

CHAPTER 30 STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

Art. I	In General, Secs. 30-1--30	43
Art. II	Excavations, Secs. 30	44 30 57
Art. III	Moving Building, Secs. 30	58 30 86
	Div. 1. Generally, Secs. 30	58 30
70	Div. 2. Permit, Secs. 30-71--30	86
Art. IV	Private Driveways, Secs.30	87 30 101
Art. V	Service Driveways, Secs. 30	102 30 120
Art. VI	Sidewalk Construction, Secs. 30	121 30 125
Art. VII	Construction of Utility Facilities in the rights-of-way, Secs. 30	160 – 30 182

ARTICLE I. IN GENERAL

Cross References Authority for Superintendent of Environmental Services Utility to issue tickets and citations, Sec. 2 1; bond for Superintendent of Environmental Services Utility, Sec. 2 2; maintenance authority of Superintendent of Environmental Services Utility, Sec. 2 10; datum established in elevations for bridge of streets and sidewalks Sec. 2-14; consulting engineers, Sec. 2 84 et seq.; plan commission, Sec. 2 162 et seq.; Superintendent of Environmental Services Utility, Sec. 2 179; signs on sidewalks or terraces prohibited, Sec. 3 13; building and building regulations, Sec. 8 1 et seq.; transporting flammable and combustible liquids and LP gases over city streets, Sec. 14 5; burning weeds, leaves or other material on streets and sidewalks, etc. prohibited, 14 63 (4); littering prohibited, Sec. 16 21; sweeping from commercial establishments or from sidewalks into the gutter prohibited, Sec. 16 22; deposit of grass and rubbish prohibited in public streets, Sec. 16 23; obstructing water passage in streets. 22 25; destructing or defacing public property, Sec. 22 26; injuring or removing vegetation, fences, signs, on public property, Sec. 22 27; changing, removing, etc. cornerstones, stakes, etc. prohibited Sec. 22 29; mobile homes and mobile home parks, Sec. 23 1; water, filth, and unclean liquids in streets declared nuisance, Sec. 24 8; railroad crossings, Sec. 28 2; street obstruction by railroad, Sec. 28 3; mobile homes and mobile home parks, Sec. 23 1; subdivisions, Sec. 30 1 et seq.; traffic and vehicles, Sec. 32 1 et seq.; water and sewers, 31 1 et seq.; unauthorized turning on or tampering with fire hydrants, Sec. 34 2.

Sec. 30 01. Certain ordinances relating to streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed as repealing or otherwise affecting the validity of any ordinance:

- (1) Dedicating, accepting, naming, establishing, locating, relocating, opening, paving, widening, improving or vacating any street, sidewalk, alley, park or other public ground;
- (2) Establishing or prescribing grades for streets in the city and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 30 02. Obstructions in streets/alleys generally.

It shall be unlawful for any person to cause, create, or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by ordinance, resolution, or the Superintendent of the Environmental Services Utility. No person shall encumber or obstruct any street, alley, or sidewalk with building or other materials, without a written permit from either the Superintendent of the Environmental Services Utility, City Engineer, or Code Enforcement Official. No person shall, except in case of necessity, obstruct more than one-third

(1/3) of any street or alley or one-half (1/2) of any sidewalk. No such obstruction shall be permitted to continue in any case longer than may be necessary in the diligent erection of such building, or the prompt execution of the work. (Code 1965, Sec. 9 03; Ord. 11-32, 5/16/11)

Sec. 30 03. Permit for parades.

- (a) No group or person of more than ten (10) in number shall conduct a parade or march or a public demonstration, upon or along the streets or sidewalks of the City at any time of the day or night, without first obtaining a permit from the City Council, in writing for the same. Said permit shall designate upon what streets the parade or public demonstration may pass or be conducted and the nature and character of the procession. Application shall be made to the Chief of Police of the City of Kankakee, who in turn shall forward to the City Clerk for presentation to the City Council at its next regular meeting.
- (b) No permit shall be issued under this Section until the Applicant has provided proof of the following:
 - (i) Minimum of \$1,000,000.00 liability insurance for any damage, mishap or injuries that might occur during the parade or public demonstration.
 - (ii) Holding the City of Kankakee harmless for any loss suffered by the City as a result of said parade or public demonstration.
 - (iii) Proof of adequate security for the persons conducting the parade or public demonstration.
 - (iv) The naming of a person residing within the City limits, who will act as a registered agent for such group.
- (c) If any parade or public demonstration hereunder is to be conducted upon property owned by a municipal corporation or other public body within the City, then no such permit shall be issued until the Applicant provides written permission from said municipality, municipal corporation or public body to conduct such parade or public demonstration. (Ord. No. 97-25, Sec. 30-3, 4-21-97)
- (d) A funeral, procession or parade containing twenty (20) or more persons or five (5) or more vehicles except the military forces of the United States or of this state, and the forces of the Police and Fire Departments shall occupy, march, or proceed along any street only in accordance with a permit issued by the Chief of Police. (Code 1965, Secs. 4111, 51 55.)
- (e) Hours of restriction. It is unlawful for any group, organization, or any individual to conduct or participate in any march, assembly, meeting or gathering on roadway during peak traffic periods unless authorized by the City Council. Peak traffic periods are for the purposes of this article declared to be 7:30 a.m. to 9:00 a.m. in the forenoon, and from 4:30 p.m. to 6:00 p.m. in the afternoon, Monday through Friday, except for state and national holidays.

Cross Reference Disturbing funerals, Sec. 22-12; driving through funeral processions, Sec. 32 19.

State law reference Streets and public ways, Ill. Rev. Stat., Ch. 24, Sec. 11 80 1 et seq.

Sec. 30 03.1. Permit for use of sound amplification equipment.

No person shall use sound amplification equipment in, upon or along the streets or sidewalks of the City at any time of the day or night, without first obtaining from the Chief of Police a permit in writing for the same, which permit shall designate in what areas and the time that such equipment may be used. The Chief of Police shall be the official issuing

said permits and he shall have power to issue or refuse to issue such permit, as he may deem for the best interests of the City. (Ord. No. 72 41, Sec. 1, 9 18 72)

Sec. 30 04. Games on streets and sidewalks.

No person shall engage in any game, sport or amusement, or exhibit any animal or machine, or do anything else in the streets, sidewalks, alleys or other public space, which will interfere with vehicles or persons on the streets, sidewalks, alleys or other public space. (Code 1965, Sec. 51 36).

Sec. 30 05. Use of coasters, roller skates and similar devices.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device shall go upon any roadway except while crossing a street on a crosswalk and except upon streets set aside as play streets when and as authorized by ordinance. (Code 1965, Sec. 41.16)

Sec. 30-06. Bond required for builders blocking streets.

Any owner or agent of any real estate, or any contractor or builder, who may be about to commence the erection of any building or the alteration or improvement of any building in front of or abutting upon any street, and when the construction, alteration or improvement of any such building will interfere or be likely to interfere with the free passage through or over the street or sidewalk by reason of any excavation in or near the street or sidewalk or by placing in and upon the same of any building material shall, before commencing any such work, execute an indemnifying bond to the city in such reasonable sum, and with surety or sureties, as may be fixed by the Mayor, to answer and pay for all damages for any injury that may result to persons or property from any such interference with or obstruction of such street or sidewalk. The bond shall be conditioned to indemnify the City of Kankakee, all its employees and agents for any loss or damage resulting from work undertaken, manner of doing the same, or failure to complete the same. (Code 1965, Sec. 9-04)

Sec. 30 07. Building encroaching on street.

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street, sidewalk, alley or other public property. The owner of any building or structure or enclosure extending into or encroaching upon any public street, sidewalk, alley, or other public property shall remove the same within thirty (30) days after being notified in writing to do so by the Superintendent of the Environmental Services Utility or the Code Enforcement Official. The City Council may direct the Chief of Police to take down and remove such obstruction or encroachment upon any street or alley, and the cost of expense of such taking down and removal may be collected by suit in the name of the City, against the person causing or erecting such encroachment. (Code 1965 Sec. 9-05)

Sec. 30 08. Trees overhanging streets.

The owner/owners of every lot or parcel of land in the City of Kankakee upon which any tree is now or may hereafter be growing shall trim or cause to be trimmed the branches thereof, so that the same shall not obstruct the free passage of persons or vehicles from any street, alley, or sidewalk in the City. The owner/owners shall trim all branches of any tree/trees now or hereafter growing on their premises which overhang any street, or alley, so that there shall be a clear height of 12-feet above the surface of the street, or alley unobstructed by branches, and a clear height of not less than 10-feet over any sidewalk, and shall remove from such tree or trees all dead, decayed or broken and/or hazardous limbs or branches that overhang such streets, alleys, or sidewalks, and, when any of such trees are dead and/or hazardous, shall remove the same so that they shall not fall into the street, alley, or sidewalk. The Superintendent of the Environmental Services Utility or Code Enforcement Official shall notify such owner or occupant in writing to trim such tree within the time and in the manner specified in the notice. If any person so notified shall neglect to comply

with such notice the Superintendent shall cause such trees to be trimmed and the cost thereof may be recovered by suit against such person. (Code 1965, Sec. 9.07)

Sec. 30 09. Obstructions by merchandise; display on sidewalk.

No unauthorized person shall obstruct or encumber any street, alley or sidewalk with any merchandise, fuel or other articles longer than may be necessary for the loading and unloading of the same. No person shall display any merchandise upon or over any sidewalk, except on authorized newsstands. (Code 1965, Sec. 9.11)

The following criteria shall be met before permission is given to block city sidewalks and streets, to wit:

(a) Such permission shall be sought in writing by any business or resident of the City. Said request shall be filed with the City Clerk.

(b) Such permission shall not be granted to the same location more than once in any six (6) month calendar period.

(c) Any authorization to block a street or sidewalk under this policy shall not be in excess of a three (3) consecutive day period and shall only exist during regular business hours.

(1) Sidewalk sales may be held on Saturdays from May 1 through October 31. Sales must be held during regular business hours.

(2) Section 30-09 (c) (1) is the only exception to Section 30-09. (Ord. 2010-19, 5/17/2010)

(d) Any requests hereunder shall be presented to the City Council for its approval or denial. (Ord. 2010-14, 4/19/2010)

Sec. 30 10. Removal of street obstructions.

The City of Kankakee Superintendent of the Environmental Services Utility, City Engineer, City Planner, City Code Official, Police Chief, Fire Chief or any authorized staff under their supervision may immediately remove any article or thing illegally located within any street, alley, sidewalk or other public place. Once removed the property will be stored at the Environmental Services Utility Building, located at 401 West Oak Street, for a period of 72 hours. If an owner wishes to reclaim the property they must pay a \$100.00 reclamation fee, per item, within the aforementioned 72 hour period.

(Code 1965, Sec. 9.15)

Sec. 30 11. Encroachments on sidewalk.

No part of any sidewalk shall be taken for private use. Entrances to basements and flights of steps may be made which shall not extend into or on the sidewalks more than four (4) feet next to the building, and the width of the steps, or entrances in sidewalks to basements shall not be more than five (5) feet. Such encroachments shall be securely protected by the owner or occupant of the building. Such encroachments shall be constructed in a manner that will properly safeguard the public. Any existing encroachment or hereafter encroachment authorized by the City shall be the owner or owners' responsibility to maintain and shall be required to be removed, in its entirety, if requested by the City within 30-days or written notification or publication in the local newspaper. The property owner or owners shall

hold harmless the City of Kankakee, all its employees and agents from all losses, costs, loss of use, damages or bodily injury, including death, and all attorney's fees and costs resulting from any existing encroachment, hereafter encroachment authorized by the City, or removal of any existing or hereafter encroachment. (Code 1965, Sec. 9.19)

The City of Kankakee Superintendent of the Environmental Services Utility, City Engineer, City Planner, City Code Official, Police Chief, Fire Chief or any authorized staff under their supervision may immediately remove any article or thing illegally located within any street, alley, sidewalk or other public place. Once removed the property will be stored at the Environmental Services Utility Building, located at 401 W. Oak Street, for a period of 72 hours. If an owner wishes to reclaim the property they must pay a \$100.00 reclamation fee, per item, within the aforementioned 72hour period. (Ord. 2013-10, 3/4/13)

Sec. 30 11.1. Encroachment on roadway right of way prohibited; definitions, intent of section, penalty for violation.

- (a) Encroachment prohibited. It shall be unlawful for any person, firm, or corporation to enact or cause to be enacted, to retain or cause to be retained, any encroachment within the limit of the roadway right of way.
- (b) Definitions.
 - (1) 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.
 - (2) 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 roadway right of way.
- (c) Intent. 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.
- (d) Penalty. Any person, firm or corporation violating this section shall be fined not less than fifteen dollars (\$15.00) nor more than five hundred dollars (\$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. (Ord. No. 81-33, Secs. 1 3, 6 15-81)

Editor's Note - Whereas the preliminary language contained definitions germane to the rest of Ord. No. 81 33, the editor, in his discretion, has included said definitions as paragraph (b) of the above section.

Sec. 30 12. Extending sidewalk.

No person shall build or extend any sidewalk beyond the established width. (Code 1965, Sec. 9.20)

Sec. 30 13. Inserting metal or glass in sidewalk prohibited.

No person shall insert any smooth pieces of glass or metal in any sidewalk. (Code 1965, Sec. 9.20)

Sec. 30 14. Water drainage on sidewalk.

No person shall permit the water draining from the roof of any building owned, occupied or controlled by him, to spread over the sidewalk in front of the same. (Code 1965, Sec. 9.22)

Sec. 30 15. Connection of sanitary or waste sewers to storm water drainage systems: intent of provisions; penalty for violation.

- (a) It shall be unlawful for any person, firm, or corporation, or institution, public or private, to connect or cause to be connected, any drain carrying, or to carry, any toilet, sink, basement, septic tank, cesspool, industrial waste or any fixture or device discharging polluting substances, to any open ditch, drain, or drainage structure installed solely for street or highway drainage purposes in the City.
- (b) This section is intended to and shall be in addition to all other ordinances, state statutes, rules and regulations, concerning pollution and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict, therewith.
- (c) Any person, firm or corporation violating this section shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists. (Ord. No.81 31, 6 15 81)

Editor's Note At the editor's discretion, Ord. No. 81 31, Secs. 1 3, enacted June 15, 1981, has been set out herein as amending Sec. 30 15.

Sec. 30 16. Snow and debris on sidewalks.

The owner or occupant of any building, the owner or lessee of any premises, and every person having the charge or control of any church, hall or public building within the City, shall, during the winter season whenever there is a fall of snow, and by 10:00 a.m. every day, unless the snow is still falling, clear the sidewalks in front of or adjoining such building or premises, from snow and ice, and keep the same conveniently free there from; or shall, in case the snow and ice are so congealed as not to be removed without difficulty or injury to the pavement, strew the same with ashes, sand or sawdust. He shall also, at all times, keep such sidewalks clear and free from dirt, filth, weeds or other obstructions, so as to allow pedestrians the safe and unobstructed use of the same. (Code 1965, Sec. 9.23)

Sec. 30 17. Barbed wire on or near sidewalks.

No person shall place or maintain any barbed wire upon or near any sidewalk. (Code 1965, Sec. 9.08)

Cross Reference Barbed wire fences prohibited in noncommercial districts, (Sec.8 128)

Sec. 30 18. Gates opening on to streets or sidewalks.

All gates opening upon any public place or street shall be constructed so that no part of such gate shall swing over, upon or above any part of the sidewalk or street adjacent thereto, unless such gate is so constructed as to be self shutting. No person shall permit or allow any gate under his control to project into any such public place. (Code 1965, Sec.9.09)

Cross Reference Fences, Sec. 8 121 et seq.

Sec. 30 19. Hauling materials through the streets.

Any person engaged in hauling loose materials through the streets shall carry the same in tight boxes or dump beds or barrels, and in case any material falls into the street, shall cause the same to be taken up and removed. (Code 1965, Sec. 9.14)

Sec. 30 20. Open cellar doors, wells, and other openings near streets and sidewalks.

- (a) No person shall leave open, or permit to be left open, any cellar door, basement entrance, vault, cistern, well, ditch or other like pit or hole, on or adjoining any street, alley or sidewalk, within the City, without securing or protecting the same so as not to endanger the safety of persons passing thereby.
- (b) Every opening in any sidewalk over any vault or coal hole shall be covered with a substantial iron grate or plate with a rough surface to prevent accidents, and the construction of all vaults and coal holes under sidewalks shall be subject to the supervision of the City Consulting Engineer or Superintendent of the Environmental Services Utility or such other officer as may be designated by the City Council. (Code 1965, Secs. 9.10, 0.21, 51.42)

Sec. 30 21. Requirements for curb and gutters; permit for removal or cutting

- (a) All concrete curbs and gutters shall be constructed in accordance with the following specifications:
 - (1) Curbs shall be Type M3:12 in residential areas or as Directed by the Engineer and Type B6:24 in all other areas and shall conform to the approximate section of the Illinois Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition. (Ord. No. 98-104, Sec. 1, 12-21-98).
 - (2) The concrete shall consist of one part Portland Cement, two (2) parts fine aggregate, and three and one half (3 1/2) parts coarse aggregate. All materials shall be accurately measured in a manner approved by the City Consulting Engineer.
- (b) No person shall remove, cut, mar, deface, or in any way break or disfigure any street curb without first obtaining a permit therefore. (Code 1965, Sec. 9.26)

Cross References Permits for building new residential, commercial or industrial premises to be denied unless the plans also provide for the installation and construction of curbs, gutters and sidewalks, Sec 8 3(a); permits for improvements to existing structures exempted, Sec 8 3(b); specifications, Sec. 8-3(c), (d); waiver of requirements, Sec. 8 3(e); Building Inspector authorized to prohibit occupancy absent compliance, Sec. 8 3(f).

Sec. 30 22. House numbering.

- (a) The owner or occupant of any building in the City shall have the proper street number of the building posted on the front of the building in plain view from the street in front of the building. The number shall be in plain figures not less than three (3) inches by two (2) inches.
- (b) Street numbers shall be determined as follows: On north south streets, buildings in the first block north from Court Street shall be numbered from one hundred (100) with the even numbers on the east side of the street and the odd numbers on the west side of the street. Buildings in each block north thereafter shall be numbered in successive hundreds. Buildings on north south streets south of Court Street shall be similarly numbered from Court Street with each block south numbered in successive hundreds. On east west streets, buildings in each block shall be similar numbered in successive hundreds east and west of West Avenue, with the even numbers on the south side of the street and the odd numbers on the north side of the street.
- (c) Any person may apply to the City of Kankakee Planner for the correct number for any building. (Code 1965, Sec. 9 27; Ord. No. 95-25 Amending Code 1965, 4-17-95)

Sec. 30 23. Detachable trash bins or containers in streets.

- (a) Prohibited unless properly equipped. No owner, of detachable roll off trash bins or containers shall knowingly cause or allow such bins or containers to be placed or remain on any street, alley or public thoroughfare within the city unless such bin or container is equipped with reflector material and/or reflectors which are clearly and conspicuously visible from a distance of not less than four hundred (400) feet.
- (b) Placement of reflectors. The reflectors or reflecting material shall be located on all sides of such bin or container at a point not less than twelve (12) inches below the top of the box, so as to be clearly and conspicuously visible as set forth in (a) above.
- (c) Knowledge of violation attributed to owner, lessor or lessee. The owner, lessor or lessee of the detachable roll off trash bin or container shall be presumed to have knowingly caused or allowed such bin to be placed in violation of this section when the same shall have existed in violation of this section for a period of more than forty eight (48) hours.
- (d) Each day a separate offense. Each day beyond said period heretofore mentioned any violation of any provision of this section shall continue shall constitute a separate offense.
- (e) Fine for violation. The penalty for a violation of this section, upon conviction, shall be a fine of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00). (Ord. No. 78 51, Secs. 1 5, 11 20 78)

Editor's Note Ord. No. 78 51, Secs. 1 5 passed Nov. 20, 1978 was non amendatory of the Code; hence codification herein as Sec. 30 23 was at the discretion of the editor.

Sec. 30 24 30 43. Reserved.

ARTICLE II. EXCAVATIONS

Cross Reference No issuance of permit to applicant indebted to City, Sec. 2-15.

Cross Reference - Dangerous pits or excavations declared nuisances, Sec. 24 12.

Sec. 30-44. Excavating – Permit required; bond or deposit.

1. No person, not authorized by the City Council, or by ordinance, shall make any excavation in any public street, sidewalk, alley, or other public property within the City, without first obtaining a permit from the City of Kankakee Building and Code Enforcement Department. Before issuance of a permit for excavation, the person requesting permission to excavate shall provide the following for the Building and Code Enforcement Department for review:

- (a) Plans showing the area to be excavated limits of proposed excavation, traffic control method, and details demonstrating means/methods for excavation and repair.
- (b) A cash deposit or bond in the amount of ten thousand dollars (\$10,000.00) shall be required to ensure the restoration of the excavation area to its former condition. The City Engineer shall review the proposed excavation and determine if the minimum cash deposit or bond amount is sufficient or if a higher amount shall be requested. The City Engineer shall be the sole

authority in determining if the minimum cash deposit or bond of \$10,000.00 shall be sufficient or if a higher amount shall be requested.

(c) A point of contact and a telephone number that is manned on a continuous 24-hour-a-day basis to receive notification of any deficiencies regarding traffic control and protection and to dispatch men, materials and equipment to correct any such deficiencies. As a condition of issuance of written permission for excavation, all calls from the City, City Engineer, County, or Illinois

Department of Transportation concerning a request for improving or correcting traffic control devices shall result in work to address all requested repairs beginning within two hours from the time of notification.

(d) The person/contractor requesting permission for excavation shall provide indemnification and insurance. The person/contractor agrees to defend, indemnify and hold harmless the City of Kankakee, City Engineer, and all their officers, employees and agents, from all losses, costs, loss of use, damages or bodily injury, including death, and all attorney's fees and costs resulting therefrom; caused or resulting or claimed to be caused or resulting from the work or services of the person/contractor or those for whom the person/contractor is responsible without any limitations on the City of

Kankakee or City Engineer other rights. In addition, certificates of insurance adding the City of Kankakee, City Engineer, and all their officers, employees and agents, as additional insured on the Contractor's general public liability and property damage policy and protective liability insurance policy, said certificate stating that the coverage is for this specific project and having a 30-day advance notice cancellation clause.

The Building and Code Enforcement Official may waive any of the above requirements for emergency repairs or at his discretion to expedite a City project/repair.

2. The Permit Fee for excavation shall be one hundred dollars (\$100.00)
3. A person or entity that is found guilty of not obtaining a permit shall, upon conviction, be fined a minimum of five hundred dollars (\$500.00) and shall further be ordered to reimburse the City for any costs related to the person or entities failure to obtain a permit. Any person or entity found guilty of not obtaining a permit on two (2) separate occasions within a one (1) year period shall be banned from performing excavation work within the City of Kankakee for a period of one (1) year from the date of the offense.

Sec. 30-44.1 Excavating – Definition.

Excavating is defined as any disturbance of the existing conditions over, under, or in any public street, sidewalk, alley, or other public property.

Sec. 30-44.2 Excavating – License.

Any person or entity excavating in the City of Kankakee shall have a City of Kankakee License. (Reference Chapter 21) (Code 1965, Sec. 9.01; Ord No. 96-21, Sec. 1, 4-15-96; Ord. No. 11-32, 5-16-11)

Sec. 30 45. Excavating – Excavation and backfilling general.

1. All work performed shall be in accordance with the “Standard Specification for Road and Bridge Construction,” latest edition, and “Standard Specifications for Water and Sewer Main Construction in Illinois,” latest edition, unless otherwise specified or directed by the City Engineer. All trenches, holes, excavation areas, etc. shall be closed at the end of each workday.
2. Prior to commencing excavation, all pavement, curb and gutter, or sidewalk to be removed shall be saw-cut full depth prior to removal. Sidewalk shall be removed in complete sections only.
3. The person/contractor shall be required to have the City Engineer inspect all site work, trenches, and excavation areas prior to commencing any backfilling operations. If the person/contractor given written permission for excavation commences backfill operations prior to inspection by the City Engineer, the person/contractor (at their own expense) shall excavate the area as directed by the City Engineer to allow for the required inspection.
4. Prior to commencing any fill operations in pavement, curb and gutter, or sidewalk areas, all topsoil shall be removed unless otherwise directed by the City Engineer.
5. All utility trenches and excavation within two feet of pavement, curb and gutter, or sidewalk shall be trench backfilled with CA-07, CA-06, or Controlled Low Strength Material (flowable fill) as directed by the City Engineer. The City Engineer shall be the sole authority for determining the type of backfill material to be used. All fill shall be compacted to 6-inch lifts to a minimum of 95% of the standard proctor maximum dry density.
6. Seeding and Restoration shall be performed by the person/contractor, on disturbed lawn areas and as directed by the City Engineer. Seeding and Restoration shall include six inches of excavation, removal and disposal of excavated material, Topsoil Furnish and Place 6”, Seeding, Erosion Control Blanket, Fertilizer, and Watering. The person/contractor shall not have his cash deposit or bond returned until such time as the grass seed has achieved germination. For the purpose of establishing an acceptable standard, scattered bare spots, none of which is larger than one-half square foot, will be allowed up to a maximum of three percent of restoration area.
7. Any person making any excavation in any street, alley or sidewalk shall, without any unnecessary delay, cause the excavation to be filled up to the proper level of such street, alley or sidewalk, and shall from time to time, if necessary, repair the same, until the earth is completely settled, and the surface thereof conforms to the adjacent surface. The Environmental Services Utility may restore the surface of any excavation and charge the reasonable cost thereof against the bond or deposit posted and charge any additional cost to the person or entity who made the excavation. (Code 1965, Sec. 9.01; Ord. No. 96-21, Sec. 2, 4-15-96; Ord. No 11-31, 5-16-11)

Sec. 30 46. Excavating – Traffic Control and Protection.

- A.** Any persons/contractors performing excavation/work within any public street, sidewalk, alley or other public property shall provide traffic control in accordance with guidelines contained in the “Illinois Manual of Uniform Traffic Control Devices for Streets and Highways,” “Standard Specifications for Road and Bridge Construction,” and as required by the City of Kankakee, City Engineer, County Highway Department, or the Illinois Department of Transportation.
- B.** The person/contractor shall ensure that all traffic control devices installed by him are operational 24 hours a day, including Sundays and holidays.
- C.** The person/contractor shall provide a manned telephone on a continuous 24-hour-a-day basis to receive notification of any deficiencies regarding traffic control and protection and

shall dispatch men, materials and equipment to correct any such deficiencies within 2-hours of notification. (Code 1965, Sec. 9.01)

Any person making any excavation in any street or on any public property shall erect such barriers and lights during the night, as will adequately safeguard the public. (Code 1965, Sec.9.01)

Sec. 30 47. Pipe installations in streets and alleys.

- (a) Any person intending to construct or install pipes, cables or other installation over and across the City streets, shall first make soundings for rock on each side of the street or alley at the proposed area of construction. Where rock is located near the surface of the ground and above the proposed pipe grade, open cutting the street or alley may be permitted, subject to review and approval by the City Engineer.
- (b) Where open cutting of the street or alley is permitted and used, the trench shall cross perpendicular to the street or alley. Backfilling shall be conducted in accordance with Sec. 30-45 Excavating – Excavation and Backfilling General.

The street or alley restoration shall be of similar types of materials as the existing street or alley. If the street or alley is asphalt, in no case shall the aggregate base course (CA-06) be less than 10-inches. Binder Course be less than 2-inches, and the Surface Course be less than 2-inches. Asphalt pavement restoration shall be as shown in the Pavement Restoration Detail below or as directed by the City Engineer.

- (c) In areas or locations where rock is not found or encountered as hereinbefore provided, pipes up to and including four (4) inches in diameter shall be constructed or installed only by the pushing or auguring method. This method shall be used for all streets of rigid bases or flexible bases with sealed surfaces, curbs and sidewalks.
- (d) In all cases, the contractor shall file a bond with the City to be approved by the City Consulting Engineer in accordance with Sec. 30-4. (Code 1965, Sec. 9.02; Ord. No. 96-21, Sec. 3, 4-15-96; Ord. No 11-32, 516-11)

Sec. 30-48. Penalty for improperly repairing streets.

A person or entity who is found guilty of violating this Ordinance shall, upon conviction, be fined a minimum of Five Hundred Dollars (\$500.00) and shall further be ordered to reimburse the City for the cost of all repairs made necessary by the excavation performed by the person or entity. (Ord. No. 96-21, Sec. 4, 4-15-96)

Sec. 30 49 30 57. Reserved.

ARTICLE III. MOVING BUILDINGS DIVISION 1. GENERALLY

Sec. 30 58. Obstructing streets.

No person shall, in moving a building through or along any street, unnecessarily encumber or obstruct any street for a longer time than may be necessary in the prompt and diligent moving thereof. (Code 1965, Sec. 9.06)

Sec. 30 59. Moving buildings - duty to use care; liability.

Every person having a permit issued under this article to use any of the streets for moving any building shall use all reasonable care and diligence in moving the same and shall be responsible for all damage done to any property of the City, or of any person and the acceptance of the permittee to remove any building shall be treated as an agreement on the part of the permittee to become responsible for all damages done to any property of the City or of any other person. (Code 1965, Sec. 9.06)

Sec. 30 60 30 70. Reserved.

DIVISION 2. PERMIT

*Cross Reference No issuance of permit to applicant indebted to City, Sec 2 15.

Sec. 30 71. Permit required to move building(s).

No person shall move any building through or along any street, without a written permit from the Superintendent of the Environmental Services Utility therefore. (Code 1965, Sec. 9.06)

Sec. 30 72. Application for permit to move building(s).

Application for a permit required by this division shall set forth the description and location of the building proposed to be removed, the place to which such building is proposed to be moved, the time when such removal is desired to be commenced, the means by which it is proposed to effect such removal, and the names of all the owners and persons interested in such building, including the name of the person who is to effect and operate such removal. The application shall be signed by all such owners and persons having such interest in such building and the person employed or engaged to effect such removal, and such application shall be presented to the Code Enforcement Official three (3) days before the time stated in such application when it is proposed to commence such removal. Enclosed with the application for a permit shall be a statement, signed and sealed by a licensed structural engineer, from the State of Illinois, as to the soundness and weight of the building to undergo the relocation as proposed. Also, the age, size, general condition and architectural style of the building relative to the age, size, general condition and architectural style of any existing or planned structures adjacent to the site to which the building is to be relocated. (Code 1965, Sec. 9.06)

Sec. 30 73. Moving buildings - application; issuance.

After receipt of an application for a permit required by this division, the City Consulting Engineer and the Superintendent of the Environmental Services Utility shall examine the building and the routes upon which such building is proposed to be removed, and the place named in the application to which it is proposed to move such building. He shall review and determine the streets or alleys to be used in removing the building, and upon such applicant exhibiting proof to the City Consulting Engineer and the Superintendent of the Environmental Services Utility that such applicant paid into the treasury of the City the permit fee, the Superintendent shall give a permit for such removal of such building.

In the event the City approved the moving of a building as provided for herein, the moving of the building must comply with the following restrictions imposed by the City and the Superintendent of the Environmental Services Utility:

(a) The petitioner shall submit a site plan to the Building and Code Enforcement Department for review and approval.

(b) The petitioner shall complete the movement of the building and the relocation of the building on a foundation within 60 days of the date of the approval by the Building and Code Enforcement Department.

(c) The petitioner shall post a performance bond payable to the City, cashier's check, negotiable securities, or establish an escrow account in the amount of percent of the estimated cost of the movement of the building, the relocation building on a foundation, and the estimated cost to make any repairs to City alleys, or sidewalks that may be incurred as a result of moving the building, approved by the City, City Consulting Engineer, and Superintendent of the Environmental Services Utility, to ensure timely satisfactory movement and relocation of the building. 110 of the streets, as

(d) If the movement of the building and the relocation of the building onto a foundation within 60 days of the date of the approval by the City, the performance bond, cashier's check, negotiable securities, or escrow monies pursuant to paragraph (b) shall be forfeited to the City and the City shall coordinate the completion of the moving and relocation of the building. On or before 55 days after the date the petitioner received the approval of the City, the City shall notify the petitioner of pending forfeiture and the City's completion of the moving and relocation of the building in the event the petitioner does not complete the project within 60 days from the date of approval by the City. Failure to provide this notice shall not prevent the City from receiving the forfeited funds and coordinating the completion of the project. the

(e) After the applicant exhibits proof to the City Consulting Engineer that all permit fees have been paid into the treasury of the City, the City Consulting Engineer and Superintendent of the Environmental Services Utility have completed the review process for the proposed building moving, all concerns/requirements have been addressed to the satisfaction of the City Consulting Engineer and Superintendent of the Environmental Services Utility, and the applicant has posted a performance bond payable to the City, cashier's check, negotiable securities, or established an escrow account pursuant to paragraph (c), the Code Enforcement Official shall give a permit for such removal of such building. (Code 1965, Sec.9.06) of

Sec. 30 74. Fee for permit to move building(s).

The fee for a permit required by this division shall be fifty dollars (\$50.00). (Code 1965, Sec. 9.06)

Sec. 30 75. Moving Buildings - surety and other conditions.

The Code Enforcement Official shall have a right to require applicant to obligate himself with good and sufficient surety to comply with the provisions of this article and the permit to be granted, and to impose such other conditions as may be necessary to protect the public and minimize public inconvenience. The Superintendent of the Environmental Services

Utility shall have a right to require applicant to obligate himself with good and sufficient surety to comply with the provisions of this article and the permit to be granted, and to impose such other conditions as may be necessary to protect the public and minimize public inconvenience. (Code 1965, Sec. 9.06)

Sec. 30 76- 30-86. Reserved.

ARTICLE IV. PRIVATE DRIVEWAYS

Sec. 30 87. Definition - private driveways.

The term "private driveway" used in this article shall mean any driveway not included in section 30 102. (Code 1965, Sec. 9.25)

Sec. 30 88. Private driveways - permit required.

No person shall construct a private driveway without first obtaining a permit therefor. (Code 1965, Sec. 9.25)

Cross Reference No issuance of permit to applicant indebted to city, Sec. 2-15.

Sec. 30 89. Schedule establishing standard policy for driveways entering the public streets.

Driveway/Entrances within the right-of-way for any street or other public way shall meet the below listed requirements:

Basic Driveway/Entrance Requirements		
	<u>Residential</u>	<u>Commercial</u>
Maximum Driveway Width	24-ft	35-ft
Maximum Taper or Radius (T/R) Size	7-ft	10-ft
Minimum Distance from (T/R) to Property Line	1-ft	1-ft
Minimum Sidewalk/Walking Area Width	4-ft	4-ft
Distance from Sidewalk/Walking Area to Property Line	1-ft	1-ft
Detectable Warnings in Sidewalk/Walking Area		
On Both Sides of the Entrance/Driveway	Not Required	Not Required

(Code 1965, Sec. 9.24)

Sec. 30 90. Private driveways - construction requirements.

(a) The dimensions for construction of private driveways shall be in accordance with that portion of the schedule adopted in section 30 89 for establishments catering primarily to the private automobile.

(b) The materials and methods of construction shall conform to the specifications of this section and the Illinois Department of Transportation "Standard Specifications for Road and Bridge Construction," latest edition, under the direction of the City Engineer.

All residential driveways and entrances shall be constructed of one of the following options:

- i. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, ten inches (10") in thickness, and a surface course consisting of concrete surface course (asphalt), two and one-half inches (2-1/2") in thickness. All thicknesses shall be measured with materials in place and compacted.

ii. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, four inches (4") in thickness, and a surface course consisting of Portland Cement Concrete (PCC), six inches (6") in thickness, reinforced with six-inch by six inch wire reinforcing mesh or fiberglass. All thicknesses shall be measured with materials in place and compacted.

iii. Any alternate materials in addition to those described above shall be presented in writing to the City Engineer for his written approval prior to inclusion in the construction drawings and specifications.

All commercial driveways and entrances shall be constructed of one of the following options:

i. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, 10 inches (10") in thickness, a bituminous concrete binder course (asphalt) two inches (2") in thickness, and a surface course consisting of bituminous concrete surface course (asphalt) two inches (2") in thickness. All thicknesses shall be measured with materials in place and compacted.

ii. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, six inches (6") in thickness, and a surface course consisting of Portland Cement Concrete (PPC), eight (8") in thickness, reinforced with six-inch by six-inch wire reinforcing mesh or fiberglass. All thicknesses shall be measured with materials in place and compacted.

iii. Any alternate materials in addition to those described above shall be presented in writing to the City Engineer for his written approval prior to inclusion in the construction drawings and specifications. (Code 1965, Sec. 9.25, Ord. No. 2011-5-16-11) 32,

Sec. 30 91. Street access prohibited; approval of permit in certain situations.

- (a) No permit shall be issued for direct access onto a public street in situations where a private driveway is proposed on a residential lot that borders upon or has access to a public alley.
- (b) A permit may be issued in cases where unique circumstances exist, subject to the recommendation of the City Consulting Engineering and approval by the City Council. (Ord. No. 2001-72, 11-9-01)

ARTICLE V. SERVICE DRIVEWAYS

Sec. 30 102. Definition - service driveways.

The term "service driveway" used in this article shall mean any driveway entering any street from a public garage, parking lot, gasoline station, factory, store, warehouse, or any other private business, intended for use and used by the public. (Code 1965, Sec. 9.24)

Sec. 30 103. Service driveways - permit required.

No person shall construct or maintain a service driveway in the City without first obtaining a permit therefore, and payment of the permit fee required by this article. (Code 1965 Sec.9.24)

Cross Reference No issuance of permit to applicant indebted to City, Sec. 2 15.

Sec. 30 104. Service Driveways - Application.

Any person desiring to obtain a permit for any service driveway shall file an application therefore with the City Consulting Engineer. This application shall be in writing and shall have attached drawings showing the proposed construction, particularly showing the information from section 30-89, schedule establishing standard policy for driveways entering the public streets. The application shall contain information showing the type of construction, the length of the driveway, the exact location of the driveway and any other information which may be required by the City Consulting Engineer. (Code 1965, Sec. 9.24; Ord. No. 2011-32, 5-16-11)

Sec. 30-105. Service Driveways - Fees.

The permit fee for each service driveway approved by the City Consulting Engineer shall be one dollar (\$1.00) per lineal foot of service driveway length or fraction thereof. (Code 1965, Sec. 9.24)

Sec. 30 106. Service driveways - maximum length.

The length of service driveways and their location with respect to the right of way lines of public streets shall be in accordance with standards and specifications shown on the schedule adopted in section 30 89. (Code 1965, Sec. 9.24)

Sec. 30 107. Maximum number of service driveways at a single business.

No more than two (2) service driveways shall be permitted in one hundred (100) feet of frontage to allow entrance to a single business or establishment. (Code 1965, Sec. 9.24)

Sec. 30 108. Service Driveway - construction requirements.

- (a) The materials and methods of construction shall conform to the specifications of this section and the Illinois Department of Transportation "Standard Specifications for Road and Bridge Construction," latest edition, under the directions of the City Engineer.
- (b) All service driveways shall be constructed of one of the following options:
 - i. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, ten inches (10") in thickness, a bituminous concrete binder course (asphalt) two inches (2") in thickness, and a surface course consisting of bituminous concrete surface course (asphalt) two inches (2") in thickness. All thicknesses shall be measured with materials in place and compacted.
 - ii. An aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, six inches (6") in thickness, and a surface course consisting of Portland Cement Concrete (PPC), eight (8") in thickness, reinforced with six-inch by six-inch wire reinforcing mesh or fiberglass. All thicknesses shall be measured with materials in place and compacted.
 - iii. Any alternate materials in addition to those described above shall be presented in writing to the City Engineer for his written approval prior to inclusion in the construction drawings and specifications.

- (c) Curb returns and expansion joints shall conform to the standard specifications of the City Consulting Engineer.
- (d) All service driveways shall cross the outer parking strip and the sidewalk at an angle of not less than forty five (45) degrees to the curb line. (Code 1965, Sec. 9.24)

Sec. 30 109. Service driveways - restrictions or refusal of permit in certain situations.

Where a service driveway will create undesirable traffic conditions, restrictive use of the public street, unsafe conditions for pedestrians or uneconomic distribution of curb parking, the City Consulting Engineer may in the best interest of the City place restrictions on the construction or maintenance of service driveways or may refuse to issue a permit for the construction or maintenance thereof. Such refusal shall be subject to review by the traffic committee of the City Council. (Code 195, Sec. 9.24)

Sec. 30 110 30 120. Reserved.

ARTICLE VI. SIDEWALK CONSTRUCTION

*Cross Reference No issuance of permit to applicant indebted to City, Sec. 2 15.

Sec. 30 121. Permit for sidewalk construction on City property.

No person shall construct a sidewalk on City property without first obtaining a permit therefore. (Code 1965, Sec.9.17)

Sec. 30 122. Sidewalk construction - grades.

- (a) The City Council shall establish the grades for all sidewalks, which shall conform, as nearly as may be to the grades of their respective streets. The inner or lot side of sidewalks shall conform to grades established and the walk surface shall have a uniform slope or inclination toward the street of one quarter (1/4) inch to each one foot of width of walk. When the grade of the sidewalk is established from the top of the curb, the street to lot side of the walk shall have a minimum rise of one quarter (1/4) inch and a maximum rise of one half (1/2) inch from the top of the curb to each one foot of terrace. Where no permanent grade is established, the City Consulting Engineer may give a temporary grade. He shall, when requested by any person desiring to build a sidewalk, stake out the grade thereof without charge to such person.
- (b) No person shall construct or lay any sidewalk where no grade has been established by the City Council without having first obtained a grade therefore from the City Consulting Engineer or contrary to any grade given by the engineer, nor construct any sidewalk contrary to any grade established by the council. (Code 1965, Sec. 9.17)

Cross Reference Elevation for grades of sidewalks. Sec. 2 14.

*Cross References Permits for building new residential, commercial or industrial premises to be denied unless the plans also provide for the installation and construction of curbs, gutters and sidewalks, Sec. 8 3(a); permits for improvements to existing structures exempted, Sec. 8 3(b); specifications, Sec. 8 3(c), (d); waiver of requirement, Sec. 8 3(e); Building Inspector authorized to prohibit occupancy absent compliance, Sec. 8 3(f).

Sec. 30 123. Concrete requirements for sidewalk construction - direction by City Consulting Engineer.

All sidewalks constructed in the City shall consist of an aggregate base course consisting of IDOT gradation CA-6, CA-7, or CA-10, four inches (4") in thickness, and a surface course consisting of Portland Cement Concrete (PCC), five inches (5") in thickness. The PCC thickness shall be increased to six inches (6") where the sidewalk crosses a driveway. All thicknesses shall be measured with materials in place and compacted. All sidewalks shall be installed under the supervision of the City Consulting Engineer. (Ord. No. 02-12, 3-4-02; Ord. 11-32, 5-16-11)

Sec. 30 124. Location and width of sidewalks.

The inner edge of a sidewalk shall be one foot from the property line except in subdivisions where existing walks have been constructed against the curb, in which instances the sidewalk shall conform to such existing walks. Sidewalks shall be constructed to a width of five (5) feet four (4) inches, where such width is the established width. A sidewalk may be constructed to a width of four (4) feet where such uniform width can be maintained. The typical sidewalk width in the City shall be five feet (5') in width, unless the location for the proposed sidewalk meets the above-referenced requirements or as directed by the City Consulting Engineer. (Code 1965, Sec. 9.18, Ord. 11-32, 5-1611)

Sec. 30 125. Noncomplying sidewalks declared nuisance; removal.

Any sidewalk which is constructed differently than required by this article shall be deemed a nuisance and may be removed by the Superintendent of the Environmental Services Utility. (Code 1965, Sec. 9.18)

Sec. 30 126 30 129. Reserved.

ARTICLE VII. PUBLIC TREE RESOURCE MANAGEMENT

*Editor's Note Ord. No. 96-69, Sec. 1, passed September 16, 1996, was non amendatory of the Code; hence, codification herein as a new Article VII, Sec. 30 130, was at the discretion of the editor.

Sec. 30-130 Public Tree Resource Management Responsibilities.

The Superintendent of the Environmental Services Utility shall have jurisdiction for Public Tree Resource Management over all tree locations, and plans for tree installation, upon the public right of way.

The Superintendent shall incorporate into his annual budget proposal the funding necessary to support the Annual City Tree Work Plan.

Annually, the Superintendent shall prepare and present to the Mayor, a proposal for Arbor Day Observance on the last Saturday in April throughout the City of Kankakee.

The Environmental Services Utility shall have an Arborist, certified by the International Society of Arboriculture continuously assigned as part of the department's budgeted manning authorization.

The Arborist will:

- (a) Conduct tree maintenance services in accordance with the Public Tree Care Policy formulated by the Superintendent.
- (b) Conduct maintenance services in accordance with the job description maintained by the Superintendent and in accordance with National Arborist Association standards.

- (c) Replace public trees with the following species:
 - (1) Acre Norway Maple
 - (2) Acre Rubrum Red Sunset Maple
 - (3) Quercus Rubra Red Oak
 - (4) Gleditsia Triacanthos Imperial Locust
 - (5) Tilia Cordata Greenspire Linden
 - (6) Fraxinus Pennsylvanica Patmore Ash
- (d) Continually monitor the general health and well being of the public tree crop for the earliest possible detection of disease symptoms.
- (e) With the advice of the State Forester review the standard tree mix about every ten years, with the first review to be conducted in 2006, and recommend to the Superintendent any changes for the continued prevention of disease spread.
- (f) Advise the residents and business operators of adjacent property of tree species available as replacements so that those citizens may participate in the selection process.
- (g) Decide upon, and install replacement species at locations where no resident of business operator has adjacent property or interest.
- (h) Prepare the Annual City Tree Work Plan for the Superintendent's and City Consulting Engineer review not later than the last working day of the month of February.
- (i) Prepare and maintain the City Tree Planning Inventory as defined in Chapter Three, "Knowing your Urban Forest" handbook for Tree Board Members, National Arbor Day Foundation, Nebraska City, Nebraska.

Incorporation by direct reference:

- (1) Sec 1-13, General Penalty for violation of Code; continuing violations.
- (2) Sec 2-10 (d), Maintenance responsibilities of the Superintendent of the Environmental Services Utility.
- (3) Sec 2-179, Creation of the office of the Superintendent of the Environmental Services Utility.
- (4) Sec 2-181, Authority to issue citations.
- (5) Sec 22-27, Injuring or removing vegetation, fences, signs etc.
- (6) Sec 30-8, Trees overhanging streets.
- (7) Sec 30-44, Excavations, Permit required, bond or deposit.

- (8) Sec 30-59, Moving Buildings, Duty to use care; liability for damage.
- (9) Sec 30-75, Moving Buildings, Surety and other conditions.
- (10) Sec 32-171.1, Parking prohibited on terraces; no signs required.
- (11) BOCA PMC, Sec PM-302.o Public Nuisance #2
- (12) BOCA PMC, Sec PM-303.0 Exterior Property Areas, PM 303.1

Annual Work Plan for Arborist, Environmental Services Utility, FY 1996/1997.

(a) History:

YEAR	TRIMMED	REMOVED	PLANTED
1990 – 1991	216	70	43
1991 – 1992	339	141	136
1992 – 1993	202	98	92
1993 – 1994	83	120	48
1994 – 1995	361	80	99
1995 – 1996	240	101	84
TOTALS	1441	610	502

(b) 1996 - 1997 Plan (Average + 5% except planting = Average + 25%).

Trimmed - 252	Removed - 106	Planted - 104
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(c) Budget:

TRIMMING @ .5 HOURS PER TREE	\$16,533.72
REMOVAL @ 1 HOUR PER TREE	\$13,909.32
PLANTING @ 1 HOUR PER TREE	\$13,646.88
MATERIAL @ \$65.00 PER TREE	\$ 6,760.00
SUPERVISION @ .125 PER TREE	\$ 1,732.50

EQUIPMENT MAINTENANCE @ \$15.00 PER HOUR	\$ 5,040.00
DISPOSAL @ \$16.00 PER TREE	\$ 1,696.00
TOTAL 1996 - 1997 BUDGET	\$59,318.67

ARTICLE VIII. COMPLETE STREETS

SECTION 30-140 DECLARATION OF POLICY

PURPOSES AND INTENT

140.1(a) It is the intent of the City of Kankakee in enacting this ordinance to encourage healthy, active living, reduce traffic congestion and fossil fuel use, and improve the safety and quality of life of residents of the City of Kankakee by providing safe, convenient, and comfortable routes for walking, bicycling and public transportation.

140.1(b) The purpose of this article is to enable the streets of the City of Kankakee to provide safe, convenient and comfortable routes for walking, bicycling and public transportation that encourage increased use of these modes of transportation, enable convenient travel as part of daily activities, improve the public welfare by addressing a wide array of health and environmental problems, and meet the needs of all users of the streets, including children, older adults, and people with disabilities.

140.2 This ordinance shall be construed liberally to effect its purposes.

DEFINITIONS

141.1 The following words and phrases, whenever used in this ordinance shall have the meanings defined in this section unless the context clearly requires otherwise.

(a) “Complete Streets Infrastructure” means design features that contribute to as afe, convenient, or comfortable travel experience for Users, including but not limited to features such as: sidewalks; shared use paths; bicycle lanes; automobile lanes; paved shoulders; street trees and landscaping; planting strips; curbs; accessible curb ramps; crosswalks; refuge islands; pedestrian and traffic signals, including countdown and accessible signals; signage; street furniture; bicycle parking facilities; public transportation stops and facilities; transit priority signal as a nation; traffic calming devices such as Rotary circles, traffic bumps, and surface treatments such as paving blocks, textured asphalt, and concrete; narrow vehicle lanes; raised median; and dedicated transit lanes

(b) “Street” means any right-of-way, public or private, including arterials, connectors, alleys, ways, lanes and roadways by any other designation, as well as bridges, tunnels, and any other portions of the transportation network.

(c) “Project” means the construction, reconstruction, retrofit, maintenance, alteration, repair of any Street, and includes the planning, design, approval, and implementation processes. “Project” does not include minor routine upkeep such as cleaning, sweeping, mowing, Spot repair, or interim measures on detour routes.

(d) “Users” mean individuals that use Streets, including pedestrians, bicyclists, motor vehicle drivers, public transportation riders and drivers, emergency vehicles, agricultural vehicles

and people of all ages and with disabilities.

abilities, including children, youth, families, older adults and individuals

DESIGN AND IMPLEMENTATION CRITERIA

142.1 To the extent possible, the City of Kankakee Planning Department, Consulting Engineer and Environmental Services Utility shall make Complete Streets practices a routine part of everyday operations, shall approach every transportation project and program as an opportunity to include public and, where applicable, private Streets and the transportation network for all Users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve Complete Streets.

142.2 The City of Kankakee shall develop a non-motorized plan in consultation with other oversight bodies and departments, as well as other governmental entities to be incorporated into the city's Comprehensive Plan.

142.3 As feasible, the City of Kankakee shall incorporate complete streets infrastructure into existing public and, where applicable, private streets to improve the safety and convenience of Users, constructing enhanced the transportation network for each category of users and create employment.

142.4 If the safety and convenience of Users can be improved within the scope of pavement resurfacing, re-striping, or signalization operations on public, and where applicable, private streets, such projects shall implement Complete Streets Infrastructure to increase safety for users.

142.5 In design guidelines, the City of Kankakee and all of its agencies and departments shall coordinate templates with street classifications and revise them to include Complete Streets Infrastructure, such as sidewalks, shared use paths, bicycle lanes, paved shoulders, streetlights and landscaping, planting strips, accessible curb ramps, crosswalks, refuge islands, pedestrian signals, signs, street furniture, bicycle parking facilities, public transportation stops and facilities, transit priority signal is H., and other features assist in the provision for safe travel for all users, such as narrow vehicle lanes, raised medians, dedicated transit lanes, paved shoulders and road diets.

142.6 Accommodations shall also be designed and built using guidance for most recent edition of American Association of State Highway Transportation Officials *Guide for the Development of Bicycle Facilities* and the *American Disabilities Act Accessibility Guidelines*

142.7 Methods for providing flexibility within safe design parameters, such as context sensitive solutions and design, shall be considered.

142.8 Projects shall be prioritized based on:

- (a) connections between residential areas and schools and recreational facilities;
- (b) coordination with existing Safe Routes To School programs and considerations;
- (c) connections between the residential and commercial areas; and
- (d) filling gaps in existing sidewalk facilities.

COORDINATION

143.1 The City of Kankakee shall ensure that its policies and any proposed changes are in accordance with State of Illinois Complete Streets laws and policies.

EXCEPTIONS

144.1 Every Project on public Streets shall incorporate Complete Streets Infrastructure sufficient to enable reasonably safe travel along and across the right-of-way for each category of Users; provided, however, that such infrastructure may be excluded, upon written approval by the consulting engineer of the City of Kankakee, read documentation and data indicate that:

- (a) Use by non-motorized Users is prohibited by law;
- (b) The cost would be excessively disproportionate to the need or probable future use over the long term. Excessively disproportionate is defined as exceeding 20% of the cost of the larger transportation project;
- (c) There is an absence of current or future need documented through demographic, school, implement, and public transportation route data;
- (d) Significant, documented, adverse environmental impacts outweigh the positive effects of the infrastructure; or
- (e) Their establishment would be contrary to public health or safety.

PERFORMANCE MEASURES

145.1 The City of Kankakee shall collect data measuring how well the Streets of the City of Kankakee are serving each category of Users. These measures include, but are not limited to, latent demand, existing levels of service for different modes of transport users, collision statistics and bicycle and pedestrian injuries and fatalities.

145.2 The City of Kankakee shall put into place performance standards with measurable benchmarks reflecting the ability of Users to travel in safety and comfort. These standards and benchmarks include, but are not limited to, transportation mode shift, miles of new bicycle lanes and sidewalks, percentages of tree to tree canopy and low design speeds, and public participation.

PUBLIC INPUT

146.1 The City of Kankakee shall establish procedures to allow full public participation in policy decisions and transparency in individual determinations concerning the design use of streets.

IMPLEMENTATION

147.1 The Environmental Services Utility and the Consulting Engineer are hereby authorized to issue all rules and regulations consistent with this article and shall have all necessary powers to carry out the purposes of and enforce this article.

147.2 All initial planning and design studies, health impact assessments, environmental reviews, and other project reviews for projects requiring funding or approval by that City of Kankakee shall: (1) evaluate the effect of the proposed project on safe travel by all users, and (2) identify measures to mitigate any adverse impacts of such travel that are identified.

147.3 The Planning Board of the City of Kankakee, along with the Environmental Services Utility and the Consulting Engineer shall coordinate the implementation of Complete Streets practices by:

- (a) addressing short-term and long-term steps and planning necessary to create a comprehensive and integrated transportation network serving the needs of Users;
- (b) assess potential obstacles to implementing Complete Street practices in the City of Kankakee.
- (c) proposed revisions to the zoning and subdivision codes, and other applicable laws to integrate, accommodate, and balance the needs of all Users in Streets Projects.

Said Board shall report on the matters within its purview to the City of Kankakee City Council within one year following the date of the passage of this ordinance.

STATUTORY CONSTRUCTION AND SEVERABILITY

148.1 This Ordinance shall be construed so as not to conflict with applicable federal or state laws, rules, regulations. Nothing in this Ordinance authorizes any city agency to impose any duties or obligations in conflict with limitations on municipal authority established by federal or state law the time such agency action is taken.

148.2 In the event that another agency of competent jurisdiction pursuant to a federal or state law, rule, regulation invalidates any clause, sentence, paragraph, or section of this Ordinance or the application thereof to any person or circumstances, it is the intent of the Council that such agencies sever such clause, sentence, paragraph, or section so that the remainder of this Ordinance remains in full force and effect.

148.3 In undertaking the enforcement of this Ordinance, that City of Kankakee is assuming only an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation through which it might incur liability and monetary damages to any person who claims that a breach proximately caused injury.

ARTICLE VII. CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

30-160 Purpose and Scope.

a) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

b) **Intent.** In enacting this Article, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- 1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- 2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

- 3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- 4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- 5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- 6) preserve the character of the neighborhoods in which facilities are installed;
- 7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- 8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- 9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

c) Facilities Subject to This Article. This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

d) Franchises, Licenses, or Similar Agreements. The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.

e) Effect of Franchises, Licenses, or Similar Agreements.

- 1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
- 2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

f) Conflicts with Other Articles. This Article supersedes all Articles or parts of Articles adopted prior hereto that are in conflict herewith, to the extent of such conflict.

g) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

h) Sound Engineering Judgment. The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

30-161 Definitions.

As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

“AASHTO” - American Association of State Highway and Transportation Officials.

“ANSI” - American National Standards Institute.

“Applicant” - A person applying for a permit under this Article.

“ASTM” - American Society for Testing and Materials.

“Backfill” - The methods or materials for replacing excavated material in a trench or pit.

“Bore” or “Boring” - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

“Cable operator” - That term as defined in 47 U.S.C. 522(5).

“Cable service” - That term as defined in 47 U.S.C. 522(6).

“Cable system” - That term as defined in 47 U.S.C. 522(7).

“Carrier Pipe” - The pipe enclosing the liquid, gas or slurry to be transported.

“Casing” - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

“City” - The City of Kankakee.

“Clear Zone” - The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

“Coating” - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

“Code” - The Municipal Code of the City of Kankakee.

“Conductor” - Wire carrying electrical current.

“Conduit” - A casing or encasement for wires or cables.

“Construction” or “Construct” - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

“Cover” - The depth of earth or backfill over buried utility pipe or conductor.

“Crossing Facility” - A facility that crosses one or more right-of-way lines of a right-of-way.

“Director of Public Works” - The City Director of Public Works or his or her designee.

“Disrupt the Right-of-Way” - For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

“Emergency” - Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

“Encasement” - Provision of a protective casing.

“Engineer” - The City Engineer or his or her designee.

“Equipment” - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

“Excavation” - The making of a hole or cavity by removing material, or laying bare by digging.

“Extra Heavy Pipe” - Pipe meeting ASTM standards for this pipe designation.

“Facility” - All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term “facility” shall not include any facility owned or operated by the City.

“Freestanding Facility” - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

“Frontage Road” - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

“Hazardous Materials” - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

“Highway Code” - The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

“Highway” - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. “Highway” includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

“Holder” - A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

“IDOT” - Illinois Department of Transportation.

“ICC” - Illinois Commerce Commission.

“Jacking” - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

“Jetting” - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

“Joint Use” - The use of pole lines, trenches or other facilities by two or more utilities.

“J.U.L.I.E.” - The Joint Utility Locating Information for Excavators utility notification program.

“Major Intersection” - The intersection of two or more major arterial highways.

“Occupancy” - The presence of facilities on, over or under right-of-way.

“Parallel Facility” - A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

“Parkway” - Any portion of the right-of-way not improved by street or sidewalk.

“Pavement Cut” - The removal of an area of pavement for access to facility or for the construction of a facility.

“Permittee” - That entity to which a permit has been issued pursuant to Sections 30-163 and 30-164 of this Article.

“Practicable” - That which is performable, feasible or possible, rather than that which is simply convenient.

“Pressure” - The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

“Petroleum Products Pipelines” - Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

“Prompt” - That which is done within a period of time specified by the City. If no time period is specified, the period shall be 30 days.

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

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

“Right-of-Way” or "Rights-of-Way"- Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. “Right-of-way” or "Rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

“Roadway” - That part of the highway that includes the pavement and shoulders.

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

“Security Fund” - That amount of security required pursuant to Section 30-169.

“Shoulder” - A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

“Sound Engineering Judgment” - A decision(s) consistent with generally accepted engineering principles, practices and experience.

“Telecommunications” - This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. “Private line” means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. “Telecommunications” shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. “Telecommunications” shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. “Telecommunications” shall not include the provision of cable services through a cable system as defined in the Cable

Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

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

“Telecommunications Retailer” - Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

“Trench” - A relatively narrow open excavation for the installation of an underground facility.

“Utility” - The individual or entity owning or operating any facility as defined in this Article.

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

“Video Service” - That term as defined in section 21-201 (v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

“Water Lines” - Pipelines carrying raw or potable water.

“Wet Boring” - Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

30-162 Annual Registration Required.

Every utility that occupies right-of-way within the City shall register on January 1 of each year with the City Engineer, providing the utility’s name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility’s facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 30-167 of this Article, in the form of a certificate of insurance.

30-163 Permit Required; Applications and Fees.

a) Permit Required. No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Article), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the City Engineer and obtaining a permit from the City therefor, except as otherwise provided in this Article. No permit shall be required for installation and maintenance of service connections to customers’ premises where there will be no disruption of the right-of-way.

b) Permit Application. All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly.

c) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- 1) The utility’s name and address and telephone and telecopy numbers;
- 2) The applicant’s name and address, if different than the utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;

- 3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- 4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- 5) Evidence that the utility has placed on file with the City:
 - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;
- 6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- 7) Evidence of insurance as required in Section 30-167 of this Article;
- 8) Evidence of posting of the security fund as required in Section 30-169 of this Article;
- 9) Any request for a variance from one or more provisions of this Article (See Section 30-180); and
- 10) Such additional information as may be reasonably required by the City.

d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection c) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- 1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- 2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- 3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- 4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the City of Kankakee Environmental Services Utility [other local or state entities with jurisdiction], have been satisfied; or

- 5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within thirty (30) days after the change necessitating the amendment.

f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee in the amount of \$100.00. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

30-164 Action on Permit Applications.

a) City Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the City Engineer within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the City Engineer shall reject such application in writing, stating the reasons therefor. If the City Engineer is satisfied that the proposed work conforms to the requirements of this Article and applicable ordinances, codes, laws, rules, and regulations, the City Engineer shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the City Engineer, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

b) Additional City Review of Applications of Telecommunications Retailers.

- 1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The City Engineer shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.
- 2) In the event that the City Engineer fails to provide such specification of location to the telecommunications retailer within either (i) ten (10) days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- 3) Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 30-163 of this Article the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

c) Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

30-165 Effect of Permit.

a) Authority Granted; No Property Right or Other Interest Created. A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

b) Duration. No permit issued under this Article shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

c) Pre-construction meeting required. No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

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

30-166 Revised Permit Drawings.

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with Section 30-180 of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

30-167 Insurance.

a) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:
 - i) Five million dollars (\$5,000,000) for bodily injury or death to each person;
 - ii) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
 - iii) Five million dollars (\$5,000,000) for all other types of liability;
- 2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident;
- 3) Worker's compensation with statutory limits; and
- 4) Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

b) Excess or Umbrella Policies. The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the City within ten (10) days following receipt of a written request therefor from the City.

d) Maintenance and Renewal of Required Coverages. The insurance policies required by this Section shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Mayor of such intent to cancel or not to renew.”

Within ten (10) days after receipt by the City of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection a), or the requirements of Subsections b), c) and d) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection a) of this Section, such as evidence that the utility is a “private self insurer” under the Workers Compensation Act.

f) Effect of Insurance and Self-Insurance on Utility’s Liability. The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

g) Insurance Companies. All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. [All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.]

30-168 Indemnification.

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility’s indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

30-169 Security.

a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

- 1) The faithful performance by the permittee of all the requirements of this Article;
- 2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.

b) Form. The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:

- 1) Provide that it will not be canceled without prior notice to the City and the permittee;
- 2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- 3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the City Engineer, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the City Engineer may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

d) Withdrawals. The City, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:

- 1) Fails to make any payment required to be made by the permittee hereunder;
- 2) Fails to pay any liens relating to the facilities that are due and unpaid;
- 3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- 4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

e) Replenishment. Within fourteen (14) days after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection c) of this Section.

f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection c) of this Section.

g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

h) Rights Not Limited. The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

30-170 Permit Suspension and Revocation.

a) City Right to Revoke Permit. The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- 1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- 2) Non-compliance with this Article;
- 3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- 4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

b) Notice of Revocation or Suspension. The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 30-170.

c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- 1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- 2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within five (5) working days after receipt of the written notice of revocation; or
- 3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within ten (10) days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

d) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

30-171 Change of Ownership or Owner's Identity or Legal Status.

a) Notification of Change. A utility shall notify the City no less than thirty (30) days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

30-172 General Construction Standards.

a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT and FHWA publications, as amended from time to time:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;
- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Public Rights-of-Way Accessibility Guidelines;
- 7) Flagger's Handbook;
- 8) Work Site Protection Manual for Daylight Maintenance Operations;
- 9) Bureau of Local Roads and Streets Manual; and
- 10) Manual of Uniform Traffic Control Devices (FHWA).

b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Article, the City Engineer shall determine, in the exercise of sound engineering

judgment, which principles apply and such decision shall be final. If requested, the City Engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

30-173 Traffic Control.

a) Minimum Requirements. The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the rights-of-way.

c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

d) Notice When Access is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 30-179 of this Article, the utility shall provide such notice as is practicable under the circumstances.

e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

30-174 Location of Facilities.

a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.

1) No Interference with City Facilities. No utility facilities shall be placed in any location if the City Engineer determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.

2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

3) No Interference with Travel. No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

4) No Limitations on Visibility. No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.

5) Size of Utility Facilities. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

b) Parallel Facilities Located Within Highways.

1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:

i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;

- ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
 - iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
 - iv) No pole is located in the ditch line of a highway; and
 - v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- 2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
- i) The facility is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line;
 - ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - iii) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five (5) feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.
- c) **Facilities Crossing Highways.**
- 1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
 - 2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
 - 3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable.
 - 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
 - i) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
 - iii) Overhead crossings at major intersections are avoided.
 - 5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
 - i) The design materials and construction methods will provide maximum maintenance-free service life; and

- ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6) Markers. The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).
- d) Facilities to be Located Within Particular Rights-of-Way. The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
- e) Freestanding Facilities.
- 1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
 - 2) The City may require any freestanding facility located within a right-of-way to be screened from view.
- f) Facilities Installed Above Ground. Above ground facilities may be installed only if:
- 1) No other existing facilities in the area are located underground;
 - 2) New underground installation is not technically feasible; and
 - 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.
- g) Facility Attachments to Bridges or Roadway Structures.
- 1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
 - 2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - ii) The type, length, value, and relative importance of the highway structure in the transportation system;
 - iii) The alternative routings available to the utility and their comparative practicability;

- iv) The proposed method of attachment;
 - v) The ability of the structure to bear the increased load of the proposed facility;
 - vi) The degree of interference with bridge maintenance and painting;
 - vii) The effect on the visual quality of the structure; and
 - viii) The public benefit expected from the utility service as compared to the risk involved.
- h) Appearance Standards.
- 1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
 - 2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

30-175 Construction Methods and Materials.

a) Standards and Requirements for Particular Types of Construction Methods.

1) Boring or Jacking.

- i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the City Engineer from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
- iii) Borings with Diameters Greater Than 6 Inches. Borings over six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).
- iv) Borings with Diameters 6 Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- v) Tree Preservation. Any facility located within the drip line of any tree designated by the City to be preserved or protected shall be bored under or around the root system.

2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."

- i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the City Engineer.

- ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - iii) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- 3) Backfilling.
 - i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - ii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the City Engineer, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the City Engineer.
- 4) Pavement Cuts. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 30-180, the following requirements shall apply:
 - i) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the City Engineer.
 - ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
 - iii) All saw cuts shall be full depth.
 - iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
- 5) Encasement.
 - i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
 - ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

- iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
 - iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
 - v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
 - vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- 6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	18 to 24 Inches (0.6 m, as determined by City)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

b) Standards and Requirements for Particular Types of Facilities.

1) Electric Power or Communication Lines.

- i) Code Compliance. Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code Part 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines," and the National Electrical Safety Code.
- ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.

- iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.
- 2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:
 - i) the use of “moles,” “whip augers,” or other approved methods which compress the earth to move the opening for the pipe;
 - ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - iv) tunneling with vented encasement, but only if installation is not possible by other means.
 - 3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT’s “Standard Specifications for Road and Bridge Construction,” and all other applicable laws, rules, and regulations.
 - 4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
 - 5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois.”
 - 6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the City Engineer. With the approval of the City Engineer, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- c) Materials.
 - 1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s “Standards Specifications for Road and Bridge Construction,” the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
 - 2) Material Storage on Right-of-Way. No material shall be stored on the right-of-way without the prior written approval of the City Engineer. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during

installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.

3) Hazardous Materials. The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

d) Operational Restrictions.

1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.

2) These restrictions may be waived by the City Engineer when emergency work is required to restore vital utility services.

3) Unless otherwise permitted by the City, the hours of construction are those set forth in the City Code.

e) Location of Existing Facilities. Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

30-176 Vegetation Control.

a) Electric Utilities – Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

b) Other Utilities – Tree Trimming Permit Required. Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

1) Application for Tree Trimming Permit. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

c) Specimen Trees or Trees of Special Significance. The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

d) Chemical Use.

- 1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.
- 2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the City Engineer that such spraying is the only practicable method of vegetation control.

30-177 Removal, Relocation, or Modifications of Utility Facilities.

a) Notice. Within ninety (90) days following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

b) Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- 1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- 2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- 3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

c) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

d) Abandonment of Facilities. Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the City Engineer determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

30-178 Clean-up and Restoration.

The utility shall remove all excess material and restore all turf and terrain and other property within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the City Engineer. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to

a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the City Engineer for good cause shown.

30-179 Maintenance and Emergency Maintenance.

a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

- 1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- 2) In an emergency, the utility shall, as soon as possible, notify the City Engineer or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.
- 3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

c) Emergency Repairs. The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

30-180 Variances.

a) Request for Variance. A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the City Engineer as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

b) Authority to Grant Variances. The City Engineer shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

c) Conditions for Granting of Variance. The City Engineer may authorize a variance only if the utility requesting the variance has demonstrated that:

- 1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- 2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the City Engineer may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the City Engineer under the provisions of this Article shall have the right to appeal to the

City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within 30 days after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council’s next regularly scheduled meeting occurring at least seven (7) days after the filing of the appeal. The City Council shall timely decide the appeal.

30-181 Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City’s costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

30-182 Enforcement.

Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article. (Ord. 2019-28 6/17/19)

STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY INDEX

ARTICLE I. IN GENERAL..... 30

 Barbed wire on or near sidewalks..... 30 - 17

 Bond required for builders blocking streets..... 30 - 06

 Building encroaching on street..... 30 - 07

 Connection of sanitary or waste sewers 30 - 15

 Detachable trash bins or containers in streets..... 30 - 23

 Encroachment on roadway right of way 30 - 11.1

 Encroachments on sidewalk..... 30 - 11

 Extending sidewalk..... 30 - 12

 Games on streets and sidewalks..... 30 - 04

 Gates opening on to streets or sidewalks..... 30 - 18

 Hauling materials through the streets..... 30 - 19

 House numbering..... 30 - 22

 Inserting metal or glass in sidewalk prohibited..... 30 - 13

 Obstructions in streets/alleys generally..... 30 - 02

 Obstructions by merchandise; display on sidewalk..... 30 - 09

 Open cellar doors, wells, etc near street..... 30 - 20

 Ordinances about streets not affected by Code..... 30 - 01

 Permit for parades..... 30 - 03

 Permit for use of sound amplification equipment..... 30 - 03.1

 Removal of street obstructions..... 30 - 10

 Requirements for curb and gutters..... 30 - 21

 Snow and debris on sidewalks..... 30 - 16

 Trees overhanging streets..... 30 - 08

 Use of coasters, roller skates 30 - 05

 Water drainage on sidewalk..... 30 - 14

ARTICLE II. EXCAVATIONS.....	30
Excavating Barriers and lights.....	30 - 46
Excavating Permit required; bond or deposit.....	30 - 44
Excavating Refilling generally.....	30 - 45
Penalty for improperly repairing streets.....	30 - 48
Pipe and cable installations in streets.....	30 - 47
ARTICLE III. MOVING BUILDINGS.....	30
Application for permit to move building(s).....	30 - 72
Fee for permit to move building(s).....	30 - 74
Moving buildings application; issuance.....	30 - 73
Moving buildings duty to use care; liability.....	30 - 59
Moving Buildings surety and other conditions.....	30 - 75
Obstructing streets.....	30 - 58
Permit required to move building(s).....	30 - 71
ARTICLE IV. PRIVATE DRIVEWAYS.....	30
Definition private driveways.....	30 - 87
Establishing standard policy for driveways.....	30 - 89
Private driveways construction.....	30 - 90
Private driveways – permit required.....	30 - 88
Street access prohibited, approval of permit in certain situations.....	30 - 91
ARTICLE V. SERVICE DRIVEWAYS.....	30
Definition service driveways.....	30 - 102
Number of service driveways at a business.....	30 - 107
Service Driveway construction requirements.....	30 - 108
Service Driveways application.....	30 - 104
Service Driveways fees.....	30 - 105
Service driveways maximum length.....	30 - 106
Service driveways permit required.....	30 - 103
Service driveways restrictions.....	30 - 109
ARTICLE VI. SIDEWALK CONSTRUCTION.....	30
Concrete requirements for sidewalk construction.....	30 - 123
Permits for sidewalk construction on privately owned property.....	30-123.1
Location and width of sidewalks.....	30 - 124
Non-complying sidewalks declared nuisance.....	30 - 125
Permit sidewalk construction on city property.....	30 - 121
Sidewalk construction grades.....	30 - 122
ARTICLE VII.	
CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS – OF-WAY.....	30
Purpose and scope.....	30-160
Definitions.....	30-161
Annual Registration Required.....	30-162
Permit Required; Applications and Fees.....	30-163
Action on Permit Applications.....	30-164
Effect of Permit.....	30-165
Revised Permit Drawings.....	30-166
Insurance.....	30-167
Indemnification.....	30-168
Security.....	30-169
Permit Suspension and Revocation.....	30-170
Change of Ownership or Owner’s Identity or Legal Status.....	30-171
General Construction Standards.....	30-172

Traffic Control.....30-173
Location of Facilities.....30-174
Construction Methods and Materials.....30-175
Vegetation Control.....30-176
Removal, Relocation, or Modifications of Utility Facilities.....30-177
Clean-Up and Restoration.....30-178
Maintenance and Emergency Maintenance.....30-179
Variances.....30-180
Penalties.....30-181
Enforcement.....30-182