-way does not include authority-owned aerial lines.

Small Wireless Facility: A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services. Applicants shall be required to provide satisfactory proof to the City that they meet or exceed both of these limitations.

Utility Pole: A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless Facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under,

or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless Infrastructure Provider: Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the authority.

Wireless Provider: A wireless infrastructure provider or a wireless services provider.

Wireless Services: Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless Services Provider: A person who provides wireless services.

Wireless Support Structure: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

c) Regulation of Small Wireless Facilities.

1. Permitted Use. Small wireless facilities shall be classified as permitted uses when located on real property and subject to administrative review, except as provided in herein regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zone, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.
2. Permit Required. An applicant is required to obtain one or more permits to collocate a small wireless facility. An application is received and processed, and permits are issued subject to the following requirements:
 - (a) Public Safety Space Reservation. The City may reserve space on authority utility poles for future public safety uses but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the authority utility pole cannot accommodate both uses.
 - (b) Application Requirements. A wireless provider shall be required to provide the following information when seeking a permit to collocate small wireless facilities on a utility pole or wireless support structure:
 - i. Site specific structural integrity and, for an authority utility pole, make-ready

analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

- ii. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;
 - iii. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
 - iv. The equipment type, model numbers and size for the antennas and all other wireless equipment associated with the small wireless facility;
 - v. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - vi. Certification that the collocation complies with the requirements herein to the best of the applicant’s knowledge.
3. Alternate Placements. With respect to an application for the collocation of a small wireless facility associated with a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

The City may require the applicant to provide a written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

4. Height Limitations. The City shall limit the maximum height of a small wireless facility to 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

Subject to any applicable waiver, zoning, or other process that addresses wireless provider requests for an exception or variance and does not prohibit granting of such exceptions or variances, the City shall limit the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated to the higher of: 1)10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-

way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or, 2) 45 feet above ground level.

5. Requirements.

- a) The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.
- b) The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- c) The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning, or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- d) The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- e) The wireless provider shall comply with generally applicable standards that are consistent with PA 100-0585 and adopted by an authority for construction and

- public safety in the rights-of-way, including, but not limited to, reasonable and nondiscriminatory wiring and cabling requirements, grounding requirements, utility pole extension requirements, and signage limitations.
- f) The wireless provider shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole. For purposes of this subparagraph (f), the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.
 - g) The wireless provider shall comply with the applicable codes and local code provisions or regulations that concern public safety.
 - h) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are identified by the City in an ordinance, written policy adopted by the governing board of the authority, a comprehensive plan, or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
 - i) Subject to the subsection titled Permitted Use, and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4), the City requires reasonable, technically feasible and non-discriminatory design or concealment measures in a historic district or historic landmark. Any such design or concealment measures, including restrictions on a specific category of poles, may not have the effect of prohibiting any provider's technology. Such design and concealment measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility. This paragraph may not be construed to limit an authority's enforcement of historic preservation in conformance with the requirements adopted pursuant to the Illinois State Agency Historic Resources Preservation Act or the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 et seq., and the regulations adopted to implement those laws.
6. **Completeness of Application.** Within 30 days after receiving an application, the City must determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City. Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing

information.

7. Application Process. The City shall process applications as follows:

- a) An application to collocate a small wireless facility on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 90 days. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.
- b) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 120 days. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.
- c) The City shall approve an application unless the application does not meet the requirements of this Ordinance. If the City determines that applicable codes, local code provisions or regulations that concern public safety, or the Requirements of paragraph (5) require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider. The City must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to the applicant on or before the day the City denies an application. The applicant may cure the deficiencies identified by the City and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. However, the applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the

- deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
8. Tolling. The time period for applications may be further tolled by: 1) the express agreement in writing by both the applicant and the City; or 2) a local, State or federal disaster declaration or similar emergency that causes the delay.
 9. Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.
 10. Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for an authority utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant. The applicant shall provide documentation to the City evidencing its compliance with these timelines upon request, and the failure or refusal of the applicant to provide such documentation shall constitute grounds for voiding a permit. A permit which is issued and for which construction is not timely implemented and completed as required herein shall be void and of no further force or effect after the passage of the time periods described above, without requirement of any City notice or due process.
 11. Duration of Permits. The duration of a permit shall be for a period of 5 years, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or regulations. If PA 100-0585 is repealed as provided in Section 90 of the Act, renewals of permits shall be subject to the applicable authority code provisions or regulations in effect at the time of renewal.
 12. Means of Submitting Applications. Applicants shall submit applications, supporting information, and notices by personal delivery only, with an electronic copy of all plans and documents provided to the City in the format required by the Community

Development Director. The City may require that permits, supporting information, and notices be submitted by personal delivery at the City's designated place of business. Fifteen paper copies of all documents submitted for permit application shall be provided at the time of delivery of the personally delivered application.

c) Application Fees. Application fees are subject to the following requirements:

1. The City will charge an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure and \$350 for each small wireless facility addressed in an application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
2. The City will charge an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
3. Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section must be accompanied by the required application fee.
4. The City shall not require an application, approval, or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - (a) routine maintenance;
 - (b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements under the subsection titled Application Requirements; or
 - (c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

However, the City shall require a permit to work within rights-of-way for activities that affect traffic patterns or require lane closures. Such permit shall be required under the provisions of City Code as contemplated by the remaining portions thereof.

- (d) Exceptions to Applicability. Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:
 - i. property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without

the consent of the property owner;

- ii. property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
- iii. property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed, and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

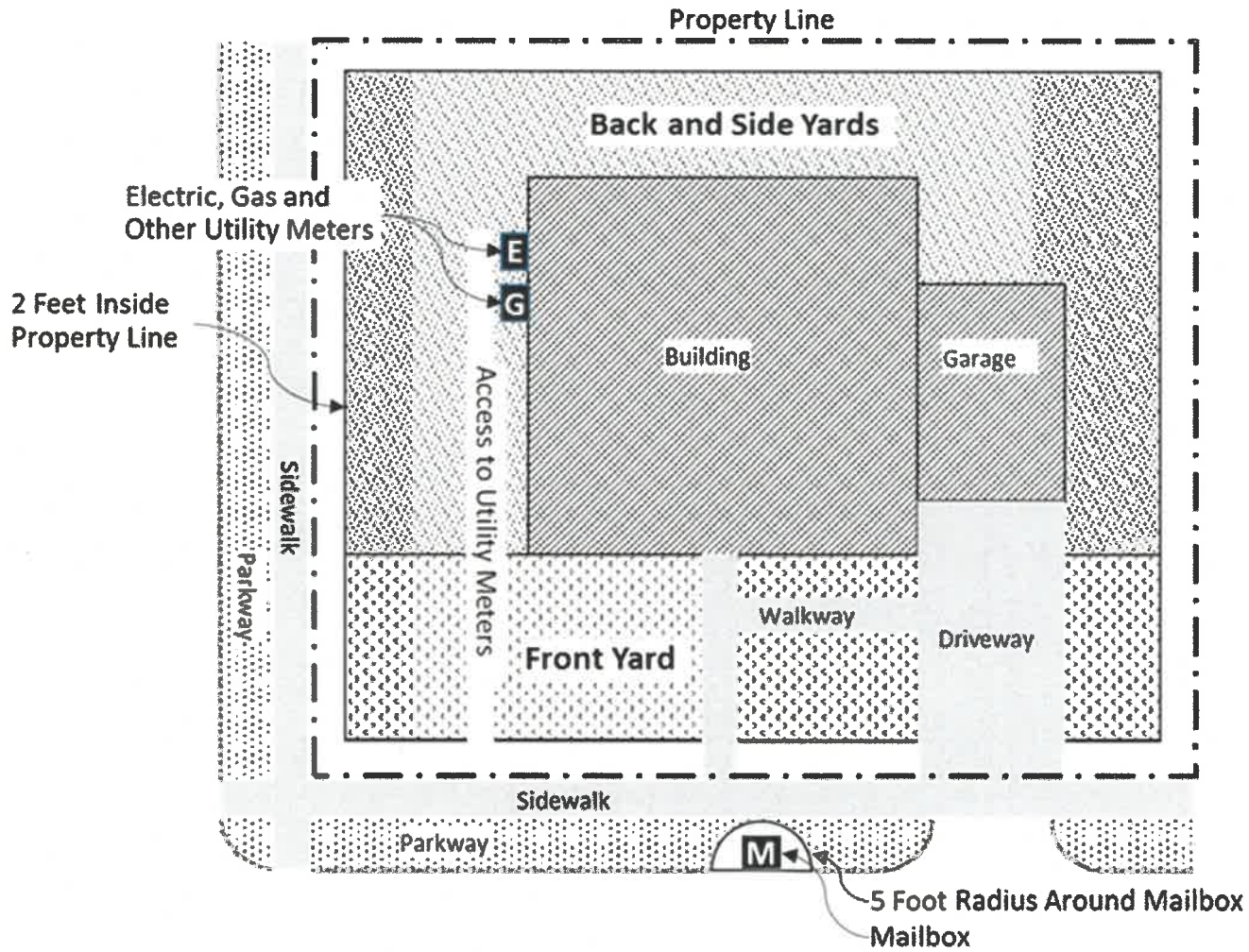
- e) Annual Recurring Rate. The City shall charge an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct, and reasonable costs related to the wireless provider's use of space on the City utility pole. Rates for collocation on City utility poles located outside of a right-of-way are not subject to these limitations and shall be imposed by the City by virtue of a separate collocation agreement between the City and a given provider. Collocation on other City-owned facilities shall also require a separate collocation agreement between the City and the provider.
- f) Aerial Facilities. For City utility poles that support aerial facilities used to provide communications services or electric service, wireless providers shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations.
- g) Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of the facility must remove the small wireless facility within 90 days after receipt of written notice from the City notifying the owner of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the owner. If the small wireless facility is not removed within 90 days of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for authority utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

Any owner of such a facility shall, upon request, provide documentation to the City evidencing its full compliance with the terms of this Ordinance, including but not limited to evidence of ongoing operation or abandonment.







- h) Transfers. Any wireless provider operating small wireless facilities under the terms of this ordinance shall be required to provide written notice to the City if it sells or transfers small wireless facilities within the jurisdictional boundary of the City. Such notice shall include the name and contact information of the new wireless provider and such other information as the Community Development Director shall require.
- i) Indemnification. A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the authority improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and PA 100-0585. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on any theory of liability. Under no circumstances shall the City be liable to a wireless provider for any lost profits, property damage, replacement or restoration of collocated wireless provider equipment.
- j) Insurance. Any wireless provider operating small wireless facilities under the terms of this ordinance shall be required to implement and maintain, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; and (iii) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. The wireless provider shall name the City as an additional primary insured on the commercial general liability policy, without right of subrogation and provide certification and documentation of inclusion of the City in a commercial general liability policy as reasonably required by the City.

Managed Landscape Ordinance - Reference Drawing of Typical Corner Property

Note: Dimensions and proportions may not be indicative of the actual residential lot



KEY

	Parkway		Front Yard		Building or Garage
	Driveway, Walkway, or Sidewalk		Back and Side Yards		Property Line