

CHAPTER 33

STREET REGULATIONS

ARTICLE I – DEPARTMENT ESTABLISHED

33-1-1 **ORGANIZATION.** The Street Department shall be a subordinate department of the Department of Streets and Public Improvements. The Street Department shall consist of a Street Foreman and such other subordinate employees as may be appointed to the Street Department from time to time.

33-1-2 **APPOINTMENT, COMPENSATION.** Whenever a vacancy occurs in the position of Street Foreman, such position shall be filled by appointment by the Commissioner of the Department of Streets and Public Improvements, subject to the approval of the Council. The Street Foreman shall be an appointed employee of the City and shall receive such compensation as may be fixed from time to time by the Council.

33-1-3 **DUTIES.** Under the direction of the Public Works Director, subject to the general supervision of the Commissioner of Streets and Public Improvements, the Street Foreman shall have the responsibility for all operations relating to the maintenance and improvement of the streets, alleys, storm sewers and other public property of the City, to recommend the employ and discharge of subordinate employees, and to have the general management of all subordinate employees of the Street Department. He shall have custody and control of all machinery, tools and implements used by the City in connection with the operation of the Street Department, and he shall be responsible for any injury or loss of the same caused by his negligence. He shall keep an accurate list of such property of the City as he may, from time to time, have in his custody, which list shall be open to inspection of any member of the Council at any time. The Street Foreman shall have the authority, in the interests of the City, to direct the work of all subordinate employees and to effectively recommend to the Commissioner of the Department of Streets and Public Improvements the suspension, layoff, recall, discharge, reward or discipline of any such subordinate employee, including the adjustment of their grievances.

33-1-4 **POLICE POWER.** The Street Foreman shall have the authority to issue a “notice to appear” as defined in Section 107.1(c) of the Code of Criminal Procedure of 1963 (**725 ILCS 5/107-1(c)**) for any violation of any ordinance of the City in relation to the Street Department that may come to his knowledge, and for such limited purpose the Street Foreman is hereby designated as a “peace officer” within the meaning of Section 2-13 of the Criminal Code of 1961 (**720 ILCS 5/2-13**).

(Ord. No. 12-20; 10-23-12)

ARTICLE II - GENERAL REGULATIONS

33-2-1 **UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

33-2-2 **OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 **REPAIRING SIDEWALKS, ETC.** Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Foreman to immediately report such fact to the Commissioner, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay. **(Ord. No. 21-12; 09-27-21)**

33-2-4 **STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

33-2-5 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(See 65 ILCS Sec. 5/11-80-17)**

33-2-7 **VEHICLES AND PROPELLED DEVICES ON SIDEWALKS.** No person shall operate, ride or use any vehicle or motive device propelled or designed for propulsion by human power on or over any sidewalk, steps or ramps within the City except when crossing to go into a yard or parking lot. The term "motive device propelled or designed for propulsion by human power" includes: bicycles, tricycles, hoverboards, scooters, skateboards, roller skates, rollerblades or any similar vehicle or toy or article on wheels, but shall not include wheelchairs or other devices operated or used by disabled persons. **(Ord. No. 20-4; 04-27-20)**

33-2-8 **DEPOSITS ON SIDEWALKS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **twenty-four (24) hours**.

33-2-9 **OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-10 **OBSTRUCTIONS ON STREETS OR SIDEWALKS.** It shall be unlawful for any person or persons to place, erect, or cause to be placed or erected on any public ground, or any street, lane or alley, or sidewalk of the City, any building, scaffold, tree, shrub or overhanging limb or other obstruction of any kind owned by him, her or them, to remain on any public ground or any public street, lane, alley or sidewalk of the City, unless permission is first given by the City Council and shown upon the minutes of the City, and the same shall be deemed a nuisance, and any person so offending shall be notified by the Chief of Police to remove the same, on or before a day to be fixed in the notice.

33-2-11 **BUILDING MATERIALS IN STREET.** The Street Foreman may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(See 65 ILCS 5/11-80-3) (Ord. No. 21-12; 09-27-21)**

33-2-12 **MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. Should such permission be granted, goods or merchandise or other articles, may be displayed along the front of

commercial buildings but shall not protrude **thirty-six (36) inches** maximum from the building onto public property. The placement of merchandise shall not be such that it would be in violation of any Federal, State, or local laws, such as the Americans with Disabilities Act. **(See 65 ILCS Sec. 5/11-80-3)**

(A) **Insurance.** A business owner shall be required to have a **One Million Dollar (\$1,000,000)** liability policy providing coverage for any accident relating to the placement or maintenance of said merchandise on public property, and the City must be named as an additional insured. A copy of said policy shall be delivered to the City annually, at the time application for a permit is made. Failure to submit a certificate of insurance to the City shall be a violation of this Section and the business owner shall be required to remove said merchandise from public property. **(Ord. No. 14-13; 05-27-14)**

33-2-13 RAINWATER DRAINS. It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the City Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Foreman and no such permit shall be issued unless he shall have found that the City Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the City.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the City and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement. **(Ord. No. 21-12; 09-27-21)**

33-2-14 ENCROACHMENTS. It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-15 POSTING BILLS. It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-16 SIGNS ON POLES. No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-17 **INJURY TO NEW PAVEMENTS.** It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

33-2-18 **BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three feet (3')** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight feet (8')** above the level of such public place.

33-2-19 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, lumber, straw, trash, rubbish or other combustible substances upon any of the public streets, sidewalks, alleys or vacant lots in the City.

33-2-20 **MOVING BUILDINGS.** It shall be unlawful for any person, firm or corporation to move or attempt to move any building over any street or alley in the City without first obtaining a written permit or license so to do from the Electric Foreman or the City Council and the Foreman shall have full power, and it shall be his duty to investigate the building proposed to be moved, and to prescribe the route over which the same may be moved and propose any and all other necessary and reasonable conditions and restrictions properly to safeguard the streets, alleys, street crossings, poles, wires and other public property or property of public utilities likely to be affected. **(Ord. No. 21-12; 09-27-21)**

33-2-21 **CLOSING ALLEY OR STREET.** All legal documents closing any street or alley shall have a detailed map of area showing location by street and also adjoined by what lot number in described area. **(Ord. No. 03-03; 05-12-03)**

ARTICLE III - TREES AND SHRUBS

33-3-1 **PLANTING.** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Foreman and shall be referred by him to the City Council. All trees and shrubs so planted shall be placed subject to the directions and approval of the City Council. **(Ord. No. 21-12; 09-27-21)**

33-3-2 **PLANTING TREES IN RIGHT-OF-WAY.** It shall be unlawful to plant any bushes, trees, shrubs or other plants on the right-of-way of any public street, including the space on the right-of-way between the sidewalk and the adjacent street pavement.

33-3-3 **REMOVAL.** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit, therefore. Applications for such permits shall be made to the Street Foreman and shall be referred by him to the City Council before permission shall be granted. **(Ord. No. 21-12; 09-27-21)**

33-3-4 **INJURY.** It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-5 **ADVERTISEMENTS OR NOTICES.** It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

33-3-6 **DANGEROUS TREES.** Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Street Foreman may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

(Ord. No. 21-12; 09-27-21)

33-3-7 **WIRES.** It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Foreman so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct. **(Ord. No. 21-12; 09-27-21)**

ARTICLE IV - EXCAVATIONS

33-4-1 **PERMIT REQUIRED.** It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the City without having obtained a permit as is herein required or without complying with the provisions of this Article or in violation of or variance from the terms of any such permit. **(See the Street Regulations Permit in Appendix "O".)**

33-4-2 **APPLICATIONS.** Applications for such permits shall be made to the Clerk and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, and the person, firm or corporation doing the actual excavating work; and the name of the person, firm or corporation for whom or for which the work is being done, and it shall also contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

33-4-3 **BOND.** No such permit shall be issued unless and until the applicant therefor has filed with the Clerk a bond in the sum of **Fifty Thousand Dollars (\$50,000.00)**, conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in the state as a surety company. The City Council may waive the bond provided for herein.

33-4-4 **DEPOSIT.** No such permit shall be issued unless and until the applicant therefor has deposited with the Clerk a cash deposit in the sum of **Two Hundred Fifty Dollars (\$250.00)** if no pavement is involved, and **One Thousand Dollars (\$1,000.00)** if the excavation is a paved area, to insure the proper restoration of the ground and laying of the pavement, if any. From this deposit shall be deducted the expense of the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. The City Council may waive the deposit in this Section.

33-4-5 **MANNER OF EXCAVATING.** It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed. No unnecessary damage or injury shall be done to any tree, shrub or the roots thereof.

33-4-6 SIDEWALKS. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. The temporary sidewalk is subject to inspection by the Street Foreman and shall not be open for use until approved by him. **(Ord. No. 21-12; 09-27-21)**

33-4-7 RESTORING SURFACE. Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the regulations of the City and under the supervision of the Street Foreman. **(Ord. No. 21-12; 09-27-21)**

33-4-8 SUPERVISION. The Street Superintendent shall, from time to time, inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other place in the City to see to the enforcement of the provisions of this Code. Notice shall be given to him at least **ten (10) hours** before the work of refilling any such tunnel or excavation commences.

33-4-9 TUNNELING. It shall be unlawful to make any excavation in any portion of a street or sidewalk in the City which is paved with a concrete or asphalt paving. Where necessary, and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement, provided that upon completion of the work involved, the tunnel shall be backfilled with compacted sand.

33-4-10 PROTECTIVE MEASURES AND ROUTING OF TRAFFIC. It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for the safety of the general public.

(A) Barriers, warning signs, and lights shall conform to the requirements of all applicable provisions of this Code. Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day.

(B) Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not to replace light sources.

(C) The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public. When traffic conditions permit, the Street Foreman may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him if, in his opinion, it is necessary. Such written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. **(Ord. No. 21-12; 09-27-21)**

(D) Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic in accordance with the instructions of the Street Foreman. **(Ord. No. 21-12; 09-27-21)**

33-4-11 **CLEARANCE FOR VITAL STRUCTURES.** The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the Street Foreman. **(Ord. No. 21-12; 09-27-21)**

33-4-12 **PROTECTION OF TRAFFIC.** The permittee shall maintain safe crossings for **two (2) lanes** of vehicle traffic at all street intersections where possible and safe crossing for pedestrians at intervals of not more than **three hundred (300) feet**. If any excavation is made across any public street, alley or sidewalk adequate crossing shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least **one-half (1/2)** of the sidewalk width shall be maintained along such sidewalk line.

33-4-13 **RELOCATION AND PROTECTION OF UTILITIES.** The permittee shall not interfere with any existing facility without the written consent of the Street Foreman and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. The facility owned by the City shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately-owned facilities shall be similarly borne by the permittee unless other arrangements are made with the person owning the facility. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. The permittee shall secure approval of method of support and protection from the owner of the facility.

In case of any said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose, pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this Section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to any action because of this Section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage. **(Ord. No. 21-12; 09-27-21)**

33-4-14 **ABANDONMENT OF SUBSTRUCTURES.** Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein shall, within **thirty (30) days** after such abandonment, file with the Street Foreman a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation of the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the City or any other public body. **(Ord. No. 21-12; 09-27-21)**

33-4-15 **PROTECTION OF ADJOINING PROPERTY.** The permittee shall, at all times, and at his or its own expense, preserve and protect from injury, any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where, in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain consent from the owner of such private property for such purpose and if he cannot obtain such consent, the Street Foreman may authorize him to enter the private premises solely for the purpose of making the property safe.

At the permittee's own expense, all buildings, walls, fences, or other property likely to be damaged during the progress of the excavation work shall be shored up and protected, and the permittee shall be responsible for all damage to public or private property or highways resulting from failure to properly protect and carry out the work. Whenever it may be necessary for the permittee to trench through any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this Article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily any trees or shrubs which exist in parking street areas without first obtaining the consent of the appropriate City department or official having supervision of such property. **(Ord. No. 21-12; 09-27-21)**

33-4-16 **PLACEMENT OF EXCAVATED MATERIAL.** All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as to eliminate danger to those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Street Foreman shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Street Foreman, whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Street Foreman to prevent the spreading of dirt into traffic lanes. **(Ord. No. 21-12; 09-27-21)**

33-4-17 **CLEAN-UP.** As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Street Foreman. From time to time as may be ordered by the Street Foreman and in any event, immediately after completion of the work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work and upon failure to do so within **twenty-four (24) hours** after having been notified to do so by the Street Foreman, said work may be done by the Foreman and the cost thereof charged to the permittee and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. **(Ord. No. 21-12; 09-27-21)**

33-4-18 **PROTECTION OF WATERCOURSES.** The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least **one (1) foot** in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained. The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

33-4-19 **BREAKING THROUGH PAVEMENT.**
(A) Heavy duty pavement breakers may be prohibited by the Street Superintendent when the use endangers existing substructures or other property.

(B) Saw cutting of Portland cement concrete may be required when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall not be less than **one (1) inch** in depth; however, depths greater than **one (1) inch** may be required by the Street Foreman when circumstances warrant. Saw cutting may be required by the Foreman outside the limits of the excavation over cave-outs, overbreaks and small floating sections. **(Ord. No. 21-12; 09-27-21)**

(C) Approved cutting of bituminous pavement surface ahead of excavations may be required by the Street Superintendent to confine pavement damage to the limits of the trench.

(D) Sections of sidewalks shall be removed to the nearest score line or joint.

(E) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

(F) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

(G) Cutouts outside of the trench lines must be normal or parallel to the trench line.

(H) Boring or other methods to prevent cutting of new pavement may be required by the Street Foreman. **(Ord. No. 21-12; 09-27-21)**

(I) The permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case, the permittee shall remove and pave the area.

33-4-20 DEPTH OF STRUCTURES. No person shall, without written permission of the Street Foreman, install any substructure except manholes, vaults, valve casings, culverts, and catch basins at a vertical distance less than: **(Ord. No. 21-12; 09-27-21)**

(A) **Streets.** **Twenty-four (24) inches** below the established flow line of the nearest gutter. If said flow line is not established, then the depth shall be at a minimum of **twenty-four (24) inches** below the surface of the nearest outermost edge of the traveled portion of the street.

(B) **Parkway.**

(1) The minimum depth of any substructure shall be **sixteen (16) inches** below established gutter grade when said substructure parallels the parkway.

(2) The minimum depth of any substructure shall be **twelve (12) inches** below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

(C) **Other Public Places.** The minimum depth of any substructure in any other public place shall be **twelve (12) inches** below the surface.

Nothing in this Section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of or travel on a public street.

33-4-21 **BACKFILLING.** Fine material, free from lumps and stone, selected from the soil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the City Council. Broken pavement, large stones, roots and other debris shall not be used in the backfill.

The number and size of each lift shall be dependent upon the type of soil involved. Such backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified. The Street Foreman may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the City Council. All expense of such tests shall be borne by the permittee. **(Ord. No. 21-12; 09-27-21)**

33-4-22 **TRENCHES IN PIPE LAYING.** The maximum length of open trench permissible at any time shall be in accordance with existing codes and regulations; however at night no more than **fifty (50) feet** may be open with proper barriers.

33-4-23 **PROMPT COMPLETION OF WORK.** After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be so as not to obstruct the public place or travel thereon more than is reasonably necessary.

33-4-24 **URGENT WORK.** When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Street Foreman shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee **twenty-four (24) hours** a day to the end that such excavation work may be completed as soon as possible. **(Ord. No. 21-12; 09-27-21)**

33-4-25 **EMERGENCY ACTION.** Nothing in this Article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Street Foreman for such a permit on the first working day after such work is commenced. **(Ord. No. 21-12; 09-27-21)**

33-4-26 **NOISE, DUST AND DEBRIS.** Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of **10:00 P.M.** and **7:00 A.M.**, shall not use except in case of emergency as otherwise provided herein, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

33-4-27 **PRESERVATION OF MONUMENTS.** Any monument set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the City shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City Council to do so. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument by the City.

33-4-28 **INSPECTIONS.** The Street Foreman shall make such inspections as are reasonably necessary in the enforcement of this Article. The Foreman shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this Article. **(Ord. No. 21-12; 09-27-21)**

33-4-29 **LOCATION RECORDS.** Every public utility, after the enactment of this Article, shall maintain records showing the location of all of its underground facilities except relatively minor facilities which connect a particular premise or building to a facility serving more than one premise or building and except oil or gas-gathering or field lines. Every public utility shall maintain equipment which can locate such facilities in the field.

33-4-30 **LIABILITY OF PERSONS TO CITY FOR DAMAGE.** If any person violates any provision of this Code and any person or property in consequence thereof is injured or damaged, the person so guilty of such violation shall be liable to the City in relation thereto, and no prosecution or other proceeding by the City of such person for any penalty imposed for a violation shall constitute a bar to such action by the City for such damages.

(See 65 ILCS Secs. 5/11-80-1 through 5/11-80-23)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of the City and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Street Foreman and the City Council. No one shall build a sidewalk unless it consists of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk. **(Ord. No. 21-12; 09-27-21)**

(B) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the City Clerk and approved by the City Council. See **Appendix "O"** for Permit Form. **(Ord. No. 12-9; 05-14-12)**

(C) **Cost to Owner.** If the funds are available and the City Council approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the sidewalk shall be maintained by the City.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(See 65 ILCS Sec. 5/11-80-13)**

33-5-2 CURBS AND GUTTERS.

(A) **Request in Writing.** Any person owning property within the City who desires to have new curbs and gutters constructed, along the street adjoining his premises shall file an application for a permit with the City Clerk and approved by the City Council. See **Appendix "O"** for Permit Form. **(Ord. No. 12-9; 05-14-12)**

(B) **Cost to Owner.** If the funds are available and the City Council approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the curbs and gutters shall be maintained by the City.

(C) **Approval by City Council.** The approval of the request for construction of curbs and gutters by the City Council shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the City as determined by the City Council.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(See 65 ILCS Sec. 5/11-80-11)**

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Water and Sewer Foreman shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same. **(Ord. No. 21-12; 09-27-21)**

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Foreman or his designated representative. See **Appendix "O"** for Permit Form. **(Ord. No. 21-12; 09-27-21)**

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(See 65 ILCS Sec. 5/11-80-7)

(See the Street Regulations Permit for this Article in Appendix "O".)

ARTICLE VI – SIDEWALK CONSTRUCTION

33-6-1 SIDEWALKS TO BE BUILT BY SPECIAL TAXATION. All sidewalks hereinafter constructed or renewed in the City along or upon any street or part thereof may be constructed and paid for by special assessment against the lot, lots, or parcels of land touching the land where any sidewalk shall be constructed by levying the total cost thereof upon such lot, or parcels of land in proportion to their frontage upon such sidewalks.

33-6-2 WHEELCHAIR RAMPS, REQUIREMENT. In order to enable persons using wheelchairs to travel freely and without assistance, at each crosswalk a ramp with non-slip surface shall be built into the curb so that the sidewalk and street blend to a common level. Such ramp shall be not less than **thirty-two (32) inches** wide and shall not have a slope greater than **one (1) inch** rise per **twelve (12) inches** length. Where because of surrounding buildings or other restrictions it is impossible to conform the slope with this requirement, the ramp shall contain a slope with as shallow a rise as possible under the circumstances. In all ramps there shall be a gradual rounding at the bottom of the slope. All new curbs, and all existing curbs which are a part of any reconstruction, within any block which is contiguous to any highway and in which more than **fifty percent (50%)** of the territory is devoted to or zoned for business, commercial or industrial use shall comply with this Section.

33-6-3 CONSTRUCTION TO GRADES. All sidewalks or parts or portions thereof built or constructed within the City, where not provided for by special ordinance, shall be built and constructed upon a grade to be furnished by the Street Foreman to the property owners or lessees upon request. **(Ord. No. 21-12; 09-27-21)**

33-6-4 DATUM PLANE FIXED. The base or datum plane for the City is hereby established as a standard from which all elevations shall be computed and referred to, which said plane shall be located **one hundred (100) feet** below that portion of the Northeast corner of the iron door sill at the East entrance of the First National Bank building at the Southwest corner of Main and Harrison Streets in the City of Sullivan.

33-6-5 CONSTRUCTING SIDEWALK CONTRARY TO CODE. If any person shall build, lay, or relay or attempt to build, lay or relay or knowingly assist in so doing any public sidewalk or portion thereof without first obtaining a grade thereof from the Street Foreman, or upon a grade contrary to that established therefor by the Street Foreman, or in any manner contrary to any of the provisions of the general ordinances of the City, or the special ordinance relating to such sidewalk, the Commissioner of Streets and Public Improvements is hereby authorized to stop any further work on such sidewalk and to cause such portion thereof as shall have been constructed to be removed and to cause said sidewalk to be reconstructed in accordance with the provisions of this Code, and the total cost thereof, including grading, materials and the laying down, shall be taxed and charged against such lot or parcel of land adjacent thereto. **(Ord. No. 21-12; 09-27-21)**

33-6-6 **SURVEYING AND GRADING.** It shall be the duty of the Commissioner of the Department of Streets and Public Improvements when any proposed sidewalk is to be built in the City, before the construction of any such sidewalk, or before the preparation of any or before the preparation of any special ordinance for the construction of any proposed sidewalk, concrete curb, gutter, or other street improvement, to cause to be made a survey of the line of the said proposed sidewalk, curb, gutter or other street improvement, for the purpose of establishing a grade for the same, and to have a profile of said grade made and filed in the office of the City Clerk, and to have established by Engineer's survey the proper property line, street line, or boulevard line along which said improvement is to be constructed, and such survey grade map or profile shall be approved, or approval thereof shall be obtained by the property owner, lessee, or contractor contracting such improvement before work thereon shall begin.

33-6-7 **UNSAFE OR BROKEN SIDEWALKS.** Whenever any sidewalk shall from breakage therein, natural wear or age become unsafe for ordinary travel thereon, or whenever for any cause it is necessary for public safety and convenience that any sidewalk or portion thereof should be replaced, it should be the duty of the Commissioner of the Department of Streets and Public Improvements to notify in writing the owner of the lot or lots abutting upon such sidewalk, or his or their duly authorized agents, to repair or rebuild such sidewalk as the public safety may require, and if such owner or his agent shall fail to neglect to comply with the requirements of such notice, the Commissioner aforesaid shall report such failure to comply to the City Attorney, with his recommendations thereon, and cause to be prepared an ordinance for the construction of a new sidewalk for the replacement of the sidewalk so broken or out of repair and submit such Code at the next regular meeting of the City Council for passage without delay; provided, however, that nothing in this Section contained shall excuse the Commissioner aforesaid from repairing or causing to be repaired any sudden break in any sidewalk or removing such sidewalk or repairing the same where delay would endanger or seriously inconvenience travelers thereon.

33-6-8 **BORING OR TUNNELING UNDER STREET OR SIDEWALK.** No person, firm or corporation shall hereafter tunnel, bore or excavate underneath the surface of any street, alley, sidewalk or other public place for the purpose of placing any shaft, cable, pipe main, conduit, wire or other transmitting or conducting device, or for the purpose of

making any repair thereto or for any other purpose whatsoever without first obtaining a permit so to do from the Commissioner of Streets and Public Improvements, except as otherwise provided by Ordinance.

33-6-9 USE OF SPACE UNDER STREETS; PERMIT REQUIRED. No person, firm or corporation shall use any space underneath the surface of any street, sidewalk or other public place, or construct or maintain any structure thereunder, without first obtaining a permit so to do from the City Council. No such permit shall be issued, except as hereinafter provided, and no permit shall be transferred or assigned, nor shall any right or privilege thereunder be transferred or assigned without the written consent of the Commissioner of Streets and Public Improvements. **(See the Street Regulations Permit in Appendix "O".)**

33-6-10 APPLICATION FOR PERMIT TO USE SPACE UNDER STREETS. Application for such space shall be made in writing, stating specifically the space desired, its length, breadth, and depth, the use intended to be made thereof and the type of construction. No permit shall be issued hereunder for the use of any space under the surface of the roadway of any street, and nothing herein contained shall preclude the City from revoking any permit issued hereunder when the space described in such permit is needed for public use or from providing by general ordinance a fee for the use of such space. **(See the Street Regulations Permit in Appendix "O".)**

33-6-11 SPACE UNDER STREETS – LIABILITY OF OWNER. The owner, person, firm or corporation in control or possession of the abutting property on any sub-sidewalk space shall be held responsible to the City for any and all damages to persons or property in consequence of any defect in construction of the work, or any portion thereof, or for failure to keep the same in good repair or in consequence of openings therein that may at any time be not properly or safely covered and protected. Whenever any coal hole vault or structure under any sidewalk, or any aperture constructed in any sidewalk is not covered or secured to the satisfaction of the Commissioner of Streets and Public Improvements, he may order the same to be placed in a safe condition satisfactory to him, and if the same shall not be done within **two (2) days** from the service of notice on the owner or person in possession of the premises, the Commissioner of Streets and Public Improvements may make such change, and the expense thereof shall be paid by such owner or person in possession of the premises forthwith or his permit shall be revoked.

ARTICLE VII – ENCROACHMENT ON PUBLIC RIGHT OF WAY

33-7-1 **DEFINITIONS.**

(A) **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.

(B) **Project Right of Way** is defined as those areas within the project right-of-way lines established jointly by the City, State and Federal Highway Administration which will be free of encroachments except as hereinafter defined.

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

(D) **Permissible Encroachment** is defined as any existing awning, marquee, advertising sign or similar overhanging structure supported from a building immediately adjacent to the limits of the platted street where there is a sidewalk extending to the building line and which does not impair the free and safe flow of traffic on the highway; the permissive retention of overhanging signs is not to be constructed outside the project right-of-way line and not confined by adjacent buildings.

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

33-7-2 **ENCROACHMENTS.** It shall be unlawful for any person, firm or corporation to erect or cause to be erected, to retain or cause to be retained, any encroachment (hereinabove defined), except as provided in **Section 33-7-1(D)**, within the limits of the project right-of-way or roadway right-of-way where no project right-of-way lines have been established.

ARTICLE VIII - SNOW REMOVAL

33-8-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article.

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended or other applicable regulations.

"BUSINESS HOURS" are the hours between **8:00 A.M.** and **5:00 P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

"STREET" OR "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-8-2 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS Sec. 5/11-80-13)**

33-8-3 **MAYOR'S AUTHORITY.** The Mayor is hereby authorized on behalf of the City to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal. Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing.

ARTICLE IX – OUTDOOR SIDEWALK FOOD SALES

33-9-1 PERMIT. An application generated by the City of Sullivan (hereinafter “City”) shall be provided to any owner of a licensed restaurant within the City who desires to implement outdoor dining and seeks to utilize public sidewalk right-of-way for restaurant sales. Outdoor dining on private property within these districts is also allowed subject to compliance with regulations except as noted herein.

33-9-2 FEE. There shall be no annual permit fee.

33-9-3 CRITERIA FOR GRANTING OF THE PERMIT. In reviewing the application the City Clerk or his designee must ascertain that the following criteria are satisfied prior to granting the permit.

(A) **Arrangement.** A drawing of the proposed sidewalk utilization identifying placement of all tables, chairs and any other item to be placed on the sidewalk must accompany the application if the permit application is to be reviewed for compliance. Said drawing shall be identified as the arrangement of tables and chairs (hereinafter “Arrangement”).

(B) The City Clerk or his designee shall review the proposed Arrangement within the Area to determine whether the Arrangement allows for pedestrian, vendor and handicapped access consistent with the width of the sidewalk and the relationship of the sidewalk to streets, crosswalks, parking and access to adjacent businesses. However, at a minimum, the Arrangement shall demonstrate that at least **five (5) feet** of unobstructed space is set aside on the sidewalk between the Arrangement and the curb or nearest obstacle. Signs are not allowed in the outside table service area. Further, a divider shall be required which shall separate the sidewalk café from the remaining sidewalk area by a removable divider constructed of a sturdy material such as wrought iron, metal or wood posts and chains, or other such materials deemed safe to the appropriate location. The divider shall not be less than **three (3) feet** nor more than **four (4) feet** in height. The entirety of the Arrangement shall be enclosed within this divider. On private property these regulations shall be applicable as to the divider requirement only.

(C) Applicant must acknowledge by signature his awareness that food may be sold outdoors only under the provisions of the permit granted under this Article, and only within the Arrangement as defined and under the following conditions:

- (1) Sales shall occur only within an area of the zoned premises approved by the City and that limits access to the outdoor dining area.
- (2) Alcoholic beverages cannot be sold within the outdoor dining area under any circumstances.

(D) **Area.** The area in which sidewalk dining is authorized shall abut the outside front wall of the restaurant to which it is an extension and shall not extend parallel in either direction beyond the outside front wall of the restaurant. Not applicable as to private property.

33-9-4 **REGULATIONS.** The use of the space by the permittee must conform to the Arrangement which was approved as part of the application process.

(A) All tables and furniture shall be kept in a good state of repair and be maintained in a clean, safe, and sanitary condition and in accordance with Moultrie County Health Department Regulations.

(B) A covered trash container of at least **thirty-two (32) gallon** capacity, containing a disposable plastic liner or bag shall be provided with each sidewalk café area and shall be emptied and washed as often as necessary to prevent overflow or other unsanitary conditions. It shall be the responsibility of the permittee to maintain such area, including sidewalks, and all equipment and furnishings in such conditions so as to be lean, sanitary, and safe at all times.

(C) All components of the Arrangement shall be placed indoors at the close of the business day or **10:00 P.M.** whichever is earlier every day, i.e. leaving the outside space free of any furnishings whatsoever.

(D) No music, recorded or live, or other amplified sound shall be allowed within the area of the Arrangement, and umbrellas, when used, shall have canopies which extend to at least the same diameter as the tables served by the umbrellas and shall be anchored with a weighted base. No text, graphics, or logos shall be allowed on the umbrellas or tables, and all umbrellas must be matching in color and sized. The umbrella can be of any one of the following colors: black, white, dark green, dark blue, beige, dark red, or maroon and must be approved by the City Clerk or his designee. The umbrella panels may alternate colors so long as no more than **two (2) colors** are used alternating on the umbrella panels. However the umbrellas used throughout the Arrangement must be identical in size and colors chosen.

(E) The City may suspend or modify the permits granted under this Article at any time, including but not limited to, the time in which the City may grant permits for special events. The City Clerk upon petition of the Commissioner of the Department of Public Works and Buildings shall have the authority to require any sidewalk café operating under a permit issued pursuant to this Article to suspend operation and clear such area, or to move or modify the location and operation of the sidewalk café, and to set a required time period for compliance with the order of the City Clerk.

33-9-5 **INDEMNIFICATION OF THE CITY.**

(A) As a condition of issuance, the approved applicant and any person acting under or pursuant to said approval, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent, or groundless) to the maximum extent allowed by law, the City Clerk, the City, its City Council, and each member thereof, and its officers, employees, advisory board members and representatives, from and against any and all liability, loss, suits claims, damages, costs, judgments, and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, arise out of, or are claimed to result from or to arise out of any acts, negligence, errors, or omissions of approved applicant, its employees, representatives, contractors, subcontractors, or agents by reason of or arising out of, or in any matter connected with, any and all acts, operations, privileges authorized, allowed or undertaken pursuant to the use approval under their ordinance including, without limitation, any condition or property used in operations.

(B) This agreement of indemnity includes, but is not limited to, personal injury (including death at any time), and property or other damage sustained by any person or

persons (including, but not limited to, companies, corporations, approved applicant and its employees or agents, and members of the general public).

(C) As a further condition of issuance of the approval, the approved applicant covenants not to sue the City Clerk, or designee, City, its City Council and each member thereof, and its employees, agents and representatives and shall cause its insurers to waive subrogation against the same with respect to any action, claim or demand in any way resulting from or connected with any or all undertakings and operations conducted pursuant to the use approval.

33-9-6 **LIABILITY INSURANCE.** The approved applicant shall be required to have general liability insurance providing for the following limits naming the City as an additional insured in the following minimum amounts: **One Million Dollars (\$1,000,000.00)** per occurrence, and **One Million Dollars (\$1,000,000.00)** umbrella coverage. Not applicable as to private property.

33-9-7 **PENALTIES FOR VIOLATION.** Any violation of this Article shall be punished by a fine up to **One Hundred Dollars (\$100.00)** for each offense via citation. Each day in which a violation continues shall constitute a separate offense.

33-9-8 **SEVERABILITY.** It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses, and words of this Article are severable, and if any word, clause, sentence, paragraph, or section of this Article shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Article, because the same would have been enacted by the Council without the incorporation in this Article of any such unconstitutional or invalid word, clause, sentence, paragraph, or section.

(Ord. No. 15-3; 03-10-15)

ARTICLE X – SMALL CELL ANTENNA/TOWER RIGHT-OF-WAY SITING

33-10-1 **DEFINITIONS.** For purposes of this Article, the following terms will have the following meanings:

(A) **Alternative Antenna Structure.** An existing pole or other structure within the public right-of-way that can be used to support an antenna and is not a utility pole or a City-owned infrastructure.

(B) **Antenna.** Communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

(C) **Applicant.** Any person or entity submitting an application to install personal wireless telecommunication facilities or structures to support the facilities within a public right-of-way.

(D) **City-Owned Infrastructure.** Infrastructure in public right-of-way within the boundaries of the City, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the City.

(E) **Distributed Antenna System (DAS).** A type of personal wireless telecommunication facility consisting of a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area. Generally serves multiple carriers.

(F) **Landscape Screening.** The installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of a personal wireless telecommunication facility from public view.

(G) **Monopole.** A structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure.

(H) **Personal Wireless Telecommunication Antenna.** An antenna that is part of a personal wireless telecommunications facility.

(I) **Personal Wireless Telecommunication Equipment.** Equipment, exclusive of an antenna, that is part of a personal wireless telecommunications facility.

(J) **Personal Wireless Telecommunications Facility.** An antenna, equipment, and related improvements used, or designed to be used, to provide wireless transmission of voice, data video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.

(K) **Small Cell Facilities.** A Personal Wireless Telecommunications Facility consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Generally single-service provider installation.

(L) **Tower.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure. **[Except as otherwise provided for by this Article, the requirements for a tower and associated antenna facilities shall be those required in this Article.]**

(M) **Utility Pole.** An upright pole designed and used to support electric cables, telephone cables, telecommunications cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

(N) **Variance or Variation.** A grant of relief by the City Administrator, his/her designee or Commissioner of Streets & Public Improvements.

(O) **Wi-Fi Antenna.** An antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

33-10-2 STANDARDS AND REGULATIONS. Personal wireless telecommunication facilities will be permitted to be placed in right-of-way within the jurisdiction of the City as attachments to existing utility poles, alternative antenna structures, or City-owned infrastructure subject to the following regulations:

(A) **Number Limitation.** Only one personal wireless telecommunication facility may be located on a single utility pole.

(B) **Separation and Clearance Requirements.** Personal wireless telecommunication facilities may be attached to a utility pole, alternative antenna structure, monopole, or City-owned infrastructure only where such pole, structure or infrastructure is located no closer than **twenty-five (25) feet** to any residential building and no closer than **five hundred (500) feet** from any other personal wireless telecommunication facility. A lesser separation or clearance may be allowed by the City Administrator or his/her designee as an administrative variance to this Article when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so.

(C) **Co-Location.** Unless otherwise authorized by the City Administrator or his/her designee as a variance for good cause shown, only one personal wireless telecommunication facility is allowed on each utility pole, alternative antenna structure, or single unit of City-owned infrastructure for the use of a single personal wireless telecommunication facility operator. This subsection does not preclude or prohibit co-location of personal wireless telecommunication facilities on towers or monopoles that meet the requirements as set forth elsewhere in this subsection or as required by federal law.

(D) **City-Owned Infrastructure.** Personal wireless telecommunication facilities can only be mounted to City-owned infrastructure including, but not limited to, streetlights, traffic signal, towers or buildings, if authorized by a license or other agreement between the owner and the City.

(E) **New Towers.** No new monopole or other tower to support personal wireless telecommunication facilities in excess of **sixty (60) feet** is permitted to be installed on right-of-way within the jurisdiction of the City unless the City Council finds, based on clear and convincing evidence provided by the applicant, that locating the personal wireless telecommunication facilities on the right-of-way is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new monopole or other tower within the right-of-way is the least intrusive means to do so.

(F) **Attachment Limitations.** No personal wireless telecommunication antenna or facility within the right-of-way will be attached to a utility pole, alternative antenna structure, tower, or City-owned infrastructure unless all of the following conditions are satisfied:

(1) **Surface Area of Antenna.** The personal wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot have a surface area of more than **seven (7) cubic feet** in volume.

- (2) **Size of Above-Ground Personal Wireless Telecommunication Facility.** The total combined volume of all above-ground equipment and appurtenances comprising a personal wireless telecommunication facility, exclusive of the antenna itself, cannot exceed **seventeen (17) cubic feet.**
- (3) **Personal Wireless Telecommunication Equipment.** The operator of a personal wireless telecommunication facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than **ten (10) feet** above grade.
- (4) **Personal Wireless Telecommunication Services Equipment Mounted at Grade.** In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility. Screening must be installed at least **three (3) feet** from the equipment installed at-grade and **eight (8) feet** from a roadway.
- (5) **Height.** The top of the highest point of the antenna cannot extend more than **seven (7) feet** above the highest point of the utility pole, alternative antenna support structure, tower or City-owned infrastructure. If necessary, the replacement or new utility pole, alternative support structure or City-owned infrastructure located within the public right-of-way may be no more than **ten (10) to seventy (70) feet** higher than existing poles adjacent to the replacement or new pole or structure, or no more than **ninety (90) feet** in height overall, whichever is less.
- (6) **Color.** A personal wireless telecommunication facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover.
- (7) **Antenna Panel Covering.** A personal wireless telecommunication antenna may include a radome, cap or other antenna panel covering or shield, to the extent such covering would not result in a larger or more noticeable facility and, if proposed, such covering must be of a color that blends with the color of the pole, structure, tower or infrastructure on which it is mounted.
- (8) **Wiring and Cabling.** Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the version of the National Electric Code and National Electrical Safety Code adopted by the City and in force at the time of the installation of the facility. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.

- (9) **Grounding.** The personal wireless telecommunication facility must be grounded in accordance with the requirements of the most current edition of the National Electric Code adopted by the City and in force at the time of the installation of the facility.
- (10) **Guy Wires.** No guy or other support wires will be used in connection with a personal wireless telecommunication facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower or City-owned infrastructure that incorporated guy wires prior to the date that an applicant has applied for a permit.
- (11) **Pole Extensions.** Extensions to utility poles, alternative support structures, towers and City-owned infrastructure utilized for the purpose of connecting a personal wireless telecommunications antenna and its related personal wireless telecommunications equipment must have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with the applicable structural integrity standards as set forth in (12) below. An extension must be securely bound to the utility pole, alternative antenna structure, tower or City-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.
- (12) **Structural Integrity.** The personal wireless telecommunication facility, including the antenna, pole extension and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any facility attached to City-owned infrastructure or, in the discretion of the City, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the City with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois.

(G) **Signage.** Other than signs required by federal law or regulations or identification and location markings, installation of signs on a personal wireless telecommunication facility is prohibited.

(H) **Screening.** If screening is required under **Section 33-10-1(F)(4)** above, it must be natural landscaping material or a fence subject to the approval of the City and must comply with all regulations of the City. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the City, from view of adjoining properties and public or private streets. Notwithstanding the foregoing,

no such screening is required to extend more than **nine (9) feet** in height. Landscape screening when permitted in the right-of-way must be provided with a clearance of **three (3) feet** in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility and the view from adjoining properties and public or private streets. In lieu of the operator installing the screening, the City, at its sole discretion, may accept a fee of **One Thousand Five Hundred (\$1,500.00)** from the operator of the facility for the acquisition, installation, or maintenance of landscaping material by the City.

(I) **Permission to Use Utility Pole or Alternative Antenna Structure.**

The operator of a personal wireless telecommunication facility must submit to the City written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit.

(J) **Licenses and Permits.** The operator of a personal wireless telecommunication facility must verify to the City that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained.

(K) **Variance Requirements.** Each location of a personal wireless telecommunication facility within a right-of-way must meet all of the requirements of this Article, unless a variance has been obtained in accordance with this Article.

(L) **Abandonment and Removal.** Any personal wireless telecommunication facility located within the corporate limits of the City that is not operated for a continuous period of **twelve (12) months**, shall be considered abandoned and the owner of the facility must remove same within **ninety (90) days** of receipt of written notice from the City notifying the owner of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the City to such owner at the last known address of such owner. In the case of personal wireless telecommunication facilities attached to City owned infrastructure, if such facility is not removed within **ninety (90) days** of such notice, the City may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.

33-10-3 GOVERNMENTAL WIRELESS TELECOMMUNICATION FACILITIES.

This Article will NOT apply to personal wireless telecommunication facilities owned by the City.

33-10-4 PERMITS AND APPLICATION FEES AND PROCEDURES. Permits for placement of personal wireless telecommunication facilities in right-of-way within the City are required. Except as otherwise provided for by in this Article, the procedures for the application for, approval of, and revocation of such a permit must be in compliance with City permit applications contained in the City Code. Any applications must demonstrate compliance with the requirements of this Section. Unless otherwise provided by franchise, license, or similar agreement, or federal, State or local law, all applications for permits pursuant to this Section must be accompanied by a fee in the amount of no less than **Five Hundred Dollars (\$500.00)**. The application fee will reimburse the City for regulatory and administrative costs with respect to the work being performed.

33-10-5 **CONFLICT OF LAWS.** Where the conditions imposed by any provisions of this Article regarding the siting and installation of personal wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Article will govern.

(Ord. No. 17-3; 02-27-17)

ARTICLE XI - PENALTY

33-11-1 **CAFETERIA COURT.** The City may prosecute violators of this Chapter under the provisions of **Section 1-1-20 "General Penalty"** of **Chapter 1**.

[NOTE: The Cafeteria Court provisions in Section 1-1-26 of Chapter 1 shall apply to this Chapter.]

CITY OF SULLIVAN, ILLINOIS

GENERAL WORK AGREEMENT

1. The undersigned hereby request the _____ Department of the City of Sullivan, Moultrie County, Illinois to perform the following work or installation at or upon the premises located at:

_____ in Sullivan, Illinois.

- 2. Electric _____
- Gas _____
- Water _____
- Sewer _____
- Street & Alley _____

3. The work or installation to be performed being described as:

4. The undersigned hereby represents that he is the owner of said premises, or an authorized agent, and agrees to pay for said work or installation the sum of \$ _____, or at the rate of _____, within _____ after receiving a statement from the said City upon completion, and upon failure to do so acknowledges that a lien may be filed against said real estate.

Signed at Sullivan, Illinois, this _____ day of _____, A.D. ..

(Owner or Agent)

(Witness)