

CITY CODE

OF

HENRY, ILLINOIS

1992

**Revised: 1995, 1997, 1999, 2001, 2002, 2003, 2005, 2006,
2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017**

Mayor – Doug Wilson

Aldermen

Ron Friedrich
Gene Schrowang
Dan Keith

Jeff Bergfeld
Ed Karls
Shawn Carr

City Clerk – Jean Goldner
Deputy City Clerk – Tara Lewis
Treasurer – Kristyn Young
Attorney – Ryan Anderson

Prepared by: North Central Council of Governments
Electronic Format and 2012-2013 Update by: City of Henry

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CHAPTER 1. GENERAL PROVISIONS

Sec. 1-1. Title; references.

This Code shall be known as the City Code of the City of Henry. Any reference made to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate chapter heading and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this Code by title in any legal document.

Sec. 1-2. Definitions.

Whenever the following terms are used in this Code they shall have the meanings ascribed to them in this section, unless the context makes such meaning repugnant thereto:

Agent means a person acting on behalf of another.

City means the City of Henry, in the County of Marshall and the State of Illinois.

Code means this city code.

Council means the council of the City of Henry.

County means the County of Marshall in the State of Illinois.

Daylight Saving Time means the official time in the city during months beginning last Sunday in April and ending of the last Sunday in October of each year being one (1) hour later than the central standard time.

Fee means sum of money charged by the city for the carrying on of a business, profession or occupation.

Hereafter means at any time after the effective date of the ordinance containing such word.

Illinois Laws and Compiled Statutes or **ILCS** means the general and permanent laws of Illinois, as amended.

Knowingly imports only a knowledge that the facts exist which bring the act or omission within the provision of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

License means the permission granted for the carrying on of a business, profession or occupation.

Misdemeanor means any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one (1) year may be imposed.

Negligent, Neglect, Negligence and Negligently mean a want of such attention to the nature of probable consequences of the act or omission as a prudent person ordinarily bestows in acting in his own concern.

Nuisance means anything offensive or obnoxious to the health and welfare of the inhabitants of the city or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on, the property of another person or to the community.

Occupant, applied to a building or land, means any person who occupies the whole or any part of such building or land, whether alone or with others.

Offense means an act forbidden by any provision of this Code, or the omission of any act required by the provisions of this Code.

Operator means the person who is in charge of any operation, business or profession.

Owner, applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

Person means any individual, partnership, corporation, joint-stock association or the state or any subdivision thereof, and includes any trustee, receiver, assignee or personal representative thereof.

Personal Property means every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

Retailer means a seller of goods, merchandise, articles or other things in small quantities to the consumer.

State. The words "the state" or "this state" shall mean the State of Illinois.

Street includes alleys, lanes, courts, boulevards, public squares, public places and sidewalks.

Tenant, applied to a building or land, includes any person who occupies the whole or any part of such building or land, whether alone or with others.

Wholesaler and Wholesale Dealer relate to the sale of goods, merchandise, articles or other things in quantity to persons who purchase for the purpose of resale.

Willfully, when applied to the intent with which an act is done or omitted, means a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate the law, to injure another, or to acquire an advantage.

Written and In Writing may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law on any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

Sec. 1-3. Number; gender.

- (a) Whenever any work importing the plural number is used in this Code in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. The singular shall also include the plural.
- (b) When any subject matter, party or person is referred to in this Code by words importing the masculine gender, females as well as males and bodies corporate and other "persons" as defined in this section 1-3 shall be deemed to be included.
- (c) This section shall not be applied to any provision of this Code which contains any expression provision excluding such construction or where the subject matter or content may be repugnant thereto.

Sec. 1-4. Additional rules of interpretation.

In the interpretation of this Code, the following rules shall be observed:

Employees, officers, etc. Whenever a reference is made to an employee, officer, department or other agency by title only, this shall be construed as though followed by the words "of the City of Henry."

Fiscal year. The fiscal year of the City shall be the period beginning May first of each year and ending April thirtieth of the next succeeding year.

Intent to defraud. Whenever an intent to defraud is required in order to constitute an offense, it shall be sufficient if an intent appears to defraud any person.

Liability of employers and agents. When any provision of this Code prohibits the commission of an act, not only the person actually doing the prohibited act or omitting the directed act, but also the employer and all other persons concerned with or aiding or abetting the person shall be guilty of the offense described and liable to the penalty set forth.

May. The word "may" is permissive.

Municipal year. The municipal year of the city shall be the period beginning May first of each year and ending April thirtieth of the next succeeding year.

Shall. The word "shall" is mandatory.

Sec. 1-5. Catch-lines of sections.

The catch-lines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided shall they be so deemed when any of such sections, including the catch-lines, are amended or reenacted.

Sec. 1-6. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code and of every code adopted by reference herein are severable, and if any such phrase, clause, sentence, paragraph, or section shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, including any code adopted by reference.

Sec. 1-7. Acceptance.

This code, as hereby presented in printed form, shall be received without further proof in all other courts and in all administrative tribunals of this state as the ordinances of the city of general and permanent effect.

Sec. 1-8. Amendments to Code; amendatory language.

- (a) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section of the City Code of the City of Henry is hereby amended to read as follows." The new provisions shall then be set out in full as desired.
- (b) If a new section not heretofore existing in this Code is to be added, the following language may be used: "That the City Code of the City of Henry is hereby amended by adding a section, to be numbered _____, which section reads as follows." The new section shall then be set out in full as desired.

Sec. 1-9. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) When a supplement to this code is prepared, all portions of the Code have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions.
 - (2) Provide appropriate catch-lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch-lines, headings and titles.
 - (3) Assign appropriate numbers to sections and other subdivisions of the Code in the supplement, and make changes in such catch-lines, headings and titles.
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ to ____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated in the Code.)
 - (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted in the Code, but in no case shall the codifier make any changes in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of

- (a) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness; any contract or obligation assumed by the city; or the issuance of warrants.
- (b) Any ordinance not included in this Code fixing salaries of officers or employees of the city, or any ordinance consistent with this Code that fixes fees.
- (c) Any appropriation ordinance.
- (d) Any right or franchise granted by the council to any person.

- (e) Any public utility ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities, to the extent that it is consistent with this Code.
- (f) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street, public way or other public place in the city, or acquiring or vacating any easement in the city.
- (g) Any ordinance establishing and prescribing the street grades of any street in the city.
- (h) Any ordinance providing for local improvements or assessing taxes therefore, or levying any other taxes that are not superseded by this Code.
- (i) Any ordinance dedicating or accepting any plat or subdivision in the city.
- (j) Any ordinance annexing property to the city, describing the city boundary or setting out the location or boundary of any city park.
- (k) Any ordinance relating to specific elections.
- (l) Any ordinance relating to the transfer or acceptance of property.
- (m) Any temporary ordinance.
- (n) Any special ordinance.

All such ordinances, as now or hereafter amended, are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-11. Effect of new ordinances and Code.

- (a) No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment is mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- (b) This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- (c) Nothing contained in this chapter shall be construed as abating any action pending under or by virtue of any general ordinance of the city herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this Code.

Sec. 1-12. Code alteration.

- (a) It shall be unlawful for any person to alter, change, replace or deface in any way any section or any page of this Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the council. The city clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the clerk.
- (b) Any person having in his custody an official copy of this Code shall make every effort to maintain it in an up-to-date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the city clerk. Such Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the clerk when directed to do so by order of the Council.

**Sec. 1-13. General penalty/Action before Proper Officer/Abatement Ticket/
Administrative Ticket.**

- (a) Whenever in this Code or in any ordinance of the City any act is prohibited or is made or is declared to be unlawful for an offense, or whenever in such Code or ordinance, the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punishable by a fine not exceeding seven hundred fifty dollars (\$750.00). A separate offense shall be deemed committed for each day any violation of any provision of this Code or of any ordinance shall continue.
- (b) In any case where this Code or any ordinance or section of an ordinance of the City shall not provide a greater penalty for a second or subsequent conviction for a violation thereof, any person violating the same who shall previously have been convicted of a violation thereof shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, except that where the penalty provided by this Code or any such ordinance or section for a first violation thereof shall be larger than the penalty herein provided, such larger penalty shall be applicable.
- (c) All actions brought to recover any fine or to enforce any penalty for a violation of any provision of the City Code shall be begun before the proper officer and shall be brought in the corporate name of the City as plaintiff. No prosecution, recovery or acquittal for the violation of any Code provision shall constitute a defense to any other prosecution of the same party for any other violation of such Code provision, although the different causes of action existed at the same time, and, if united, would not have exceeded the jurisdiction of the court. In addition to the ability to initiate court action, the City may bring such action to recover any fine or to enforce any penalty for a violation of any provision of this City Code through the administrative process set forth in Subsection (e) below. If action taken under administrative enforcement is concluded by the full payment of a fine by the offender within the specified time period, the City shall not bring any other action for the specified violation through court proceedings.
- (d) Issuance of abatement tickets.

- (1) Definition. "Abatement ticket" is defined as a ticket utilized by authorized City officers to notify individuals of a violation of the Code of the City of Henry which requires abatement of a particular nuisance prohibited by the Code.
- (2) Use. Abatement tickets may be used for violations of the Henry City Code or City ordinances and may be issued by police officials, building commissioners, or other authorized City officers. Abatement tickets shall not be used for violations of any ordinance comparable to those offenses specified in Illinois Supreme Court Rule 551 (as now in force or hereafter amended).
- (3) Procedure. At the discretion of a police officer, building commissioners, or other authorized official of the City of Henry, an administrative ticket may be used in lieu of or in addition to a notice to abate, notice to appear, arrest or complaint using the following procedure:
 - (a) When an abatement ticket is issued by an authorized City officer, the person receiving such ticket shall be placed on notice that a violation of the Henry City Code has occurred and shall have a period prescribed by ordinance from the date of the issuance of the ticket to remedy the violation. If the recipient of the ticket is able to demonstrate to the proper authorized officer that the violation has been remedied and the individual is in compliance with the Henry City Code within such time period, no further action shall be taken by the City of Henry to enforce the Code violation.
 - (b) If the recipient of the ticket does not demonstrate to the proper authorized officer that the violation has been remedied within the applicable time period, the abatement ticket (which serves as the notice to appear and complaint) shall be filed with the Clerk of the Circuit Court in Marshall County and shall be prosecuted to the extent permitted by law. The defendant shall then be subject to the fines and penalties as set forth in the applicable provisions of this Code, including court costs and attorney's fees, as applicable. (Ord. #1321, 1-25-99)

(e) Administrative Process for Ordinance Violations

- (1) Any City officer authorized to enforce the provisions of the City Code, including any law enforcement officer acting on behalf of the City, building commissioners, and any other authorized City officials, may issue and serve administrative enforcement citations to an offender for a violation of the Code. Furthermore, the City Clerk may issue administrative enforcement citations by certified mail to the offender.
- (2) Every administrative enforcement citation issued under this provision of the Code shall impose a fine in the following amounts for the following offenses:

Ordinance Violation	First Offense Fine	Second Offense Fine
Carrying Open Liquor from Premises	\$100.00	\$200.00
Discharge of Firearms	\$100.00	

Selling Tobacco Products/Cigarettes to non-age person (Minor)	\$100.00	\$300.00
Purchase of Tobacco Products by non-age person (Minor)	\$50.00	\$100.00
Deposit of Grass and Rubbish prohibited in public streets	\$100.00	
Open Burning	\$50.00	\$100.00
Disorderly conduct	\$100.00	
Public Intoxication	\$100.00	
Noise/Loud Disturbances	\$50.00	\$100.00
Possession of Fireworks	\$100.00	
Curfew (Under 18)	\$50.00	
Sale of Intoxicating Liquor to Non-Age Person (Minor)	\$200.00	\$500.00
Possession/Consumption of Alcohol by Non-Age Person (Minor)	\$150.00	\$300.00
Using Scooter, Skateboards or Roller Blades in Prohibited Areas	\$50.00	
Loitering	\$50.00	\$100.00
Riding in rear/box of pickup truck	\$250.00	\$500.00
Speeding less than 21 mph over limit	\$100.00	\$200.00
Dog Running at Large	\$100.00	\$200.00
Weeds/grass over 10 inches	\$50.00	
Inoperable and unused motor vehicle (after 7 day notice)	\$100.00	
Nuisance/Illegal dumping	\$100.00	
All-terrain vehicles	\$50.00	
Other	\$100.00	\$200.00

to be paid to the City of Henry, Payment of any fine under this Section of the code shall be made to the City Clerk at the City Hall. Any check tendered to pay a fine under this Section of the Code which is returned to the City unpaid for any reason shall not be considered to be "full payment" under this Section.

- (3) The offender shall pay any fine imposed under this Section of the code within 30 calendar days, unless a shorter period of time is specifically provided by the applicable Code provision.
- (4) This administrative enforcement process shall not initiate any court proceedings related to a particular violation of the Code and shall be independent of any court proceeding related to the enforcement of the Code. Furthermore, action taken under this Section of the Code shall not prevent the City from pursuing other types of enforcement action against the offender or another person for the same violation. However, any violation of the Code which is concluded by the full payment of the fine amount set forth above by the offender in the specified time period shall not be brought by the City as an action against that offender to recover a fine for such violation in a court proceeding.

(Ord. 1521, Dec. 11, 2006)

Sec. 1-14. Establishment of Wards.

Pursuant to the applicable provisions of Division 4 of the Illinois Municipal Code of 1961, as amended, it is necessary that the City of Henry be divided into one-half (1/2) as many wards as the total number of Alderman to which the City is entitled and in determining the boundaries of such Wards, the number of inhabitants of the City eligible to vote at general elections for City officers preceding the division of the City into Wards shall be as nearly equal in population and such Wards shall be as compact and contiguous territory as practicable.

Sec. 1-15. Ward Number 1.

Ward Number 1 shall consist of all the parts of the City of Henry which lies easterly of a line described as follows:

Beginning at the intersection of the northerly bank of the Illinois River with the southerly extension of the center line of the alley situated between Main Street and Edward Street, in the City of Henry, thence northwesterly along the center line of such southerly extension of said center line of said alley and continuing northerly along such center line of said alley to its intersection with the center line of Edmond Street, thence northeasterly along the center line of said Edmond Street to its intersection with the center line of Edward Street, thence northwesterly along the center line of said Edward Street to its intersection with the easterly line of the Chicago, Rock Island and Pacific Railroad right-of-way, thence northerly along such easterly line of said railroad right-of-way to the north boundary line of the City.

Sec. 1-16. Ward Number 2.

Ward Number 2 shall consist of all that part of the City of Henry which lies southwestery of a line described as follows:

Beginning at the intersection of the northerly bank of the Illinois River with the southerly extension of the center line of the alley situated between Main Street and Edward Street, in the City of Henry, thence northwesterly along the center line of such southerly extension of said center line of said alley and continuing northerly along such center line of said alley to its intersection with the center line of Edmond Street, thence northeasterly along the center line of said Edmond Street to its intersection with the center line of Edward Street, thence northwesterly along the center line of said Edward Street to its intersection with the easterly line of the Chicago, Rock Island and Pacific Railroad right-of-way, thence northerly along such easterly line of said railroad right-of-way to the north boundary line of the City, and which lies easterly of a line described as follows:

Beginning at the intersection of the northerly bank of the Illinois River with the center line of Carroll Street and thence northwesterly along the center line of said Carroll Street to its intersection with the center line of Western Avenue, thence westerly along the center line of Western Avenue to its intersection with the center line as extended south of Warren Street, thence northerly along the center line of said Warren Street to its intersection with the north boundary of the City of Henry.

Sec. 1-17. Ward Number 3.

Ward Number 3 shall consist of all that part of Henry which lies westerly of a line described as follows:

Beginning at the intersection of the northerly bank of the Illinois River with the center line of Carroll Street and thence northwesterly along, the, center line of said Carroll Street to its intersection with the center line of Western Avenue, thence westerly along the center line of Western Avenue to its intersection with the center line as extend south of Warren Street, thence northerly along the center line of said Warren Street to its intersection with the north boundary of the City of Henry.
(Ord. #787, 1-13-1969).

Sec. 1-18. State Gift Ban Act.

(a) Definitions

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

"Compensated time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Ordinance, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Contribution" has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

"Employee" means a person employed by the City of Henry, Marshall County, Illinois, whether on a fulltime or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

"Employer" means the City of Henry, Marshall County, Illinois.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

"Officer" means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

"Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;

(2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;

(3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

(b) Prohibited Political Activities

(1) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the City of Henry in connection with any prohibited political activity.

(2) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).

(3) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(4) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Section.

(5) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

(c) Gift Ban.

(1) Gift Ban. Except as permitted by this Section, no officer or employee, and no spouse of, or immediate family member living with, any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

(2) Exceptions. Section (c)(1) is not applicable to the following:

(A) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(B) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.

(C) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(D) Educational materials and missions.

(E) Travel expenses for a meeting to discuss business.

(F) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(G) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(H) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(I) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(J) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intergovernmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(K) Bequests, inheritances, and other transfers at death.

(L) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

(3). Disposition of Gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Section if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(d) Discipline or Discharge.

In addition to any other penalty that may be applicable, an officer or employee who intentionally violates any provision of Section 1.18(b) or Section 1.18(c) of this Code is subject to discipline or discharge.

(Ord. #1481, April 12, 2004)

CHAPTER 2. ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Federal Old Age and Survivors Insurance System.

Benefits of the Federal Old Age and Survivor's Insurance System as authorized by the Federal Social Security Act and amendments thereto shall be available to all eligible employees of the City of Henry as of January 1, 1958. The mayor is authorized to execute an agreement with the State Employees' Retirement System of the State of Illinois (Social Security Unit) to secure coverage of eligible employees. Withholdings from salaries of employees for the purpose of this coverage shall be made in the amounts and at such times as may be required by applicable State and Federal laws and shall be paid over to the state agency in such amounts and at such times as are designated by State laws or regulations. Employer contributions and administrative expense shall be paid to the state agency in accordance with applicable State laws and regulations from amounts appropriated for such purposes.

(Ord. #652, 1-13-1958)

Sec. 2-2. Illinois Municipal Retirement Fund.

The City of Henry shall participate in the Illinois Municipal Retirement Fund as provided for in the Illinois Municipal Retirement Fund Act, effective January 1, 1966. (Ord. #741, 10-25-1965)

Sec. 2-3. Employee Relations Guide.

The City of Henry adopts the employee relations guide dated February 24, 1975, being ten (10) consecutive numbered pages identifying working conditions and relations with the City and said employees that produce the best result for the City of Henry.

(Ord. #833, 2-24-1975)

Sec. 2-4 Reimbursement of Travel, Meal, and Lodging Expenses

(a) Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Section shall be as follows:

Entertainment: Includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.

Travel: Any expenditure directly incident to official travel by employees and officers of the City of Henry involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

Travel Expense Reimbursement Form: A standardized form for submission of travel, meal and lodging expenses. Such form shall be created and approved by the finance and insurance committee in accordance with the requirements of the Local Government Travel Expense Control Act (50 ILCS 150/1 et seq.).

(b) Official business for which expenses may be reimbursed.

- (1) An official of the City, whether elected or appointed, shall be entitled to reimbursement for travel, including meals or lodging, related to the following types of official business:
 - (a) Education conference related to the duties of the City officer;
 - (b) Training and /or certification classes and courses related to the officer's official duties;
 - (c) Site visits to current or potential vendors of the City;
 - (d) Conferences or seminars related to official City business; and
Other trips related directly to official City Business.

- (2) An employee of the City shall be entitled to reimbursement for travel, including meals and lodging, related to the following types of official business:
 - (a) Education conferences related to the employee's official duties;
 - (b) Training and/or certification classes and courses related to the employee's official duties;
 - (c) Site visits to current or potential vendors of the City;
 - (d) Conferences or seminars related to official City Business;
 - (e) Other trips related directly to official City business.

- (c) Non-reimbursable travel expenses. No employee or officer of the City shall be reimbursed by the City for any entertainment expense. In addition, the following items will not be reimbursed;
 - (1) Childcare, babysitting, house-sitting, pet-sitting, or kennel charges;
 - (2) Costs incurred for failure to cancel travel or lodging reservations in a timely fashion;
 - (3) Airline or hotel club memberships;
 - (4) Travel accident insurance premiums or purchase of additional travel insurance
 - (5) Valet services;
 - (6) Travel, lodging, meals, or other expenses for spouses or other family members;
 - (7) All other expenses not directly related to City Business.

- (d) Allowable reimbursements.
 - (1) Employees and officers should choose the least costly method of transportation that meets the traveler's scheduling and business needs.
 - (2) Employees and officers will be paid or reimbursed for use of their personal automobile on official City business at the IRS stated rate per mile. Commuting mileage will not be reimburse.
 - (3) Car rentals may be reimbursed if it is more economical than any other form of transportation, or if necessary once the destination city is reached by other mode of transportation (i.e. air or train travel). Reimbursement will be allowed only for the smallest and most economical vehicle available to meet travel needs. Larger vehicle or commercial vehicle rental may be approved if multiple employees or officers are traveling to the same destination. Any vehicle rental pursuant to this paragraph must include collision damage and loss damage coverage.
 - (4) Coach class or economy airfare may be reimbursed. First or business class tickets are non-reimbursable. Employees and officers are expected to obtain the lowest

available and most direct airfare that reasonably meets travel needs. Baggage fees for one carry-on and one piece of checked luggage will be reimbursed. Additional baggage fees will not be reimbursed unless specifically required for City business purposes.

- (5) Taxi fare or public transportation fares between the airport or train station and the traveler's place of lodging between the place of lodging and the work location, and from one place of business to another will be reimbursed.
- (6) The cost of overnight lodging will be reimbursed if the authorized travel is 90 miles or more from the employee or officer's home. Lodging expenses will be reimbursed at the standard/economy, single occupancy room rate. Additional room charges for amenities and incidental expenses will not be reimbursed.
- (7) Meals will be reimbursed at a maximum of the per diem rates for meals and incidental expenses established by the federal General Services Administration. Meal receipts must be submitted with a reimbursement request. Purchase of alcohol or tobacco is not a reimbursable expense.
- (8) Reasonable tips for any of the travel services listed in this subsection will be reimbursed, provided that itemized receipts, if available, are submitted with the Travel Expense Reimbursement Form.
- (9) Other necessary and reasonable travel expenses, including but not limited to, rail fare, conference or continuing education registration fees, certification exams, parking, and tolls, may be reimbursed subject to approval as set forth in subsection (f) of this Section.
- (10) Notwithstanding anything in this Section to the contrary, the maximum allowable Reimbursement for an employee or officer of the City for a single trip shall be \$300.00.

(e) Documentation of Expenses: Before any reimbursement for travel, including meals or lodging, may be approved pursuant to subsection (d) of this Section, a Travel Expense Reimbursement Form supported by the following minimum documentation shall first be submitted to the City treasurer or the City Council, in accordance with this subsection.

- (1) An estimate of the cost of travel, meals, or lodging if expenses have not been incurred or a receipt of the cost of the travel, meals, or lodging if expenses have already been incurred.
- (2) The name of the individual who received or is requesting the travel, meal, or lodging expenses;
- (3) The job title or office of the individual who received or is requesting the travel, meal, or lodging expense; and
- (4) The date or dates and nature of the official business in which the travel, meal, or lodging expense was or will be expended.

(f) Approval of Expenses: Requests by City officials and employees for reimbursement of travel expenses shall be submitted to and approved by the City treasurer, except as otherwise provided in this Section. Requests by the City Treasurer, for reimbursement of travel expenses shall be submitted to and approved by the City Clerk. Reimbursement requests must be submitted within 10 days after the travel is completed. The following reimbursement must be approved by the City Council by a roll call vote:

- (1) Any expense of any officer or employee that exceeds the maximum permitted in subsection (d) of this Section; or
- (2) Any expense of the mayor or an alderman of the City.

(Ord. #1695 12-19-16; 50 ILCS 150/1)

Sec. 2-5 to 2-25. Reserved.

ARTICLE II. COUNCIL

DIVISION 1. GENERAL

Sec. 2-26. Assignment of Aldermen.

The council shall consist of the mayor and six (6) aldermen, as is provided by statute for cities under three thousand (3,000) population. (65 ILCS 5/3-4-7)

Sec. 2-27. Bond, Oath.

Each aldermen shall take the oath of office as nearly as may be in the form prescribed in this article for the mayor. This oath shall be filed with the city clerk, as is required by statute. (Ord. #1, 6-2-1879; 65 ILCS 5/3-14-3)

Sec. 2-28. Regular and adjourned meetings.

The regular meetings of the council shall be held on the third Monday in each calendar month at the hour of ~~7:00~~ 6:30 p.m., at the City Hall building. (Ord. #1541, 1-14-08 eff. 1-31-08)

Sec. 2-29. Special meetings.

Special meetings may be called and held at the request of the mayor or any three (3) aldermen. (Ord. #688, 11-9-1959; 65 ILCS 5/3-11-13)

Sec. 2-30. Presiding officer.

The mayor shall preside at all meetings of the city Council. In absence of the mayor, acting mayor, or mayor pro tem, the city council may elect an alderman to act as a temporary chairman. (65 ILCS 5/3-11-14, 3-11-15)

Sec. 2-31. Quorum - Compelling attendance.

A majority of the city council shall constitute a quorum to do business. A smaller number, however, may adjourn from time to time, and may compel the attendance of absentees, under whatever penalties, including a fine for a failure to attend, the council may prescribe by ordinance. (65 ILCS 5/3-11-12)

Sec. 2-32. Members required to vote.

The mayor shall not vote on any ordinance, resolution, or motion except; (1) where the vote of the aldermen has resulted in a tie; or (2.) where one-half (1/2) of the aldermen elected have voted in favor of the ordinance, resolution or motion even though there is no tie vote; or (3) where a vote greater than a majority of the city council is required by this Code to adopt an ordinance, resolution, or motion. In each instance specified, the mayor shall vote. (65 ILCS 5/3-11-14)

Sec. 2-33 to 2-34. Reserved.

Sec. 2-35. Compensation.

Compensation for the City Alderman shall be an annual salary of One Thousand Two Hundred Dollars (\$1,200.00) payable quarterly, plus Fifty Dollars (\$50.00) per each special

meeting and Ten Dollars (\$10.00) for each committee meeting attended, where the attendee is a member of the committee for which the meeting is held. (Ord. #1274, 4-14-1997)

Sec. 2-36 to 2-50. Reserved.

DIVISION 2. MAYOR

Sec. 2-51. General duties.

The mayor shall perform all the duties which are prescribed by law, including the city ordinances, and shall take care that the laws and Ordinances are faithfully executed

The mayor from time to time, may and annually shall give the council information relative to the affairs of the city, and may recommend for their consideration such measures as he believes expedient. (65 ILCS 5/3-11-6)

Sec. 2-52. Mayor Pro-Tem.

If a temporary absence or disability of the mayor incapacitates him from the performance of his duties but does not create a vacancy in the office, the city council shall elect one (1) of its members to act as mayor pro tem. The mayor pro tem, during this absence or disability, shall perform the duties and possess all the rights and powers of the mayor (65 ILCS 5/3-11-7)

Sec. 2-53. Designation of person to sign instruments.

They mayor may designate another to affix the signature of the mayor to any written instrument, which is required to be signed by the mayor. The mayor shall send written notice of this designation to the city council, stating the name of the person whom he has selected and what instrument the parson will have authority to sign. A written signature of the mayor executed by the person so designated, with the written signature of the person so designated underneath shall be attached to the notice. The notice, with the signatures attached, shall be recorded in the journal of the city council and then filled with the city clerk. When the signature of the mayor is placed on a written instrument at the direction of the mayor in the specified manner, the instrument, in all respects, shall be as binding on the city as if signed by the mayor in person. (65 ILCS 5/3-11-5)

Sec, 2-54, Oath; bond.

The mayor, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Illinois, that I will faithfully discharge the duties of the office of _____ according to the best of my ability."

which oath or affirmation shall be filed in the office of the city clerk. The mayor shall execute a bond to the city in the sum of no less than three thousand dollars (\$3,000.00), with such sureties as the council shall approve, conditioned for the faithful performance of the duties of the office and the payment of all money received, and filed with the city clerk, as required by statute

Sec. 2-55. Compensation.

The mayor shall be paid an annual salary of Two Thousand Four Hundred Dollars (\$2,400.00), payable quarterly, plus Fifty Dollars (\$50.00) for each special meeting and Ten Dollars (\$10.00) for each committee meeting attended, where the Mayor is a member of the

committee for which the meeting is being held, plus Thirty Dollars (\$30.00) expense per quarter. (Ord. #1274, 4-14-1997)

Sec. 2-56 to 2-70. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERAL

Sec. 2-71. Qualifications of officers.

No person shall be eligible to any city office who is not a qualified elector of the city and who shall not have resided therein at least one (1) year next preceding his election or appointment. However, these requirements shall not apply to the municipal engineer, health officers, or other officers who require technical training or knowledge. Nor shall these requirements apply to city attorneys. Nor shall any person be eligible to any office who is a defaulter to the city. (65 ILCS 5/3-14-1.)

Sec. 2-75 to 2-90. Reserved.

DIVISION 2. CITY CLERK

Sec. 2-91. Appointment.

The city clerk shall be elected when the mayor is elected, except in case of an election to fill a mayoral vacancy. If a vacancy occurs in the office city clerk it shall be filled by the mayor with the advice and consent of the city council. The person so appointed shall hold office for the unexpired term. (65 ILCS 5/3-4-2)

Sec. 2-92. Oath, bond.

The city clerk shall take the oath of office as nearly as may be in the form prescribed in this article for the mayor. This oath shall be filed in the city clerk's office as is required by statute. The city clerk shall execute a bond with security, to be approved by the city council, payable in the city in whatever penal sum is determined, said bond to be filed with the city treasurer, conditioned for the faithful performance of the duties of his office. (Ord. #1, 6-2-1879; 65 ILCS 5/3-14-3)

Sec. 2-93. Duties; powers.

- (a) The city clerk shall attend all regular and special meetings of the council and shall keep a correct journal of all proceedings and record the same in a book to be kept for that purpose.
- (b) The clerk shall provide, at the expense of the city, all necessary books, stationery, lights and, fuel for the use of the city.
- (c) The clerk shall keep a correct account between the city and the collector of taxes on real and personal property, by charging him with the amount of all the taxes due the city, as returned by the city assessor in his book, and also the amount of the printers bills for advertising the list of lands on which taxes have not been paid, and he shall allow the said collector such credits as he may be entitled to be law and the ordinances of said city.

- (d) The clerk shall keep a correct account between the city and the city treasurer by charging him with all levies received by him as exhibited to the said clerk in his duplicate receipts, and crediting him with all city script cancelled by the finance committee, and all money paid out by him by order of the city council, and he shall allow said treasurer such other credits as he may be entitled to by law and the ordinances of said city.
- (e) The clerk shall keep and safely preserve all papers, books, maps, and documents pertaining to his office; he shall also have the custody of all papers, books, maps, and documents belonging to the city and not in the actual use of the other city officers, and shall, without delay, deliver to the city council all communications, papers or documents addressed to the same.
- (f) The clerk shall record in a separate book all ordinances which may be passed from time to time by the city council.
- (g) The clerk shall have all ordinances published within one month after their passage in a newspaper of said City or in pamphlet form as the city council shall designate, as required by law. (Ord. #Chapter 1, 5-30-1854; 65 ILCS 5/3-10-7)

Sec. 2-94. Additional duties.

The city clerk shall perform all such other and further duties pertaining to his office as are or may be imposed upon him by law or ordinance, or by resolution of the council. (Ord. #Chapter I, 5-30-1854)

Sec. 2-95. Deputies.

The city clerk may, when necessary and upon approval of the council, appoint one (1) deputy clerk, who during the temporary absence or disability of the clerk shall be empowered to perform all the duties of the clerk. The powers and duties of the deputy clerk shall be exercised only in the absence of the clerk from the place where the clerk's office is maintained, and only when the city council has determined by resolution that the city clerk is temporarily or permanently incapacitated to perform the duties of the city clerk. (65 ILCS 5/3-6-3, 3-10-9)

Sec. 2-96. Compensation.

The City Clerk shall be paid an annual salary of One Thousand Two Hundred Dollars (\$1,200.00), payable quarterly, plus Fifty Dollars (\$50.00) for each special meeting. (Ord. #1274, 4-14-1997)

Sec. 2-97 to 2-110. Reserved.

DIVISION 3. CITY TREASURER

Sec. 2-111. Appointment.

The city treasurer shall be elected when the mayor is elected, except in case of an election to fill a mayoral vacancy. If a vacancy occurs in the office of the city treasurer it shall be filled by the mayor with the advice and consent of the city council. The person so appointed shall hold office for the unexpired term of the officer elected. (65 ILCS 5/3-4-2)

Sec. 2-112. Oath; bond.

The city treasurer, before entering upon the duties of his office, shall take the oath of office as nearly as may be in the form prescribed in this chapter for the mayor, and shall execute a bond with security to the city in an amount not less than three (3) times the latest Federal census

population or any subsequent census figure used for Motor Fuel Tax purposes, and said bond shall be filed with the city clerk, conditioned for the faithful performance of the duties of his office and the payment of all moneys received by him, according to law and the provisions of this Code. (Ord. #1, 6-2-1879; 65 ILCS 5/3-14-3)

Sec. 2-113. Powers; duties.

The treasurer shall receive all money belonging to the municipality, and shall keep his books and accounts in the manner prescribed by ordinance. These books and accounts shall always be subject to the inspection of any member of the corporate authorities; provided, however, that a municipality may be ordinance designate a person or institution which, as bond trustee, shall receive from the county collector amounts payable to the municipality as taxes levied pursuant to a bond issuance.

He shall keep a separate account of each fund or appropriation, and the debits and credits belonging thereto. He shall give every person paying money into the treasury a receipt therefore, specifying the date of payment, and upon what account paid. He shall file copies of these receipts with the clerk, with his monthly reports. If he has in his possession money properly appropriated to the payment of any warrant lawfully drawn upon him he shall pay the money specified in this warrant to the person designated by the warrant.

The treasurer shall submit monthly reports to the City Council stating the amount of money received, and from whom and for what purposes received, and exhibiting all credits allowed by law and the ordinances of said city.

The treasurer shall do and perform such other duties as may be required of him by ordinance, resolution, or order of the city council. (Ord. #1, 6-2-1819; 65 ILCS 5/3-10-1 & 3-10-2)

Sec. 2-114. Deposit of funds-designation and qualification of depository.

The treasurer, with the approval of the city council, may select depositories of funds and monies in the custody of the city treasurer, belonging to the City of Henry, Marshall County, Illinois, any bank and/or savings and loan having its principal office in Marshall County, Illinois and the sauce having been in existence and functioning continually for one (1) year last past.

Any such deposits shall be duly in compliance with the statutes of the State of Illinois.

No corporation shall be qualified to receive for deposit any funds or money of the City of Henry until it has furnished to the municipal corporate authorities of said City copies of the last two (2) sworn statements of resources and liabilities which are required to be furnished to the auditor of public accounts or to the comptroller of currency. Each of the above corporations designated as a depository of city funds shall furnish the corporate authorities of said city with a copy of all corporate statements which it is required to furnish to the auditor of public accounts or to the comptroller of currency while acting as such depository. (Ord. #494, 11-3-1941, #800, 6-8-1976); 65 ILCS 5/3-10-3)

Sec. 2-115. Compensation.

The City Treasurer shall be paid an annual salary Two Thousand Four Hundred Dollars (\$2,400.00), payable quarterly, plus Fifty Dollars (\$50.00, for each special meeting. (Ord. #1214, 4-14-1997)

Sec. 2-116 to 2-130. Reserved.

DIVISION 4. CITY ENGINEER

Sec. 2-131 to 2-140. Reserved.

DIVISION 5. CITY ATTORNEY

Sec. 2-141. Office created; appointment.

The city attorney shall be appointed by the mayor with the advice and consent of a majority vote of all the city council. (Ord. #1, 6-2-1879)

Sec. 2-142. Oath.

The city attorney, before entering upon the duties of his office, shall take the oath of office as nearly as may be in the form prescribed in this chapter for the mayor. (Ord. #1., 6-2-1879)

Sec. 2-143. Compensation.

Compensation of the city attorney shall be fixed by majority of council.

Sec. 2-144. Duties.

The city attorney shall appear for the city and try all cases wherein the city is a party in all courts, draft ordinances when required, give legal opinions when required upon subjects submitted to him by the mayor, city council and committees thereof, and all officers of the municipal government in matters pertaining to the city. He shall attend sessions of the city council and draft contracts, deeds, bonds, and all other legal papers, as directed by the city. (Ord. #111, 6-5-18903)

Sec. 2-145 to 2-150. Reserved.

DIVISION 6. CITY SUPERINTENDENT OF PUBLIC WATER WORKS

Sec. 2-151. Appointment.

The city superintendent of public water works shall appointed by the mayor with the advice and consent of the city council. (Ord. #10, 4-5-1880)

Sec. 2-152. Compensation.

Compensation shall be fixed by a majority of the council.

Sec. 2-153. Duties

The superintendent of public water works shall be the general executive officer of the Public Works Department. To responsibly supervise, plan and direct Public Works activities and Staff in the areas of construction, maintenance and cleaning of city streets, sidewalks and drainage; water and sanitary services; the maintenance and repair of all City and Park buildings and grounds; and vehicle and equipment maintenance.

It shall be the superintendent of public works duty to see that all water rates and regulations and all resolutions of the city council are executed, that the conditions of all contracts by or with said water works are faithfully complied with, that the assessments of the water rates are duly made, collected, and paid into the city treasury, to examine all accounts and claims and

submit the same to the city council with such explanations as to enable them to act advisedly thereon. He shall make an annual report of the conditions and operation of said public works, or at any time the city council may order, and shall embody therein such recommendations and such suggestions as he may deem necessary and perform any other duties as the city council may from time to time prescribe.

To recruit, train, and provide supervision to the staff within the department; maintain respect of staff, reward and discipline, set an example, maintain harmony, etc. Shall have control over the assignment of all members thereof and over the execution of all work in the City.

To regularly communicate, and maintain a positive relationship, with other Supervisors in order to coordinate issues and direction.

To assist in preparing budgets and administer adopted budget in assigned areas of responsibility.

To loyally follow the direction set by the current Council.

To monitor inter government actions affecting Public Works, assist in setting policy by meeting with Mayor, Aldermen, and Committee Heads, as well as attending Council Meetings, Committee Meetings, etc.

To continually educate himself on the aspects of his position; seminars, certification, available references (City Code), research, future trends, etc.

The superintendent of Public Works shall present himself in a fashion that promotes good public relations; courteous, respectful, articulate, professional, informed, etc.

To maintain an appearance appropriate with the position; i.e. appropriate dress, uniform, etc.

The superintendent of public works should oversee the bidding, competency of contractors, and the selection criteria for public works contracts; check references and approve Contractor Licenses.

To provide safe drinking water and ensure compliance with EPA Standards; monthly EPA Reports and water samples.

To maintain a Class B Water Operators License and Class 4 Sewer License through exam by the State of Illinois.

To work with the City Secretary and Clerk to resolve water meter and billing problems.

To maintain regular contact with the City Engineer, Project Engineers, and Contractors.

To provide utility locations for Zoning Officer and others, ensuring right of way compliance and water/sewer location and availability.

To coordinate with the Fire Chief the location and upkeep of fire hydrants and water availability.

To pro-actively maintain city sewer mains and services by regular cleaning.

To ensure safely maintained streets; ice and snow removal, blacktopping and resurfacing, gravel and drainage services.

To be a licensed operator and public applicator for right of way weed spraying through exam by the State of Illinois Department of Agriculture.

To work with the Police Chief and City Engineer to install and maintain traffic controls, street signage, and other public safety issues.

To maintain roads, water and sewer facilities in City Parks.

To install and maintain city docks at the river front.

To ensure all public works vehicles, equipment and tools are maintained and serviced.
(Ord. #1594, 11-15-10)

Sec. 2-154 to 2-169. Reserved.

DIVISION 7. POLICE DEPARTMENT

Sec. 2-170. Creation.

There shall be an executive department of the City known as the police department. This department shall consist of police and of such number of captains, lieutenants, sergeants and patrolmen as may be provided from time of time by the mayor and aldermen by resolution.

Sec. 2-171. Function.

The police department, under the supervision of the chief of police shall:

- (a) preserve the peace of the City;
- (b) protect persons and property from harm;
- (c) prevent crimes and detect and apprehend persons suspected of crimes and misdemeanors;
- (d) regulate traffic upon public thoroughfares;
- (e) enforce all criminal statutes of the State and all ordinances of the city;
- (f) secure all necessary complaints, warrants and other documents for the enforcement of these duties, and aid in the prosecution of all such crimes and misdemeanors;
- (g) cause to be served and executed within the city, any criminal process issued by any court of competent jurisdiction;
- (h) have custody of lost, stolen and abandoned property;
- (i) maintain proper records of crimes, criminals, arrests and matters relating thereto.

Sec. 2-172. Police chief; office created; duties.

There is hereby created the office of the chief of police who shall:

- (a) be the commanding officer of the police department, and shall have control over the assignment of all members thereof and over the execution of all police work in the city;
- (b) be responsible for the control and regulation of all equipment belonging to the police department;
- (c) be the keeper of the city jail, and shall have custody of all persons incarcerated therein;
- (d) be the custodian of all lost and abandoned or stolen property recovered in the city;
- (e) keep or cause to be kept such records and make such reports concerning the activities of his department as may be required by statute or by the council;
- (f) be generally responsible for the performance of the police department and all its functions, and all members of the department shall serve- subject to the orders of the chief of police.

Sec. 2-173. Bonds.

Each policeman hereinafter employed or reemployed by the city shall give an executed bond in the sum of one thousand dollars (\$1,000.00) to be approved by the council and filed with the city clerk, which bond shall be conditioned to pay any damages resulting from the failure of the appointee to properly perform his duties.

Sec. 2-174. Appointments.

All appointments to and promotions within the police department shall be by the mayor with the advice and consent of the council.

Sec. 2-175. Conduct and duties of police officers.

It shall be the duty of every member of the police department to:

- (a) enforce all ordinances of the city and all statutes applicable herein and to preserve order and prevent infractions of the law and arrest violators thereof;
- (b) conduct himself in a proper and law-abiding manner at all times and to avoid the use of unnecessary force;
- (c) appear as witness whenever necessary in a prosecution for violation of an ordinance or any state or federal statutes; no such member shall retain any witness fee for service as a witness in any action or suit to which the city is a party; and fees paid for such services shall be turned over to the chief of police, who shall deposit the same with the city clerk.
- (d) serve any process by command of his superior; provided that no such member except the chief shall serve any process other than by such command;
- (e) obey the orders and directions of his superior.

Sec. 2-176. Rules of police chief.

The chief of police may make or prescribe such rules and regulations for the hours of duty, vacations, uniforms, maintenance of the police department and conduct of the members thereof as he shall deem advisable; provided that such rules and regulations shall not be in conflict with any order of the city council or the statutes of the State of Illinois.

Sec. 2-177. Special police.

The mayor is authorized to approve the request of the chief of police to utilize part-time temporary sworn officers to perform police functions for the City of Henry in either of the following two (2) limited circumstances:

- (a) When there is a need for undercover work and it is imperative that the identity of the officer not be disclosed
- (b) When there is an emergency shortfall which cannot be filled by part-time officers previously approved for employment by the council. All such part-time temporary sworn officers shall be subject to the rules and regulations of the Henry Police Department. Except in cases of undercover work where it is imperative that the identity of the officer not be disclosed, any such appointment pursuant to this section shall be only for a period not to exceed two (2) weeks. In cases of undercover work, any such appointment shall be only on such terms and for such period as is disclosed to and agreed upon by the mayor.

Sec. 2-178. Membership of auxiliary police department.

The mayor is authorized to appoint fifteen (15) auxiliary policemen as employees, subject to the advice and consent of the city council. Prior to appointment, all proposed auxiliary policemen shall be fingerprinted and their fingerprints shall be checked with the Federal Bureau of Identification in Washington, D.C., for any possible criminal record. No person shall be appointed as an auxiliary policeman if he has been convicted of a felony or other crime involving

moral turpitude. The appointment of any or all auxiliary policemen may be terminated by the mayor subject to the advice and consent of the city council.

Sec. 2-179. Membership qualifications of auxiliary police department.

Auxiliary policemen shall not be members of the regular police department of the city. Auxiliary policemen need not be residents of the city. Identification symbols worn by such auxiliary policemen shall be different and distinct from those used by the regular police department and shall be selected and chosen by the chief of police of the city. Auxiliary policemen shall at all times during the performance of their duties be subject to the direction and control of the chief of police of the city.

Sec. 2-180. Powers and duties of auxiliary police department.

Auxiliary policemen shall have the following powers and duties, when properly assigned and on duty:

- (a) to aid or direct traffic in the municipality
- (b) to aid in control of natural or man made disasters
- (c) to aid in case of civil disorder
- (d) to perform normal and regular police duties when assigned by the chief of police on occasions when it is impracticable for members of the regular police department to perform normal and regular police duties, and when under the direct supervision of the Chief of Police or a regular police officer.

(Ord. 1520. Dec. 11, 2006)

Sec. 2-181. Firearms.

Auxiliary policemen shall not carry firearms except with the permission of the chief of police of the city and then only when in uniform and in the performance of their duties and only upon completion of the 40 hour State firearms class. (Ord. 1520 Dec 11, 2006)

Sec. 2-182. Training.

Auxiliary policemen, prior to entering upon any of their duties, shall receive a course of training in the use of weapons and other police procedures by the chief of police of the city. Such course of training shall be not less than eight (8) hours in duration. Upon completion of the course of training, the chief of police shall sign a certificate attesting to the auxiliary policeman's completion of said course, with the city clerk.

Sec. 2-183. Compensation.

Auxiliary policemen shall be paid at a rate of one dollar (\$1.00) per day for each day of service performed, provided such service is performed at the direction of the chief of police. (Ord. #815, 10-25-1971)

Sec. 2-184. Hiring Standards for Part-Time Police Officers

- (a) Employment. The City of Henry may employ part-time police officers from time to time as deemed necessary by the mayor and appointed pursuant to Sec. 2-174 of the Henry City Code.
- (b) Duties. A part-time officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the Henry Police Department and as set forth in the Henry City Code, but the number of hours a part-time police officer may work within a calendar year is

restricted to 950 hours per year. Part-time officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (50 ILCS 705/1 et.seq.) and the rules and requirements of the ILETSB.

- (c) Hiring Standards. Any person employed as a part-time police officer must meet the following standards:
1. Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
 2. Be at least twenty-one (21) years of age.
 3. Pass a medical examination
 4. Possess a high school diploma or GED certificate
 5. Possess a valid State of Illinois Driver's License
 6. Possess no prior felony convictions
 7. Any individual who has served in the U.S. Military must have been honorably discharged

(d) Part-time police officers serve at the discretion of the Mayor with the advice and consent of the Council, shall not have any property rights in said employment, and may be removed by the Mayor with the advice and consent of the Council at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Henry Police Department.

(e) That all police officers, other than those officers who shall be employed on a full-time basis or are part of the Auxiliary Police Department Membership, shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Training Standards Board;

(f) That the aforesaid hiring standard, particularly with respect to part time police officers employed by the City of Henry, Marshall County, Illinois, shall be submitted to the Illinois Law Enforcement Training Standards Boards, as required by statute.

(Ord. #1597, 12-20-2010, Ord. #1630, 5-21-12)

Sec. 2-185 Hiring Standards For Full-Time Police Officers

- (a) Employment. The City of Henry may employ full-time police officers from time to time as deemed necessary by the Mayor and appointed pursuant to Sec. 2-174 of the Henry City Code.
- (b) Duties. A full-time police officer shall have all the responsibilities to enforce all State Laws and Legal Ordinances and specific duties as delineated in the General Orders of the Henry Police Department and set forth in the Henry City Code, Full-time police officers shall be trained in accordance with the Illinois Police Training Act (50 ILCS 705/1 et.seq.) and the rules and requirements of the ILETSB.
- (c) Hiring Standards. Any person employed as a full-time police officer must meet the following standards:
1. Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
 2. Be at least twenty-one (21) years of age.
 3. Pass a medical examination.
 4. Possess a high school diploma or GED certificate.
 5. Possess a valid State of Illinois driver's License.
 6. Possess no prior felony convictions.
 7. Any individual who has served in the U.S. Military must have been honorably discharged.

- (d) Full-time police officers serve at the discretion of the Mayor with the advice and consent of the Council, shall not have any property rights in said employment, and may be removed by the Mayor with the advice and consent of the Council at any time. Full-time police officers shall comply with all applicable rules and General Orders issued by the Henry Police Department.
- (e) That all police officers shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Training Standards Board.
- (f) That the aforesaid hiring standard, particularly with respect to full-time police officers employed by the City of Henry, Marshall County, Illinois, shall be submitted to the Illinois Enforcement Training Standards Boards, as required by statute.

(Ord. #1635 – 06-18-12)

Sec. 2-186. Residency Requirements for Chief of Police

- (a) That the Chief of Police is allowed to reside outside the corporate limits of the City of Henry, both at the time of appointment and while serving as Chief of Police.
- (b) That the Chief of Police shall be required to reside no further than a 30- mile radius from the corporate limits of the City of Henry. Residency radius must be established within 180 days of acceptance of position.

(Ord. #1676 – 01-19-15)

Sec. 2-187 to 2-189. Reserved.

DIVISION 8. DEPARTMENT OF BUILDING SERVICES

Sec. 2-190. Creation.

There is hereby created the Department of Building Services, an executive department of the City. This department shall consist of three Directors of Building Services, one of whom shall be appointed as supervisor of the Department, and such other inspectors and employees assigned thereto. Any reference elsewhere in this Code to the "Office of the City Building Commissioner" shall be deemed to be a reference to the "Department of Building Services."

Sec. 2-191. Appointment.

The Directors of Building Services shall be appointed by the Mayor with the advice and consent of the City Council. Such individuals shall hold office for an indefinite term and until their successors are appointed and qualified.

The Supervising Director of Building Services shall be general superintendent over the Department of Building Services and shall have primary responsibility for allocation of duties and assignments amongst the three officers of the department.

Sec. 2-192. Duties and Powers.

The Department of Building Services shall

- (a) Enforce all provisions of the building, electrical, plumbing, zoning and health regulations of the city, and all statutes and other ordinances of the city relating in the same subject matter; and make or cause to be made all inspections necessary for this purpose;
- (b) Have the power to cause any construction, installation or repair work and electrical, water, heat and fuel flow, or any other activity within the city to be stopped

whenever there exists a violation of any statute, provision of this Code or other ordinance of the city;

- (c) Be responsible for the issuing of certificates of approval to the owner or person in control of any premises inspected by an agent of the department where it is determined that such premises fully comply with the regulations and provisions of this Code.
- (d) Issue all building permits and make and maintain records thereof; process those requiring site plan review through the Planning and Zoning Board of Appeals pursuant to [Sec. 17-164\(d\)](#) of this Code;
- (e) Keep accurate and permanent records and amounts of all certificates and permits issued, inspections made and moneys or fees collected under the authority of this Code; and make a monthly report of the activities of the department to the Alderman overseeing Planning and Zoning;
- (f) Have supervision and control over all inspectors and employees assigned to the Department of Building Services;
- (g) Maintain permanent and current records of the zoning ordinance including, but not limited to, all maps, amendments and special uses, variations, appeals and applications therefor and records of hearings thereon;
- (h) Update and /or revise on or before March 31 of each year a map in the office of the City Clerk showing the existing zoning; maintain on file all uses, divisions, restrictions, and classifications in effect on the preceding December 31;
- (i) Receive, file and forward to the Planning and Zoning Board of Appeals for action all applications for variations, special uses, amendments, and the records in all appeals;
- (j) Provide such clerical and technical assistance as may be required by the Planning and Zoning Board of Appeals in the exercise of its duties and
- (k) Issue fencing permits pursuant to Article III, [Sec. 17-31\(g\)](#) and Article III, [Sec. 17-39\(g\)](#)

Sec. 2-193. Issuance of Permits and Certificate of Approval.

Each permit or certificate of approval or denial of the same, issued by the Department of Building Services, shall be prepared and executed by one of the directors of the Building Services and executed by one of the other Directors of Building Services subsequent to such review and analysis as he deems necessary (Ord. #1262, 10-14-96)

Sec. 2-194 to 2-200. Reserved.

CHAPTER 3. ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

Unless the context otherwise requires, the following terms, as used in this chapter, shall be construed according to the definitions given below:

Alcoholic liquors. Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent (1/2 of 1%) alcohol by volume which is fit for beverage purposes.

Bartender. Any person whose primary duties at the liquor licensee's place of business involve the handling, sale or serving of alcoholic beer, wine, liquor and other alcoholic or malt or vinaceous beverages.

Beer. A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

Business district. Those sections or zones in the city designated as business districts by the Zoning Ordinance.

Clubs. Any organization described in subsection (c) or (d) of Section 501 of the Internal Revenue Code, or corresponding section of any future federal tax code, which is exempt from taxation under Section 501(a) of the Internal Revenue code or corresponding section of any future federal tax code and which meets all of the following conditions:

- (a) said organization is organized and operated solely for the promotion of some common object other than the sale or consumption of alcohol liquor; and
- (b) said organization owns or leases a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and said building or space is provided with suitable and adequate kitchen and dining room space and equipment; and
- (c) said organization files with the local liquor control commissioner at the time of its application for a license under this chapter two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member, his name and address; and
- (d) the affairs and management of said organization are conducted by a board of directors, executive committee or similar body chosen by the members in the annual meeting, and
- (e) no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from distribution or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body of the general revenue of the club.

Dwelling or apartments used for home or resident purposes. Any building designed and used for, and occupied by one (1) or more persons, as a permanent living and sleeping quarters; provided, however, that the term "dwellings" or "apartments" shall not include any hotel or building occupied as a more or less temporary living and sleeping quarters for individuals, who are lodged with or without meals, and in which there are more than fifteen (15) sleeping rooms, usually occupied singly, and no provisions made for cooking in any individual room or apartment.

Gas Station. Any public place kept, used, maintained, advertised and held out to the public as a place where gasoline or other fuels for motor vehicles is sold.

Hotels. Every building or other structure kept, used, maintained, advertised and held out to the public where food is actually served and consumed, and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 14 or more rooms are used for sleeping accommodations of such guests, and having one or more public dining room where meals are served to such guests, such sleeping accommodations and dining rooms being contained in the same building or buildings in

connection therewith, and such building or structure being provided with adequate and sanitary kitchen and dining room equipment and capacity, and providing, however, that the dining room or restaurant shall remain open to the public for and during the terms of any license sought or issued, and in the event said dining room or restaurant is not open to the public, then, in that event, the building or structure shall not qualify as a hotel as defined by the Alcoholic Beverage Ordinance.

Premises. The area within a building for which a license to sell alcoholic liquor is issued and which is actually used in connection with the storage, preparation and sale of alcoholic liquor, but specifically excluding any outside areas such as patios, open porches, roof tops, balconies, stoops, sidewalks, yards, driveways, parking lots and similar outside areas.

Residential section. Every section of the city where the majority of the foot frontages abutting upon both sides of the street taken together in any one (1) block consists of a vacant property or property used for residential purposes shall hereafter constitute a "residential section" of the city and be considered as a residential district in passing upon any application for a license to sell at retail any intoxicating liquor or malt or vinaceous beverages in any part of such block.

Resident of the city. Any person living in the city for a period of not less than one calendar year.

Restaurant. Any public place kept, used, maintained, advertised and held out to the public primarily as a place where meals are served, and where meals are actually regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests and where the sale or consumption of alcoholic liquors is only incidental to the serving of meals. The fact that fifty percent (50%) or more of the gross revenue in any month from the operation of the licensed premises is derived from activities other than the serving of meals shall be prima facie evidence that such business is not a restaurant within the meaning of this Code.

Retailer. Any person who sells or offers for sale alcoholic liquors, beer or wine beverages for use or consumption and not for resale in any form.

Retail sales. The sale for use or consumption and not for resale.

Sale. Any transfer, exchange or barter in any manner, or by any means whatsoever, including all sales made by any person, whether principal, proprietor, agent, servant, or employee.

To sell. "To sell" includes to keep or expose for sale and to keep with intent to sell.

Waiter or Waitress. Any person whose primary duties at the licensee's place of business involve the handling, sale or serving of suitable food for its guests.

Wine. Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol obtained by distillation.

(235 ILCS 5/1-1 and 5/4-1)

Sec. 3-2. Hours of sale generally.

It shall be unlawful for any person to sell or offer for sale at retail any alcoholic liquor in the city between the hours of 2:00 A.M. and 6:00 A.M., except as provided in other sections of this Chapter and provided further that the liquor commissioner, in his sole discretion, is hereby afforded the authority to grant a "special extension" of the hours for sale at retail of any alcoholic liquor for a time period not to exceed two (2) additional hours immediately following or before the hours specified above in accordance with the following additional restrictions:

- (a) Such extensions shall be granted only in connection with special events or special occasion or special celebrations organized by the licensee at least one (1) week in advance, not merely constituting an anticipation of an unusual volume of business;
- (b) The licensee shall not advertise or indicate to the public in any other manner that the licensed establishment will remain open in connection with the special event, occasion or celebration beyond the normal closing hours provided for in this section; and
- (c) if a disturbance occurs on the licensed premises during the hours referred to in the preceding paragraph, which appears to endanger the lives, property or person of the patrons of a licensed premises, the chief of police or his delegate may order the licensed establishment to close its business until the next business day and may order all the patrons to leave the licensed premises immediately.

It shall be unlawful to keep open for business or to permit the public to patronize any premises where alcoholic liquors are sold at retail during the hours within which the sale of such liquor is prohibited; provided, however, that in the case of restaurants, clubs, hotels, package stores and gas stations such establishments may be kept open during such hours, but no alcoholic liquor may be sold during such hours, except as provided in this section.

No alcoholic liquor may be sold or served or consumed other than during the hours provided in this chapter.

No person other than a licensee of a licensed premises or any of his employees which actually in the performance of their duties shall be permitted to enter or remain upon the premises, nor shall any person consume any alcoholic liquor upon such premises, nor shall any alcoholic liquor be exposed upon such premises in any open individual serving container (including but not limited to glasses or beer bottles) after the prescribed closing time for such licensed premises.

(Ord. 1360, May 8, 2000)

Sec. 3-4. Employment of persons under age of twenty-one (21).

Persons eighteen (18), nineteen (19) and twenty (20) years of age may be employed in the capacity of waiter or waitresses who, as a part of their duties are required to handle, sell or serve alcoholic beer, wine, liquor and other alcoholic or malt or vinaceous beverages, provided that no such waiter or waitress shall be permitted to act in the capacity of bartender.

In all respects, other than as expressly provided above, no liquor licensee of the City of Henry shall employ or permit any person under the age of twenty-one (21) years to act as his agent, clerk, bartender, servant or employee in connection with any sale or serving of alcoholic beer, wine, liquor and other alcoholic or malt or vinaceous beverages.

No licensee under this chapter shall employ or permit any person under the age of eighteen (18) to act as an entertainer.

Sec. 3-5. Sales to persons of nonage, intoxicated persons, etc.

- (a) No licensee or any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of twenty-one (21) years, except as provided in subsection (b) of this section, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment.

- (b) No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to any person under the age of twenty-one (21) years except in performance of a religious ceremony or service.

(235 ILCS 5/6-20)

Sec. 3-6. Possession, purchase, dispensing or consumption of liquor by person of nonage; proof, misrepresentation of age.

Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession.

If a licensee or his agent or employees believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the non-age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public official in the performance of his official duties.

For the purpose of preventing the violation of this section, any licensee, or his agent or employee, shall refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate positive identification of identity and of the fact that he or she is over the age of twenty-one (21) years.

Proof that the licensee, or his employee or agent, demanded, was shown and reasonably relied upon such positive identification in any transaction forbidden by this section, is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon.

No person shall transfer, alter or deface such identification card; use the identification card of another; carry or use a false or forged identification card; or obtain any identification card by means of false information. No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section.

The possession and dispensing or consumption by a person of nonage of alcoholic liquor in the performance of a religious ceremony or service, or the consumption by person of non-age under the direct supervision and approval of the parents or parent or one in loco parentis of such person of non-age in the privacy of a home, is not prohibited by this section.

(235 ILCS 5/6-20)

Sec. 3-7. Presence of persons of non-age upon licensed premises.

(a) A licensee, licensed to sell alcoholic liquor, shall not allow a person under 21 years of age to enter or remain upon said licensee's premises, and no person under 21 years of age shall enter or remain upon any premises which is licensed to sell alcoholic liquor.

(b) Paragraph (a) shall not apply to the following:

1. Entry into package liquor stores or gas stations;
2. Entry by a person under the age of 21 years who is in the company of that person's parent or legal guardian;
3. A compensated entertainer pursuant to a signed contract while engaged in entertaining;
4. An employee of the licensee, while engaged in such employment;

5. Entry into a restaurant licensed to sell liquor during the hours of 5:00 a.m. to 10:00 p.m. It being further provided that from 10:00 p.m. to 5:00 a.m. no person under the age of 21 years shall enter or remain upon the restaurant's premises, unless Sections (1), (2), (3) or (4) of Paragraph (b) apply or unless the restaurant is hosting a private event where no admission fee is charged and during which the premises are not open to the general public but only to guests invited by the client of the restaurant and the sale of alcoholic liquor is only incidental to the food special event must be filed, by the Licensee, with the City Clerk at least 48 hours in advance.

The licensee shall post a sign in a prominent location within the premises stating as follows: "No person under 21 shall be admitted on these premises after 10:00 p.m. unless in the company of his/her parent or legal guardian.

(Ord. #1570, 01-18-10)

Sec. 3-8. Peddling.

It shall be unlawful for any person to peddle alcoholic liquor in the city.

Sec. 3-9. Retail sales near churches, schools, hospitals, etc.

No license shall be issued for the sale at retail of any alcoholic liquor or beer or wine beverages within one hundred (100) feet of any church, school, hospital, home of the aged or indigent persons, nursing homes or homes for veterans or their wives or children or any military or naval station; provided, that this prohibition does not apply to hotels offering restaurant services, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on. (Ord. #1441, 22 July 2002).

No license shall be issued for the retail sale of any alcoholic liquor in a place to be located outside a building unless the consent of all adjacent property owners within one thousand (1,000) feet of the place to be used is obtained.

No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age, or where the principal business consists of school supplies, food, lunches or drinks for such minors.

The prohibitions contained in this section do not pertain to a temporary class G license issued pursuant to [Section 3-32 \(g\)](#) of Article II of this ordinance.

(235 ILCS 5/6-16)

Sec. 3-10. Consumption of alcoholic liquor in public place or non-licensed premises.

No person shall consume any alcoholic liquor in any public place within the city except on premises licensed for the retail sale of alcoholic liquors for consumption on the premises.

Sec. 3-11. Curb service.

No curb service for the sale of alcoholic liquors shall be carried on in connection with premises for which a license has been granted for the sale of alcoholic liquor for consumption upon the premises, either upon the public street or private property contiguous to such premises so licensed.

Sec. 3-12. Carrying of alcoholic liquor in unsealed or opened container from Premises.

It shall be unlawful for any person to carry any alcoholic liquor in an unsealed or opened container from the licensed premises where such alcoholic liquor was purchased.

No licensee or person as proprietor, agent, servant or employee of such licensee shall knowingly permit any patron to violate this section nor continue to sell alcoholic liquors to such person knowing that such person intends to carry the alcoholic liquor from the premises in an open or unsealed container.

Sec. 3-13. Marking of delivery vehicles.

Every vehicle for the delivery of alcoholic liquors shall have painted or stenciled in letters and figures not less than six (6) inches in height in a conspicuous place on such vehicle the name and address of the person owning or using the vehicle for such purpose.

Sec. 3-14. Restrictions on use of certain premises.

No person operating or conducting a tavern shall serve or permit to be served any alcoholic liquors of any kind in any portion of the premises, the interior of which is shut off from the general public view by doors, curtains, screenings, partition or other devices of any kind, and no such private area may be maintained as a part of or adjacent to any tavern.

Sec. 3-15. General condition of premises.

All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for retail sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the provision of this code and other ordinances of the city regulating the condition of premises.

Sec. 3-16. View from street.

In premises for which the sale of alcoholic liquor for consumption upon the premises is licensed (other than in restaurants, hotels or clubs), no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a full view of the entire interior of such premises from the street, road or sidewalk at all times, and no booth, screen partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a full view of the entire interior of such premises, and the entire space used by the public must be so located that there shall be a full view of the same from the street, road or sidewalk. All rooms where alcoholic liquor is sold for consumption on the premises shall be continually lighted during business hours by natural or artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provisions shall be obscured by the licensee or by him suffered to be obscured or obstructed, such license may be revoked in the manner herein provided. In order to enforce the provisions of this section, the mayor shall have the right to require the filing with him of plans, drawings, and photographs showing the clearance of the view as above required.

Sec. 3-17. Solicitation of patrons by employees.

No licensee under this chapter shall permit any employee or entertainer in the licensed premises to solicit any patron thereof to purchase alcoholic or nonalcoholic beverages for such employee or entertainer or any other person on or in such licensed premises or to solicit any patron to give or donate money or any other thing of value for any purpose; provided, however, that nothing herein contained shall prohibit any bartender or waiter who shall be regularly employed therein from accepting and serving an order of a patron in the regular course of this employment.

Sec. 3-18. Persons loitering in licensed premises.

No person shall frequent or loiter in any premises licensed under this chapter for the purpose of soliciting another person to purchase alcoholic or nonalcoholic beverages, or to solicit any other person to give or donate any money or other thing of value for any purpose including prostitution.

No licensee or any person as proprietor, agent, servant, or employee of such licensee shall knowingly permit any person who is in violation of this section to enter or remain upon the licensed premises.

Sec. 3-19. Reporting of incidents to police - telephone on premises.

Each licensee and each of his agents and employees shall promptly report to the police department of the City of Henry any incident occurring on or about the licensed premises and in his knowledge or view relating to the commission of any crime, including any violation of this chapter, and shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premises, and any events taking place in and about the licensed premises.

Each licensee shall maintain on each licensed premises not less than one (1) telephone in operating order, which phone must be within the easy access of the bartender or other responsible person in charge of the premises at all times, for the purpose of reporting to the police department incidents occurring on or about the licensed premises

Sec. 3-20. Illegal activities on premises.

No licensee or any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or conduct or suffer or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by any ordinance of the City of Henry or law of the State of Illinois or the United States.

Sec. 3-21. Certain sexually oriented activities prohibited.

The following kinds of conduct are prohibited on premises in this City used for the sale of alcoholic liquor:

- (a) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law.
- (b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals.
- (c) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.

- (d) The permitting by a licensee or agent of a licensee of any person to remain in or upon the premises who exposes to public view any portion of his or her genitals, vulva, anus, breasts, buttocks or pubic hair or engages in any of the conduct prohibited by (a), (b) or (c) immediately above.

Sec. 3-22. Drive-up windows.

No licensee shall be permitted to sell or deliver alcoholic beverages by way of a drive-up window or drive-up facility.

Sec. 3-23 to 3-31. Reserved.

ARTICLE II. PERMITS & RETAIL LICENSES

Sec. 3-32. Classes of licenses generally.

Licenses to sell alcoholic liquors at retail are hereby divided into ~~six (6)~~ twelve (12) classes as follows:

- (a) Class A. Class "A" licenses shall authorize the sale of alcoholic liquors on the premises of any tavern for consumption on the premises, as well as other retail sales of such liquor. The annual fee for such licenses shall be six hundred dollars (\$600.00).
- (b) Class B. Class "B" licenses shall authorize the retail sale of alcoholic liquors in packages, and not for consumption on the premises where sold. The annual fee for such licenses shall be four hundred dollars (\$400.00).
- (c) Class C. Class "C" licenses shall authorize the retail sale of alcoholic liquors for consumption on or off the premises where sold, where a separate recreational business is conducted on the same premises. The annual fee for such licenses shall be six hundred dollars (\$600.00).
- (d) Class E. Class "E" licenses shall authorize the retail sale of alcoholic liquors for consumption on or off the premises where sold, where said licensee is a "CLUB" as defined in Article I, [Sec. 3-1](#) of this Ordinance. The annual fee for such licenses shall be six hundred dollars (\$600.00).
- (e) Class E-50. Class "E-50" licenses shall authorize the retail sales of alcoholic liquors for consumption on the premises where sold, where said licensee is a "CLUB" as defined in Article I, Section 301 of this Ordinance, and for no more than fifty (50) days during the year covered by the license. The annual fee for such license shall be one hundred dollars (\$100.00). All Class "E-50" licensees shall file with the local liquor commissioner, at least thirty (30) days in advance, a schedule for each day that said licensees shall function subject, however, to the same hours permitted for Class "A" licenses.
- (f) Class X. The Class X license shall be an affiliate liquor license, and shall authorize the retail sale and/or consumption of alcoholic liquors in an area as approved by the city council of the City of Henry, the area being in conjunction with the premises as defined for classes of liquor licenses hereinabove mentioned, however, this Class X license shall not be restricted to premises as defined in previous Articles hereinabove. The applicant must file a diagram of the area reciting the location of equipment and facilities, the location of the applicant's premises as defined as a licensee, as hereinabove mentioned, and a schedule

for each day that said applicant will function within the permitted Class X activity, the outer boundaries and the means to identify physically the location of said outer boundaries with a fence. A Class X licensee shall have the same hours permitted by the licensee's affiliate license. The fee for a Class X license shall be twenty-five dollars (\$25.00) per day or a seventy-five dollars (\$75.00) maximum annual fee.

- (g) Class F. Class F licenses shall authorize the sale, at retail, of alcoholic liquors for consumption on premises only, in a non-residential location, for a catered function or for a special event conducted or operated by a civic, patriotic, fraternal, educational, religious or benevolent organization which has been in active and continuous existence for at least one (1) year prior to the making of such application and which in good faith shall have maintained a membership roll during said one (1) year period. The license shall permit the licensee to sell alcoholic liquor on no more than twelve (12) days during the year covered by the license. The fee for such license shall be one hundred dollars (\$100.00), which may, in the discretion of the Local Liquor Control Commissioner, be waived. A Class F license shall be subject to the following regulations:
- (1) No applicant may obtain another Class F license within three hundred sixty-five (365) days from the issuance of a Class F license to said applicant;
 - (2) One (1) or more employees or members of the license holder shall at all times be present and capable of observing any portion of the licensed premises where alcoholic liquor is sold or consumed;
 - (3) The licensee shall carry adequate dram shop liability insurance and provide proof of said insurance to the Local Liquor Control Commissioner;
 - (4) The issuance of a Class F license shall not diminish the responsibility of the license holder to comply with all applicable rules and regulations of the State of Illinois and the City of Henry;
 - (5) The licensee shall obtain, from the Illinois Liquor Control Commission, a liquor license and provide proof of such license to the City; and
 - (6) All Class F licensees shall file, with the Local Liquor Control Commissioner, at least thirty (30) days in advance, a schedule for each day that said licensee shall sell alcoholic liquor.
- (h) Class G. Class G licenses shall authorize the consumption of wine as defined in [Section 3.1 of Article I](#) of this Ordinance within the confines of a completely enclosed building which qualifies as a restaurant as defined in [Section 1 of Article I](#) of this Ordinance, subject to the following additional qualifications and stipulations.

The duration of this license shall be for a time period as determined by the local liquor commissioner but not in excess of twenty-four (24) hours. The wine may be consumed only at private parties which shall not be open to the general public. The wine that is to be consumed shall be supplied by the guests of the private party. The licensee, its employees and other agents shall not become involved either directly or indirectly in the serving of said wine to the guests of the private party. A single Class G liquor license may pertain to more than one (1) private party for any one (1) licensee without affecting the application fee for same. The local liquor

commissioner may not issue more than two (2) separate class G licenses in any given twenty-four (24) hour time period. The permitted hours of consumption pursuant to this license shall be the same as for a class A liquor licensee. The application fee for a class G liquor license shall be five dollars (\$5.00) for each application.

- (i) Class H. Class H licenses shall authorize the retail sale of alcoholic liquors on the premises in any hotel for consumption on or off the premises, when such retail sale is made by the same person who operates the hotel. The annual fee for such licenses shall be six hundred dollars (\$600.00).
- (j) Class I. Class I licenses shall authorize the retail sale of beer and wine in packages, and not for consumption on the premises where sold, where said licensee is a Gas Station, as defined in [Article I, Section 3.1](#) of this Ordinance, as amended. The annual fee for such license shall be Four Hundred Dollars (\$400.00).
- (k) Class M. A Class M license shall authorize the retail sale and delivery of alcoholic liquor for consumption within a totally enclosed permanent building located on the premises described in the license where more than seventy-five percent (75%) of the physical properties of said building is used for commercial or recreational purposes and the building is located on the shores of a navigable lake or stream, and the commercial or recreational use of the building is in conjunction with the operation of the marina. A class M license shall also permit the retail sale and delivery of alcoholic liquor within a totally enclosed permanent building located on the premises described in the license in original packages for consumption off the premises described in the license. A Class M license shall also permit the retail sale and delivery of alcoholic liquor within said building for consumption only on the exterior of said totally enclosed permanent building located on the license premises, provided that such consumption is confined to a deck adjoining the totally enclosed permanent building or to a pavilion located on the license premises and for which entry and exit is controlled by the licensee. The annual fee for a Class M license shall be Six Hundred Dollars (\$600.00). (Ord. #1188 – 09/11/95)
- (l) Class MB. A Class MB license shall permit and authorize an on premise Microbrewery that produces beer in compliance with state and federal licenses authorizing the production, storage, and distribution of an alcoholic beverage and shall further authorize the retail sale of alcoholic liquor for consumption on the premises where sold as well as other retail sales of such liquor. The term “Microbrewery” as used herein shall mean a brewery that is authorized to produce beer pursuant to a craft brewer license or brew pub license from the State of Illinois. The annual fee for an MB license shall be six hundred dollars (\$600.00).

The fees hereinabove enumerated shall be paid in full on or before the second day of June for each year the license is to be used or on the date the license is issued, whichever occurs first. (Ord. #1426, 3-25-2002) (Ord. #1712, 1-15-2018)

Section 3: Chapter 3, Section 34 of the Henry City Code is hereby amended as follows (deletions are denoted by ~~strikeout~~ and additions by underline);

Sec. 3-33. License fees are nonrefundable.

The fees enumerated under Sec. 3-32 are nonrefundable.

Sec. 3-34. Licenses: Limitation on number issued.

So that the health, safety and welfare of the people of the City shall be protected and minors shall be prevented from the purchase of alcoholic liquors, the temperance and consumption of alcoholic liquors shall be fostered and prompted:

- (a) No additional Class A licenses shall be issued under the provisions of this chapter unless the number of licenses in force at the time shall be less than ~~three~~ five; (Ord. #1682, 03-16-15)
- (b) No additional Class B licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at the time shall be less than four; (Ord. #1370, 7-24-00; Ord. #1431, 5-28-02)
- (c) No additional Class C licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at the time shall be less than one;
- (d) No additional Class E-50 licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at the time shall be less than one;
- (e) No additional Class E-250 licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at the time shall be less than one;
- (f) Class F licenses may be issued without limit upon approval of the Local Liquor Control Commissioner;
- (g) Subject to the provisions of Section 3-32, Class G licenses may be issued without limit upon approval of the Local Liquor Control Commissioner;
- (h) No Class H licenses shall be issued under the provisions of this chapter until such time as the City Council amends the Code;
- (i) No additional Class I licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at that time shall be less than one;
- (j) No additional Class M licenses shall be issued under the provisions of this chapter unless the number of such licenses in force at the time shall be less than one;
- (k) Class X licenses may be issued without limit upon approval of the Local Liquor Control Commissioner, provided the applicant is a holder of another class of liquor license within the City.
- (l) No additional Class MB licenses shall be issued under the provisions of this chapter unless the number of licenses in force at the time shall be less than one.

Provided, however, that upon surrender and cancellation of an existing license, the Local Liquor Control Commissioner may reissue such license to a person who has purchased the business or premises of the prior licensee; and provided further that in the event of annexation of any territory to the City, in which territory there is located any business or property on which a valid County retail liquor license has been issued and in force on the date of such annexation, the Local Liquor Control Commissioner is empowered to authorize the issuance of a new license strictly under the provisions of this Code to the person named in the County retail liquor license issued for such business or property, notwithstanding the foregoing limitations upon the number of licenses to be issued.

(Ord. #1335, 6-28-1999). (Ord #1712, 1-15-2018)

Sec. 3-35. Reserved.

Sec. 3-36. License required; compliance with terms do conditions of license.

It shall be unlawful for any person either by himself or his agent, or any person acting as an agent, barkeeper, clerk or servant of another to sell or offer for sale at retail in the city any alcoholic liquor without first having obtained a license to do so as provided in this chapter. It shall likewise be unlawful for any such person to sell or offer for sale any alcoholic liquor in violation of the terms and conditions of such license

Sec. 3-37 to 3-40. Reserved.

Sec. 3-41. Contents of application for retail license.

An applicant for license to sell alcoholic liquor at retail shall submit to the mayor a completed application form (provided by the City Clerk), under oath stating:

- (a) The name, age and address of the applicant in the case of an individual; in the case of a partnership, and in the case of a corporation for profit, or a club, the date of incorporation, and the names, addresses and ages of the officers, directors, managers, and any stockholders owning or controlling the voting rights to more than five percent (5%) of the stock of such partnership, corporation or club;
- (b) The location of the premises or place of business that is to be operated under the license;
- (c) A statement whether applicant has made application for a license to sell at retail alcoholic liquor on premises other than described in this application to this or any other state or political subdivision thereof; including the date, location and disposition of such application;
- (d) A statement whether applicant has ever been charged with or convicted of a felony or of being a keeper of a house of ill fame, prostitution, pandering, or other crime opposed to decency and morality or of a gambling offense, or is otherwise disqualified to receive a license by reason of any matter or thing contained in this act, detailing the dates and locations and results of any such charges or convictions;
- (e) Whether a previous license by any state or subdivision thereof or by the federal government has been revoked or suspended, and the reasons therefor, and in the case of a suspension, the length thereof;
- (f) The length of time the applicant has resided in the city prior to the submission of the application, and all addresses at which the applicant has resided in the past ten (10) years;
- (g) That the applicant will not violate any ordinances of the City of Henry or laws of the State of Illinois or of the United States in the conduct of his place of business.

In addition to the foregoing information, such application shall contain such other and further information as the mayor may, by rule or regulation not inconsistent with the law, prescribe.

If said application is made in behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least two (2) members of such partnership or the president and secretary of such corporation or club. The applicant shall submit with the application, documentary proof of his interest in the premises, whether by lease, deed, or

otherwise; and in case the applicant is the owner of the premises, all outstanding mortgages against the premises.

(Ord. #1338, 8-9-99)

Sec. 3-42. Submission & disposition of license applications.

All applications for licenses to sell alcoholic liquor at retail as authorized by this chapter shall be submitted to the mayor by filing in the office of the city clerk. A filing fee of two hundred dollars (\$200.00) shall be paid for filing an initial application for a license. This fee shall be non-refundable. The fee shall be separate from all other fees set forth in this Code. All such applications shall be filed in duplicate in the office of the city clerk and shall be accompanied by the deposit of a certified cashier's check, a money order, or cash in the full amount of the license fee required to be paid for the kind of license applied for. The original of said application shall remain in the office of the city clerk as a permanent record. The duplicate copy of said application shall be delivered forthwith to the mayor's office where the receipt thereof shall be noted and a record kept thereof. The city clerk shall forthwith deliver a copy of said application together with all attachments to the chief of police, who shall then cause a thorough investigation to be made into the fitness and eligibility of the applicant for a license.

Within thirty (30) days of the receipt of the application by the chief of police, he shall report to the mayor the results of his investigation along with his recommendation whether the application should be granted or denied or held for further investigation including the reason for such recommendation.

Within ten (10) days of the receipt of the investigation report, and recommendation of the chief of police, the mayor shall notify the applicant that his application is granted, denied or held for further investigation. The period of such additional investigation shall not exceed an additional thirty (30) days unless additional investigation, the mayor shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is denied or held for further investigation, the mayor shall advise the applicant of the reasons for such action.

The failure or refusal of the applicant to timely deliver any books, records or other documents, or to give any information relevant to the investigation of the application, or his refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the mayor.

Sec. 3-43. Financial disclosure of applicant for license.

~~Each applicant, upon filing of an original application, shall file with the city clerk, in duplicate, a financial statement on forms prescribed by the mayor, which shall include:~~

- ~~(a) On an original application, a detailed statement of assets and liabilities of the business, and upon a renewal application if the mayor, at his option, so desires;~~
- ~~(b) The names and addresses of all secured creditors and a description of the security interest of each;~~
- ~~(c) The names and addresses of all creditors who have any right to control the use or disposition of the business or any asset thereof;~~

- ~~(d) The name and address of each creditor who holds indebtedness of the business totaling in the aggregate twenty percent (20%) or more of the net worth of the business;~~
- ~~(e) A detailed profit and loss statement for the last preceding business year, if the city council, at their option, so desires;~~
- ~~(f) A detailed description of all agreements or obligations which purport to bind any successor to the present applicant or license to continue to purchase, rent, or accept any goods, wares, or services from a specified supplier thereof.~~

~~The financial statement required to be filed by this section shall be confidential except for official purposes, and it shall be unlawful for any person to divulge such information except for official purposes or under order of a court of competent jurisdiction.~~

(Ord. #1648 – 01-21-13)

Sec. 3-44. Change of location described in license & application.

The location described in the license and application required by this chapter may be changed only upon a written permit to make such change issued by the Mayor, and only if the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of the state, the provisions of this chapter and other ordinances of the city.

Sec. 3-45. Bond.

Each and every applicant for a license under this chapter shall simultaneously with the application therefor, and prior to the issuance thereof, execute and deliver a bond in the penal sum of two thousand dollars (\$2,000.00) to the city as obligee, conditioned for the faithful performance of the provisions of this chapter and of the laws of the state relating to the sale of alcoholic liquor, and the payment of all fines and penalties by reason of the violation thereof, with security to be approved by the mayor of the city or such other persons delegated by him to approve the same. The maximum liability of any and all securities on such bond shall be limited to the penalty thereof, the sum of two thousand dollars (\$2,000.00). This section shall not be construed to require the licensee to provide an insurance company to act as surety on the required bond; but, instead, an individual surety on each such bond without the provision of any additional security shall be adequate.

Sec. 3-46. Term of license; proration of fee.

Each license required by this chapter shall terminate at the end of the fiscal year for which it was issued, except that the fee paid for such license may be reduced on a prorated basis for each calendar month for which the license shall not be used if the license is relinquished to the city by the licensee. In the event that the license is issued during the calendar year, the fee for said license shall be prorated for any full calendar months which have already expired during the calendar year. The license period shall be July 1 to June 30. The application for such license must be made on or before May 1.

Sec. 3-47. Disposition of license fees.

All liquor license fees, including renewals, shall be paid to the city clerk and a receipt thereof, signed by the city clerk showing payment of such license fee, shall be attached to every application for a license or for renewal of a license to sell alcoholic liquors at retail. No application shall be considered, acted upon or granted until and unless such application for such liquor license has been filed in the office of the city clerk and a receipt showing payment to the city treasurer of

the license fee required by this chapter to be paid therefor is attached to such application. In the event the license applied for is denied, the fee shall be returned to the applicant.

Sec. 3-48. General restrictions upon issuance of license.

No license authorized by this chapter shall be issued to:

- (a) A person under the age of twenty-one (21) years; or under any legal disability;
- (b) A person not an actual resident of the city;
- (c) A person who is not of good moral character and reputation in the community in which he resides;
- (d) A person who is not a citizen of the United States;
- (e) A person who has been convicted of a felony under any federal or state law, if the mayor determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust;
- (f) A person who has been convicted of being a keeper or is keeping a house of ill fame;
- (g) A person who has been convicted of pandering or any other crime or misdemeanor opposed to decency and morality;
- (h) A person who is an alcoholic or who has a history of drinking problems or incidents in which he was intoxicated;
- (i) A person who within the past two (2) years has been involved in any battery, assault or fight in which he was the aggressor, or who has history of such conduct;
- (j) A person whose license issued under this chapter or whose license issued by the Illinois Liquor Control Commission has been revoked for cause;
- (k) A person who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon a first application;
- (l) A co-partnership, unless all the members of the co-partnership are residents of the city, and all are otherwise qualified to obtain a license;
- (m) A corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois;
- (n) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the city;
- (o) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the license;
- (p) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or shall have forfeited his bond to appear in court to answer charges for any such violation;
- (q) A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;

- (r) Any law enforcing public official, the mayor or member of the city council, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquors;
- (s) A person who is not a beneficial owner of the business to be operated by the licensee;
- (t) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(10) of Sec. 28.1 of, or as prescribed by Sec. 28.1.1 or Sec. 28.3, of the "Criminal Code of 1961" of the State of Illinois, approved July 28, 1961, as heretofore or hereafter amended, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;
- (u) A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;
- (v) A co-partnership to which a federal gaming device stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;
- (w) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than twenty percent (20%) of the stock of such corporation has been issued a federal gaming device stamp or federal wagering stamp for the current tax period;
- (x) Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;
- (y) Any person not eligible for a state retail liquor dealer's license;
- (z) Any person who either individually, as a member of a co-partnership, or as an officer, manager, director or stockholder owning in the aggregate more than five percent (5%) of the stock of a corporation, has knowingly within the past three (3) years furnished false or misleading information or withheld any relevant information on any application for any license or permit required by this chapter, or knowingly caused or suffered another to furnish or withhold such information on his behalf.

(235 ILCS 5/6-2)

- (aa) For licenses to be issued for a "hotel", as that term is defined herein, the kitchen, dining room(s) and the bar area shall be fully completed prior to the issuance of a license.
- (bb) Notwithstanding any other provision in this Alcoholic Beverage Ordinance, a license may be issued for a hotel structure absent completion of the area designed for sleeping accommodations for guests or travelers, provided, however, that the owner and/or licensee shall have a specific written plan for the completion of the sleeping accommodations, which plan calls for the completion of at least one (1) floor of seven (7) rooms within one (1) year from the date of initial issuance of the license, and completion of one (1) or more floors of seven (7) rooms within two (2) years of initial issuance of the license, and further provided, however, that the owner and/or licensee shall consent to a physical inspection of the premises by the liquor commissioners three (3) months, six (6) months, nine (9) months, twelve (12) months, fifteen (15) months, eighteen (18) months, twenty-one (21) months and twenty-four (24) months from the date of the original issuance of such license.

In the event the liquor commissioner determines that reasonable progress has not been made for the completion of the sleeping accommodations, then, in that event, the lack of such reasonable progress shall be grounds for the revocation of the license issued.

- (cc) For licenses issued for hotels, the dining room shall be open to the general public prior to the issuance of the same and shall remain open to the public for and during the term of the license and any renewals thereof.
- (dd) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of Section 6-21 of the Liquor Control Act of 1934 found at 235 ILCS 5/1-1 et. seq. or any successor provision of state law.

(Ord. #1362, June 12, 2000); (Ord. #1470, Oct. 26, 2003)

Sec. 3-49. Revocation or suspension of license.

- (a) Revocation; suspension: The mayor may suspend or revoke any license issued under the provisions of this Chapter if the licensee or any of his employees or agents:
 - (1) Violates the Federal laws, the laws of this State, including the rules and regulations of the Illinois Liquor Control Act, or any ordinance of the City, including any of the provisions of this Chapter;
 - (2) Willfully makes any false statement as to a material fact in the application for a license or a renewal thereof;
 - (3) Permits any disorderly conduct or immoral practices upon the premises for which such license is issued;
 - (4) Permits any person other than the named licensee to operate an alcoholic liquor business under such license;
 - (5) Fails to comply with the Building Code of this City.
- (b) Fines: In lieu of suspension or revocation, the mayor may instead levy a fine on the licensee for a violation of any one (1) or more of the provisions set forth in this section. Further, in addition to a suspension, the mayor may also levy a fine on the licensee for a violation of any one or more of the provisions set forth in this section. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation; each day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines under this Section may be imposed against any licensee during the period of his license.
- (c) Hearing; notice:
 - (1) No liquor license shall be revoked or suspended and no licensee shall be fined except after a public hearing by the mayor after three (3) days' written notice to the licensee, affording such licensee an opportunity to appear and defend; provided, however, that if the mayor has reason to believe that any continued operation of a particular licensed business will threaten the immediate welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice of hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard

during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses of the licensed premises, such order shall not be applicable to such other business or businesses.

(2) The mayor shall within five (5) days after such hearing, if he thereafter determines that the license should be revoked or suspended or that the licensee should be fined, state the reasons and such determination in a written order, and either the amount of the fine, the period of suspension or that the license has been revoked, and shall serve a copy of such order within the said five (5) days upon said licensee.

(3) The licensee shall thereafter have such privilege of appeal as is provided him by law.

Sec. 3-50. Penalty for violation of chapter.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 3-51. Renewal of license.

All applications for the renewal of a license shall be made in writing to the mayor at least thirty (30) days prior to July 1 each year. With the application for renewal, the applicant should also submit an affidavit to the effect that the affidavit and statements contained in the original application have not changed. Upon filing of the affidavit, the license may be renewed without the filing of a full application; provided that the Mayor shall refuse to renew any license when the licensee has failed or refused to pay any fine or penalty levied against the licensee for any violation of any provision of this chapter or any other chapter of the Henry City Code.

Sec. 3-52. Privileges granted under license

A license issued under this chapter shall permit the sale of alcoholic liquor only in the premises described in the application and license, and only under the conditions and restrictions imposed in this chapter on the particular class of license described therein. Such license shall not be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee; provided, that the executors or administrators of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of the license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee. Upon the death of a licensee, if the executor or administrator does not continue the business under such license, there shall be a refund made of that portion of the license fee paid for any period in which the executor or administrator may not operate. Any licensee shall have the right to a renewal of such license; provided, that he is then qualified to receive a license and the premises for which such renewal is sought are suitable for such purpose, but nothing herein shall be deemed to restrict the right of the mayor to revoke any such license.

Sec. 3-53. Display of license & warning to minors.

Every licensee shall cause his license issued under this chapter to be framed and kept in plain view in a conspicuous place on the licensed premises.

Every licensee shall display in a prominent place a printed card in any location that he uses for the sale of alcoholic liquor. The card should read as follows:

"WARNING TO MINORS - You are subject to a fine up to five hundred dollars (\$500.00), under the ordinances of the City of Henry, if you purchase alcoholic liquor for yourself, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor for yourself."

Sec. 3-54 to 3-59. Reserved.

ARTICLE III. LOCATIONS FOR THE RETAIL SALE OF ALCOHOLIC BEVERAGES, ETC.

Sec. 3-60. Record or copy of licenses & approved locations to be kept; officers to receive copies; numbering of licenses; notice of issuance or revocation of licenses.

The mayor shall keep or cause to be kept a copy or record of all licenses issued by him and of all approved locations for the retail sale of alcoholic liquors as indicated by this chapter, and all licenses issued shall be given a number beginning with number one (1).

Sec. 3-61. Suitability of site.

The mayor shall not issue any license authorized under this chapter unless the site for which the license is to be used has been designated by the city council as being suitable for the retail sale of alcoholic liquors under a specified class of license, as is set forth in [Sec. 3-32](#) of this chapter, and said license to be issued conforms to the license classification approved for said site.

Sec. 3-62. Application for site approval.

Any owner of real property desiring to have his property used for the purpose of the retail sale of alcoholic liquors must make application to the mayor for approval by the city council of said site for such use. The mayor will then forward the application to the liquor commission for its recommendation as to the appropriateness of the site for the retail sale of alcoholic liquors.

Sec. 3-63. Liquor commissioner to recommend site approval or disapproval.

Within forty-five (45) days after the submission of the application for the approval of a site for the retail sale of alcoholic liquors, the liquor commissioner shall recommend to the city council whether such site should be approved for a particular class of license, as is specified in [Sec. 3-32](#) of this chapter, for the retail sale of alcoholic liquors.

(235 ILCS 5/6-2, 6-11, 6-12)

Sec. 3-64. Approval or disapproval by council.

After receipt of the recommendation from the liquor commissioner, the city council shall approve or disapprove the site for the retail sale of alcoholic liquors. If disapproved, no application for the same site and use will be considered by the city council or the liquor commissioner for a

period of six (6) months from the date of disapproval, unless the applicant can establish a substantial change in circumstances relating to the reasons for disapproval.

Sec. 3-65. Issuance of license.

If a site has been approved by the city council for the retail sale of alcoholic liquors under a particular class of license, such license for the retail sale of alcoholic liquors may be issued by the mayor if the applicant for said license otherwise qualifies under the provisions of this chapter.

Sec. 3-66. Duration of site approval.

The approval for the retail sale of alcoholic liquors under a particular class of license at a particular site shall remain with that site as long as there is a continuous use of that site for the sale of alcoholic liquors under the class of license recommended and approved, and as long as no liquor license at that location has been revoked by the mayor. The site shall be deemed to be continuously used as long as there is not an intermittent lapse at the site of more than twelve (12) months in the retail sale of alcoholic liquors.

Sec. 3-67. Requirements for residential sections.

No site shall be approved for the retail sale of any alcoholic liquors in any residential section in the city, as described in [Sec. 3-1](#) of this chapter, if the owners of at least two-thirds (2/3) of the total foot frontage of every lot, all or any part of which lies within a radius of three hundred (300) feet in any direction from the property on which alcoholic liquors are proposed to be sold at a retail, file objections with the liquor commissioner, except by a vote of three-fourths (3/4) of the members elected to city council.

The liquor commissioner shall give notice to all property owners affected by the provisions of this section at least fifteen (15) days prior to any hearing held on the application for the site approval.

Sec. 3-68. Intent of ordinance.

It is the intent of this ordinance to abrogate, repeal or change the existing liquor ordinances of the City of Henry.

Sec. 3-69. Existing sites.

All sites for which licenses are now issued shall be deemed approved for the retail sale of alcoholic liquors under the class of license in effect at the time of the passage hereof and all sites which have been approved for the retail sale of alcoholic liquors subsequent to the time of the passage of this chapter 3, but without a recommendation as to the particular class of license shall be deemed approved for the retail sale of alcoholic liquors under the class of license issued by the mayor.

Sec. 3-70. Furnishing false or misleading information or withholding information on license or permit application; failure to cooperate in investigations.

No person shall knowingly furnish false or misleading information or withhold any relevant information on any application for any license or permit required by this chapter, nor knowingly to cause or suffer another to furnish or withhold such information on his behalf. No person shall knowingly furnish any false or misleading information to the mayor, the chief of police, or any person authorized to act in their behalf in the investigation of any application for a license or permit required by this chapter, nor shall any person willfully withhold any information that is relevant to any such investigation when called upon by the mayor, chief of police or a person acting in their

behalf to furnish such information. (Ord. #886, 4-23-1979, amended by #894, 12-10-1979; #911, 4-26-1982; #940, 9-10-1984; #956, 7-8-1985; #973, 7-18-1986; #991, 6-22-1987; #997, 7-27-1987; #1036, 6-19-1989; #1039, 7-24-1989, #1043, 11-27-89; #1047, 9-11-90; #1188, 9-11-95)

Sec. 3-71 to 3-80. Reserved.

CHAPTER 4. BOARD AND COMMISSIONS

ARTICLE I. IN GENERAL

Sec. 4-1 to 4-25. Reserved.

ARTICLE II. PLANNING AND ZONING BOARD OF APPEALS

Sec. 4-26. Creation and membership.

A Planning and Zoning Board of Appeals is hereby authorized to be established. The word "Board" when used in this section shall be construed to mean the Planning and Zoning Board of Appeals.

- (a) The said Board shall consist of seven (7) members appointed by the mayor of the City of Henry by and with the consent of the City Council.
- (b) The members of said Board shall serve respectively for the following terms, or until their respective successors are appointed and qualified:

- one (1) for one (1) year
- one (1) for two (2) years
- one (1) for three (3) years
- one (1) for four (4) years
- one (1) for five (5) years
- one (1) for six (6) years
- one (1) for seven (7) years

for the first seven (7) appointed, the successor to each member so appointed to serve for a term of five (5) years.

- (c) One (1) of the members of said Board shall be designated by the mayor as chairman of said Board and shall hold his said office as chairman until his successor is appointed. The chairman shall conduct all meetings of the Board, but, in case of his absence, the attending members shall delegate one (1) of the members present to serve as acting chairman.
- (d) The mayor shall have the power to remove any member of said Board for cause and after a public hearing.
- (e) Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant in the same manner herein provided for the appointment of such member.
- (f) The members of the Board shall serve without salary.

Sec. 4-27. Jurisdiction.

The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made by the administrative office charged with the enforcement of this ordinance. It shall also hold public hearings on all matters referred to it or upon which it is required to act under this ordinance, and make its recommendations to the City Council.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

Sec. 4-28. Petitions.

All petitions for hearings held in accordance with the provisions of this ordinance shall be filed with the office of the Building Commissioner. The petitions shall conform to the information requirements as established by this ordinance and as the Board may, from time to time, by rule provide. The Board shall set a hearing date that shall be not more than sixty (60) days after the filing of the petition. A notice of the hearing shall be published at least once, not more than thirty (30) nor less than fifteen (15) days before the said hearing date, in one (1) or more newspapers with a general circulation within the City of Henry, and which is published within Marshall County. The petitioner shall provide the notice, which shall contain information as provided by rule of the Board. The Board may supplement such published notice by additional form, or forms, of notice as it may by rule provide.

Sec. 4-29. Decisions of the Board.

Except as provided in Sec. 4-31 below, the Board shall have the power of recommendation only, such recommendations to include findings in accordance with the provisions of this ordinance and to be submitted to the City Council for final action in such form and at such times as are provided by rule in this ordinance. All such final actions of the City Council shall be decided by majority vote of a quorum except as defined below.

No amendments of the regulations of this ordinance, or variation of the requirements of this ordinance, or permit for special uses, shall be made or given except after a hearing before the Board.

In the event the report of the Board does not recommend passage of the proposed amendment, granting of the variation, or issuance of the special use permit, a favorable vote of two-thirds (2/3) of all members of the City Council shall be required to pass the amendment, grant the variation or issue the special use permit.

In the event a written protest against the proposed amendment, variation or special use permit, is filed with the city clerk prior to the City Council voting upon the recommendation of the Board, and provided that the written protest is signed and acknowledged by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, a two-thirds (2/3) vote of all the members of the City Council shall be required to effect passage of the amendment, granting of the variation, or issuance of the special use permit.

The powers granted the Board in this ordinance may, from time to time, be altered, enlarged, or restricted, as the City Council may, from time to time, determine and effect by ordinance.

Sec. 4-30. Meeting and rules.

- (a) All meetings of the Board shall be held at the call of the chairman and at such times as such chairman shall determine.
- (b) All meetings of the Board shall be open to the public.
- (c) The chairman, or in his absence, the acting chairman, shall administer oaths to those testifying, and may compel the attendance of witnesses through the use of the subpoena.
- (d) Any person may appear and testify at a hearing, and it is not necessary such persons be represented by an attorney. All testimony given shall be under oath.
- (e) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
- (f) Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall be filed in the office of the Building Commissioner and shall be a public record.
- (g) The Board shall adopt its own rules of procedure, not in conflict with this ordinance, or in conflict with the applicable Illinois statutes.
- (h) The City Council shall provide such secretarial, legal, or administrative assistance as shall be necessary, in the opinion of the council, to permit the Board to fulfill its functions.

Sec. 4-31 to 4-45. Reserved.

ARTICLE III. RECREATION BOARD

Sec. 4-46. Purpose.

To establish a supervised playground and recreation system within the City of Henry and to levy an annual tax for the establishment, conduct and maintenance thereof.

Sec. 4-47. Membership.

The board shall consist of five (5) persons to be appointed by the mayor with the consent of the city council. The board members shall serve without compensation. The term of office for each board member shall be five (5) years or until their successors are appointed and have qualified, except that the members of the board first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. If a vacancy occurs in the office of any board member, the mayor shall appoint a successor to serve for the unexpired term.

Sec. 4-48. Jurisdiction.

The recreation board created hereunder shall have jurisdiction over the following public lands/buildings: Central Park, Margaret Jones Park, Swimming Pool, Waterworks Park, Child Park, Stoner Park, Adamson Street Tennis Courts, Riverfront Park and all public lands devoted to recreational facilities to include on the Illinois River Front.

Sec. 4-49. Duties.

The board shall have the power to establish, conduct and maintain a playground and recreation system with the City of Henry. (Ord. #1011, 4-25-1988.)

Sec. 4-50 to 4-60. Reserved.

ARTICLE IV. LIBRARY BOARD

Sec. 4-61. Creation & Membership.

The library board shall be composed of nine (9) trustees, to be chosen from city residents with reference to their fitness for such office.

(75 ILCS 5/4-1.1)

Sec. 4-62. Appointment; term of office.

Before the first day of July of each year, the mayor, with the approval of the council, shall appoint three (3) trustees, who shall hold office for three-year staggered terms and until their successors are appointed.

Sec. 4-63. Vacancies; compensation

Vacancies on the board of trustees occasioned by removals, resignations or otherwise shall be reported to the council by the mayor and be filled in like manner as original appointments. No trustee shall receive compensation as such. (75 ILCS 5/4-4, 4-5.)

Sec. 4-64. Officers.

- (a) On the first Tuesday in July of each year, the trustees shall elect one (1) of their number president and shall elect a secretary and such other officers as they may deem necessary. The board of trustees shall keep a record of its proceedings and shall make and adopt such bylaws, rules and regulations for its own guidance and for the government of the library as may be expedient, not inconsistent with this article. Such board shall have the power to appoint a treasurer and a suitable librarian and fix his compensation and also shall have the power to remove such appointee, and shall in general, carry out the spirit and intent of this article in establishing and maintaining a public library. The board shall have the exclusive control of the expenditure of all moneys collected for such library and deposited in the treasury of the city to the credit of the library fund.
- (b) The treasurer of such board shall be custodian of the moneys paid over to such board, but all moneys received for such library shall be deposited in the treasury of the city to the credit of the library fund and shall be kept separate and apart from all other moneys of the city. Such fund shall be drawn upon by the treasurer of the board of trustees of the library association upon the properly authenticated warrants of the library board. Such warrants shall be duly signed by the treasurer and cosigned by the president of the library board and shall then and thereby constitute an order upon the city treasurer for payment.
- (c) The library board shall have power to purchase or lease ground, or to purchase, lease, erect and occupy an appropriate building or buildings, for the use of the library. When a building erected or purchased by the board is not adapted to its purpose or needs, the board may remodel or reconstruct such building. Such board

may sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes, and may lease to others any real property not immediately useful but for which plans for ultimate use have been or will be adopted, but the council shall have the first right to purchase or lease.

- (d) The council shall make annual appropriations of such amount as may be deemed necessary for the support of such library and levy a tax for the same; providing, that such library tax shall be in addition to all other taxes or tax rates authorized to be levied by the city, and shall not be a part of the, taxes making up any rate prescribed as a limitation on the amount of taxes the city may levy; all such money so received by taxation shall be deposited in the treasury of the city to the credit of the library fund.

(75 ILCS 5/3-1 and 4-6)

Sec. 4-65. Report of trustees.

The library board of trustees shall make, on or before May thirtieth, an annual report to the council, stating the condition of the board's trust on the first day of May in that year, the various sums of money received from the library fund and from other sources, and how such moneys have been expended and for what purposes; the number of books and periodicals on hand and the number added by purchase, gift or otherwise during the year and the number lost or missing; the number of visitors attending, the number of books loaned out and the general character and kind of such books, and other statistics, information and suggestions as the board may deem of general interest. All portions of such report that relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased shall be verified by the affidavit of the president or secretary of the board of trustees. (75 ILCS 5/4-10)

Sec. 4-66. Name of library.

The public library established by this article shall be known as and called "Henry Public Library".

Sec. 4-67. Freedom of use of library.

The public library established by this article shall be forever free to the inhabitants of the city, always subject to such reasonable rules and regulations as the library board may adopt in order to render the use of such library of the greatest benefit to the greatest number. The library board may exclude from the use of such library and reading room any and all persons who shall willfully violate such rules. The board may extend the privileges and use of such library to persons residing outside of the city and in this state, upon such terms and conditions as the board may from time to time by its regulations prescribe. (75 ILCS 5/4-7)

Sec. 4-68. Donations generally.

Any person desiring to make donations of money, personal property or real estate for the benefit of the library established in this article shall have the right to vest the title to the money or real estate so donated in the board of trustees of the public library established in this article, to be held and controlled by such board, when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, such board shall be held and considered to be a special trustee. (75 ILCS 5/1-6)

Sec. 4-69. Damage to property.

Every person who shall negligently injure any book or other property of the library under the control of the board of trustees thereof, or who shall neglect or refuse to return any book, periodical or paper belonging thereto or under the control thereof, after demand therefor has been made by such board or its agent, shall on conviction thereof, be fined as in this Code provided.

Sec. 4-70 to 4-80. Reserved.

ARTICLE V. HUMAN RELATIONS COMMISSION

Sec. 4-81. Creation.

There is hereby created a commission on human relations, which commission shall be composed of three (3) members who shall serve without compensation.

Sec. 4-82. Statement of policy.

The purpose of the commission shall be to promote, foster, encourage and stimulate sympathetic understanding, harmonious relationships, a spirit of charity and a program of practical cooperation among all groups and individuals, to the end that the city may grow and advance in wholesome collective achievement and in the field of individual opportunity.

Sec. 4-83. Qualifications of members.

Each member of the human relations commissions shall be a qualified elector of the city.

Sec. 4-84. Appointments; term of office.

The board members shall be appointed by the Mayor with the consent of the Council. The term of office for each board member shall be three (3) years or until their successors are appointed and qualified; except that members of the first board shall be appointed to terms such that the term of one member shall expire annually thereafter.

Sec. 4-85. Meetings; secretary.

The human relations commission shall conduct such meetings as may be necessary to perform the functions assigned to it by this chapter and by the fair housing regulations of the city set forth in chapter 12, Article IV of this code. Meetings of the human relations commission shall be held in the city hall or in some other suitable place.

Sec. 4-86. Duties; functions; powers.

The commission shall cooperate with the mayor, the city council and other city officials in securing and furnishing equal services to all residents; developing by various publicity and training media improved intergroup relations which in turn develop respect for equal rights without regard to race, color, creed, religion, disability or handicapped condition, national origin or ancestry; encouraging and fostering fair and equal treatment under the law to all citizens; and maintaining equality of opportunity for employment and advancement in the city government.

The commission shall advise and consult with the mayor and city council on matters involving racial, religious, ethnic prejudices or discrimination and recommend such actions as it may deem appropriate to effectuate the policy of this chapter.

The commission shall exercise those powers delegated to it by ordinance or assigned to it by resolution of the council.

Sec. 4-87. Hearings; investigation; research.

The commission shall conduct hearings and receive and investigate complaints brought pursuant to the fair housing regulations of the city, as provided for in [Chapter 12, Article IV](#) of this code, and initiate its own investigation of tensions, practices of discrimination, and acts of prejudice against any person or group because of race, religion or ethnic origin. Result of such investigations and resulting recommendations for progressively improving human relations in the entire city shall be made in report form to the mayor and city council.

(Ord. #1333, 6-14-1999)

Sec. 4-88 to 4-90 Reserved.

CHAPTER 5. BUILDINGS

ARTICLE I. IN GENERAL

Sec. 5-1 to 5-24. Reserved.

ARTICLE II. BUILDING CODE

Sec. 5-25. Adoption.

A certain document, ~~three (3) copies~~ of which are on file in the office of the city clerk of the City of Henry being marked and designated as the 2009 International Residential Code, 2009 Edition and annual supplements thereto, as published by the Building Officials Conference of America, Inc., (BOCA) be and is hereby adopted as the building code of the City of Henry, in the State of Illinois; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the "Abridged Building Code," ~~1965 4th Edition~~, and annual supplements thereto, is hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance.

(Ord. #770, 8-7-1967, 1610, 05-16-11)

Sec. 5-26. (deleted per Ord. #1262)

Sec. 5-27. Building permits.

It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving or alterations of any buildings, including accessory buildings, until the Department of Building Services has issued a building permit for such work.

In any and all cases where a general contractor is in charge of, or has been hired or employed by an owner or agent to perform such erection, construction, rebuilding, demolition, enlargement, alteration, repairing or removal of any building in the city, it shall be the duty of the general contractor to procure and pay for the permit herein provided for, and to otherwise comply with the provisions of this Code. In all other cases, it shall be the duty of the owner to procure and pay for such permit and to otherwise comply with the provisions of this Code.

Prior to receiving a building permit, an applicant shall obtain permits and/or approvals as required for zoning approval or any other permits required by any other provision of this code.

Any owner, contractor or owner's agent desiring a building permit required by this Article shall file with the Department of Building Services an application therefor in writing, on a blank form to be furnished for that purpose. Every application for a permit shall describe the land upon which the proposed building or work is to be done, by house number, lot, block or tract, or similar general description that will readily identify and definitely locate the proposed building or work.

Two copies of drawings and specifications for the proposed improvement and two copies of a dimensional site plan showing the location of the proposed building, and of every existing building thereon, shall accompany every application for a permit required by this Article, and shall be filed with the Department of Building Services provided, however, that the Department of Building Services may authorize the issuance of a permit without drawings or specifications for minor work not involving structural alterations.

Complete drawings or facsimiles of same showing all important dimensions shall be drawn to scale and the specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show the same will be complied with according to law.

The application, drawings, site plan and specifications filed by an applicant for a permit shall be checked by the building commissioner, and if found to be in conformity with the requirements of this chapter and all other laws or ordinances applicable thereto, and if the site plan and drawings are approved in all respects by all other departments of the city involved, if any are required, the Department of Building Services shall, upon receipt of the required fee, issue a permit therefor. If a building permit is refused, the Department of Building Services shall state such a refusal in writing, with the cause, and shall immediately forward such notice of refusal to the applicant. The Department of Building Services shall grant or deny the permit within fourteen (14) days from the date the application is submitted.

When the Department of Building Services issues the permit they shall endorse in writing or stamp both sets of drawings and specifications "Plans reviewed and substantially comply with the Henry building codes." One such approved set of drawings and specifications shall be retained by the Department of Building Services as a public record and one such approved set of drawings and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress and shall be open to inspection by public officials.

It shall be unlawful to erase, alter or modify any lines, figures or coloring contained upon such drawings or specifications so stamped by the Department of Building Services or filed with it for reference. If, during the progress of the execution of such work, it is desired to deviate in any manner affecting the structure or other essentials of the building from the terms of the application, drawing or specification, notice of such intention to alter or deviate shall be given to the Department of Building Services and written consent shall be first obtained before such alteration or deviation may be made.

The issuance of the building permit shall in no case be construed as waiving any provisions of this ordinance.

A building permit shall become void and invalid ninety (90) days after issuance unless substantial progress has been made by that date on the project described therein. If work on the project described within a building permit commences, it shall be unlawful for a building permit applicant to fail to complete the project within eighteen (18) months from date of issuance of the permit. A project is completed only if a certificate of occupancy has been issued by the Department of Building Services. (Ord. #1487, Oct. 11, 2004)

Sec. 5-28. Fees.

To partially defray the expense of administering this ordinance, a fee shall be collected by the Department of Building Services in accordance with the following schedule:

<u>Residential Uses</u>	<u>Building Permit Fee</u>
Construction of up to 1200 square feet living space of residence	\$ 75.00 plus garage
Construction of 1200 square feet to 1500 square feet living space of residence	\$100.00 plus garage
Construction of 1500 square feet to 2100 square feet living space of residence	\$150.00 plus garage
Construction of 2100 square feet and up living space of residence	\$300.00 plus garage
Construction of 1 car garage	\$ 20.00
Construction of 2 car garage	\$ 30.00
Construction of 1 room addition	\$ 30.00
Construction of storage shed	\$ 15.00
Construction of signs	\$ 10.00
Construction of fences	\$ 10.00

Commercial and Industrial Uses

Construction of commercial building up to 2000 square feet of construction	5 cents per square foot to 2000 square feet of construction
Construction of commercial building over 2000 square feet	5 cents per square foot for over 2000 square feet first 2000 square feet and 8 cents per square foot over 2000 square feet not to exceed a total permit fee of \$1,000.00

Sec. 5-29. Certificate of occupancy.

No land or building nor part thereof hereafter erected or altered in its use or structure shall be used until the Department of Building Services shall have issued a certificate of occupancy indicating that such land, building, or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this ordinance.

Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Department of Building Services to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this ordinance; or if such certificate is refused, to state refusal in writing, with the cause, and immediately forward such notice or refusal to the applicant.

To partially defray the expense of administering this ordinance a fee shall be collected by the Department of Building Services for certificate of occupancy in accordance with the following schedule:

<u>Uses</u>	<u>Fee for Certificate of Occupancy</u>
Residential use	\$ 2.00
Commercial and industrial use	10.00

(Ord. #756, 8-22-1966; #776, 11-11-1967; #1034, 4-24-1989; #1262, 10-14-96)

Sec. 5-30 to 5-40. Reserved.

ARTICLE III. HOUSING CODE

Sec. 5-41. Adoption.

That certain documents, three (3) copies of which are on file in the office of the city clerk of the City of Henry being marked and designated as BOCA "Basic Housing Code" being the first edition, as amended through 1967, the same being the 1966-1967 approved housing code changes, the same being printed in January of 1968, as published by the Building Officials Conference of America, Inc., (BOCA) be and is hereby adopted as the housing code of the City of Henry and State of Illinois for the control of housing in said city; and each and every regulation, provision, penalty and term of the housing code is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance.

(Ord. #766, 8-7-1967, #786, 12-23-1968)

Sec. 5-42 to 5-50. Reserved.

ARTICLE IV. PLUMBING CODE

Sec. 5-51. Adoption.

That certain documents, three (3) copies of which are on file in the office of the city clerk of the City of Henry being marked and designated as "The Uniform Plumbing Code of the Western Plumbing Officials Association," current edition, as amended, be and is hereby adopted as the plumbing code of the City of Henry and State of Illinois for the control of plumbing in said City; and each and all of the regulations, provisions, penalties and terms of the Uniform Plumbing Code is hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance. (Ord. #767, 8-7-1967; 225 ILCS 320/35)

Sec. 5-52 to 5-70. Reserved.

ARTICLE V. ELECTRICAL CODE

Sec. 5-71. Adoption.

That certain documents, three (3) copies of which are on file in the office of the city clerk of the City of Henry being marked and designated as "National Electrical Code" as amended, as published by the American Insurance Association, be and is hereby adopted as the electrical code of the City of Henry and State of Illinois for the control of electricity in said city; and each and all of the regulations, provisions, penalties and terms of the National Electrical Code is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance.

(Ord. #769, 8-7-1967)

Sec. 5-72 to 5-90. Reserved.

ARTICLE VI. DANGEROUS BUILDINGS

Sec. 5-91. Definition.

The term "dangerous building" as used in this ordinance, is hereby defined to mean and include:

- (a) any building, shed, fence, or other man-made structure which is dangerous to the public health because of its construction or condition, or which may cause or aid in the spread of disease or cause injury to the health of the occupants of it or of neighboring structures;
- (b) any building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire, and constitutes or creates a fire hazard;
- (c) any building, shed, fence, or other man-made structure which, by reason of faulty construction, age, lack of proper repair or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such a structure;
- (d) any building, shed, fence, or other man-made structure which, because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

(65 ILCS 5/11-31-1)

Sec. 5-92. Nuisances.

Any such dangerous building within the terms of Sec. 5-91 are hereby declared to be a nuisance. It shall be unlawful to maintain or permit the existence of any dangerous building in the city; and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

Sec. 5-93. Abatement.

Whenever the building inspector, the fire marshal, the health inspector, or any other officer or employee of the city or of the Henry Fire Protection District shall find that any building, or structure in the city is a dangerous building, he shall file a written statement to this effect with the city clerk. The clerk shall thereupon cause written notice to be served upon the owner thereof, and upon the occupant thereof, if any, by registered mail or by personal service. Such notice shall state that the building has been declared to be in dangerous condition, and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied at once. Such notice may be in the following form:

"To _____ (owner-occupant of the premises) of the premises known and described as _____. You are hereby notified that (describe building) on the premises above described has been condemned as a nuisance and a dangerous building after inspection by _____. You must remedy this condition or demolish the building immediately or the city will proceed to do so. "

If the person receiving such notice has not complied therewith within ten (10) days from the time when this notice is served upon such person by personal service or by registered mail, the _____ may, upon orders of the mayor proceed to remedy the condition or demolish the dangerous building.

Sec. 5-94. Fire limits.

Any building or structure within the fire limits of the city as hereinbefore prescribed by ordinance which has or may be damaged by fire, decay, or other cause to the extent of fifty percent (50%) of its value, shall be torn down and removed.

Upon written notice by the building inspector, health commissioner fire marshal, or any other officer or employee of the city or of the Henry Fire Protection District, filed with the city clerk, the clerk shall notify the mayor of the receipt of such notice. The mayor shall then appoint three (3) persons to determine whether or not such building or structure has been damaged to the extent of fifty percent (50%) of its value. A copy of the notice filed by the city officer, together with a notice of the appointment of this board of three (3) persons to determine the damage, shall be served upon the owner of the premises by personal service or by registered mail to his last known address.

Such notice may be in substantially the following form:

"To _____

You are hereby notified that _____ has determined that the building owned by you at _____, located within the fire limits of the city has been damaged by fire, decay or otherwise to the extent of fifty percent (50%) of its value; and that a board of three (3) members has been appointed to verify this finding, which board will hold its first meeting in the city hall on the _____ day of _____, 20__ at the hour of _____ o'clock, at which time it will determine whether this finding is correct.

If this finding is verified by the board, you must tear down and remove the said building.

If the said board of three (3) members determines that the building in question has been damaged to the extent of fifty percent (50%) of its value, it shall be the duty of the owner to tear down or remove the said building within twenty (20) days after the finding of the board; and it shall be unlawful to occupy or permit such building to be occupied after such finding.

Sec. 5-95. Penalty.

Any person, firm, or corporation violating any provision of this ordinance, or permitting any dangerous building or any building or structure to remain in a dangerous condition, or to remain in the fire limits after it has been damaged to the extent of fifty percent (50%) of its value, shall be fined not less than one dollar (\$1.00) nor more than one hundred dollars (\$100.00) for each offense; and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

Sec. 5-96. Unknown Owners.

If the owner of the premises concerned is unknown, or if his address is unknown, service of any notice provided for in this ordinance may be made by posting a copy thereof on the premises and by publishing one (1) time a copy thereof in a newspaper published within the municipality.

Sec. 5-97. Alternative action.

In addition to the actions authorized by other sections of this ordinance, the fire marshal, chief of the fire department or any other municipal official or employee of the Henry Fire Protection District, whose duty it is to investigate fires, may make the investigations authorized by the statute

found in Illinois Revised Statutes, in force and effect. If such officer shall find that any building or structure is so occupied or situated as to endanger persons or property, or by reason of faulty construction, age, lack of repair or for any other cause is especially liable to fire, or is liable to cause injury by collapsing or otherwise, he shall order the dangerous condition removed or remedied, and shall so notify the owner or occupant of the premises. Service of such notice may be in person or by registered mail, and any person so notified may appeal from the decision of such officer in the manner provided by law.

(Ord. #732, 10-26-1964)

Sec. 5-98 to 5-100. Reserved.

CHAPTER 6. CIVIL EMERGENCIES, EMERGENCY SERVICES AND DISASTER RELIEF

ARTICLE I. IN GENERAL

(20 ILCS 3305/1)

Sec. 6-1 to 6-15. Reserved.

ARTICLE II. CIVIL EMERGENCIES

Sec. 6-16. Definition.

- (a) Civil emergency is hereby defined to be:
- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three (3) or more persons acting together without authority of law; or
 - (2) Any natural disaster or manmade calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion within the corporate limits of the City of Henry, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.
- (b) Curfew is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City of Henry, excepting officials of any governmental unit and persons officially designated to duty with reference to said civil emergency.

Sec. 6-17. Proclamation.

Whenever a civil emergency as defined in Section 6-16 of this Code exists, the mayor shall declare the existence by means of a written declaration, signed under oath, finding that a civil emergency exists, setting forth facts to substantiate such a finding, and describing the nature of the emergency. Such declaration shall be filed with the city clerk as soon as practicable.

The proclamation herein authorized shall expire not later than the adjournment of the first regular meeting of the city council after the state of emergency is declared.

Sec. 6-18. Curfew.

After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographical areas of the city or to the city as a whole, as he deems advisable, and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare. The proclamation herein authorized shall be effective for a period of forty-eight (48) hours unless sooner terminated by a proclamation of the mayor indicating that the civil emergency no longer exists. The mayor shall have the power to re proclaim the existence of a civil emergency at the end of each forty-eight (48) hour period during the time the said civil emergency exists. Upon issuing the proclamation herein authorized, the chief of police shall notify the news media situated within the City of Henry, and shall cause three (3) copies of the proclamation declaring the existence of the emergency to be posted at the following places within the City of Henry: the city hall, the police station, and the post office.

Sec. 6-19. Regulations.

After the proclamation of a civil emergency, the mayor of the City of Henry may also in the interest of public safety and welfare make any or all of the following orders;

- (a) order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted
- (b) order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer
- (c) order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (d) order the discontinuance of selling, distributing, dispensing or giving away of any firearm or ammunition of any character whatsoever
- (e) issue such other orders as are imminently necessary for the protection of life and property

Sec. 6-20. Violations.

Any person violating the provisions of this ordinance or executive order issued pursuant thereto shall be guilty of an offense against the City of Henry, and shall be punishable buy a fine not to exceed five hundred dollars (\$500.00).

(Ord. #779, 5-27-1968; 65 ILCS 5/11-1-6)

Sec. 6-21 to 6-29. Reserved.

ARTICLE III. EMERGENCY SERVICES AND DISASTER AGENCIES (ESDA)

Sec. 6-30. Created.

There is hereby created the City of Henry ESDA to prevent, minimize, repair, and alleviate injury or damage resulting from disaster caused by enemy attach, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with "The Illinois Emergency Services and Disaster Act of 1975."

Sec. 6-31. Composition.

This ESDA shall consist of the coordinator and such additional members as may be selected by the coordinator.

Sec. 6-32. Coordinator.

The coordinator of the City ESDA shall be appointed by the mayor and shall serve until removed by same. The coordinator shall have direct responsibility for the organization, administration, training, and operation of the ESDA, subject to the direction and control of the mayor as provided by statute. In the event of the absence, resignation, death or inability to serve as the coordinator, the mayor or any person designated by him, shall be and act as coordinator until a new appointment is made as provided in this ordinance.

Sec. 6-33. Functions.

The city ESDA shall perform such ESDA functions within the city as shall be prescribed in and by the state ESDA plan and program prepared by the Governor, and such orders, rules and regulations as may be promulgated by the Governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasi-municipality entered into as provided in "The State ESDA Act of 1975".

Sec. 6-34. Mobile support team.

- (a) All or any members of the City ESDA organization may be designated as members of a mobile support team created by the director of the State ESDA as provided by law.
- (b) The leader of such mobile support team shall be designated by the coordinator of the city ESDA organization.
- (c) Any member of a mobile support team who is a city employee or officer while serving on call to duty by the Governor, or the State Director, shall receive the compensation and have the powers, duties, rights, and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the city, while so serving, shall receive from the state reasonable compensation as provided by law.

Sec. 6-35. Agreements with other political subdivisions.

The coordinator of ESDA may negotiate mutual aid agreements with other cities or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the mayor and by the state director of ESDA. (20 ILCS 3305/1310-63)

Sec. 6-36. Emergency action.

If the Governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the State of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from man-made or natural disaster, it shall be the duty of the city ESDA to cooperate fully with the State ESDA and with the Governor in the exercise of emergency powers as provided by law.

Sec. 6-37. Compensation.

Members of the ESDA who are paid employees or officers of the city, if called for training by the state director of ESDA, shall receive for the time spent in such training the same rate of pay as is attached to the position held; members who are not such city employees or officers shall receive for such training time such compensation as may be established by the mayor.

Sec. 6-38. Reimbursement by state.

The State Treasurer may receive and allocate to the appropriate fund, any reimbursement by the state to the city for expenses incident to training members of the ESDA as prescribed by the State Director of ESDA, compensation for services and expenses of members of a mobile support team while serving outside the city in response to a call by the Governor or State Director of ESDA, as provided by law, and any other reimbursement made by the state incident to ESDA activities as provided by law.

Sec. 6-39. Purchases and expenditures.

- (a) The mayor may, on recommendation of the city coordinator of ESDA, authorize any purchase of contracts necessary to place the city in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from man-made or natural disaster.
- (b) In the event of enemy caused or other disaster, the city coordinator of ESDA is authorized, on behalf of the city, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the emergency without regard to the statutory procedures or formalities normally prescribed by law pertaining to city contracts or obligations, as authorized by "The State ESDA Act of 1975," provided that if the mayor meets at such time he shall act subject to the directions and restrictions imposed by that body.

Sec. 6-40. Oath.

Every person appointed to serve in any capacity in the city ESDA organization shall, before entering upon his duties subscribe to the following oath, which shall be filed with the coordinator:

"I _____, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions, and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am affiliated with the City of Henry ESDA Organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

(20 ILCS 3305/20)

Sec. 6-41. Office.

The mayor is authorized to designate space in a city building, or elsewhere, as may be provided for by the mayor for the city ESDA as its office.

(20 ILCS 3305/19)

Sec. 6-42. Appropriation - levy of taxes.

The mayor may make an appropriation for ESDA purposes in the manner provided by law, and may levy in addition for ESDA purposes only, a tax not to exceed five cents (\$.05) per one hundred dollars (\$100.00) of the assessed value of all taxable property in addition to all other taxes, as provided by the "The State ESDA Act of 1975"; however, that amount collectable under such levy shall in no event exceed twenty-five cents (\$.25) per capita.

(Ord. #839, 1-12-1976)

CHAPTER 7. FIRE PROTECTION

ARTICLE I. IN GENERAL

(65 ILCS 5/11-8-1)

Sec. 7-1 to 7-20. Reserved.

ARTICLE II. FIRE LIMITS

Sec. 7-21. Boundaries of limits.

All territory in the City within the following limits shall hereafter be known as the fire limits of the City of Henry:

Commencing at Edward Street at the intersection of this street thence along Third Street to East Park Row; thence along East Park Row to Second Street; thence along Second Street to Main Street; thence along Main Street to Front Street; thence along Front Street to the alley between Edward and School Streets; thence along said alley to Third Street; thence along Third Street to the place of beginning.

Sec. 7-22. Building within fire limits.

No building or structure of any kind or description shall be erected or constructed within said fire limits unless the outside and party walls thereof shall be composed of brick, stone, or other incombustible materials, provided, however, that sheds not exceeding twelve feet (12') in height at the peak or highest part, and provided they are not exceeding eight feet (8') square and ten feet (10') high, may be constructed of wood.

It shall be unlawful for any person, company or corporation to cover or recover any building within the fire limits with any shingles, boards, or planks, or other combustible material whatever, but all such buildings shall be covered with tin, slate, iron or some other equally good fire proof material.

Sec. 7-23. Penalty.

Any owner, builder or other person who shall own, build or aid in the erection of any building within the fire limits contrary to or in any other manner than authorized by the provisions in Sec. 7-22 shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for the first offense and a like amount for every twenty-four (24) hours such person shall fail to comply with the provisions of Sec. 7-22.

Sec. 7-24 to 7-29. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 7-30. Adopted.

That certain documents, three (3) copies of which are on file in the office of the city clerk of the City of Henry, Marshall County, Illinois being marked and designated as "~~Fire Prevention Code~~" "Life Safety Code" known NFPA 101 as amended, as published by the ~~American Insurance Association~~, National Fire Protection Association, be and is hereby adopted as the ~~fire prevention code~~ national protection code of the City of Henry

and State of Illinois for the control of fires in said city; and each and all of the regulations, provisions, penalties and terms of the ~~Fire Protection Code~~ National Fire Protection Association is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance.

(Ord. #768, 8-7-1967 Ord. #1639, 09-17-12)

Sec. 7-31 to 7-39. Reserved.

CHAPTER 8. LICENSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Sec. 8-1. License period.

All licenses shall expire on the 30th day of April in each year, unless by the terms thereof they shall expire prior to said date; and shall be renewable on the 1st day of May in each year; provided, that when a license is sought after May 1st in any year, a pro rata rate for the unexpired term of the year may be charged.

(Ord. #360, 5-10-1917)

Sec. 8-2 to 8-20. Reserved.

ARTICLE II. BILLIARDS, POOL ROOMS, ETC.

Sec. 8-21. Time of operation.

Anyone owning, operating, or managing a billiard room or pool room having billiard tables, pool tables, bagatelle, pigeon hole tables or other game tables, shall not open their place of business before 6:00 a.m. and shall not remain open later than 11:00 p.m. of each week day, except Saturday when the closing hour shall be 12:00 midnight. Any person violating any of the provisions of this section shall be fined a sum of not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00).

Sec. 8-22. Gambling.

No gambling shall be allowed in such places, either by means of cards, dice, ball and pin, punch boards, or any other device. Any person violating any of the provisions of this section shall be fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00). (Ord. #477, 12-11-1939)

Sec. 8-23 to 8-29. Reserved.

ARTICLE III. PEDDLERS, ITINERANT MERCHANTS, AUCTIONEERS, AMUSEMENTS

DIVISION 1. PEDDLERS, ITINERANT MERCHANTS

Sec. 8-30. Definition.

Peddler: any person who shall sell or offer for sale any goods, wares, merchandise or other article of value directly or indirectly, or by way of any shift or device, or shall give away the same under pretense of a gift when such a gift or device is simply a cover to evade this ordinance, at any place in or upon any of the streets, alleys or other public or private places or private houses; any person who shall canvass or take orders for books, pictures, publications or other articles.

Commercial travelers employed by wholesale houses and selling articles of merchandise to the regular dealers of the city shall not be deemed to be within the meaning of this ordinance.

This ordinance shall not apply to any person or persons coming into the city from the country with any produce of their own farms or premises to sell, nor shall it apply to the peddling of newspapers, or to the sale of goods, wares or merchandise manufactured in the city by the person or persons selling the same.

Sec. 8-31. Violation.

It shall be unlawful for any person or persons, locating temporarily in this city for the purpose of selling or offering to sell goods or merchandise, known as itinerant merchants and transient vendors of merchandise, to sell or offer to sell within the limits of said city, goods or merchandise either at public or private sale by himself or his agent, clerk or servant, without first having obtained license.

Sec. 8-32. License fee.

The license fee for any person described in Section 8-31 shall be ten dollars (\$10.00) per day, or fifty dollars (\$50.00) per week, except ice and milk peddlers shall pay one dollar (\$1.00) per year. Itinerant merchants and transient vendors of merchandise shall pay ten dollars (\$10.00) per day or fifty dollars (\$50.00) per week. (Ord. #88, 9-1-1890; #365, 4-5-1920; #434, 7-6-1933)

Sec. 8-33. Violation.

Any person in violation of this ordinance shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (Ord. #88, 9-1-1890; #101, 6-9-1892; 65 ILCS 5/11-42-1, 5/11-42-5)

Sec. 8-34 to 8-39. Reserved.

DIVISION 2. AUCTIONEERS

Sec. 8-40. License fee.

The license fee for auctioneers shall be Ten Dollars (\$10.00) per day or One Hundred Dollars (\$100.00) per year. (Ord. #1212, 2-12-96)

Sec. 8-41. Violation.

It shall be unlawful for any person, persons, or company to conduct an auction or act as auctioneers within the limits of the City of Henry without first having obtained a license as an auctioneer.

Any person violating any of the provisions of this ordinance shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). The keeping of auction stores is prohibited under a penalty of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (Ord. #88, 9-1-1890, #365, 4-5-1920)

Sec. 8-42. Outside Storage Prohibited.

No outside storage of any items or merchandise to be auctioned is permitted prior to the day of the advertised auction, provided, however, that automobiles and farm implements may be stored outside on the site of the auction not more than two days before the day of the advertised auction. (Ord. #1212, 2-12-96)

Sec. 8-43 to 8-49. Reserved.

DIVISION 3. AMUSEMENTS

Sec. 8-50 to 8-59 Reserved.

ARTICLE IV. SOLICITORS

Sec. 8-60. Definitions.

Soliciting shall mean and include any one (1) or more of the following activities:

- (a) seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description, whatever, for any kind of consideration whatever; or
- (b) seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (c) seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication; or
- (d) seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation, or project.

Residence shall mean and include every separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

Registered solicitor shall mean and include any person who has obtained a valid Certificate of Registration as hereinafter provided, and which Certificate is in the possession of the solicitor on his or her person while engaging in soliciting.

Sec. 8-61. Certificate of registration.

Every person desiring to engage in soliciting as herein defined from persons in residences within this municipality, is hereby required to make written application for a certificate of registration as hereinafter provided.

Sec. 8-62. Application for certificate of registration.

Application for a certificate of registration shall be made upon a form provided by the chief of police of this municipality and filed with such chief. The applicant shall truthfully state in full the information requested on the application, to-wit;

- (a) Name and address of present place of residence and length of residence at such address, also business address if other than residence address, also social security number;
- (b) address of place of residence during the past three (3) years if other than present address;
- (c) age of applicant and marital status, and if married, the name of spouse;
- (d) physical description of the applicant;
- (e) name and address of employer during the past three (3) years if other than present employer;
- (f) name and address of the person, firm, or corporation or association whom the applicant is employed by or represents, the length of time of such employment or representation;
- (g) description sufficient for identification of the subject matter of the soliciting which the applicant will engage in;
- (h) period of time for which the certificate is applied for;
- (i) the date, or approximate date, of the latest previous application for certificate under this ordinance, if any;
- (j) has a certificate of registration issued to the applicant under this ordinance ever been revoked;
- (k) has the applicant ever been convicted of a violation of any of the provisions of this ordinance, or the ordinance of any other Illinois municipality regulating soliciting;
- (l) has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States;
- (m) also, such additional information as the chief of police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

~~The chief of police shall require every applicant to submit to finger printing by the police department of this municipality in connection with the application for certificate.~~

The chief of police City Clerk shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and date pertaining thereto and all certificates of registration issued under the provisions of this ordinance, and of the denial of applications. Applications for certificates shall be numbered in consecutive order, as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No ~~permit~~ certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States, within five (5) years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Ordinance. Moreover, no permit

shall be issued to any person whose permit issued hereunder has previously been revoked as herein provided.

Sec. 8-63. Issuance and revocation of certificate.

The chief of police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such certificate as herein required, and that the issuance of a certificate of registration to the applicant would not be in accord with the intent and purpose of this ordinance. Endorsement shall be made by the chief of police upon the application or the denial of the application. When the applicant is found to be fully qualified, the certificate of registration shall be issued forthwith.

Any certificate of registration issued hereunder shall be revoked by the chief of police if the holder of the certificate is convicted of a violation of any of the provisions of this ordinance or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate under the terms of this ordinance. Immediately upon such revocation written notice thereof shall be given by the chief of police to the holder of the certificate in person or by certified U. S. mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the certificate shall become null and void. The certificate shall state the expiration date thereof.

Sec. 8-64. City policy on soliciting.

It is hereby declared to be the policy of the governing body of this municipality that the occupant or occupants of the residences in this municipality shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residence. If no determination is made as is provided in Sec. 8-65, thereof, then in that event, registration is not required.

Sec. 8-65. Notice regulating soliciting.

~~Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in the ordinance, shall comply with the following directions, to-wit:~~

~~Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following: A weatherproof card, approximately three inches by four inches (3" x 4") in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows: "ONLY SOLICITORS REGISTERED IN _____ INVITED" or "NO SOLICITORS INVITED". The letters shall be at least one-third inch in height. For the purpose of uniformity the cards shall be provided by the chief of police to persons requesting, at the cost thereof.~~

~~Such cards so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.~~

Sec. 8-66. Duty of solicitors.

~~It shall be the duty of every solicitor upon going onto any premises in the municipality upon which a residence as herein defined is located to first examine the notice provided for in Sec. 8-65 of this ordinance, if any is attached, and be governed by the statement contained on the notice. If the notice states, "ONLY SOLICITORS REGISTERED IN _____ INVITED", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.~~

~~Any solicitor who has gained entrance to any residence whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.~~

Sec. 65. PERMIT FEE

No permit shall be issued until a fee of Fifty Dollars (\$50.00) has been paid to the City Clerk. Each Permit issued hereunder shall be for a period of time onot to exceed thirty (30) days.

Sec. 8-67. Uninvited soliciting prohibited

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the door bell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of Sec. 8-65 of this ordinance.

Sec. 8-68. Time limit on soliciting.

It is hereby declared to be unlawful and shall constitute a nuisance for any person whether registered under this ordinance or not, to go upon any premises and ring the door bell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 A.M. or after 6:00 P.M. of any week day, or at any time on a Sunday or on a State or National Holiday.

Sec. 8-69. Penalty.

Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500.00) for each offense. (Ord. #814, 10-11-1971)

Sec. 8-70 to 8-79. Reserved.

Cross reference: scavengers, [Ch. 13, Article III.](#)

ARTICLE V. JUNK YARDS

Sec. 8-80. Definitions.

Junk shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap and old rope, lumber, old bags, rags, wastepaper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds and sizes when the number of each kind or size is less than one (1) gross, any wrecked or dilapidated motor vehicle, engine or machinery received, stored or held for more than ninety (90) days, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any one (1) or more of the materials or articles herein mentioned.

Junk dealer shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or that

shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this section defined as junk.

Junk yard shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter or exchange, any of the things in and by this section defined as junk:

Sec. 8-81. Physical requirements.

The minimum physical requirements at all times for each junkyard shall be as follows:

- (a) The premises where the junkyard is located shall not have more than two (2) entrances thereto and two (2) exits therefrom, each of which shall not exceed fifteen feet (15') in width at the perimeter of the premises.
- (b) The premises where the junkyard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of seven feet (7') measured from ground level, excepting for the entrances and exits permitted by subsection (a) of this section.
- (c) The aforesaid solid, non-transparent wall or fence, and the gates or doors, if any, at the aforesaid entrances and exits, shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting one (1) sign of the licensee thereon not exceeding one hundred (100) square feet in size.
- (d) The public streets and alleys adjacent to the junkyard shall not have junk thereon.

Sec. 8-82. Violation.

It shall be unlawful for any person, firm, partnership, or corporation to keep, maintain, conduct or operate a junkyard within the corporate limits of the City of Henry without first obtaining a license so to do as herein provided. A separate license shall be secured for each junkyard located on non-contiguous lots, blocks, tracts or parcels of land.

Sec. 8-83. Application procedure.

Before any license under the provisions of this ordinance is issued, any person, firm, partnership or corporation desiring to operate a junk yard in this city shall first make a verified application in writing to the city clerk, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non-transparent wall or fence of a minimum height of seven feet (7') measured from ground level excepting the entrances and exits, and whether or not the public streets and alleys adjacent to the premises where the junk yard is to be located has junk thereon. If the applicant is a firm or partnership, the names and residence addresses of all the partners, and in case of a corporation the names and residence addresses of the president and secretary, shall be stated in the application.

Sec. 8-84. Disqualification

Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (a) not a person of good character

- (b) falsification of an application for a license hereunder
- (c) license for a junkyard theretofore issued to the applicant has been revoked during the preceding twenty-four (24) months
- (d) failure to meet any one (1) of the minimum physical requirements for a junk yard as specified in [Sec. 8-81](#) of this Article.

Sec. 8-85. License.

Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conduction and operating a junk yard, the expiration date thereof, the legal description of the premises where the junkyard is to be located, that such license shall be used and the privileges thereof exercised only at the described premises, and that such license is non-assignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this ordinance; that upon the first conviction for a violation of any of the provisions of this ordinance, in addition to the fine, such junkyard shall remain closed for a period of thirty (30) days; that upon the second conviction for a violation of any of the provisions of this ordinance such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee by the acceptance of such license expressly agrees to all the terms and conditions thereof and to the terms and provisions of this ordinance, and all amendments thereof.

Sec. 8-86. License fee.

The annual license fee for each junkyard shall be two hundred dollars (\$200.00) payable in advance with the filing of the application for license, and shall not be subject to pro-rata reduction for a portion of the year, either because of application for or because of revocation of a license; provided, however, that only one (1) said annual license fee shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junkyards on lots, blocks, tracts or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. All licenses shall expire on the 30th day of June of each year.

Sec. 8-87. Receiving goods.

No licensee hereunder shall purchase or receive any article whatsoever from any minors without the written consent of their parents or guardians.

Sec. 8-88. Inspection.

Any licensee hereunder shall at all times allow any police officer or patrolman of said city and the public health authorities free access to any and all portions of the junk yard for the purpose of inspection.

Sec. 8-89. Revocation.

The mayor of the City of Henry may revoke the license of any licensee hereunder for violating, falling or refusing to comply with any provisions of this ordinance.

Sec. 8-90. Penalty.

Any person, firm, partnership or corporation violating any provision of this ordinance shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00)

for each and every offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #731, 10-26-1964)

Sec. 8-91 to 8-99. Reserved.

ARTICLE VI. CABLE TV FRANCHISE

Sec. 8-100. Definitions.

For the purpose of this ordinance, and when not inconsistent with the content, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "shall" is always mandatory. The captions have no force of law, are not part of the section, and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given true meaning set forth below:

Municipality means the City of Henry

Company means TRIAX Cablevision, 1102 N. 4th Street, Chillicothe, IL 61325, its successors and assigns, grantee of the rights under this franchise.

Henry City Council means the governing body of the City of Henry, IL

Federal Communications Commission or FCC means the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

Person means any individual, firm, partnership, association, corporation, company or organization of any kind

Cable Television System or System means a system of antennas, cables, wires, lines, towers, waveguides, or any other conductors, converters, equipment or facilities, design and constructed for the purposes of producing, receiving, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located the in City of Henry

Gross Subscriber Revenues means only those revenues derived from the basic cable television service charges paid by subscribers located with the municipality and does not include pay service revenues

Sec. 8-101. Grant of authority.

There is hereby granted by the municipality to the grantee the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over or under the streets, alleys, easements, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto within the legal boundary of the municipality, all poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the municipality of a cable television system for the transmission of television signals and other signals either separately or upon or in conjunction with any public utility maintaining the same in the municipality with all of the necessary or desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under aid upon all the streets, sidewalks, alleys, easements and public grounds, and places in the municipality to install, erect, operate or in any way acquire the use of, as by leasing or licensing, all lines and equipment necessary to a cable television system, and the right to make connections to subscribers and the right to repair, replace, enlarge and extend said lines, equipment and connections. The rights herein granted for the purposes herein set forth shall be exclusive.

Sec. 8-102. Franchise term.

The franchise granted the grantee herein shall terminate twenty (20) years from date of grant, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the city council and as are consistent with the requirements of Rules 76.31 of the FCC. No renewal hereof shall be granted unless authorized by the council following an appropriate public proceeding involving public notice and an opportunity for interested parties to participate, during which proceeding the grantee's past performance, the adequacy of the franchise's provisions, and the consistency of those provisions with applicable FCC rules have been considered.

Sec. 8-103. Rates.

The grantee's initial rates for services rendered to single-family normal residential customers shall not exceed the following schedule:

- (a) Installation charges:
 - 1. forty-nine dollars and ninety-nine cents (\$49.99) for the primary set
 - 2. three dollars and fifty cents (\$3.50) for one (1) additional outlet
 - 3. five dollars (\$5.00) second additional outlet
- (b) Monthly rates:
 - 1. Monthly basic cable TV - twenty-two dollars (\$22.00) per month
 - 2. Showtime -ten dollars and ninety-five cents (\$10.95) per month
 - 3. Encore - three dollars and ninety-nine cents (\$3.99) per month
 - 4. Cinemax - seven dollars and ninety-five cents (\$7.95) per month
 - 5. HBO - ten dollars and ninety-five cents (\$10.95) per month

The grantee agrees that when it builds the cable TV system in the municipality, subject to the requirements of the FCC or any successor thereof, the grantee should provide television signals, telegraphs from three (3) network television stations originating from Peoria, IL, being ABC, CBS, and NBC, one (1) educational or public broadcasting station from Peoria, IL, the stations WGN of Chicago, IL and Channel 17 from Atlanta, GA. That the grantee shall install equipment that has a distribution capacity of forty-two (42) channels and a head-end capacity of twelve (12) channels.

It is further agreed that grantee shall have the right, from time to time, to substitute television signals, telegraphed from a national network station where a duplication of network stations exists.

Sec. 8-104. Local office: complaint procedures.

During the terms of this franchise, and any renewal thereof, the grantee shall maintain a service for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within three (3) business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint including time and date. This log shall be made available for periodic inspection by a designated representative of the municipality.

Sec. 8-105. Liability and indemnification.

The grantee shall pay, and by its acceptance of this franchise the grantee expressly agrees that it will pay, all damages and penalties which the municipality may legally be required to pay as a result of grantee's negligence in the installation, operation, or maintenance of the cable television system authorized herein. The municipality shall notify the grantee's representative within thirty (30) days after the presentation of any claim or demand to the municipality, either by suit or otherwise, made against the municipality on account of any negligence or contract as aforesaid on the part of the grantee. The grantee further agrees as follows:

- (a) Grantee shall carry workmen's compensation insurance with statutory limits, and employer's liability insurance with limits not less than one hundred thousand dollars (\$100,000.00) which shall cover all operations to be performed by grantee as a result, of this ordinance.
- (b) Grantee shall carry comprehensive general liability and comprehensive automobile liability insurance with bodily injury limits of not less than three hundred thousand dollars (\$300,000.00) per occurrence, and property damage limits of not less than three hundred thousand dollars (\$300,000.00)
- (c) Grantee's workmen's compensation, comprehensive general liability and comprehensive automobile liability insurance shall be written by an insurance company with a capital and/or surplus of not less than three million dollars (\$3,000,000.00), and grantee agrees to furnish municipality with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be cancelled unless ten (10) days prior written notice shall first be given to municipality.

Sec. 8-106. System construction, maintenance and procedure.

- (a) upon grant of this franchise to construct and maintain a community television system in the municipality, the grantee may enter into contracts with light, gas and water departments of the municipality, and public utility companies or any other owner or lessee of any poles located within or without the municipality to whatever extent such contract or contracts may be expedient and of advantage to the grantee for use of poles and posts necessary for proper installation of the system, obtain right of way permits from appropriate state, county and federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the grantee's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a municipal, county, state or federal agency may require in the construction, installation and maintenance of its system, the grantee will use steel, cable and electronic devices, all of specialized and advanced design and type; in the operation of its system the grantee will employ personnel with training, skill and experience in electronics and communications. Neither material nor personnel of this sort will be available to the grantee for its system in the event of a war or other similar national emergency.
- (b) In the event that the municipality shall annex further territory as authorized by law, the grantee shall extend energized trunk cable to the portions of the municipality so annexed within one (1) year thereafter, unless additional time is granted by the municipal board upon request of the grantee for good cause shown. Extension of

service shall not be required into an area until the requirements set forth in Sec. 8-129 of this franchise are met.

- (c) All transmission and distribution structures, lines and equipment erected by the grantee within the municipality shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places.
- (d) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the municipality, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.
- (e) In the event that at any time during the period of this franchise, the municipality shall elect to alter, or change the grade of any street, alley or other public way, the grantee, upon reasonable notice by the municipality, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- (f) Before beginning any construction the grantee shall meet with the utility manager and the supervisors of streets, water and sewer to ascertain the location of utility systems in the municipality. The grantee shall not place poles or other fixtures or do any plowing or digging where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb lines, and those placed in alleys shall be placed close to the line- of the lot abutting on said alley and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways.
- (g) The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, all trimming to be done under the supervision and direction of the municipality and at the expense of the grantee.
- (h) The grantee shall provide upon request and without charge, single outlet service to any municipal buildings owned and operated by the municipality and to any public elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

Sec. 8-107. Line extensions.

- (a) It shall to the obligation of grantee to serve all residents of the municipality except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the municipality, grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification, where there are an average of eighty (80) homes per each linear mile of new cable construction.
- (b) In the event the requirements of subsection (a) are not met, extensions of service shall be required only on a basis that is reasonable and compensatory.

Sec. 8-108. Compliance with standards.

All facilities and equipment of grantee shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the municipality and/or any other local, state or federal agencies.

Sec. 8-109. Company rules and regulations.

The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of federal and state laws.

Sec. 8-110. Procedures.

No renewal of this franchise shall be effective except pursuant to a public proceeding affording the process. The grantee shall be a party to any such proceeding and any other proceedings in which its rights, privileges or interests would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

Sec. 8-111. Approval of transfer.

The grantee shall not sell or transfer its system to another, nor transfer any rights under this franchise to another without written approval by the municipality, provided that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the municipality an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this franchise and agreeing to perform all conditions thereof.

Sec. 8-112. Compliance with FCC rules and regulations.

The grantee shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set forth in Section 76.31 of the FCC Rules and Regulations. This shall include adherence by the grantee to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

Sec. 8-113. Activities prohibited.

- (a) The grantee shall not allow its cable or other operations to interfere with television reception of persons not served by the grantee, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the municipality.
- (b) The grantee shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

Sec. 8-114. Landlord - tenant.

- (a) No landlord shall demand or accept payment from grantee for permitting grantee to provide cable television service on or within said landlord's property or premises provided, however, that such Landlord may be entitled to reasonable reimbursement for any direct expenses incurred by him in connection with the installation of cable television service.
- (b) No Landlord shall interfere with the installation of cable television facilities upon his property or premises nor shall such landlord discriminate in rental charges or otherwise, between tenants who receive cable service and those who do not. No landlord shall demand or accept payment from any tenant, in any form for permitting cable television service on or within his property or premises.

Sec. 8-115. Theft of services or tampering.

- (a) No person whether or not a subscriber to the cable system shall willfully, maliciously or otherwise damage or cause to be damaged any wire, cable, conduit, apparatus, appurtenance, or equipment of a franchisee operating a cable television system within the municipality, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, apparatus, appurtenance or equipment of such franchisee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to such franchisee, or to obtain cable television or other communications service with intent to cheat or defraud said franchisee of any lawful charge to which it is entitled.
- (b) Whoever shall violate any provision of this ordinance shall upon conviction thereof be liable for a fine of not less than one hundred dollars (\$100.00) for a first offense and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for a second and every subsequent offense.

Sec. 8-116. Cable transfer.

The City of Henry does hereby give its consent and approval to the assignment of this franchise agreement reflected by ordinance #895 to build, construct, operate and maintain a cable television system within the corporate boundaries of the City of Henry to the assignee Dowden Cable Partners, L.P., a limited partnership, contingent upon assignee's production of a suitable performance bond as required by the "Notice, and Consent to Transfer Cable Franchise" accepted by the assignee on December 30, 1986. (Ord. #985, 2-23-1987)

Sec. 8-117 to 8-125. Reserved.

ARTICLE VII. SIDEWALK SALES

Sec. 8-126. In general.

It shall be lawful for merchants, store keepers and traders to use and occupy two feet (2') and no more of the sidewalk extending from the building occupied by them, for the purpose of exposing wares and merchandise for sale; provided that the two feet (2') to be thus used shall be confined to the front of the occupied building and that no portion of the sidewalk shall be occupied by empty boxes, old staves, barrels, old iron, crates, baskets, lumber, lath, shingles, fence posts or rubbish of any kind.

Sec. 8-127. Penalty.

Any person violating this section shall forfeit and pay not less than three dollars (\$3.00) nor more than fifty dollars (\$50.00) for every offense.

(Ord. #100 11-4-1891)

Sec. 8-128 to 8-129. Reserved.

ARTICLE VIII. RAFFLES

Sec. 8-130. Purpose.

The purpose of this code is to regulate and control the conduct of raffles within the city.

Sec. 8-131. Construction.

In the construction of this code, the definitions hereunder shall be observed and applied, except when the context clearly indicates otherwise.

- (a) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number; and the plural number shall include the singular number.
- (b) The word shall is mandatory and not discretionary.
- (c) The word may is permissive or discretionary.
- (d) Words not defined shall be interpreted in accordance with definitions contained in Webster's New Collegiate Dictionary (1973 ed.).

Sec. 8-132. Definitions.

For the purposes of this code, the words and phrases listed hereunder have the meanings designated herein, except when a particular context clearly requires a different meaning.

- (a) **Charitable organization** is an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit upon the public.
- (b) **City** is the City of Henry, Illinois.
- (c) **City Clerk** is the City Clerk of the City of Henry, Illinois.
- (d) **City Council** is the City Council of the City of Henry, Illinois.
- (e) **Educational organization** is an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.
- (f) **Fraternal organization** is an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those who otherwise would be cared for by the government.
- (g) **Labor organization** is an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

- (h) **Licensee** is an organization that has been issued a license to operate a raffle.
- (i) **Net proceeds** means the gross receipts from the conduct of raffles, less sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.
- (j) **Nonprofit** means organized, operated and conducted on a not-for profit basis with no personal profit inuring to anyone as a result of said operation.
- (k) **Person** means an individual, firm, organization, public or private corporation, government, partnership or unincorporated association.
- (l) **Raffle** means a form of lottery, as defined in Section 25-2(b) of the Criminal Code of 1961, conducted by an organization licensed under this code in which:
 - (1) The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means one or more of which chances is to be designated the winning chance; and
 - (2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.
- (m) **Religious organization** is any church, congregation, society or organization founded for the purpose of religious worship.
- (n) **Veterans organization** is an organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

Sec. 8-133. License requirements.

- (a) It shall be unlawful to conduct or operate a raffle or to sell, offer for sale, convey, issue or otherwise transfer for value a chance on a raffle unless said raffle has been licensed in accordance herewith.
- (b) A license may be requested for one raffle or for a specified number of raffles, not exceeding twelve (12), to be conducted during the calendar year provided that the following shall apply:
 - (1) No more than two raffles shall be conducted within any thirty (30) day period; except that a license issued to an educational organization will enable said organization to conduct more than one raffle within a thirty (30) day period.
 - (2) The maximum time period during which any raffle shall be conducted shall not exceed one hundred twenty (120) days unless the city council has specifically authorized a longer period of time.
 - (3) The sale or issuance of raffle chances for any raffle shall not commence until after all prior raffles conducted by the licensee have been concluded. A raffle is concluded for purposes of this section when the winning chances have been determined and the gross receipts, expenses and net proceeds for said raffle have been reported in the manner provided in this chapter.

- (c) Notwithstanding subsection (b) above, a license issued to a charitable, educational, fraternal, labor, religious or veterans organization will enable said organization to conduct a weekly raffle commonly known as a 50-50 raffle, provided that a request to hold weekly 50-50 raffles is made by the organization either in their application or in an amended application. A 50-50 raffle is defined to mean a raffle where a player pays something of value for a chance represented and where one chance is designated the winning chance the same day all chances are sold, and where the winning player receives one-half of the proceeds generated by the 50-50 raffle and the organization retains the remaining one-half.

Sec. 8-134. Application.

Any person seeking to conduct or operate a raffle shall file an application therefor with the city clerk on forms provided by the city clerk. Said application shall contain the following information:

- (a) The name, address and type of organization;
- (b) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (c) The name, address, telephone number, social security number, and date of birth of the organization's presiding officer, secretary, raffle manager and any other members responsible for the conduct and operation of each raffle;
- (d) The aggregate retail value of all prizes to be awarded in each raffle;
- (e) The maximum retail value of each prize to be awarded in each raffle;
- (f) The maximum price charged for each raffle chance issued or sold;
- (g) The area or areas in which raffle chances will be sold or issued;
- (h) The time period during which each raffle will be conducted by the issuance or sale of raffle chances;
- (i) The time and location at which winning chances for each raffle will be determined;
- (j) A sworn statement attesting to the not-for-profit character of applicant organization, signed by its presiding officer and secretary;
- (k) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

Sec. 8-135. License qualifications.

Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years or more immediately before making application for a license and which have had during that entire five (5) year period a bona fide membership engaged in carrying out their objects or to a nonprofit fund-raising organization that is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of illness, disability, accident or disaster. The following are ineligible for any raffle license:

- (a) Any person who has been convicted of a felony;
- (b) Any person who is or has been a professional gambler or gambling promoter;
- (c) Any person who is not of good moral character;

- (d) Any organization in which a person defined in subsections (a), (b) or (c), supra, has a propriety, equitable or credit interest, or in which such person is active or employed;
- (e) Any organization in which a person defined in subsections (a), (b) or (c), supra, is an officer, director of employee, whether compensated or not; and
- (f) Any organization in which a person defined in subsections (a), (b) or (c), supra, is to participate in the management or operation of a raffle as defined herein.

Sec. 8-136. License issuance.

The city clerk shall review all raffle license applications, recommend approval or denial and submit them to the ~~city council~~ Mayor within ten (10) days from the date of application. The ~~city council~~ Mayor shall, within thirty (30) days from the date of application, accept or reject a raffle license application. If an application is accepted, the city clerk shall forthwith issue a raffle license to the applicant. A license for one raffle shall specify the date upon which such raffle shall be allowed to commence and a license for more than one raffle shall specify the dates upon which each raffle shall be allowed to commence. (Ord. #1637 08/20/12)

Sec. 8-137. Conduct of raffles.

The operation and conduct of raffles are subject to the following restrictions:

- (a) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee;
- (b) No person except a bona fide member of the licensee may participate in the management or operation of the raffle;
- (c) No person may receive remuneration or profit for participating in the management or operation of the raffle;
- (d) A licensee may rent premises on which to determine the winning chance or chances in a raffle only from an organization that is also licensed under this code;
- (e) Raffle chances may be sold, offered for sale, conveyed, issued or otherwise transferred for value only within the area specified on the license; and the winning chances may be determined only at the location specified on the license;
- (f) No person under the age of eighteen (18) years may participate in the operation or conduct of raffles. A person under the age of eighteen (18) years may be within the area where winning chances are being determined only when accompanied by his parent or guardian; and
- (g) No chance shall be sold, offered for sale, conveyed, issued or otherwise transferred for value to any person under the age of eighteen (18) years; however, any person may make a gift of a chance to any person of any age.

Sec. 8-138. Raffles manager.

The operation and conduct of a raffle shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in amount to the aggregate retail value of all prizes to be awarded in favor of the license conditioned upon his honesty in the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the city not less than thirty (30) days prior to its cancellation. The city council may waive this bond requirement by including a waiver provision in the license issued to an

organization under this raffle code, provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

Sec. 8-139. Records.

- (a) Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution or net proceeds shall be itemized as to payee, purpose, amount and date of payment.
- (b) Gross receipts from the operation of raffles shall be segregated from other revenues of the licensee including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.
- (c) Each licensee shall report, to its membership and to the city, its gross receipts, expenses and net proceeds from each raffle, and the distribution of net proceeds itemized as required herein. If a license is valid for more than thirty (30) days, the report shall be made monthly.
- (d) Raffle records shall be preserved for three (3) years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

Sec. 8-140. Deleted by Ord. #1388, 4-9-01.

Sec. 8-141. Prize limitations.

The aggregate retail value of all prizes awarded in a single raffle shall not exceed twenty thousand dollars (\$20,000.00), and the retail value of any one prize awarded in a single raffle shall not exceed twenty thousand dollars (\$20,000.00).

Sec. 8-142. Chance limitation,

The price which may be charged for each raffle chance sold, offered for sale, conveyed, issued or otherwise transferred for value, shall not exceed the following schedule:

<u>Aggregate Retail Value of Prizes</u>	<u>Chance Price</u>
Less than \$100	\$1.00
\$100 or more but less than \$500	\$5.00
\$500 or more but less than \$1000	\$10.00
\$1,000 or more but less than \$10,000	\$20.00
\$10,000 or more	\$100.00

Sec. 8-143. Penalties.

Failure to comply with any of the requirements of this code shall constitute a violation; and any person, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day the violation continues shall be considered a separate offense.

Sec. 8-144. Severability clause.

If any provision of this chapter or the application thereof is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect any other provision of this code not specifically included in such ruling or which can be given effect without the unconstitutional or invalid provision or application; and to this end, the provisions of this code are declared severable.

Sec. 8-145. Suspension or revocation.

If a license for more than one raffle has been issued, the city council may suspend or revoke such license for any violation of this code.

(Ord. #1215, 2-12-96)

Sec. 8-146 to 8-150. Reserved.

ARTICLE IX. ADULT BUSINESSES

Sec. 8-151. Definitions.

For the purpose of this chapter, the following words and phrases shall have meanings respectively prescribed to them by this section:

Adult bookstore. An establishment having as a substantial portion of its stock in trade, books, magazines, films, records, recording tapes, video tapes, or other periodicals, for sale or for viewing either on or off the premises, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

Adult device store. An establishment having as a substantial portion of its stock in trade any device, appliance, instrument or abject which is represented either by the operator of the establishment or by its packaging, advertising or other literature furnished therewith as enhancing, assisting, representing, depicting, or relating to "specific sexual activities" or "specified anatomical areas" or an establishment with a segment or section devoted to the sale or display of such material.

Adult entertainment cabaret. A public or private establishment which may be licensed to serve food and features entertainers, dancers, waitresses, waiters or any other employees acting in such a way as to display, depict, describe or relate to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult mini motion picture theater. An enclosed building or drive-in theater with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on mater depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult motion picture theater. An enclosed building or a drive-in theater with a capacity of fifty (50) or more persons used regularly and routinely for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matter depicting,

describing or relating to "specified sexual activities" or "special anatomical areas" for observation by patrons therein.

Body shop or model studio. Any public or private establishment which describes itself as a body shop or model studio, or where for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude or semi-nude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or characterized by all emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" are provided for observation by or communication to persons paying such consideration or gratuity.

Building structure. Any structure or group of structures housing two (2) or more businesses which share a common entry, exit, wall or frontage wall, including, but not limited to shopping centers, shopping plazas, or shopping squares.

Massage. Any method of pressure on or friction against stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating or the external soft parts of the body with the hands or other parts of the human body or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

Massage establishment. An establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in the definition of massage of this section provided, however, that the term massage establishment shall not apply to the following:

- (a) Hospitals, nursing homes or sanitarium;
- (b) Barber shops or cosmetology establishments, not operated as a Home Occupation as defined under the Henry Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid unrevoked masseur or masseuse permit issued by the City, administers a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business; or
- (c) Barber shops or cosmetology establishments, not operated as a Home Occupation as defined under the Henry Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois, allows a person, holding a valid unrevoked masseur or masseuse permit issued by the City and working under the direction of the barber or cosmetologist, to administer a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business.

Nudity. The showing of the human male or female, genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Specified anatomical areas are any of the following conditions:

- (a) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region or pubic hair; or
 - (2) Buttock; or

- (3) Female breast below a point immediately above the top of the areola; and
- (b) Human genitals in a discernibly turgid state, even if completely covered.

Specified sexual activities are any of the following conditions:

- (a) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law.
- (b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals.
- (c) The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva or genitals.
- (d) Excretory functions as part of or in connection with any activities set forth in subparagraphs (a) through (c) of this subsection.

Sec. 8-152. Adult uses enumerated.

The following shall be considered adult uses for the purpose of this chapter:

- (a) Adult book Store;
- (b) Adult device store.
- (c) Adult entertainment Cabaret;
- (d) Adult mini motion picture theater;
- (e) Adult motion picture theater;
- (f) Body shop or model studio;
- (g) Massage establishment;

Sec. 8-153. Limitations on adult uses.

Adult uses shall be permitted subject to the following restrictions:

- (a) Notwithstanding any provision of this Code to the contrary, an adult use shall not feature:
 - (1) A person who knowingly or intentionally, in a public place:
 - a. Engages in sexual intercourse;
 - b. Engages in deviate sexual conduct;
 - c. Appears in a state of nudity; or
 - d. Fondles the genitals of himself or another person.
- (b) All adult uses shall be located only in I-1 light industrial and I-2 heavy industrial zoning districts, and within such districts an adult use shall not be located within seven hundred fifty (750) feet of another pre-existing adult use.
- (c) An adult use shall not be located within five hundred (500) feet of a pre-existing school or place of worship.
- (d) An adult use shall not sell or dispense alcoholic beverages nor be located in a building structure, which contains another business that sells or dispenses in some manner alcoholic beverages.

- (e) Any adult use doing business at the time this chapter takes effect shall have one year from the effective date hereof to comply with the provisions of subsections (a) through (d), inclusive, of this section.
- (f) Any adult use doing business at the time of this chapter takes effect shall have thirty (30) days from the effective date hereof for the issuance of an adult use license.

Sec. 8-154. Measurement of distance.

For the purposes of this Chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the lot or parcel containing the adult use to the property line of the lot or parcel containing the nearest adult use, school, place of worship or district zoned for residential use.

Sec. 8-155. License required; filing of application; filing fee.

It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the City, the operation of an adult use as herein defined without first having obtained a separate license for such adult use from the Mayor of the City.

Every applicant for a license to maintain, operate or conduct an adult use shall file an application in duplicate under oath with the Mayor upon a form provided by the City Clerk and pay a non refundable filing fee of one hundred dollars (\$100.00) to the City Clerk, who shall issue a receipt which shall be attached to the application filed with the Mayor.

Within thirty (30) days after receiving the application, the Mayor shall notify the applicant that his application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Mayor shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is denied or held for further investigation, the Mayor shall advise the applicant in writing of the reasons for such action.

Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any inspection or investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Mayor.

Sec. 8-156. Contents of application for license.

An applicant for a license shall furnish the following information under oath:

- (a) The name and address of the applicant. If the applicant is not an individual but is a corporation or partnership, the applicant shall also furnish the names and addresses of all directors, officers and any stockholders holding more than five percent (5%) of the stock of a corporate applicant and all partners and limited partners of a partnership or limited partnership. In the case of any other form of entity, the applicant shall disclose such information for all persons controlling more than five percent (5%) of the voting rights of said entity as well as those exercising direct managerial control over such entity;

- (b) Written proof that the individuals listed pursuant to subsection (a) are at least eighteen (18) years of age;
- (c) Location of where the adult business is to be operated.

Sec. 8-157. Issuance of adult use license.

The Mayor shall issue a license to maintain, operate or conduct an adult use, unless he finds:

- (a) That the applicant is under the age of eighteen (18) years or under any legal disability.
- (b) The location where the adult business is proposed to be operated does not comply with the limitations set forth in [Sec. 8-153](#) of this chapter. Every adult use license issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance, unless sooner revoked.

Sec. 8-158. Suspension or revocation of license for adult use.

Any license issued for an adult use may be revoked or suspended by the Mayor if the Mayor shall find:

- (a) That the licensee has violated any of the provisions of this chapter regulating adult uses.
- (b) That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this chapter or knowingly caused or suffered another To furnish or withhold such information on his or her behalf.

The licensee shall be responsible for the acts of his agents, servants and employees; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Mayor shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

The Mayor, before revoking or suspending any license, shall give the licensee at least ten (10) days' written notice of the charges against him or her. The licensee may, within five (5) days of receipt of said notice, request a public hearing before the Mayor at which time the licensee may present evidence bearing upon the decision. Any notice by the Mayor may be delivered personally to the licensee or be posted on the premises where the adult use is located.

Sec. 8-159. Exterior display.

No adult use shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from any public way or from any property not registered in the license as the location where the adult use is to be operated.

Sec. 8-160. Display of license and permit.

Every licensee shall display a valid license in a conspicuous place within the premises where the adult use is operated so that same may be readily seen by persons entering the premises.

Sec. 8-161. Employment of persons under age of 18 prohibited.

It shall be unlawful for any adult use licensee or his manager or employees to employ in any capacity within the adult business any person who is not at least eighteen (18) years of age.

Sec. 8-162. Illegal activities on premises.

No licensee or any other officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or conduct or permit any other person to engage in any activity in or about the licensed premises which is prohibited by an ordinance of the City or laws of the State of Illinois or of the United States.

Sec. 8-163. Severability clause.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency or circumstance is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. It is hereby declared to be the legislative intent of the City Council that this chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not then been included.

Sec. 8-164. Violation and Penalty.

Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor. A person who is convicted shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Sec. 8-165 to 8-170. Reserved.

ARTICLE X. MASSAGE ESTABLISHMENTS AND MASSAGE SERVICES

Sec. 8-171. Definitions.

- (a) **Massage.** Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.
- (b) **Massage establishment.** Any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged or carried on any of the activities mentioned in Sec. 8-171(a) of this chapter.
- (c) **Out call massage service.** Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.
- (d) **Masseur or Masseuse.** Any person who, for any consideration whatsoever, engages in the practice of massage herein defined.
- (e) **Employee.** Any and all persons other than the masseurs or masseuses, who render any service to the permitter, who receive compensation directly: from the permittee, and who have no physical contact with customers and clients.

- (f) **Person.** Any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (g) **Health officer.** Health officer shall mean the Director of the Department of Health of the County of Marshall or his authorized representative.
- (h) **Permitter.** The operator of a massage establishment.
- (i) **Sexual or genital area.** Shall include the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

Sec. 8-172. Permit required.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a massage establishment as herein defined, without first having obtained a permit from the Chief of Police and a non-refundable fee of one hundred dollars (\$100.00) to the City Clerk, who shall issue a receipt which shall be attached to the application filled with the Chief of Police.

The Chief of Police shall within five (5) days refer copies of such applications to the Department of Building Services, and the County Department of Health. These departments shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and make written recommendations to the Chief of Police concerning compliance with the codes that they administer. Within ten (10) days of receipt of the recommendations of the aforementioned departments, the Chief of Police shall notify the applicant that his application is granted, denied or held for further investigation. The period of such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Chief of Police shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is deified or held for further investigation, the Chief of Police shall advise the applicant in writing of the reasons for such action.

The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding the said application or his or her refusal to submit or to cooperate with any inspection required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Chief of Police.

Sec. 8-173. Reserved.

Sec. 8-174. Application for massage establishment.

- (a) The application for permit to operate a massage establishment shall set forth the exact nature of the massage to be administered, and the proposed place of business and facilities thereof.
- (b) In addition to the foregoing, any applicant for a permit shall furnish the following information under oath:
 - (1) The name and address of the applicant. If the applicant is not an individual but is a corporation or partnership, the applicant shall also furnish the names and addresses of all directors, officers and any stockholders holding more than five percent (5%) of the stock of a corporate applicant and all partners and limited partners of a partnership or limited partnership in the case of any other form of entity, the applicant shall disclose such information for all persons controlling more

than five percent (5%) of the voting rights of said entity as well as those exercising direct managerial control over such entity;

(2) Written proof that the individuals listed pursuant to subsection (1) are at least eighteen (18) years of age;

(3) All residential addresses for the past three (3) years for each individual listed in subsection (1);

(4) The height, weight, color of eyes and hair for each individual listed in subsection (1);

(5) The business, occupation or employment for the three (3) years immediately preceding the date of application for each individual listed in subsection (1) ;

(6) The massage or similar business license history; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason thereof, and the business activity or occupation subsequent to such action of suspension or revocation;

(7) All criminal or City ordinance violation convictions, forfeiture of bond, and pleadings of nolo contendere on all charges, except mirror traffic violations;

(8) The fingerprints and photograph for each individual listed in subsection (1);

(9) If the applicant is a corporation, or a partner of a partnership in a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation.

Sec. 8-175. Issuance of permit for massage establishment.

- (a) Upon receipt of the recommendations of the departments referred to in [Sec. 8-172](#) and the certificate of the health officer that the establishment is in compliance with all of the requirements of [Sec. 8-181](#), the chief shall issue a permit to maintain, operate or conduct a massage establishment, unless he finds:
- (1) That the operation, as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to, the Building, Health, Zoning, and Fire Codes of the City of Henry; or
 - (2) That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of: (a) a felony, (b) an offense involving sexual misconduct with children, or (c) prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping or other offense opposed to decency and morality.
- (b) The Chief of Police, at this discretion, may issue a permit to any person convicted of any crimes in subsections 2(a) or (c) if he finds that such convictions occurred at least four (4) years prior to the date of application, the application has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust.
- (c) Every massage establishment permit issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance, unless sooner suspended or revoked.

Sec. 8-176. Revocation or suspension of permit for massage establishment.

- (a) Any permit issued for a massage establishment may be revoked or suspended by the Chief of Police after hearing for good cause or in any case where any of the provisions of this chapter are violated or any employee of the permittee, including a masseur or masseuse, is engaged in any conduct at permittee's place of business, which violates any of the provisions of this chapter or any state law which provides for imprisonment, and permittee has actual or constructive knowledge of such violations or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on an application for a permit under this Article or in any case where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the County of Marshall to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Chief of Police, after hearing upon the recommendation of the health officer that such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation or hygiene.
- (b) Any violation of this chapter by any employee of the permittee including a masseur or masseuse shall be cause for suspension of the permit for not more than thirty (30) days in the first instance. Any subsequent violation of this chapter by an employee of the permittee, including a masseur or masseuse, shall be cause for suspension or revocation of this permit.
- (c) The Chief of Police, before revoking or suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the Chief of Police, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

Sec. 8-177. Masseur or masseuse permit.

The applications for a masseur or masseuse permit shall contain the following:

- (a) Name and residence address.
- (b) Social security number and driver's license number, if any.
- (c) Applicant's weight, height, color of hair and eyes.
- (d) Written evidence that the applicant is at least eighteen (18) years of age.
- (e) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
- (f) Whether the applicant has ever been convicted of, pleaded nolo contendere to, or suffered a forfeiture on a bond charge of committing any crime except minor traffic violations. If the answer is in the affirmative, a statement must be made giving the place and the court in which such conviction, plea or forfeiture was had, the specific charge under which conviction, plea or forfeiture was obtained, and the sentence imposed as a result thereof.
- (g) The Chief of Police, or his delegate, shall have the right to take, fingerprints and a photograph of the applicant and the right to confirm the information submitted.
- (h) All persons who desire to perform the services of a masseur or masseuse at a massage establishment, shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for

syphilis, a culture for gonorrhea, a test or tests which will demonstrate freedom from tuberculosis and HIV, which is to be made and interpreted by a licensed physician acceptable to the Chief of Police and such other laboratory tests done in a laboratory acceptable to the Chief of Police as may be necessitated by the above examination, and shall furnish to the Chief of Police a certificate based upon the applicant's physical examination and issued within thirty (30) days of such examination, signed by a physician duly licensed by the State of Illinois and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the Chief of Police the certificate required herein prior to commencement of their employment and at least once every twelve (12) months thereafter.

- (i) The name and address of the massage establishment or other place of business where the masseur or masseuse shall give massages.
- (j) If the places of business where the masseur or masseuse shall be employed or otherwise give massages is a barber shop or cosmetology establishment, the application shall further contain the following:
 - (1) The name and business address of the barber or cosmetologist under whose direction the masseur or masseuse will be giving massages; and
 - (2) The notarized signature of said barber or cosmetologist attesting that he or she holds a valid unrevoked license or certificate of registration issued by the State, to practice as a barber or cosmetologist.

Sec. 8-178. Reserved.

Sec. 8-179. Issuance of masseur or masseuse permit.

- (a) The Chief of Police may issue a masseur or masseuse permit within twenty one (21) days following an application, unless he finds that the applicant for masseur or masseuse permit has been convicted of: (1) a felony, (2) an offense involving sexual misconduct with children, or (3) keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering.
- (b) The Chief of Police, at his discretion, may issue a permit to any person convicted of any of the crimes in subsections (a)(1) or (a)(3) if he finds that such convictions occurred at least four (4) years prior to the date of the application and the applicant has had no subsequent convictions.
- (c) Every masseur or masseuse permit issued pursuant to this chapter shall terminate at expiration of one year from the date of its issuance, unless sooner suspended.

Sec. 8-180. Revocation of masseur or masseuse permit.

- (a) A masseur or masseuse permit issued by the Chief of Police shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would be cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this chapter.
- (b) The Chief of Police in revoking or suspending a masseur or masseuse permit shall give the permit holder written notice specifying the grounds therefor. Such person may within ten (10) days of such revocation or suspension, file a written request

with the Chief of Police for a public hearing before the Chief of Police, at which time the masseur or masseuse may present evidence bearing upon the question. The decision of the Chief of Police upon such hearing shall be a final, appealable order.

Sec. 8-181. Facilities necessary.

- (a) No massage establishment shall be issued a permit, nor be operated, established or maintained in the City unless an inspection by the Department of Building Services reveals that the establishment complies with each of the following minimum requirements:
 - (1) Construction of room used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the Building Code of the City of Henry.
 - (2) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.
 - (3) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet and massage room facilities shall be provided. Separate toilet and lavatory facilities shall be maintained for personnel.
 - (4) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.
 - (5) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly, covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
 - (6) Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
 - (7) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.
 - (8) The premises shall be equipped with a service sink for custodial service.
- (b) The Health Officer shall certify that the proposed massage establishment complies with all the requirements of this section of this chapter and shall send such certification to the Chief of Police.

Sec. 8-182. Operating requirements.

- (a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception room in a location available to all prospective customers.
- (c) All employees, including masseurs and masseuses, shall be clean and wear clean, non-transparent outer garments, use of which garments is restricted to the massage establishment. Said garments shall cover the sexual and genital areas. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (e) The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse.
- (f) It shall be unlawful for any person, in a massage establishment, to place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any person.
- (g) No masseur or masseuse, employee or operator shall perform, offer or agree to perform any act that would require the touching of the patrons' genital area.
- (h) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- (i) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- (j) Eating in the massage work areas shall not be permitted. Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.
- (k) No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption, unless a physician duly licensed by the State of Illinois certifies in writing that such person may be safely massaged prescribing the conditions thereof.
- (l) Each masseur or masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.

Sec. 8-183. Advertising.

No massage establishment granted a permit under provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any services are available, which would be prohibited by this chapter, or that employees, masseurs or masseuses are dressed in any manner other than that prescribed in [Sec. 8-182](#) of

this chapter, nor shall any massage establishment indicate in the text of such advertising that any services are available other than those services lawfully permitted herein.

Sec. 8-184. Out Call registration.

Any masseur or masseuse who provides any of the services listed in [Sec. 8-171\(a\)](#) of this chapter at any hotel or motel must first register his or her name and permit number with the owner, manager or person in charge of the hotel or motel.

Sec. 8-185. Out call service.

No "out call massage service" may be operated other than by a licensed massage establishment. All massages performed by an "out call massage service" must be performed in the manner prescribed in [Sec. 8-182](#).

Sec. 8-186. Inspections.

The Police Department and the Department of Health shall from time to time and at least twice a year, make an inspection of each massage establishment granted a permit under the provisions of this chapter for the purposes of determining that the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

Sec. 8-187. Employment of person under age eighteen prohibited.

It shall be unlawful for any owner, proprietor, manager, or other person in charge of any massage establishment to employ any person who is not at least eighteen (18) years of age.

Sec. 8-188. Identification card

The Chief of Police shall provide each masseur or masseuse granted a permit with an identification card which shall contain a photograph of the masseur or masseuse and the full name and permit number assigned to the said masseur or masseuse, which must be worn on the front of the outermost garment at all times during the hours of operation of any establishment granted a permit pursuant to this chapter.

Sec. 8-189. Transfer of permits.

No permit for the operation of a massage establishment issued pursuant to the provisions of this chapter shall be transferable except with the written consent of the Chief of Police and approval of the health officer; provided, however, that upon the death or incapacity of the permittee the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of permit.

Sec. 8-190. Display of permit.

Every permittee shall display a valid permit in a conspicuous place within the massage establishment so that the same may be readily seen by persons entering the premises.

Sec. 8-191. Employment of masseurs and masseuses.

It shall be the responsibility of the permittee for the massage establishment or the employer of any persons purporting to act as masseurs and masseuses to insure that each person

employed as a masseur or masseuse shall first have obtained a valid permit pursuant to this chapter.

Sec. 8-192. Time limit for filing application permit.

All persons who presently operate a massage establishment or who are employed as a masseur or masseuse must file for a permit within three months of the effective date of this chapter. Applications for renewal of permits must be filed not more than two (2) months nor less than one month prior to termination of an existing permit.

Sec. 8-193. Non-applicability of chapter.

This chapter shall not apply to hospitals, nursing homes, sanitarium or persons holding an unrevoked certificate to practice the healing arts under the laws of the State of Illinois, or persons working under the direction of any such persons or in any such establishments.

Sec. 8-194. Rules and regulations.

The Chief of Police, the health officer or both officers may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out the intent of this chapter.

Sec. 8-195. Violation and penalty.

Every person except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage establishment without first obtaining a permit and paying a license fee to do so from the City of Henry, or shall violate any of the provisions of this chapter shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Sec. 8-196. Maintaining public nuisance.

Any building used as a massage establishment in violation of this chapter with the intentional, knowing, reckless or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this chapter are hereby declared to be a nuisance.

Sec. 8-197. Severability.

If any Section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or any part thereof, is declared invalid or unconstitutional in a court of competent jurisdiction such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, paragraphs, or sections of this chapter. The City Council hereby declares the same would have been so enacted without the incorporation in this chapter of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

(Ord. #1324, 1-25-99).

CHAPTER 9. NUISANCES

ARTICLE I. IN GENERAL

Sec. 9-1. Definition - Prohibition.

The following acts, conduct and conditions are hereby declared and defined to be nuisances and when committed, performed or permitted to exist by any individual, firm, association or corporation within the territorial limits of the city, are hereby declared to be unlawful and prohibited:

- (a) Any act or offense which is a nuisance according to the Statutes or Common Law of the State of Illinois, or declared or defined to be a nuisance by the ordinances of the City of Henry. In addition, the officials of the municipality shall be authorized to abate any nuisance which while not specifically defined within this ordinance shall constitute the unreasonable, unwarrantable or unlawful use by a person of property real or personal or from his own improper, indecent or unlawful personal conduct which works an obstruction or injury to a right of another, or of the public and produces such material annoyance, inconvenience, discomfort or hurt that the law will presume an actionable nuisance. Nuisances may be abated which are public or which are both public and private in nature.
- (b) To own, maintain or keep a dwelling unit unfit for human habitation, or dangerous or detrimental to life, safety or health because of defects in the septic system, the existence of unsanitary conditions likely to cause sickness among persons residing in said premises or residing in proximity thereof.
- (c) To obstruct or encroach upon public highways, private ways, streets, alleys, commons and landing places.
- (d) To dump, abandon, deposit, dismantle or burn upon any public property or right-of-way, highway, park, street or parkway anywhere in the City of Henry, any trash, garbage, ashes, junk, junked or wrecked motor vehicles or parts thereof, or miscellaneous waste. However, the burning of leaves will be governed by the provisions of [Sec. 10-6](#).
- (e) To store, keep or maintain outside of a closed building, any construction debris, junk, parts, machinery or equipment not in an operable condition, trash, debris or unused, unusable or inoperative objects, furniture designed for indoor use, scrap iron or metal, provided, however, that this provision shall not apply to a properly licensed junk yard or other permitted outdoor storage use which is in full compliance with all of the ordinances of the City of Henry. (Ord. #1565, 11-16-09)
- (f) To store or place any materials in a manner that may harbor rats.
- (g) To willfully, maliciously or negligently break, deface, mar, injure, destroy or remove any of the Christmas lights, ornaments or other Christmas decorations located on city property or attached to the City of Henry's buildings, light poles or other city fixtures wherever they may be found within the city limits of the City of Henry during any time period that the same are being publicly displayed.
- (h) To substantially annoy, injure or endanger the health, safety, peace or welfare of the public or in any way render the public insecure in life or property or greatly offend the public morals or decency or unlawfully and substantially interfere with, obstruct or render dangerous for passage, any street, sidewalk, alley, navigable body or other public way or place.

- (i) To cause, permit or allow the existence of any inoperable motor vehicle, any motor vehicle not regularly used, or any parts of a motor vehicle to exist or be stored upon any public or private property in view of the general public as provided in [Chapter 14, Article VII](#) of the Henry City Code. (Ord. #1320, 1-25-98).
- (j) To cause, permit or allow the existence of any vehicle that is unregistered pursuant to the laws of the State of Illinois to exist or be stored upon any public or private property in view of the general public. This subsection shall not apply to vehicles offered for immediate sale by individuals or entities holding an Illinois license to sell new or used vehicles, provided such vehicles are kept on the property subject to the license. This subsection shall apply to all persons listed in [Sec. 14-101\(e\)](#) of this Code. (Ord. #1325, 3-8-99).

Sec. 9-2. Foul odors; filth.

It is hereby declared to be a nuisance and a danger to the health, safety, welfare, peace and comfort of the city and its residents for any person to:

- (a) Cause or suffer the carcass of any animal or any offal, filth or noisome substance or any substance creating an offensive smell to be collected, deposited or to remain in any place under his ownership or control to the prejudice of others including but not limited to the deposit or collection of any manure or similar substance utilized for the fertilization of land for purposes of growing crops or otherwise such that such deposit or collection shall constitute a material annoyance, inconvenience or discomfort to persons residing in the proximity thereof.
- (b) Throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any well or common sewer, street or public highway or to corrupt or render unwholesome to impure the water of any well to the injury or prejudice of others.

Sec. 9-3. Enumeration not exclusive.

Nuisances enumerated in this article shall not be deemed exclusive but are in addition to and to be construed in conjunction with any other nuisances enumerated in statutes or other provisions of this Code or ordinances of the city.

Sec. 9-4. When not enumerated.

Any nuisance declared by statute, this article or other provisions of this Code or ordinances of the city shall be enforceable under the provisions of this article as if enumerated specifically herein.

Sec. 9-5. Penalty.

Any individual, firm, association or corporation violating any of the provisions of this ordinance shall, upon conviction, be fined in an amount not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) plus court costs. Each day that a violation is allowed to exist shall constitute a separate offense.

Sec. 9-6. Duty of City Officers to Investigate; Power of Entry.

- a. For the purpose of discovering nuisances, it shall be the duty of the police and the building commissioners to investigate, confirm and report any nuisances coming to their attention.
- b. In order to investigate, confirm and report nuisances, said officers and commissioners shall, upon proper identification, be permitted at any reasonable hour in any reasonable manner, to visit and enter into or upon any premises or property within the city to make an examination thereof, if they shall have reasonable grounds to believe that a nuisance exists.

Sec. 9-7 to 9-14. Reserved.

ARTICLE II. ABATEMENT.

Sec. 9-15. Notice to Abate Nuisance

- a. Whenever any building commissioner or any police officer determines that a nuisance exists on any private property or premises, the building commissioner or police officer, shall cause a written notice to be served personally upon the owner or person in control of the property or premises who is causing, permitting or maintaining such nuisance, which notice shall give the person served five (5) days from the service of notice to abate the nuisance. Such notice shall be by means of personal service of a copy of the complaint. Personal services shall be by any building commissioner or any police officer of the police department or any person authorized by law to make personal service.
- b. Such notice shall fairly apprise such person of the nature or the nuisance, his duty to abate or remove the nuisance within the time provided therein, the penalty for failure to abate the same, and shall state that, if said nuisance is abated by the city, liability for the necessary expenses so incurred shall accrue as provided in this chapter.

Sec. 9-16. Duty to Abate; Time Limits.

It is hereby declared the duty of any person determined to have created, caused, erected, maintained or permitted a nuisance to exist within the city to discontinue and abate such nuisance within five (5) days or such other time period as may be specified in the notice, from the time he receives written notice thereof.

Sec. 9-17. Failure to Abate; Separate and Recurring Offense.

It shall be unlawful and a violation of this chapter for any person to neglect, refuse, or otherwise fail to remove or abate any nuisance after expiration of the five (5) days or other specified time period provided by notice thereof; and each twenty-four (24) hours or fraction thereof, during which such nuisance continues or exists may be deemed a separate offense.

Sec. 9-18. Abatement by City.

Whenever any nuisance is not abated by the owner, lessee or person in control of the premises or properly affected within the time provided by notice, the proper city officer shall cause the abatement or removal of such nuisance.

Sec. 9-19. Summary Abatement by City When Emergency or on Public Property.

Whenever any nuisance (a) constitutes or is deemed to be an eminent or immediate danger to public health or safety, or (b) exists on public property, the building commissioner or police officer shall cause such nuisance to be summarily and immediately abated and removed, regardless of any five (5) day or other time period specified by notice to the person responsible therefor; provided, however, such commissioner or officer shall have first applied for and obtained the written permission of the mayor for such summary abatement.

Sec. 9-20. Costs of Abatement; Debt of Owner

- a. Any costs or expenses of abatement reasonably incurred by the city pursuant to the provisions of this chapter shall be deemed a debt to the city by the owner, lessee or person in control of premises upon which such nuisance existed; provided that where specifically provided in this code or by statute, such costs and expenses shall become a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens.
- b. It shall be the duty of the city attorney to enforce by civil action any and all such debts or liens as provided for in subsection (a) of this section.

(Ord. #6, 6-9-1879; #374, 10-7-1919; #984, 1-26-1987; #1023, 11-14-1988; #1025, 1212-1998; #1279, 5-12-1997)

Sec. 9-21 to 9-30. Reserved.

CHAPTER 10. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Sec. 10-1. Purpose.

To define those acts which are misdemeanors and miscellaneous offenses in order to preserve the welfare of the citizenry of this community, and for the purpose of the present and future development of said city, the promotion of the public health, and for the safety and welfare for the persons within the City of Henry.

Sec. 10-2. Penalty.

Any person, firm or corporation violating any provision of this article shall be fined not less than Twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #1192, 10-09-95)

Sec. 10-3. Discharge of firearms.

It shall be unlawful to discharge any firearms or airgun, beebie gun. or any toy gun, projecting lead or material missiles excepting in a regularly established shooting gallery, provided that this section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to any citizen to discharge a firearm when lawfully defending his person or property. It shall be lawful for military companies to fire salutes on public occasions when done in such a manner as not to endanger persons or property.

Sec. 10-4. Combustible refuse.

It shall be unlawful to permit or store any combustible refuse in such a way as to create a fire hazard or to store or throw away any refuse of any kind in any alley, street or other public way in the city.

It shall be unlawful to dump, leave or deposit any refuse anywhere in the city, with or without the consent of the owner of the premises, which is or may be thrown about by the wind, which consist of garbage or any vegetable matter subject to decay, or which consists of flammable material so as to form a fire hazard; and it shall be unlawful to leave or deposit or abandon any cases, cartons, car bodies or similar article anywhere in the city.

Sec. 10-5. Deleted by Ordinance #1400, 6-25-01.

Sec. 10-6. Outdoor Fires; Open Burning; Temporary Ban.

- (a) No person shall set fire to or cause or permit to be burned in any yard, lot, street or alley, any rubbish or garbage. Except as otherwise provided in this Section, no person shall set fire to or cause or permit to be burned in any yard, lot, street or alley, any paper or other combustible material unless such material is confined during combustion to an approved incinerator. For purposes of this subsection, an “approved incinerator” is one that prevents the escape of soot, cinders and ash. No fire may be set or caused or allowed to burn in or on any public right-of-way.
- (b) The burning of dry leaves and dry landscape waste material is allowed under the following conditions:
 - (i) that said burning be attended, at all times, by an adult, and not within an immediate location of any human structure, building, fence or dwelling house;
 - (ii) that said burning be on the premises on which said waste is generated and not upon any sidewalk, road, curb, city improvements, easements or property of an organization surveying utilities;
 - (iii) that said burning does not create a visibility or pollution hazard within the area or upon roadways, or sidewalks, used by pedestrians or vehicles, and that atmospheric conditions will readily dissipate any contaminations;
 - (iv) that said burning is not within a restricted area or within an area prohibiting fires;
 - (v) that debris or burning material does not remove or blow from this premises onto the adjacent or adjoining premises, or other property within the area;
 - (vi) that said burning not be conducted from sunset to sunrise.

For purposes of this subsection, the term “landscape waste material” is defined as dry leaves, the dry trimmings of fallen pieces of trees or bushes not more than three inches in diameter, and other dry vegetative matter as is ordinarily produced by any yard, garden or lot.
- (c) Notwithstanding any other provision of this section to the contrary, it shall be lawful for any person to burn combustible material for the purpose of a social gathering outdoors in any permanent or temporary outdoor fireplace, grill or barbecue pit. Provided, however, that any such fire must be kept under competent and

continuous supervision and must be kept a sufficient distance from any building, structure or other material so as not to constitute a fire hazard. For purposes of subsection (c), any open burning used for the purpose of a social gathering shall only occur from sunrise to 11:00 p.m.

(Ord. #1583, 06-21-10)

- (d) Notwithstanding any other provision of this section to the contrary, except for subsection (c) above, at any time when meteorological, climatological, hydrological or agricultural drought conditions exist because of a period of well-below-average precipitation, inadequate soil moisture, or otherwise, so as to present a substantial risk that any fire or burning within the City may be inadvertently spread or cause another fire, the mayor may declare a “state of emergency” to exist, by signing under oath, a statement finding that such standards for the emergency have been met, setting forth facts to substantiate such findings, describing the nature of the emergency, and declaring that a “state of emergency” exists. Such statement shall be filed with the city clerk as soon as practicable. Upon the filing of the statement by the mayor, it shall be unlawful for any person to build a fire or to set fire to or cause or permit to be burned in anyway any substance or material whatsoever, including but not limited to dry leaves or dry landscape material, in any yard, lot, street or alley, or outside any permanent structure. The mayor shall cause notice of the “state of emergency” and the time the statement was filed with the city clerk to be given by available means reasonably known to him. The mayor may declare a “state of emergency” ended by giving written notice to that effect to the city clerk, but in no event shall a “state of emergency” declared to exist extend beyond the adjournment of the first regular meeting of the City Council after the “state of emergency” is declared.
- (e) Any person convicted of violating any provision of this section shall be subject to a fine not less than one hundred dollars (\$100.00) nor in excess of seven hundred fifty dollars (\$750.00).

(Ord. #1400, 6-25-01; Ord. #1503, 6-30-05)

Sec. 10-7. Wind blown refuse.

It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds or dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind blown or scattered.

Sec. 10-8. Missiles.

It shall be unlawful to cast, throw or propel any missile on any street, alley or other public place; and it shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley, sidewalk or other public place in the city.

Sec. 10-9. Bathing.

It shall be unlawful for any person to bathe at any public place or in any place open to the public view unless such person is adequately garbed in a bathing suit.

Sec. 10-10. Posting bills.

It shall be unlawful for any person, firm or corporation to post any bills or advertisements on any public property without the authority of the mayor and city council; and it shall be unlawful to post any bill or advertisement on any property without the written consent of the owner thereof.

It shall be unlawful for any person to willfully and maliciously tear down, mutilate, or deface or render illegible any notice, handbill, or poster lawfully posted in any street, alley, avenue or other place in the city.

Sec. 10-11. Placing advertising matter in motor vehicles.

It shall be unlawful for any person, firm or corporation, whether a licensed bill poster or not, to distribute hand bills, circulars, dodgers, pamphlets, cards, pictures or any advertising matter of any kind whatsoever, by placing the same in or upon any motor vehicle standing or parked in the public streets of the city.

Sec. 10-12. Deposit of grass and rubbish prohibited in public streets.

It shall be unlawful for any person, firm or corporation to dump or deposit or cause to be dumped or deposited any grass, leaves, branches, or any other things in the roadway or gutter of any public street in the city. (415 ILCS 105/1)

Sec. 10-13. Scaffolds.

Any scaffold or ladder placed in such a way that they overhang or can fall onto any public street, alley or other public place in the city shall be firmly constructed and safe-guarded; and it shall be unlawful to place or leave any tools or articles on any such place in such a manner that the same can fall onto any such street, sidewalk, alley or other public place from a height greater than four (4) feet.

Sec. 10-14. Articles on windows.

It shall be unlawful to place any moveable articles on any window ledge or other place abutting on a public street, alley or other place a height above four (4) feet from the ground in such a manner that the same can be or is in danger of falling onto any such street, sidewalk, alley or other public place.

Sec. 10-15. Whistles.

It shall be unlawful to blow or cause to be blown any steam whistle of any stationary engine or steam engine in the city except as a signal for starting or stopping work or in emergencies to avoid injury to persons or property.

Sec. 10-16. Obstructing stairways or exits.

It shall be unlawful to obstruct or permit the obstruction of any stairway aisles, corridor, or exit in any office building, factory, hotel, school, church, theater, assembly hall, lodge or other public hall, or any building used by two (2) or more tenants or families in such a manner that it interferes with the free use of such stairway, aisle, corridor or exit.

Sec. 10-17. Mendicants - vagrants.

It shall be unlawful for mendicants or vagrants to frequent any depot, store, theater, street, alley, sidewalk, park or other public place or places publicly frequented in the city.

(65 ILCS 5/11-5-4)

Sec: 10-18. Loitering.

No person or persons, without good, undoubted and sufficient excuse, shall loaf or loiter about any depot, store, theater, street, alley, sidewalk, park or other public place or places frequented by the public in the city.

No person shall, with other persons, congregate about or upon any stairway, doorway, window, or in front of any business or dwelling house, theater, store, lecture room, church, or elsewhere in the city and by so doing obstruct or interfere with the free passage of persons entering or occupying any such buildings or premises, or by his language, conversation or conduct annoy, disturb, or insult any person or persons passing along the streets or alleys or other public place or places frequented by the public in the city, or occupying, residing, or doing business in any of the said houses or places.

Sec. 10-19. Open pits.

It shall be unlawful for any person to leave open, uncovered or unguarded any cellar door, pit, vault, or other subterraneous opening, leading from, into, or upon any street, alley or sidewalk of the city.

Sec. 10-20. Obstruction of street.

It shall be unlawful for any person to encumber or obstruct any street, alley or sidewalk with building materials, or any article or thing without first having obtained the written permission of the mayor or city superintendent of streets, nor shall any person, except in case of urgent necessity and for a short time, encumber or obstruct more than one third (1/3) of any street or alley, or one half (1/2) of any sidewalk.

(65 ILCS 5/11-80-3 & 5/11-80-10)

Sec. 10-21. Destruction of pavement.

It shall be unlawful for any person to injure or tear up any pavement, sidewalk, or any part thereof, or dig any hole, ditch or drain in, or dig or remove any sod, stone, earth, sand or gravel from any street, alley, or public ground of the city without having first obtained the written permission of the mayor or city superintendent of streets.

Sec. 10-22. Tampering

It shall be unlawful for any person to purposely change or remove any stake, post, or stone placed or set to designate the corner or line of any lot or land, street, or alley, or show the grade of any street, alley or sidewalk.

(720 ILCS 5/21-1)

Sec. 10-23. Billboards.

It shall be unlawful for any person to erect, or cause to be erected, in, on or around any, park, public grounds, or public square, or on any sidewalk, or in any alley or street, in such a manner as to obstruct the sight or view of any other person, or the free circulation of the air, any bulletin board, fence, or structure, upon which to post or paste any showbill, or advertisement of any kind, or for any other purpose whatever.

Sec. 10-24. Sale of food.

It shall be unlawful for any person to knowingly sell, or expose, or offer for sale, any sick or diseased animal, poultry or fish to be used or eaten for food, or the flesh of any sick, diseased, or otherwise unwholesome dead animal, poultry or fish, or the flesh of any animal, fowl or fish, not usually used or deemed wholesome for food, or any other unsound or unwholesome provisions, or article of food whatever, or any pernicious or adulterated milk, drink or liquors. (Ord. #83, 11-4-1889; #147, 1-4-1897; #374. 10-7-1919; #753, 8-8-1966; #790. 5-26-1969; #825, 16-8-1973; #1026, 2-13-1989)

Sec. 10-25. Loud, Disturbing and Unnecessary Noises.

The creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the city is prohibited. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (a) **Blowing Horns.** The sound of any horn or signal device on any automobile, motorcycle or bus so as to create an unreasonable loud or harsh sound and the sounding of such device for an unnecessary and unreasonable period of time.
- (b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or musical instrument with such volume, particularly between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., as to unreasonably annoy or disturb the quiet comfort or repose of persons in any office, hospital, dwelling, hotel or other such building.
- (c) **Yelling, shouting, hooting, etc.** Yelling, shouting, whistling or singing, particularly on the public street between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., as to unreasonably annoy or disturb the quiet, comfort or repose of any person in the vicinity.
- (d) **Pets.** The keeping of any animal, bird or fowl which, by causing frequent or long continued noises, shall disturb the comfort or repose of any person in the vicinity.
- (e) **Blowing whistles.** The blowing of any steam whistle attached to any stationary boiler, other than to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.
- (f) **Exhaust discharge.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (g) **Building operations.** The erection (including excavation), demolition, alteration or repair of any building, or the excavation of streets or public places, in any residential area, other than between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a written permit from the director of City inspections.
- (h) **Noises near schools, hospitals churches, etc.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

- (i) **Noises to attract attention.** The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- (j) **Loud speaker or amplifiers.** The unreasonable use of any amplifiers or loud speakers. (Ord. #1192; 10-09-95)

Sec. 10-26. Sales of Tobacco or Smokeless Tobacco to Minors Prohibited.

No persons shall sell, buy for, distribute samples of, furnish, give away or distribute any cigar, cigarette, smokeless tobacco or tobacco in any of its forms to any person under eighteen (18) years of age. For the purpose of this section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. (Ord. #1263, 10-28-96)

Sec. 10-27. Purchase of Tobacco or Smokeless Tobacco by Minors Prohibited.

No person under eighteen (18) years of age shall possess or purchase any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, or misrepresent their identity or age or use any false or altered identification for the purpose of purchasing any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. For the purpose of this section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. (Ord. #1263, 10-28-96)

Sec. 10-28. Scooters, Skateboards and Rollerblades Prohibited in Certain Areas.

(a) **Restricted Area:** That area within the City of Henry bordered on the North by Richard Street from School Street to Market Street; and on the West by Market Street from Richard Street to Water Street; and on the South by Water Street from Market Street to Main Street; and then on Cromwell Drive from Main Street to School Street at the River Bridge; and on the East by School Street from Cromwell Drive to Richard Street.

(b) Scooters, skateboards and rollerblades are also prohibited on all streets, alleys, roadways and sidewalks in McBride Park and within the restricted area as set forth in subparagraph (a) above.

(c) Scooters, skateboards and rollerblades are allowed only on sidewalks outside the restricted area as defined in subparagraph (a) above.

(d) **Penalties for Violation of this Ordinance.** Any person found to be in violation of this ordinance shall be subject to the following fines and penalties:

- (i) **First offense.** A written warning shall be issued to the violator.
- (ii) **Second offense.** A fine of not less than \$10.00 nor more than \$25.00 shall be imposed for those persons violating this ordinance for a second time.
- (iii) **Third offense.** Third and all subsequent offenses shall be punishable by a fine of not less than \$25.00 nor more than \$50.00.

(Ord. No. 1424, 5-13-2002)

Sec. 10-29. No Wake Zone

A. Definitions.

For the purpose of this Section 10-29, the following terms, phrases, words, and the derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

1. Operate. "Operate" means to navigate or otherwise use a vessel which is not at anchor or moored.
2. Operator. "Operator" means the person who operates or has charge of navigation or use of a vessel.
3. Owner. "Owner" means any person, other than a lien holder, having the property in or title to a vessel.
4. Person. "Person" means any individual, partnership, firm, corporation, association or other legal entity.
5. Power Boat. "Power Boat" means any boat, vessel or water-going craft which is propelled by mechanical rather than manual means, whether or not such propulsion device forms an integral part of the structure thereof.
6. Vessel. "Vessel" means every description of watercraft, other than a seaplane used or capable of being used as a means of transportation on water.
7. Wake. "Wake" means a movement of the water created by a boat underway great enough to disturb a boat at rest
8. Slow-No-Wake. "Slow-No-Wake" means the operation of a vessel at the lowest possible speed necessary to maintain steerage, but under no circumstances shall the speed exceed five (5) miles per hour while in a posted "No-Wake" area.

B. Area of No-Wake Zone.

1. The No-Wake Zone shall consist of the area at Henry, Illinois, on the west side of the Illinois River from Browns Landing, legally described as Lots 38 through 41 inclusive in the original town of Henry, Marshall County, Illinois, to 300 yards north of the Henry Bridge also known as Route 18 (extending north of the Marina) and more specifically defined on the map immediately following this Chapter 10, identified as Sec.10-29 No-Wake Zone Map" and incorporated herein as fully set forth.
2. "No Wake" areas shall be clearly marked with signs posting "Slow-No-Wake." Such signs shall meet the specifications as prescribed by the United States Coast Guard or the Illinois Department of Natural Resources and shall be of stop sign grade material.

C. Unlawful Conduct.

1. Within the area designated as a No-Wake Zone herein and marked accordingly with regulatory signs, it shall be unlawful at any time to operate any powerboat or

water vessel at other than a Slow-No-Wake speed. The speed of all power boats and vessels shall at all times be regulated so as to avoid danger, injury, damage or unnecessary inconvenience either directly or by the effect of wash or waves raised by such power boat or vessel while in a No-Wake Zone, or in the vicinity of a swimming area, docks, moored boats or boats engaged in fishing activities.

2. It shall be unlawful for any person to deface, move, obliterate, tear down, or destroy, in whole or in part, or attempt to deface, move, obliterate, tear down or destroy any buoys or signs posted pursuant to the provisions of this ordinance.
3. These controls shall be effective twenty-four (24) hours per day all year.

D. Exceptions.

Authorized resources management personnel, emergency personnel, and enforcement personnel, when acting in the performance of their duties, shall be exempt from the provisions of this ordinance.

E. Enforcement.

Enforcement of this Sec. 10-29 shall be the primary responsibility of the City of Henry Police Department. Any licensed peace officer may also enforce this Section. (Ord. 1499, April 25, 2005)

Sec. 10-30. Cannabis, Look-Alike Substances and Drug Paraphernalia Prohibited.

- (a) As used in this Section, unless the context otherwise requires:

(i) The term "cannabis" shall have the meaning ascribed to it in Section 3 of the "Cannabis Control Act" (720 ILCS 550/3), as if that definition were incorporated herein.

(ii) The term "controlled substance" shall have the meaning ascribed to it in Section 102 of the Illinois Controlled Substances Act (720 ILCS 570/102), as if that definition were incorporated herein.

(iii) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

(iv) "Drug paraphernalia" means all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/10), which are possessed intended for use, being or have been to be used unlawfully or peculiar to and marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing,

injecting, ingesting, inhaling or otherwise introducing into the human body look-alike substances, cannabis or a controlled substance in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.), the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), or the Methamphetamine Control and Community Protection Act (720 ILCS 646/1 et seq.). It includes, but is not limited to:

- (1) Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) Diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;
- (5) Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (A) water pipes;
 - (B) carburetion tubes and devices;
 - (C) smoking and carburetion masks;
 - (D) miniature cocaine spoons and cocaine vials;
 - (E) carburetor pipes;
 - (F) electric pipes;
 - (G) air-driven pipes;
 - (H) chillums;
 - (I) bongs;
 - (J) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller, is for use in violation of this Section or the Illinois Drug Paraphernalia Control Act. (720 ILCS 600/1 et seq.).

(v) "Look-alike substance" means a substance, other than a controlled substance, which 1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency or any other identifying physical characteristic of the substance would lead a reasonable person to believe that the substance is a controlled substance; or 2) is expressly or impliedly represented to be a controlled substance or

distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause 2, the court or other authority may consider the following factors in addition to any other factor that may be relevant: a) statements made by the owner or person in control of the substance concerning its nature, use or effect; b) statements made to the buyer or recipient that the substance may be resold for profit; c) whether the substance is packaged in the manner normally used for the illegal distribution of controlled substances; d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

- (b) It shall be unlawful for any person to keep for sale, offer for sale, sell, or deliver for any commercial consideration cannabis, a look-alike substance, or any item of drug paraphernalia.
- (c) It is hereby declared to be a nuisance for any store, place, or premises to keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of drug paraphernalia.
- (d) It shall be unlawful for any person to knowingly possess cannabis, a look-alike substance, or an item of drug paraphernalia. In determining intent under this subsection, the trier of fact may take into consideration the proximity of cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.
- (e) This Section does not apply to a person who is (1) legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act, or (2) authorized to possess, keep for sale, offer for sale, sell, or deliver for any commercial consideration cannabis, a controlled substance, a look-alike substance, or drug paraphernalia pursuant to the "Illinois Controlled Substances Act" (720 ILCS 570/101 et seq.), the "Compassionate Use of Medical Cannabis Pilot Program Act" (410 ILCS 130/1 et seq.), or another provision of Illinois Statutes.
- (f) ~~Violations: Any person convicted of violating any provision of section of this shall be subject to a fine not less than one hundred dollars (\$100.00) nor in excess of seven hundred fifty dollars (\$750.00).~~
 - (i) Cannabis: Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration less than two and five-tenths (2.5) grams of cannabis shall be punishable by a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00). Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for

commercial consideration at least two and five-tenths (2.5) grams but less than ten (10) grams of cannabis shall be punishable by a fine of not less than two hundred dollars (\$200.00), nor more than seven hundred fifty dollars (\$750.00). Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration at least ten (10) grams but less than thirty (30) grams of cannabis shall be punishable by a fine of not less than three hundred dollars (\$300.00), nor more than seven hundred fifty dollars (\$750.00). Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration thirty (30) grams or more of cannabis shall be punishable by a fine of seven hundred fifty dollars (\$750.00).

(ii) Drug paraphernalia: Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration drug paraphernalia shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00). Any person convicted of a second or subsequent time for possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration drug paraphernalia shall be punished by a fine of not less than two hundred dollars (\$200.00), nor more than seven hundred fifty dollars (\$750.00).

(iii) Look-Alike Substances: Any person convicted of possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration a look-alike substance shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00). Any person convicted of a second or subsequent time for possessing, keeping for sale, offering for sale, selling or delivering for commercial consideration a look-alike substance shall be punished by a fine of not less than two hundred dollars (\$200.00), nor more than seven hundred fifty dollars (\$750.00).

(Ordinance #1510 2-13-06 #1693 08-15-16)

Section 10-31 to 10-40 Reserved.

ARTICLE II. GASOLINE AND VOLATILE OILS

Sec. 10-41. Violation.

It shall be unlawful for any person, firm, association or corporation to keep or store gasoline, kerosene and volatile oils in bulk storage tanks above ground within the City of Henry, in bulk storage tanks erected closer than forty (40) feet to their property lines where said property lines abut property other than public streets and closer than twenty-four (24) feet where said property lines abut public alleys. The tanks shall also be surrounded by a dike four (4) feet high and of sufficient diameter to have a holding capacity fifty percent (50%) greater than the capacity of the tanks enclosed by said dike.

Sec. 10-42. Exceptions.

This ordinance shall not be construed to affect tanks already erected or tanks of the capacity of one hundred (100) gallons and under.

Sec. 10-43. Penalty.

Any person, firm, association or corporation violating any of the provisions of this act shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. Each day of violation of the provisions of this act shall be considered as a separate offense. (Ord. #412, 5-3-1926)

Sec. 10-44 to 10-50. Reserved.

ARTICLE III. FIREWORKS

Sec. 10-51. Violation.

No person shall sell, offer for sale, expose for sale, loan, give away, store or have in possession with intent to sell, or to use, discharge or cause to be discharged, fire or otherwise set in action within the city, any fireworks; provided, however, that public exhibition of fireworks may be given if a permit therefor be granted by the city council. Such public exhibition for which a permit has been duly acquired shall be subject to the supervision of the chief of police or of some person designated by him.

The term fireworks shall mean and include any explosion composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration, or detonation, and shall include blank cartridges, toy cannons, in which explosives are used, the type of balloons which require fire underneath to propel the same, fire crackers, torpedoes, sky rockets, roman candles, bombs, or other fireworks of light construction and any fireworks containing any explosive compound, or any tablets or any other device containing any explosive substance, or containing combustible substances producing visual effects; provided, however, that the term "fireworks" shall not include snake or glow worm pellets; smoke devices; trick noise makers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; sparklers; toy pistols; toy canes; toy guns; or other devices in which paper or plastic caps containing twenty-five one hundredths (25/100ths) grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than twenty one hundredths (20/100ths) grains of explosive mixture; the sale and use of which shall be permitted at all times.

Sec. 10-52. Penalty.

That whoever violates any of the provisions of this ordinance shall be subject to a fine of not less than five dollars (\$5.00) and not more than fifty dollars (\$50.00) for each offense.

(Ord. #423, 7-1-1929)

Sec. 10-53. Seizure Authorized.

The police chief, or any police officer, shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this article.

Sec. 10-54 to 10-58. Reserved.

ARTICLE IV. ANIMALS

Sec. 10-59. Violations.

It shall be unlawful for any person to:

- (a) overload, overwork, cruelly beat, ill-treat, torture, mutilate or cruelly kill any animal, or cause, or knowingly allow the same to be done.
- (b) instigate, cause or procure, or in any manner assist in any indecent exhibition of any animal, or exhibit or perform any indecent, immoral, or lewd play or show, or representation of any kind.
- (c) instigate, cause or procure any dog fight, prize fight, cock fight, or any public or private fighting
- (d) knowingly permit any dangerous, unruly, fierce, or mischievous animal to run at large to the danger, annoyance, or damage of any other person or property.
- (e) kill, or attempt to trap, net, ensnare, destroy or kill any robin, bluebird, swallow, martin, marquito, hawk, whip-poor-will, cuckoo, woodpecker, catbird, brown-throated bird, humming bird, sparrow, wren, dove, goldfinch, mocking bird, bluejay, finch, thrush, lark, cherry bird, yellow bird, oriole, or bobolink; or to rob or destroy the nests of such birds.
- (f) fasten any horse, or other animal, to any fence, railing or tree, or boxing around any tree, without the consent of the owner thereof, nor to any shade or ornamental tree, or the boxing or railing around the same, which may be standing or growing upon any street, or sidewalk, nor shall any person cut, injure, bend or climb upon any shade or ornamental tree, or boxing around the same, standing upon any street or sidewalk of the city.
- (g) make any animal belonging to him or her to wear a bell to the annoyance of any other person.
- (h) exhibit any stud horse, or bull or other animal indecently, nor shall any person let any male animal to any female animal except in some place wholly enclosed and out of public view.
- (i) cause or suffer the carcass of any animal or any offal, filth or noisome substance or any substance creating an offensive smell to be collected, deposited, or to remain in any place under his ownership or control to the prejudice of others including but not limited to the deposit or collection of any manure or similar substance utilized for the fertilization of land for purposes of growing crops or otherwise such that such deposit or collection shall constitute a material annoyance, inconvenience or discomfort to persons residing in the proximity thereof.

Sec. 10-60. Noises disturbing the peace.

- (a) It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps or any cat which habitually cries or howls, or any cattle, swine, chickens, ducks, geese, or other domestic animals or fowls to the great discomfort of the peace and quiet of the neighborhood or in any such manner

as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such animals are hereby declared to be a public nuisance.

- (b) Whenever any person shall complain to the police department that a dog which habitually barks, howls, or yelps or a cat which habitually cries or howls is being kept by a person in the city, the police department shall notify the owner or possessor of said dog or cat that a complaint has been received and that the person should take whatever steps are necessary to alleviate the howling, yelping or crying.
- (c) If the warning given to the person alleged to be keeping a dog or cat as set forth in subsection (b) hereof is ineffective, then a written verified complaint of at least two (2) citizens, not from the same family, may be presented to the police department of the city, alleging that the dog which habitually barks, cries, howls or yelps or a cat which habitually cries or howls is being kept by any person within the city, citing within said complaint times, dates and places of said alleged violation and upon receiving said verified complaint, the police department shall inform the owner or possessor of such dog or cat that said petition has been received, deliver a copy of it to said owner or possessor and if within ten (10) days said owner or possessor has not taken necessary steps to alleviate the howling, yelping or crying, a citation or complaint may be issued to the owner or possessor of said dog or cat charging a violation as alleged in said verified petition.

(510 ILCS 70/1; 65 ILCS 5/11-5-6)

Sec. 10-61 to 10-70. Reserved.

ARTICLE V. WEEDS, ANNUAL PLANTS AND GRASSES

Sec. 10-71. Permitting growth of weeds, annual plants or grasses over six inches unlawful.

- a) It shall be unlawful for any owner or person in control of any parcel of land to permit thereon or on any public right-of-way abutting such parcel, the presence of weeds, annual plants, or grasses over six (6) inches in length or height; provided, however, that this section shall not be construed to prohibit the presence of trees, shrubs, cultivated vegetable plants or cultivated flower plants. (Ord. 1534, June 25, 2007)
- b) The penalty for a violation of this section shall be a fine of not less than one hundred (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense. A separate offense shall be deemed committed for each day that a violation of this section shall continue.

(Ord. #1562, 08-17-09)

Sec. 10-72. Notice to abate weeds from lots with occupied structures.

- (a) Whenever the owner or person in control of a parcel of land with an occupied structure fails to cut or destroy any weeds, annual plants or grasses over (6) six inches in height or length thereon, or on any public right-of-way abutting such parcel, an authorized City official may cause the service upon such owner or person in control of a notice to abate, or in the alternative, a complaint and notice to appear for, such violation of weeds, annual plants or grasses. (Ord 1534, June 25, 2007)

- (b) Such notice shall be given by personal service, by certified mail or by posting a sign regarding the violation on the premises of the property in violation.
 - (1) Personal service may be obtained through delivery of the notice by a City employee or any person authorized by law to make personal service;
 - (2) Service may be obtained by certified mail addressed to the residence or usual place of business of the owner or person in control of the property; or
 - (3) Service by posting may be obtained by posting a sign in a conspicuous place near the main entrance of a structure on the property. The posted sign shall be at least fourteen (14) inches in height, (8) inches in width and at the top thereof in large letters shall state the words "notice to abate." The text of the notice shall contain a reference to the provision of the City Code violate: and may contain such other information respecting the nature of the violation, as the City deems advisable. It shall be unlawful for anyone to deface, tamper with or remove the "notice to abate" sign from the property where it is posted unless authorized by the Director of Planning and Zoning.
- (c) An authorized city official may cause the cutting or destruction of such weeds, annual plants or grasses under the following circumstances:
 - (1) Upon the failure of the owner or persons in control to comply with either a notice to abate or notice to appear as referenced in Subsection (a) above within seven (7) days from the date of service of such notice to abate or notice to appear. (Ord. #1399, 6-25-01).
 - (2) Whenever the owner or person in control of any parcel of land permits the presence thereon or on any public right-of-way abutting such parcel of weeds, annual plants or grasses over six (6) inches in length or height after having previously failed to comply with a notice to abate or notice to appear for failure to cut weeds within the same calendar year. (Ord. 1534, June 25, 2007)

Sec. 10-73. Notice to abate weeds on vacant lots and on lots with unoccupied structures.

- (a) The City shall cause to be published in a newspaper of general circulation within the City limits once each week for two (2) consecutive weeks during the spring of each year a notice informing all owners or persons in control of any vacant lot or any lot with an unoccupied structure that the growth of weeds, annual plants or grasses on any such lot is contrary to the ordinances of the City. The notice shall further inform the public that should weeds, annual plants or grasses ever grow to more than six (6) inches in length or height, the City may cut the weeds, annual plants or grasses without further notice and the owner or person in control shall be liable to the City for its costs. This notice shall be a display advertisement.
 - (b) Should weeds, annual plants or grasses on any vacant lot or on any lot with an unoccupied structure ever grow to more than six (6) inches in length or height, the building inspector may cause the cutting or destruction of such weeds, annual plants or grasses.
- (Ord. #1562, 08-17-09)

Sec. 10-74. Lien and personal judgment.

- (a) The cost of cutting the weeds, annual plants or grasses from private property, together with any incidental costs including attorney's fees, shall be recoverable from the owner or person in control of the real estate and is a lien thereon. The lien shall be superior to all prior existing liens and encumbrances, except taxes, provided, however, that within sixty (60) days after such cost and expense incurred, the City files a notice of lien in the office of the Recorder of Deeds of Marshall County. Upon payment of the cost of cutting the weeds, annual plants and grasses after the notice of lien has been filed, the lien shall be released by the City. The lien may be enforced by proceedings to foreclose.
- (b) If the City's costs for cutting weeds, annual plants or grasses are not paid, the City Council may commence proceedings in the circuit court seeking a personal judgment from the owner or person in control of the subject property.

The action authorized by this section shall be in addition to, and without waiver of any other remedies.

Sec. 10-75 Combining notice.

The notice required by this Article, whether it is given by personal service certified mail, posting or publishing, may be combined with the notice required in Article VI of this chapter. (Ord. #1194, 10-09-95) (Ord. #1323, 1-25-98)

Sec. 10-77 to 10-80. Reserved

ARTICLE VI. DEPOSIT AND STORAGE OF REFUSE.

Sec. 10-81. Depositing refuse; penalty.

- (a) It is unlawful for any person to deposit, bury, throw, place or cause to be deposited, buried, thrown, or placed any refuse within the corporate limits of the City.
- (b) The penalty for a violation of this section shall be a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense.

Sec. 10-82. Permitting refuse to remain, penalty and settlement options.

- (a) It is unlawful for any owner or person in control of property, whether occupied, unoccupied or vacant, to permit any refuse deposited, buried, placed or accumulated thereon, to remain, regardless of whether said owner or person in control permitted the refuse to be deposited, buried, placed or accumulated on the property.
- (b) The penalty for a violation of this section shall be a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed for each day that any violation of this section shall continue.

Sec. 10-83. Notice to abate refuse from lots with occupied structures.

- (a) Whenever the owner or person in control of a parcel of land with an occupied structure permits any refuse to be placed, deposited, buried, thrown or to accumulate or remain thereon, an authorized City official may cause the service,

upon such owner or person, of a notice to abate, or in the alternative, a complaint and notice to appear for such violation.

- (b) The notice to abase or notice to appear shall be given by personal service, by certified mail or by posting a sign regarding the violation on the premises of the property in violation.
 - (1) Personal service may be obtained through delivery of the notice by a City employee or any person authorized by law to make personal service;
 - (2) Service may be obtained by certified mail addressed to the residence or usual place of business of the owner or person in control of the property:
or
 - (3) Service by posting may be obtained by posting a sign in a conspicuous place on the property. The posted sign shall be at least fourteen (14) inches in height and eight (8) inches in width and at the top thereof in large letters shall state the words "Notice to Abate." The text of the notice shall contain a reference to the provision of the City Code violated and may contain such other information respecting the nature of the violation as the City deems advisable. It shall be unlawful for anyone to deface, tamper with or remove the "Notice to Abate" sign from the property where it is posted unless authorized by an authorized City official.
- (c) Upon the failure of the owner or persons in control of the property to comply with a notice to remove refuse within seven (7) days from the date of the service of the notice to abate or notice to appear by personal service, certified mail or posting, an authorized city official may cause the removal of such refuse. (Ord. #1399, 6-25-01)

Sec. 10-84. Notice to abate refuse on vacant lot and on lots with unoccupied structures.

- (a) The city shall cause to be published in a newspaper of general circulation within the city limits once each week for two (2) consecutive weeks during the spring of each year a notice informing all owners or persons in control of any vacant lot or any lot with an unoccupied structure that the existence of refuse on any such lot is contrary to the ordinances of the city. The notice shall further inform the public that should refuse ever accumulate, the city may remove the refuse without further notice, and the owner or person in control shall be liable to the city for its costs. This notice shall be a display advertisement.
- (b) Should refuse ever be deposited, buried, thrown, placed or accumulated or remain on any lot with an unoccupied structure, the building inspector may cause the removal of such refuse.

Sec. 10-85. Lien and personal judgment.

- (a) The cost of removing the refuse from private property, together with any incidental costs including attorney's fees, shall be recoverable from the owner or person in control of the real estate and is a lien thereon. The lien shall be superior to all prior existing liens and encumbrances, except taxes, provided, however, that within sixty (60) days after such cost and expense is incurred, the city files a notice of lien in the office of the Recorder of Deeds of Marshall County. Upon payment of the

cost of removing the refuse, the lien shall be released by the city. The lien may be enforced by proceedings to foreclose.

- (b) If the city's costs for removing the refuse are not paid, the City Council may commence proceedings in the circuit court seeking a personal judgment from the owner or person in control of the subject property. The action authorized by this section shall be in addition to, and without waiver of any other remedies.

Sec. 10-86. Combining notice.

The notice required by this Article, whether it is given by personal service, certified mail, posting or publishing, may be combined with the notice required in Article V of this chapter. (Ord. #1323, 1-25-98).

ARTICLE VII. OFFENSES INVOLVING MORALITY

Sec. 10-87. Material harmful to minors defined; definitions; elements; interpretation; penalty; affirmative defenses; minor falsifying age.

- (a) Material is harmful to a minor if, to the average person, applying contemporary standards, its predominate appeal, taken as a whole, is to prurient interest that is a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters, and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (b) For the purposes of this section:
 - (1) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, video tape, or digital recording.
 - (2) "Distribute" means to transfer possession of, whether with or without consideration.
 - (3) "Exhibit" means displaying material in such a way that a minor, as part of the invited general public, will be exposed to view such material.
 - (4) "Knowingly" means having knowledge of the contents of the subject matter, or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.
 - (5) "Minor" means any person under eighteen (18) years of age.
- (c) A person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends or causes to be sent, exhibits, or offers to distribute or exhibit any material harmful to a minor, or knowingly allows a minor to view such material is guilty of a misdemeanor.
- (d) The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited, unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case the

predominant appeal of the materials shall be judged with reference to its intended or probable recipient group.

- (e) It shall be unlawful for any person covered by the provisions of this section to employ, in any capacity related to the activities set forth herein, any person who is not at least eighteen (18) years of age.
- (f) A violation of this section shall be punishable by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00).
- (g) Affirmative defenses:
 - (1) Nothing in this section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under eighteen (18) years of age, provided such circulation is in aid of a legitimate scientific or educational purposes, and it shall be an affirmative defense in any prosecution for a violation of this section that the act charged was committed in aid of legitimate scientific or educational purposes.
 - (2) Nothing in this section shall prohibit any parent from distributing to his child any harmful material.
 - (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a person shall be a defense to any criminal prosecution under this section: A document issued by the Federal government or any state, county or municipal government or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
 - (4) A person shall not be deemed to have "exhibited" material harmful to a minor if the material is within a separate room or area so that the material is not exposed to the view of any minor from any other portion of the building. Access to such room must be limited to those individuals who are at least 18 years of age.
- (h) Any person under eighteen (18) years of age who falsely states, either orally or in writing, that he is not under the age of eighteen (18) years, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful material, shall be fined in an amount not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).

State law reference(s)--Obscenity, 720 ILCS 5/11-20. (Ord. # 1423, 2-25-2002)

Sec. 10-88. Obscenity defined; definitions; elements; interpretation of evidence; penalty; affirmative defenses.

- (a) Any material or performance is obscene if:
 - (1) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and

- (2) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
 - (3) Taken as a whole, it lacks serious literary, artistic, political or scientific value.
- (b) For the purposes of this section:
- (1) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, video tape, or digital recording.
 - (2) "Performance" means any motion picture, film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.
- (c) A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:
- (1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene material or other representation or embodiment of the obscene; or
 - (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
 - (3) Publishes, exhibits or otherwise makes available anything obscene; or
 - (4) Performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
 - (5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this section, or of the penal laws or regulations of the state; or
 - (6) Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.
- (d) Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.
- (e) Any person who commits obscenity is guilty of a misdemeanor. A violation of this section shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00).
- (f) It shall be an affirmative defense to obscenity that the dissemination:
- (1) Was not for gain and was made to personal associates other than children under eighteen (18) years of age;
 - (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

State law reference(s)--Power of city to regulate obscenity, 65 ILCS 5/11-5-1; obscenity, 720 ILCS 5/11-20.

Sec. 10-89 to 10-90. Reserved.

(Ord. #1193, 10-09-95)

CHAPTER 11. PARKS AND RECREATION

ARTICLE I. PARKS

Sec. 11-1. Creation.

All the land lying between the southeasterly boundary line of Front Street and the Illinois River, and between the southwesterly boundary line of Main Street, and the southwesterly boundary line of Edward Street, is hereby declared to be a Public Park.

The following areas as shown on the map of the City of Henry, are also designated as public parks: Central Park, Water Works Park (Margaret Jones Park), Child Park, Stoner Park, McBride Park, and Riverfront Park.

Sec. 11-2. Hours and Closing:

- (a) Except for Riverfront Park and as otherwise provided in Section 11-3, any portion of an area designated as a public park in Section 11-1 shall be closed between the hours of 10:00 p.m. and 5:00 a.m. During all other hours, these public parks shall be open.
- (b) Except in Riverfront Park and as otherwise provided in Section 11-3, it shall be unlawful for any person to be in or remain in any portion of a public park, or to enter any public park, park building, or the pool, after hours when the public park is closed.
- (c) Notwithstanding anything contained herein to the contrary, it shall not be a violation of this Section to walk on any sidewalk surrounding the perimeter of the aforesaid public parks or to drive, ride or walk upon any public roadway through any of the aforesaid public parks, while said public park is closed.
- (d) A violation of this Section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

Sec. 11-3. After Hours Use of Public Parks.

- (a) Permission may be requested for use of a public park after hours of closing only for purposes consistent with the use of a public park, the time of day, and the nature of the specific public park. A request for permission to use a public park must be first submitted to the Park and Recreation Board, which, if approved, must be submitted by resolution to the City Council for approval by a majority of the City Council.
- (b) In addition to the above procedure to obtain permission for after-hours use of a public park, the Park and Recreation Board may grant permission to use the swimming pool and related buildings after hours, not to extend beyond 12:00 a.m. (midnight). The Park and Recreation Board may vest its authority to grant such permission in the director of the swimming pool.

(Ord. #298, 6-12-1911, Ord. #1372, 9-11-00)

Sec. 11-4 to 11-9. Reserved.

ARTICLE II. RECREATION

Sec. 11-10. Use of Boat Docks.

- (a) It shall be unlawful for any person to bicycle, drive or operate any motorized land vehicle, skateboard, jump, run, dive or swim on or from any public boat dock located within the city; for any person to possess or consume on any public boat dock any alcoholic liquor except where such alcoholic liquor is being transported directly from shore to a boat docked at the public boat dock; for any child under twelve (12) years of age to be present upon any boat dock unaccompanied by an adult; or for any person to permit a child or children under twelve (12) years of age to be present upon any boat dock unless such child or children are accompanied by an adult.
- (b) A violation of this section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00). (Ord. #1057, 8-12-1991)

Sec. 11-11. Time Restrictions for Docking Boats

- (a) It shall be unlawful for any person to dock a boat at any public boat dock for more than two (2) hours.
- (b) A violation of this section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00). (Ord. #1058, 8-26-1991)

Sec. 11-12 Sec. 11-12. Swimming around lock wall.

- (a) It shall be unlawful for any person to jump, run, dive or swim on or from the walls of the former Henry dam (hereinafter "Lock Walls") or for any person to swim within the waters located between the Lock Walls.
- (b) A violation of this section shall be punishable by a fine of not less than \$25.00 nor more than \$200.00.

Sec. 11-13 to 11-18. Reserved.

CHAPTER 12. PUBLIC HEALTH AND SAFETY

ARTICLE I. IN GENERAL

Sec. 12-1 to 12-25. Reserved.

ARTICLE II. LAW ENFORCEMENT

Sec. 12-26. Mutual aid assistance agreements.

Agreements to provide mutual aid and assistance with the City of Lacon, the County of Marshall, and the County of Putnam in order to augment the law enforcement available in their area when necessary have been signed by the City of Henry. Each of these parties maintains equipment and personnel for the enforcement of the law within its own jurisdiction area and the boundaries of the parties are adjacent or contiguous so that mutual assistance in law enforcement is deemed feasible. Mutual assistance in law enforcement is deemed sound, desirable, practicable and beneficial for the parties

Sec. 12-27. Terms of agreements.

When it is deemed advisable by the Henry chief of police, Lacon chief of police, Marshall County sheriff, Putnam County sheriff or senior duty officer of any of the law enforcement agencies actually present at any call to request assistance, he shall take the following action forthwith:

- (a) immediately determine if equipment and personnel can be spared in response to the call
- (b) if said equipment and personnel are available, dispatch immediately said manpower and equipment to the area requested

These agreements shall be in effect until cancelled by mutual agreement of the parties or by written notice by one (1) party to the other party, giving ten (10) days notice of said cancellation.

Sec. 12-28. Compensation for services.

The parties agree that all services performed under this agreement shall be rendered without reimbursement of either party or parties from the other.

Sec. 12-29. Waiver of claims and save and hold harmless.

Each party to this agreement waives all claims against the other party or parties for all losses, damage, injury or death arising out of or caused by the performance of this agreement. Each party to this agreement hereby agrees to save and hold harmless and defend the other party and its officials and employees from and against all claims and liability for loss, damage, injury, or death arising out of the acts, errors or omissions of said party, its officials and employees under or pursuant to this agreement. Each party of this agreement agrees to save and hold harmless the other party from and against all claims for liability arising under the Illinois Workmen's Compensation Act and the Illinois Occupational Disease Act with respect to officials or employees of said party, which arise out of or are caused by the performance of this agreement. Each party to this agreement agrees to save and hold harmless the other party from and against all claims

for liability arising under the Illinois Structural Works Act with respect to officials or employees of said party, which arise out of or are caused by the performance of this agreement.

Sec. 12-30. Assistance not mandatory.

It is expressly understood and agreed by the parties hereto that the rendering of assistance under the terms of this agreement shall not be mandatory, but that the party receiving the request for assistance should immediately inform the requesting department if, for any reason, assistance cannot be rendered.

Sec. 12-31. Officer in charge.

The senior officer of the requesting department or his assistant shall assume full charge of the operations. The senior officer of the requesting department or his assistant shall assign officers of any department positions when and where necessary.

(Ord. #883, 3-12-1979; #885, 4-4-1979; 891, 8-13-1979)

Sec. 12-32 to 12-54. Reserved.

ARTICLE III. ANIMALS

DIVISION 1. IN GENERAL

Sec. 12-55. Defecation By Animals on Private Property.

It shall be unlawful for any owner or possessor of any animal to permit the animal to walk or defecate upon private property without the consent of the occupant thereof. It shall be unlawful for any owner or possessor of any animal which defecates upon public property to permit such defecation to remain upon the surface of public property or to be deposited in a public trash receptacle unless first placed in a plastic bag or similar sealed container.

Sec. 12-56. Destruction of Private or Public Property By Animal.

It shall be unlawful for any owner or possessor of any animal to permit such animal to damage or destroy any personal property of another person or any public property.

(Ord. #1271, 2/24/97)

Sec. 12-57. Penalty.

Any person violating any provision of this division shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred dollars (\$500.00) for each offense.

(Ord., #1191, 10/9/95)

Sec. 12-58. Farm Animals Prohibited

All farm animals, including, but not limited to, members of the swine, ovine, bovine, caprine, equine families, poultry and rabbits shall be prohibited, except as set forth in section 12-59 and that members of the equine families may be used as a means of transportation throughout the City so long as they are not permanently kept and harbored within the city limits. (Ord. #1582, 06-21-10)

Sec. 12-59 Rabbits Restricted

(a) Possession of rabbits within the city is a violation of the law except under the following conditions:

- (1) The owner shall provide a cage of at least eight cubic feet, with no dimension less than one foot for each animal.
- (2) Each cage or structure shall be placed at least ten feet from all property lines.
- (3) The total number of rabbits shall be no more than three or more than one animal for every 3,000 square feet of lot area, whichever is less.

(b) For the purpose of this section, any rabbit over six weeks old shall be counted.

(Ord. #1582, 06-21-10)

Sec. 12-60 to 12-65 reserved.

DIVISION 2. DOGS

Sec. 12-66. Definitions.

The following definitions shall be used in construing this ordinance:

- (a) "**person**" shall be defined to include individuals, firms, corporations, organizations or bodies, where applicable.
- (b) "**dog**" shall be used in the singular or plural, as the case may be.
- (c) "**owner**" shall be defined to include a person who owns, keeps or harbors any dog, as the case may be.
- (d) "**vicious dog**" is defined as follows:
 1. any individual dog that, when unprovoked, bites or attacks a human being or other animal either on public or private property;
 2. Any individual dog found, after a hearing prescribed in Sec. 12-70, which:
 - (i) has a known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings or domestic animals; or
 - (ii) is owned or harbored primarily or in part for the purpose of dog fighting or is trained for dog fighting; or
 - (iii) is reported to be a "dangerous dog" upon two (2) occasions.
 3. No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner, anyone assaulting its owner, anyone who has tormented or abused it, or is a professionally trained dog used for law enforcement or guard duties." Ord. # 1275 (4/14/97).
- (e) "**Secure Confinement**" means securing the dog or cat in an area from which the dog or cat cannot escape based on the size and breed of the dog or cat, while providing for the humane care of the animal while in confinement. (Ord. #1437, 6-24-02-Ord #1582, 6-21-10)An underground electric (invisible) fence which prevents a dog or cat from crossing a boundary through wireless electric shock or otherwise shall not be an adequate means to securely confine a dog or cat. (Ord. #1624 – 10-17-12)

- (f) “**Cat**” shall be used in the singular or plural, as the case may be.
- (g) “**Dwelling Unit**” means a residential structure occupied by One (1) or more persons as their household. The yard and other nonresidential real estate areas of the residence shall be part of the dwelling unit.

Sec. 12-67. Number of dogs and cats.

(a) As a matter of public health, no more than three dogs or three cats or any combination thereof totaling more than three shall be kept in any single dwelling unit. The keeping of more than three cats or three dogs or any combination totaling more than three is declared to be a nuisance.

(b) Provided, however, that the above limitation shall not apply to the offspring for a period of (4) four months from the date of birth of the offspring of said dogs or cats, so long as there is not more than one litter per year per dog or cat, and also provided that there shall not be more than one litter at any given time at a single dwelling unit.

(c) The number limitation does not apply to hospitals, clinics and other facilities operated by a licensed veterinarian for the care and treatment of animals. (Ord. #1582, 06-21-10)

Sec. 12-68. Running at large.

(a) It shall be unlawful to permit any dog to be upon any public place or upon any private place not owned by the person owning said dog unless said dog is securely muzzled or unless it is on a leash. However, in the event that said dog shall be in the immediate company of its owner then it shall not be necessary that said dog be muzzled or on a leash. Notwithstanding the above provisions, any vicious dog shall be leashed, muzzled or confined in a structure suitable for said dog within the city limits of the City of Henry.

(b) It shall be unlawful to permit any cat to be upon any public place or upon any private place not owned by the person owning said cat unless said cat is upon a leash or in the immediate company of its owner. (Ord. #1582, 06-21-10)

Sec. 12-69. Impounding and disposition of dogs.

It shall be the duty of the pound master or dogcatcher, either or both who shall be appointed by the city council, or any police officer to capture and impound in a pound to be furnished by the city or county, each and every dog found at large without a collar and badge or which is not muzzled, on a leash, or in the immediate company of its owner as hereinabove provided.

- (a) The pound master or dogcatcher shall thereupon notify such owner of said dog so taken either orally or in writing, if the name of the owner is ascertained, and if the name of the owner is ascertained, said owner shall be permitted to redeem said dog within two (2) days from the time of said notification by paying all license and other fees upon said dog. Any person seeking to redeem any impounded animal shall pay a fee of sixty-five dollars (\$65.00) for the first redemption of an impounded animal; a fee of seventy-five dollars (\$75.00) for any second redemption of an impounded animal; and a fee of one hundred dollars (\$100.00) shall be paid for any and all redemptions exceeding two (2) or more for any impounded animal kept in either the municipal or county pound. The further sum of two dollars (\$2.00) per

day shall be paid by the owner for the cost of keeping said dog, plus the cost of advertising if any shall be had, it being expressly provided, however, that this ordinance shall in no way require such advertising as a matter of law.

- (b) If the name of the owner of said dog is not ascertained within seven (7) days from the time said dog is impounded or if the name of the owner is ascertained and the owner notified as hereinabove provided but the owner shall not redeem said dog as hereinabove provided, it shall be the duty then of the pound master or dogcatcher to kill and to dispose of, or to have killed and disposed of, such dog. (Ord. #1249, 7-8-96) (Ord. #1461 – 7-23-03)

Sec 12-70. Keeping of vicious dogs.

It shall be lawful for any person to keep, harbor, own, or in any way possess within the corporate limits of the city a vicious dog, subject to the following exceptions and standards:

(a) Determination of vicious dog status:

- (1) Any individual dog, which has bitten or attacked a human being or other domestic animal, either on public or private property and without provocation, shall be automatically deemed a vicious dog. Further, such dog may be immediately impounded.
- (2) In the event that a law enforcement agent, animal control officer, or the mayor has probable cause to believe that an individual dog is a vicious dog, the mayor may convene a hearing for the purpose of determining whether the individual dog in question shall be declared a vicious dog to determine whether the dog constitutes a significant threat to public health and safety. Prior to the hearing, the mayor shall conduct or cause to be conducted an investigation and shall provide reasonable notification of the hearing to the owner.
- (3) Following notice to the owner and prior to the date set for hearing, in the event that a law enforcement agent, animal control officer, or the mayor has probable cause to believe that an individual dog is a vicious dog and may pose an immediate threat of serious harm to human beings or other domestic animals, the law enforcement agent or mayor may seize and impound the dog pending disposition of the hearing. The owner of the dog shall be responsible for payment to the city of costs and expenses of keeping the dog.
- (4) The hearing shall be held within no less than five (5) nor more than ten (10) days after service of notice upon the owner of the individual dog. The hearing shall be conducted informally and shall remain open to the public. At the hearing, the owner shall have the opportunity to present evidence on behalf of his dog setting forth reasons why the dog should not be declared a vicious dog and not determined to be a significant threat to the public health and safety if returned to its owner. The mayor may decide all issues for or against the owner of the dog regardless of whether the owner appears at the hearing.
- (5) Within five (5) days after the conclusion of the hearing, the mayor shall make his determination of the status of the individual dog. The mayor shall then notify the owner in writing of the determination.

(b) Licensing of vicious dogs:

- (1) No person shall possess any vicious dog for a period of more than forty-eight (48) hours without having first obtained a license therefor from the city.
- (2) An application for a license to possess a vicious dog shall be filed with the city on a form prescribed and provided by the city and shall be accompanied by all of the following:
 - (a) Verification of the identity of the owner and current address by providing a photostatic copy of the owner's driver's license.
 - (b) Proof of ownership of the vicious dog.
 - (c) A copy of the current immunization and health record of the vicious dog prepared by a veterinarian licensed to practice in the State of Illinois.
 - (d) A certificate of insurance evidencing coverage in an amount not less than Fifty Thousand Dollars (\$50,000.00), insuring said person against any claim, loss, damage or injury to persons, domestic animals, or property resulting from the acts, whether intentional or unintentional, of the vicious dog.
 - (e) Two (2) photographs of the vicious dog to be licensed taken not less than one (1) month before the date of the application. One photograph shall provide a front view of the vicious dog and shall clearly show a side view of the vicious dog.
 - (f) A license fee of Fifty Dollars (\$50.00).
 - (g) Such other information as may be required by the city clerk.
- (3) Upon receipt of an application, the clerk of the city shall forward such application to the police department, which shall cause an inspection of the premises on which the vicious dog shall be kept to determine that all provisions of this section relating to confinement and posting of signs have been complied with by the applicant. Upon completion of the inspection, the police department shall notify the clerk of the city in writing of the results of its inspection.
- (4) Upon receipt of the results of the police department inspection, the clerk of the city shall notify the applicant of the approval or denial of the license. In the event that the license is denied, the notification shall be provided in writing and the reasons for such denial shall be stated. Upon denial, the owner or keeper of the vicious dog shall remove the vicious dog from the municipality within forty-eight (48) hours. Upon approval, the clerk shall issue a license to the applicant.

(c) Confinement of vicious dogs:

No person shall possess any vicious dog unless the vicious dog is confined in accordance with this section:

- (1) Confinement indoors. No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the vicious dog to exit the structure on its own volition. No vicious dog shall be kept in a house or structure when the windows are open or when screen windows or screen

doors are the only obstacles preventing the vicious dog from exiting the structure.

- (2) Confinement in an exterior yard. No person shall confine a vicious dog in an exterior area unless such vicious dog is confined in a confinement structure constructed and maintained in accordance with this section, except that a vicious dog may be confined outside of a confinement structure in a manner set forth in subsection (c)(3) hereof.
- (3) Confinement on leash and run line. No person shall permit a vicious dog to go outside a confinement structure, house or other structure unless the vicious dog is securely restrained with a leash no longer than three (3) feet in length and fitted with a muzzle or securely restrained on a run line no longer than ten (10) feet in length and fitted with a muzzle. No person shall permit a vicious dog to be kept on a leash unless a person is in actual physical control of the leash. The only time that a vicious dog may be allowed out of the enclosure or off the run line are (1) if it is necessary for the owner or keeper to obtain veterinary care for the vicious dog or (2) to sell or give away the vicious dog or (3) to comply with the order of a court of competent jurisdiction or (4) to allow the owner or keeper to walk the vicious dog, provided that said vicious dog is securely muzzled and restrained with a leash having a minimum tensile strength of at least three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

(d) Impoundment of vicious dogs:

- (1) Any vicious dog which is not properly confined to a confinement structure, on a run line, or properly secured by a leash under the owner or keeper's control shall be impounded by the law enforcement authority having jurisdiction in such area; provided, however, that if any city police officer reasonably believes that such dog poses an immediate threat of severe injury to any person, such officials are authorized to kill such dog. Any vicious dog found to be running at large by any member of the police department of the municipality shall be presumed to be in violation of this section and shall be subject to impoundment.
- (2) If the incident giving rise to the impoundment has resulted in an injury to a person, upon impoundment by the police department, the chief of police or his designee shall notify the rabies control administrator of the county and shall transfer control of the vicious dog to the administrator.
- (3) Any dog which attacks a human being or other domestic animal may be ordered destroyed in an expeditious and humane manner, when in the court's judgment, such dog represents a continuing threat of serious harm to human beings or other domestic animals. However, prior to the destruction of the dog, control of the dog must be transferred to the administrator pursuant to subsection (d)(2) hereof.
- (4) Any vicious dog which has previously been impounded for not properly being confined or for running at large in violation of subsection (c)(1), (c)(2) or (c)(3) hereof, or which has previously bitten or attacked a human being or other domestic animal without provocation, shall be ordered destroyed

in an expeditious and humane manner upon any subsequent violations of those subsections or upon subsequent unprovoked attack or bite.

- (5) Any dog that attacks a human being, which results in severe injury, shall automatically be destroyed in an expeditious and humane manner.

(e) Redemption of impounded vicious dog.

An owner of a vicious dog holding a license pursuant to this section may redeem an impounded vicious dog if (a) the vicious dog has been impounded pursuant to subsection (d) of this section and (b) the vicious dog has not caused severe injury to a person, subject to the following conditions:

- (1) Proof of a valid license issued by the city under subsection (b) this section; and
- (2) Payment of the cost of keeping the vicious dog during the period impoundment.

(f) Sale or transfer of ownership prohibited.

No person shall sell, barter, offer to breed or in any other way dispose of a vicious dog to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such vicious dog; provided, that the registered owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of such vicious dog persons who do not reside within the city; provided they give written notice to the person who will be receiving the vicious dog that such dog has been deemed a vicious dog under this section.

(g) Animals born of vicious dogs.

All offspring born of vicious dogs registered within the city must be removed from the city within six (6) weeks of the birth of such animal.

(h) Reporting requirements of license.

Any person holding a license pursuant to subsection (b) hereof shall report the incidence of any of the following events:

- (1) the sale, barter, exchange, gift or death of any vicious dog shall be reported within forty-eight (48) hours.
- (2) The escape from confinement of any vicious dog shall be reported upon discovery of the escape.
- (3) The biting or nipping of any person or animal by a vicious dog shall be reported upon occurrence.
- (4) The birth of any offspring of a vicious dog shall be reported within forty-eight (48) hours of the birth of the offspring.
- (5) The permanent removal of any vicious dog from the territorial limits of the municipality shall be reported within forty-eight (48) hours of such removal by surrender of the license of the owner to the clerk of the city.

Except as otherwise provided in this section, the report of any incident required to be reported under this subsection shall be made to the police department of the municipality. Further, all dog owners, whether or not their dog is licensed as a

vicious dog, receiving notice or having knowledge that their dog has bitten or attacked a human being or domestic animal without provocation shall immediately notify the police department of the city of said incident.

(i) Sign required.

All persons possessing a vicious dog shall display in a prominent place on the premises where a vicious dog is to be kept a sign which is readable by the public from a distance of not less than one hundred (100) feet using the words "Beware of Dog." A similar sign shall be posted on any confinement structure.

(j) Fighting prohibited.

No person shall fight or bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or bating, any dog. No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack human beings or domestic animals without provocation.

(k) Revocation of license.

A license granted pursuant to this section shall be automatically revoked upon the second violation by the license of any provision of this section. In the event of a revocation of the license, the license fee shall be retained by the city and the vicious dog must be removed from the municipality within forty-eight (48) hours.

(l) Exceptions.

This section shall not apply to any K-9 patrol dogs or police dogs professionally trained and used by law enforcement officials for law enforcement purposes.

(m) Penalties.

Upon conviction of a violation of any provision of this section, the court shall assess a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00). Additionally, any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses, and other expenses necessitated by the seizure of the dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

(n) Failure to comply.

It shall be unlawful for the owner, keeper or harbinger of a vicious dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any vicious dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(o) Severability.

If any subsection, sentence, clause or phrase of this section is, for any reason, held to be unconstitutional or invalid by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.

Sec. 12-71. Dog bites.

Whenever any dog bites a person the owner of the said dog shall immediately notify the city health officer who shall order the dog held on the owner's premises or shall have it impounded for a period of two (2) weeks.

- (a) The dog shall be examined immediately after it has bitten someone and again at the end of the two (2) week period and if at the end of two (2) weeks a veterinarian shall be convinced that the dog is then free from rabies the dog shall be released from quarantine or from the pound as the case may be.
- (b) If the dog dies in the two (2) week period, its head shall be sent to the State Department of Health for examination for rabies.
- (c) A dog ordered to be held on the owner's premises under this section shall not be permitted to run loose on the owner's premises but shall be locked up in some building thereon and if said dog cannot be safely locked up in some building, it shall be impounded in the city or county pound unless the owner shall kill and dispose of said dog.
- (d) If the dog shall be impounded under this section, the owner of said dog shall be required to pay the current impounding fee, as prescribed from time to time by the pound master as costs of impounding, plus all veterinarian fees and any dog not redeemed within one (1) week after the veterinarian shall have pronounced the dog to be free from rabies shall be killed and disposed of as an unredeemed dog under [Sec. 12-69 \(b\)](#).

Sec. 12-72. Exceptions.

This ordinance shall not apply to any K-9 patrol dogs or police dogs used in the line of law enforcement purposes.

Sec. 12-73. Penalties.

Any person violating any provision of this ordinance shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) during or on which a violation occurs or continues.

(Ord. #1026, 2-13-1989; #1275, 4-17-97)

Cross Reference, [Chapter 10 Sec. 10-59](#) and [Sec. 10-60](#).

Sec. 12-74. Confinement of Dogs and Cats.

Any person owning, harboring, or controlling a male or female dog or cat, whether vaccinated or unvaccinated, licensed or unlicensed, sterilized or unsterilized, shall always keep such animal from running at large by either:

- (a) securely confining such animal within an adequate fence or enclosure, or within a house, garage or other building, or
- (b) accompanying the animal.

Any dog confined within a fenced yard must have an adequate space for exercise based on a dimension of at least one hundred (100) square feet. Further, where dogs are kept or housed on property without a fenced yard, the owner of such dog or dogs or persons having custody of

such dog or dogs, shall provide an enclosure for such dogs meeting the 100 square foot dimension. Such enclosure shall be constructed of chain link or other material that permits adequate ventilation with all sides enclosed. The enclosure shall be of sufficient height and depth and/or have such flooring as is necessary to prevent the dog from escaping from such enclosure. The top of such enclosure shall be covered with a material so as to provide the dog with shade and protection from the elements. Dogs shall not be chained, tied, fastened or otherwise tethered to dog houses, trees, fences or other stationary objects as a means of confinement.

(Ord. #1437, 6-24-02, Ord. #1582, 06-21-10)

Sec. 12-75 to 12-84. Reserved.

ARTICLE IV - FAIR HOUSING PRACTICES

DIVISION 1. UNLAWFUL HOUSING PRACTICES

Sec. 12-85. Purpose and declaration of policy.

It is hereby declared to be the policy of the city and the purpose of this chapter, in the exercise by the city of its police and regulatory powers for the protection of the public safety, for the health, morals, safety and welfare of persons residing in the city and for the maintenance and promotion of commerce, industry and good government in the city, to secure to all persons living or desiring to live in the city a fair opportunity to purchase, lease, rent or occupy housing without discrimination based on race, color, religion, sex, handicap, familial status or national origin.

Sec. 12-86. Construction of chapter.

This chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated above and the special purposes of the particular provision involved.

Sec. 12-87. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Sec. 12-88. Definitions.

For the purposes of this chapter:

Commission. The Henry Human Relations Commission.

Commission panel or panel. A Panel comprised of one (1) or more members of the commission, designated by the chairman or the vice chairman of the commission to investigate and to attempt to conciliate a complaint filed or made under this chapter.

Council. The City Council of the City of Henry.

Dwelling. Any building or structure, or portion thereof, within the city which is arranged, designed or used as a home, residence or living quarters for one or more individuals.

Housing. Includes any building or structure, or portion thereof, within the city which is used or occupied as the home, residence or living quarters for one or more individuals, groups or families, and includes any vacant land within the city which is zoned and intended to be used for the construction of any such building or structure.

Lease. Includes sublease, assignment, and rent (or rental), and includes any contract to do any of the foregoing.

Lending institution. Any bank, insurance company, savings and loan association or other person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

National origin. Includes the national origin of an ancestor.

Owner. Any person who holds legal or equitable title to, or owns any beneficial interest in, any dwelling or housing, or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any dwelling or housing.

Person. Includes one or more individuals, corporations, partnerships, limited liability companies, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustee, trustees in bankruptcy, receivers and fiduciaries.

Purchase. Includes any contract to purchase.

Real estate agent. Any real estate broker, any real estate salesman, and any other person who, as employee or agent or otherwise, engages in the management or operation of any dwelling or housing.

Real estate broker. Any person licensed as a real estate salesman in accordance with the provisions of 225 ILCS 455/1 et sq. or required thereby to be so licensed.

Real estate salesman. Any person licensed as a real estate salesman accordance with the provisions of 225 ILCS 455/1 et sq. or required thereby to be so licensed.

Real estate transaction. The purchase, sale, exchange or lease of any dwelling or housing, or an option to do any of the foregoing.

Sale. Includes any contract to sell or exchange or to convey, transfer or assign legal or equitable title to, or a beneficial interest in, real estate.

Sec. 12-89. Discriminatory terms.

It shall be unlawful housing practice and a violation of this chapter for any owner or other person to sell or lease a dwelling or housing on terms, conditions or privileges that discriminate between persons because of race, color, religion, sex, handicap, familial status or national origin.

Sec. 12-90. Refusals to deal.

It shall be unlawful housing practice and a violation of this chapter for any owner or other person to refuse to negotiate for, enter into or perform any sale or lease of any dwelling or housing because of the race, color, religion, sex, handicap, familial status or national origin of any party to such sale or lease, or any member of the family of any such party, or of any person using or occupying any dwelling or housing in the area in which such dwelling or housing is located.

Sec. 12-91. Withholding housing.

It shall be an unlawful housing practice and a violation of this chapter for any owner or other person to represent to any person that any dwelling or housing is not available for inspection, purchase, sale, lease or occupancy when in fact it is so available, or otherwise to withhold housing from any person because of race, color, religion, sex, handicap, familial status or national origin.

Sec. 12-92. Advertisements.

It shall be unlawful housing practice and a violation of this chapter for any owner or other person to publish or circulate a statement, advertisement or notice of an intention to sell or lease any dwelling or housing in a manner that is unlawful under this chapter.

Sec. 12-93. Advertisements; causing or permitting.

It shall be an unlawful housing practice and a violation of this chapter for any owner or other person to cause any person to circulate or publish a statement, advertisement or notice that such owner or other person intends to sell or lease any dwelling or housing in a manner that is unlawful under this chapter, or to consent thereto.

Sec. 12-94. Signs and notices.

It shall be unlawful housing practice and a violation of this chapter for any owner or other person to post or erect, or cause any person to post or erect, any sign or notice upon any dwelling or housing indicating intent to sell or lease any dwelling or housing in a manner that is unlawful under this chapter.

Sec. 12-95. Limitations.

Nothing in this chapter shall require an owner to offer property to the public at large before selling or renting it, provided he complies with all other provisions of this chapter. Nor shall this chapter be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, sex, handicap, familial status or national origin. Nothing in this chapter shall require an owner to offer property for sale or lease or to show his property to any person if such person is not negotiating for the purchase or lease of such property in good faith.

Sec. 12-96 to 12-100 Reserved.

DIVISION 2. REAL ESTATE AGENTS AND LENDING INSTITUTIONS

Sec. 12-101. Refusal of offer.

It shall be an unlawful housing practice and a violation of this chapter for any real estate agent or other person to refuse to receive or to fail to transmit a bona fide offer for the purchase, sale, exchange or lease of any dwelling or housing because of race, color, religion, sex, handicap, familial status or national origin of the person making such offer.

Sec. 12-102. Licensing.

Every real estate broker shall apply for and obtain a license from the state in accordance with the provisions of 225 ILCS 45511 et sq., or required thereby to be so licensed, prior to transacting any business involving real estate in the city as a real estate broker and prior to advertising or assuming to act as such real estate broker. The commission, by any real estate broker or any other person acting without such license, of any act herein made unlawful for persons duly licensed shall nevertheless constitute a violation of this chapter.

Sec. 12-103. Discrimination in lending.

It shall be unlawful housing practice and a violation of this chapter for any leading institution, in making, agreeing to make, arranging or negotiating any loan or guarantee of funds

for the purpose of financing the purchase, sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing, to offer, seek or agree to terms, conditions or privileges that discriminate between persons because of race, color, religion, sex, handicap, familial status or national origin.

Sec. 12-104. Refusal to deal in lending.

It shall be an unlawful housing practice and a violation of this chapter for any lending institution to refuse to negotiate for, enter into or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing because of the race, color, religion, sex, handicap, familial status or national origin of any party to such agreement or of any member of the family of any such party, or of the residents of the area in which such dwelling or housing is located.

Sec. 12-105. Coverage.

Division 2 of this section shall apply respectively to every real estate agent who, within the city, performs any function as such real estate agent but does not maintain an office or place of doing business within the city, as well as to every real estate agent and lending institution who maintains an office or place of doing business within the city; provided, however, that the provisions of this chapter shall not be so construed as to prohibit a real estate broker or real estate agent, on behalf of the owner, from inquiring into and reporting upon qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, sex, handicap, familial status or national origin.

Sec. 12-106 to 12-115. Reserved.

DIVISION 3. IN GENERAL

Sec. 12-116. Representation.

It shall be an unlawful housing practice and a violation of this chapter for any person, for the purpose of inducing any other person to enter into a real estate transaction with such person or his principal or agent:

- (a) To represent that a change has occurred, will occur or may occur with respect to the race, color, religion, sex, handicap, familial status, national origin in the composition of the owner or occupants in any block, neighborhood or area in which the dwelling or housing (which is the subject of the real estate transaction) is located, or
- (b) To represent that a change with respect to race, color, religion, sex, handicap, familial status or national origin in the composition of the owners or occupants in any block, neighborhood or area will result in lowering of property values, or in an increase in criminal or anti-social behavior, or in a decline in the quality of schools, in such block, neighborhood or area.

Sec. 12-117. Miscellaneous conduct.

It shall be unlawful housing practice and a violation of this chapter for any person

- (a) To aid, abet, incite or coerce a person to engage in unlawful housing practice; or
- (b) Willfully to interfere with the performance of a duty or the exercise of a power by the commission or one of its members or representatives;

- (c) Willfully to obstruct or prevent a person from complying with the provisions of this chapter or an order issued thereunder.

Sec. 12-118. Commission powers.

The commission shall have and exercise, with respect to all dwellings and housing and with respect to all persons subject to this chapter, the power to:

- (a) Act to eliminate unlawful housing practices;
- (b) Act to assure to persons living or desiring to live in the city, or in any particular dwelling or housing therein, the opportunity to purchase, lease or occupy without discrimination because of race, color, religion, sex, handicap, familial status or national origin;
- (c) Receive, initiate and investigate complaints alleging unlawful housing practices. Any complaint initiated by the commission shall be in writing, shall be signed by the chairman or vice chairman of the commission and shall fully set forth the circumstances of the alleged violation and the source of all information upon which the complaint is based, including the names and addresses of all complainants. Such written complaint shall be served upon the party alleged to be in violation of this chapter;
- (d) Seek conciliation of, hold hearings on and make findings of fact with respect to any such complaint;
- (e) Recommend the issuance of orders subject to approval by the city council and to publish its findings of fact and recommended orders in accordance with the provisions of this chapter after submission to the city council.
- (f) Adopt, after approval of the city council, such rules and regulations as may be necessary or desirable to carry out the purposes of this chapter.
- (g) Make recommendations to the city council with respect to possible discriminatory actions by real estate brokers regarding fair housing. Such alleged discriminatory actions to be reported to the proper state authorities for possible proceedings against the real estate broker.

Sec. 12-119. Licenses; revocations and suspension.

Whenever it has been determined in accordance with the provisions of Section 12-120, herein, that a real estate broker has committed an unfair housing practice in violation of this chapter, the city council may petition or institute proceedings with the Illinois Department of Registration and Education for the purpose of causing the department to revoke, suspend or refuse to renew the license granted by such department to any real estate broker or real estate salesman found to have violated any provisions of this chapter.

Sec. 12-120. Complaint; conciliation.

- (a) Any person aggrieved in any manner by a violation of any provision of this chapter may file with the commission a written verified complaint setting forth such grievance. The complaint shall state 1) the name and address of the complainant; 2) the name and address of the person against whom the complaint is brought, if known to the complainant; and 3) the alleged facts surrounding the alleged violation of this chapter; and such complaint shall state the name and address of all persons believed to have knowledge concerning the alleged facts.

- (b) After the filing of any complaint, the commission shall serve a copy of the complaint on the party or parties charged and the chairman or vice chairman of the commission shall designate a panel to make a prompt investigation in connection therewith.
- (c) If such panel shall determine after such investigations that probable cause exists for the allegations of the complaint, 1) the panel shall set a date for a meeting; and 2) at such meeting, the panel or any member thereof shall interview the complaint and the person or persons against whom the complaint has been directed and shall attempt to resolve the complaint by all proper methods of conciliation and persuasion.
- (d) If at any time within sixty (60) days after the date of filing of the complaint, such panel shall determine that such attempts at conciliation would not be in furtherance of the objectives of this chapter, the commission shall thereupon proceed promptly to a full hearing of the complaint, in accordance with section 12-120.

Sec. 12-120-1. Hearings by commission.

- (a) Such hearing shall be conducted by the commission, or a panel thereof, upon due and reasonable notice to all parties. The commission shall have power to administer oaths and to take sworn testimony. Any party alleged to have violated this chapter shall be entitled to be represented by counsel and shall have the right to call witnesses in his own behalf and to cross-examine witnesses.
- (b) At the conclusion of such hearing, the commission shall render to the city council a written report and recommendations, which shall also be served by mail upon the complaint and the party or parties charged. No report shall be delayed more than sixty (60) days after the date of the first issuance of notice for commencement of a hearing.

Sec. 12-121. Enforcement.

- (a) The commission shall be empowered, at the conclusion of proceedings held under section 12-120, to recommend to the city council that the council order any person found to be engaging in an unfair housing practice to cease and desist from such practice, upon such terms as shall be necessary and proper for the enforcement of this chapter.
- (b) The commission shall be empowered, at the conclusion of proceedings held under section 12-120, as part of its report, to recommend to the city council that it direct the city attorney to do any one or more of the following:
 - (1) To institute and prosecute proceedings to enforce, against any person found in violation of this chapter, the fine provided for in Sec. 12-123 below;
 - (2) To apply to any court of competent jurisdiction:
 - a. For an order restraining any person from violating a provision of this chapter; or
 - b. For such other or further relief as may seem to the court appropriate for the enforcement of this chapter and the elimination of violations thereof;
 - (3) To petition or institute proceedings with the Illinois Department of Registration and Education for the purpose of causing the department to

revoke, suspend, or refuse to renew the license granted by such department to any real estate broker or real estate salesman found to have violated any provision of this chapter;

- (4) In the case of any unlawful housing practice or violation of this chapter by any person in the course of performing under a contract or subcontract with the state or any public subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, to petition or institute proceedings with such contracting agency for the purpose of causing it to terminate such contract or any portion thereof, either absolutely or on condition of compliance with the provisions of this chapter.
- (c) After receipt of the recommendation of the commission, the city council may issue such cease and desist orders and may direct such action by the city attorney, including the procedures as in subsection (b) hereinabove set forth, as shall be necessary for the enforcement of this chapter.

Sec. 12-122. Limitation of time to file complaints.

Any complaint hereunder must be filed with the commission within thirty (30) days after the alleged discriminatory practice occurred, or it shall be barred.

Sec. 12-123. Fines.

Any person who violated any provision of this chapter, upon conviction thereof, shall be subject to a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Sec. 12-124. Private remedies.

Any person aggrieved in any manner by the violation of any provision of this chapter may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

- (a) An order compelling compliance with this chapter;
- (b) An order to prohibit any person found by the court to have violated any provision of this chapter from sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing which is the subject of such violation;
- (c) An order requiring specific performance of any contract for the sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing by any person who in violation of this chapter refuses or fails to perform such contract;
- (d) Compensatory damages; and
- (e) Such other and further relief as may seem to the court appropriate for the enforcement of this chapter and the elimination of violations hereof.

Sec. 12-125 to 12-139 Reserved.

(Ord. #1333, 6-14-1999)

CHAPTER 13. SOLID WASTE

ARTICLE 1. IN GENERAL

Sec. 13-1 to 13-14. Reserved.

ARTICLE II. LAND FILL

Sec. 13-15. Definitions.

As used in this ordinance the following terms shall be construed as indicated below:

- (a) **Person** includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association, and shall include both singular and plural.
- (b) **Garbage** shall mean all animal and vegetable waste and all putrescible matter.
- (c) **Refuse** shall mean all waste substances including garbage as well as combustible and non-combustible waste.
- (d) **Combustible waste** shall mean all waste substances capable of incineration or burning, but excluding explosive or highly flammable material.
- (e) **Non-combustible waste** shall mean all other waste substances not capable of incineration or burning, including ashes, glass, metal, earthenware and the like.
- (f) **Sanitary land fill** shall mean a type of operation in which refuse is deposited by plan in pit or excavation of open land, is compacted by force applied by mechanical equipment, and then is covered by a layer of earth, ashes, or suitable covering material to a depth of at least two feet (2').

Sec. 13-16. Consent of city.

No license or permit to operate a sanitary land fill or otherwise place or dump garbage not originating in the municipality, within the city or within one (1) mile of the corporate limits shall be issued unless the provisions of 740 Illinois Laws and Compiled Statutes 55/221a, are complied with.

Sec. 13-17. License required.

It shall be unlawful to maintain or operate a sanitary land fill, or any place for the disposal of garbage or refuse, anywhere in the municipality or within one (1) mile of the corporate limits without first receiving a license therefor; and it shall be unlawful to maintain, operate, or permit the maintenance or operation of any such place in violation of any provision of this ordinance.

The annual fee for such license shall be five hundred dollars (\$500.00); no such license shall be issued except on direction by the city council.

Sec. 13-18. Bond.

No such license shall be issued, or effective unless there is on file with the clerk a cash bond or a bond with a corporate surety, in penal amount of twenty five thousand dollars (\$25,000.00) to assure that:

- (a) The licensee, his agents and servants will comply with all of the terms, conditions, provision requirements and specifications contained in this ordinance.

- (b) The licensee, his agents and servants, will faithfully operate the sanitary land fill for which the permit is issued in accordance with the provisions of this ordinance.
- (c) The licensee, his agents and servants, will save harmless the city from any expense incurred through the failure of the permittee, his agents and servants, to operate and maintain the sanitary land fill as required by this ordinance, including any expense the city may be put to for correcting any condition or violation of this ordinance by the city's own labor and equipment, whenever the mayor determines it is necessary for the city to correct any condition in violation of this ordinance, or from any damages growing out of the negligence of the permittee or his agents or servants
- (d) Before acceptance, all bonds shall be approved by the city council. If a corporate bond is offered, it shall be executed by a company authorized to transact business in the State of Illinois as surety. If a cash bond is offered, it shall be deposited with the treasurer, who shall give his official receipt therefore, reciting that said cash has been deposited in compliance with and subject to the provisions of this ordinance.

Sec. 13-19. Application - Investigation.

Application for such licenses shall be filed with the city clerk and shall contain a description and plat of the land on which the disposal of refuse is proposed; a description of the sequence and plan of operation; availability of the equipment of for water supply; type and capacity of equipment to be used for operation; plans for fire, nuisance and vermin control; existing and proposed roadways and easements; existing topography and water courses, together with a diagram and written statement explaining proposed location and extent of earthwork and fill operations, proposed equipment and estimate daily or weekly volume of garbage and refuse, and such other information as may be required by the council.

The superintendent of public works shall examine the premises and shall also coordinate his investigation with the county health department to determine whether the granting of the permit to the applicant would or would not violate the health regulations of the county or would, in any way, create a hazard or menace to the public health or would, in any way, create a nuisance to the people of the city, and shall make a report giving his recommendations to the council.

Sec. 13-20. Regulations.

In the operation or maintenance of any place for the disposal of garbage in the city or within one (1) mile of the city limits, all of the following rules and regulation shall be complied with:

- (a) All garbage and other refuse shall be thoroughly compacted by equipment of a size and weight capable of producing a downward or ground pressure of at least five (5) pounds per square inch. Such equipment shall have sufficient weight and capacity to carry out all necessary operations to the satisfaction of the enforcement officer. Sufficient auxiliary equipment shall be maintained on the site or otherwise available to permit operation in case of a breakdown.
- (b) Mixed refuse material shall be spread out on the working face of the land fill so that the depth does not exceed a maximum depth of two feet (2') prior to its compaction.
- (c) The areas shall be continually policed to prevent fire and the blowing of papers; shall be neat and sanitary at all times; and shall be covered at the end of each day's operation, as well as when wind conditions warrant it through the day, with

sufficient material to prevent blowing papers and unsightly conditions. The size of the active face on which refuse is being currently deposited shall be kept to a minimum.

- (d) Cover material will consist of earth, loam, clay, sand,. etc., or a mixture of at least fifty (50%) earth and other inert materials, such as ash, cinders, or gravel. A minimum depth of twelve inches (12") of compacted cover and spread cover material shall be kept on all inactive faces of the land fill at all times. The active faces of the landfills should be covered at the end of each day's operation, with at least six feet (6') (before compaction) of cover material.
- (e) When the fill has been brought up to two feet (2') below the desired finished grade, it shall be covered with at least twenty-four inches (24") of compacted cover material, graded and seeded in such a manner as to prevent erosion.
- (f) Where the "trench system" of sanitary landfill is used, successive parallel trenches must be at least two feet (2') apart.
- (g) All garbage and refuse material existing on the site at the time the permit is issued either in the form of an open dump or any other form, shall be collected, compacted, and covered with cover material at least one foot (1') in depth if below the desired finished grade. This cover operation shall be completed within fifteen (15) working days after the issuance of a special permit for the sanitary landfill.
- (h) The licensee or operator shall erect such temporary or permanent fences or take such other measures as may be necessary to control blowing of paper and other materials from the land fill.
- (i) Any materials salvaged from the fill must be stored in a building on or off the site in such a manner as to prevent rat harborage and permit proper operation of the landfill. Such storage building must be at least two hundred feet (200') from the working surface so as not to interfere with the compacting and covering. All salvaged material must be daily placed within the building provided so that none is left uncovered during the night or on weekends.
- (j) No materials deposited in the landfill shall be burned there or anywhere in the city.
- (k) Adequate fire-fighting equipment shall be available at all times on the site.
- (l) No sanitary land fill operation shall be placed where seepage, drainage, or pumpage of any material from the fill of such a nature as would constitute an odor nuisance or health hazard flows into a water course unless provision is made to treat such effluent in such a manner as to purify it to acceptable standards as set forth by the State Sanitary Water Board.
- (m) The license shall provide an access road, approved by the superintendent of public works that is passable in all types of weather conditions to the landfill site.
- (n) The license holder shall also have available necessary equipment to assure that traffic may be maintained on the access road or roads during periods of heavy rain or snowfall. The permit holder shall also take precautions to eliminate excess dust in dry weather, during operation of the landfill.
- (o) Insects and rodents on the landfill site shall be controlled and exterminated as directed by the city council.

Sec. 13-21. Dumping refuse and garbage.

It shall be unlawful to dump or dispose of any refuse or garbage except in a properly constructed incinerator, or in a licensed landfill, within the city or within one (1) mile of the city limits.

Sec. 13-22. Enforcement.

The city council shall be charged with the enforcement of this ordinance and shall make any inspection necessary to that end.

Sec. 13-23. Revocation of license.

Any license issued under the provision of this ordinance may be revoked by the mayor for any violation of any law or ordinance pertaining to the operation of maintenance of such establishment.

Sec. 13-24. Penalty.

Any person, firm or corporation violating any provision of this ordinance shall be fined not less than seventy-five dollars (\$75.00) nor more than two hundred dollars (\$200.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #745, 12-2-65)

Sec. 13-25 to 13-30. Reserved.

ARTICLE III. SCAVENGERS

Sec. 13-31. Purpose.

The City of Henry has the power to regulate the collection, removal, and disposal of garbage, ashes, refuse and waste accumulating within its municipal boundaries and finds it necessary and expedient to the safeguard of the public health of the individuals of the community to regulate, by license, scavengers authorized within the limits of the city to preserve the peace, health, safety, good order and general welfare of the city.

Sec. 13-32. License required.

It shall be unlawful for any person, firm or corporation to engage in the business of scavenger, or the collection or disposal of refuse or garbage, including animal, human or vegetable refuse, or offal, other than those collecting from commercial establishments only, (meaning special commercial materials) without first having secured a license therefor.

Sec. 13-33. Applications.

Applications for such license shall be made to the city clerk and shall be referred by him to the city council; no such license shall be issued except on order of the city council. No more than one (1) domestic license shall be in force at any time in the city.

Sec. 13-34. Vehicles.

Any vehicle used by such scavenger in his business shall be water tight, and equipped with covers for such portions as are used for the transportation of refuse. It shall be unlawful for any such vehicle to be driven on or through and street in the city during a Sunday, except when permitted by the city council.

Sec. 13-35. Disposal.

It shall be unlawful for any scavenger to dispose of or store any refuse in any place within the city limits, or within one (1) mile thereof, excepting with the permission of the city council.

Sec. 13-36. Bond.

No scavenger license shall be issued unless the applicant therefor shall first file a performance bond with sureties to be approved by the city council, in the sum of five thousand dollars (\$5,000.00), with the city as beneficiary, conditioned upon the licensee continuing to properly operate the business of scavenger for the period covered by the license on the following terms:

- (a) The licensee will have at least one (1) vehicle in operation in collecting garbage a minimum of once each week; that each vehicle used by said licensee shall be subject to inspection by the city council, prior to the issuance of said license and shall be subject to the discretion of the city council to permit the usage of the vehicle for the purposes herein; that each vehicle and the equipment thereon shall comply with all ordinances of the city and statutes of the State of Illinois.
- (b) Collection will be made of all domestic garbage and refuse properly placed in twenty-one (21) gallon containers, complying with the ordinances, on the premises served provided the person so served is not delinquent in paying proper bills rendered for such service.
- (c) The licensee will collect garbage from each resident asking and paying for such service the established fee quarterly in advance.
- (d) The licensee will comply with all ordinance provisions relating to the business, and will properly dispose of all garbage and refuse collected. Refuse collection shall not be increased during the license year without the consent of the city council.

Sec. 13-37. Penalty.

Any person, firm or corporation violating any provision of this ordinance shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 13-38. Insurance required.

No license shall be issued under the provisions of this ordinance unless the applicant for such license has first submitted proof of insurance in the form of a certificate of insurance issued by an insurer duly authorized to issue such policies in the State of Illinois. Such certificate shall show that the applicant for a license has public liability insurance covering his operation within the city, shall show the date of expiration of such insurance and shall certify that the same shall not be cancelled without at least ten (10) days notice to the city clerk. Upon the cancellation or expiration without the renewal of such insurance, the license or permit issued hereunder to the insured shall be void. Such insurance shall be in the amount of not less than fifty thousand dollars (\$50,000.00) per person injured, not less than two hundred thousand dollars (\$200,000.00) for all personal injuries in any one (1) accident, and not less than ten thousand dollars (\$10,000.00) for property damage in any one (1) accident. No license shall be issued under the provisions of this ordinance unless the applicant for such license has first submitted proof of insurance that is in compliance with the Workman's Compensation Act of the State of Illinois during the entire period of said license.

Sec. 13-39. Fees.

The fee for such license or permit shall be one hundred dollars (\$100.00) per year.

Sec. 13-40. Term of License.

Each license granted hereunder, to be effective on or after January 1, shall be for the term of from January first of each calendar year until the following January first. Any applicant for a license must pay the annual fee regardless of the time when the license is issued.

(Ord. #746, 12-2; #961, 12-9-1985)

Sec. 13-41 to 13-50. Reserved.

CHAPTER 14. TRAFFIC

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

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

Abandoned Vehicle: Any vehicle in the state of disrepair rendering the vehicle incapable of being driven in its condition; or any vehicle that has not been moved or used for seven (7) consecutive days or more and is apparently deserted.

Inoperable Vehicle: (1) Any motor vehicle (a) from which, for a period of seven (7) days, the engine, wheels, or other parts have been removed, or (b) on which the engine, wheels or other parts have been altered, damaged, or otherwise so treated that the motor vehicle is incapable of being driven under its own power, or (2) any vehicle other than a motor vehicle (a) from which, for a period of seven (7) days, the wheels or other parts have been removed, or (b) on which the wheels or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being drawn by other power. Inoperable vehicle shall not include any vehicle that has been rendered temporarily incapable of being driven under its own motor power in the case of a motor vehicle or drawn under other power in the case of a vehicle other than a motor vehicle in order to perform ordinary service or repair operations. However, a vehicle upon which repairs or services are not concluded within seven (7) days from the date of the notice specific in Section 14-100(b) shall be constructed to be an inoperable vehicle.

Motor home, mini motor home or van camper: A self-contained motor vehicle, not used commercially, designed or converted to provide living quarters for recreational, camping or travel use, with or without direct walk through access to the living quarters from the driver's seat. Such vehicles must include at least two of the following:

- (a) A cooking facility with an on-board fuel source;
- (b) A refrigerator;
- (c) A toilet with exterior evacuation;
- (d) A heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;

- (e) A potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;
- (f) A 110-125 volt electric power supply;
- (g) Sleeping facilities.

Motor vehicle: Every vehicle which is self-propelled, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs.

Motorcycle: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor.

Semi trailer: Every vehicle without motive power, used commercially, designed for carrying persons or property and for being drawn by a motor vehicle.

Snowmobile: A self-propelled device designed for travel on snow or ice or natural terrain steered by skis or runners, and supported in part by skis, belts, or cleats.

Trailer: Every vehicle without motive power in operation, designed for carrying persons or property and for being drawn by a motor vehicle including without limitation semi trailers, travel trailers, and boat trailers.

Travel trailer: A trailer, not used commercially, designed to provide living quarters for recreational, camping or travel use, and of a size or weight not requiring an over dimension permit when towed on a highway.

Vehicle: Every device, in, upon or by which any person or property is or may be transported or drawn upon a street or highway, whether subject to or exempt from registration, excepting, however, bicycles, snowmobiles and devices used exclusively upon stationary rails or tracks.

Vehicle not regularly used: Any vehicle which (a) has not been driven off the premises where it is parked or stored under its own motor power or drawn by other power for a period longer than four (4) months, (2) is not registered, licensed or properly displaying registration plates or stickers as required under Article IV of Chapter 3 of the Illinois Vehicle Code; or (3) exhibits damaged parts or parts in disrepair, including, but not limited to, broken and missing windows, body panels with holes, and fluid leaks, which pose an open threat of injury or contamination for a period longer than fourteen (14) days.

(Ord. #1454 – 4-28-03; Ord #1542, 1-14-08)

Sec. 14-2 – All-Terrain Vehicles.

Operation and parking of all-terrain vehicles (ATVs) and off-highway motorcycles on streets, alleys, highways, public ways and public property.

- (a) Except as provided under subsection (b), it shall be unlawful for any person to drive, operate or park an all-terrain vehicle (ATV) or off-highway motorcycle upon any street, alley, highway or other public way in the corporate limits of the City.

- (b) Except for tollroads, interstate highways, or controlled access highways, all-terrain vehicles and off-highway motorcycles may make a direct crossing provided:
 - (1) The crossing is made at an angle of approximately 90 degrees to the direction of the street, alley, highway or other public way and at a place where no obstruction prevents a quick and safe crossing; and
 - (2) The all-terrain vehicle or off-highway motorcycle is brought to a complete stop before attempting a crossing; and
 - (3) The operator of the all-terrain vehicle or off-highway motorcycle yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard; and
 - (4) That when crossing a divided highway, the crossing is made only at an intersection of the highway with another public street, road, or highway.
- (c) It shall be unlawful for any person to drive, operate or park an all-terrain vehicle or off-highway motorcycle upon any public property.

State law references: Operation of all-terrain vehicles and off-highway motorcycles on streets, roads and highways, 625 ILCS 5/11-1426; illegal operation of an all-terrain vehicle or off-highway motorcycle, 625 ILCS 5/11-1427; power of the City to define, prevent and abate nuisances, 65 ILCS 5/11-60-2. (Ord. 1454 – 28 Apr 2003)

Sec. 14-3. Illegal Riding.

- (a) It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.
- (b) It shall be unlawful for any person to ride on any vehicle upon any portion thereof not designed or intended for the use of passengers, including, but not limited to, the fenders, running board or outside step of any vehicle, or the bed or area designed for the transportation of property of any truck.
- (c) It shall be unlawful for any person to ride in such position as to interfere with the driver's view ahead or to the sides or with his control over the driving mechanism of the vehicle.
- (d) It shall be unlawful for any person to knowingly permit another person to commit any act prohibited by this Section.
- (e) Any person violating any provision of this Section shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

(Ord. #1486, Sep. 13, 2004)

Sec. 14-4. Golf Carts and Recreational Off-Highway

(A) Golf Carts- and Recreational Off-Highway Vehicles as defined and qualified herein shall be allowed on city streets under the conditions as stated herein.

(B) Definitions:

1. A "Golf Cart", as defined herein, means a vehicle specifically designed and intended for the purposes of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf or maintaining the condition of the grounds on a public or private golf course, as defined by Section 5/1-123.9 of the Illinois Vehicle Code.
2. Recreational Off – Highway Vehicle, as defined herein, means any motorized off-highway device designed to travel primarily off-highway, 64" or less in width, having a manufacturer's dry weight of 2000 lbs. or less, traveling on 4 or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawn mowers, as defined by Section 5/1-168.8 of the Illinois Vehicle Code.
3. "City Streets" mean any of the streets within the boundaries of the City of Henry, Illinois.

(C) All persons wishing to operate a golf cart or recreational off-highway vehicle on the city streets must ensure compliance with the following requirements;

1. Any person who operates a Golf Cart Recreational Off-Highway Vehicle on a street, highway, or roadway shall be subject to show proof of current liability insurance.
2. Must obtain City of Henry permit as specified in paragraph D hereafter.
3. Must display City of Henry decal on the rear of the vehicle.
4. Must have a current, valid Illinois driver's license issued in his or her name by the Secretary of State. Must have a held valid driver's license for a least two years and must be at least 18 years of age and be able to operate a Golf Cart or Recreatinal Off-Highway Vehicle upon any street, highway, or roadway.
5. No Golf Cart or Recreational Off-Highway Vehicle may be operated on a roadway unless, equipped as follows:
 - (a) brakes and brake lights
 - (b) steering wheel apparatus
 - (c) tires
 - (d) rearview mirrors
 - (e) approved "slow moving" emblem on the rear of the vehicle (625 ILCS 5/12-709)
 - (f) red reflector warning devices in the front and rear
 - (g) headlights that emits a white light visible must be illuminated when in operation
 - (h) tail lamps that emits a red light visible from at least 100 feet from the rear, brake lights which must be illuminated when in operation
 - (i) a Golf Cart or Recreational Off-Highway Vehicle shall have its headlight and tail lamps lighted at all times as required by Section 12-201 of the Illinois Vehicle Code

- (j) windshield or eye protection
 - (k) air horn of 250 feet hearing distance
 - (l) requirement of a lap seat belts for the driver and passengers
 - (m) any additional requirements which may be amended To 65 ILCS 5/11-1428 or the Illinois Vehicle Code.
6. Must obey all traffic laws of the State of Illinois and the City of Henry
 7. Must be operated only on city streets, except where prohibited
 8. Must not operate on State Highway 18 (Third Street) or State Highway 29 (University Street. Crossing will be prohibited at the intersection of State Highway 28 and State Highway 18
 9. Vehicle must not ~~be capable of exceeding~~ 25 mph and must observe posted speed limits.
 10. A person operating or who is in actual physical control of a Golf Cart or Recreational Off-Highway Vehicle as ~~described~~ defined herein on a roadway while under the influence of alcohol, other drug or drugs, intoxication compound or compounds or any combination thereof its subject to Section 11-500 through 11-502 of the Illinois Compiled Statutes (5 ILCS 5/11-500 through 11-502)
 11. Golf Carts or Recreational Off-Highway Vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation (State Highway 18 (Third Street) and State Highway 29 (University Street), except to cross the street or highways at approved intersections

(D) Permits

1. No person shall operate a qualified Golf Cart or Recreational Off-Highway Vehicle without first obtaining a permit from the Chief of Police as provided herein. Permits shall be granted for a period of one (1) year due on the first (1st) of May of every year. The cost of the permit is \$50.00. There shall be no Proration of the permit fee for partial year permit. Proof of Liability Insurance coverage is to be provided to the Golf Cart or Recreational Off-Highway Vehicle must be inspected and approved by the Chief of Police or by a designated person
2. Every application for a permit shall be made on a form supplied by the City of Henry and shall contain the following information:
 - (a) name and address of applicant:
 - (b) name of liability insurance carrier and policy number:
 - (c) serial number, make, model and description of golf cart or Recreational Off-Highway Vehicle;
 - (d) signed waiver of liability by applicant releasing the City of Henry and its employees, and agreeing to indemnify and hold the City harmless from any and all future claims resulting from the operation of their Golf Cart or Recreational Off-Highway Vehicle on the City of Henry streets. A copy is attached as Exhibit A.
 - (e) photocopy of applicable liability insurance coverage card specifically for the Golf Cart or Recreational Off-Highway Vehicle to be operated pursuant to the permit;
 - (f) photocopy of valid drivers license
3. No permit shall be granted unless the following conditions are met:

- (a) vehicle must be inspected by the Chief of Police or designated person to insure that the vehicle is safe to operate on city streets and is in compliance with this Ordinance and with the State of Illinois Vehicle Code.
 - (b) applicant must provide evidence of insurance in compliance with the provisions of the Illinois Statutes regarding minimum liability insurance for passenger motor vehicle to be operated on the roads of the State of Illinois
4. The City of Henry may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provision of this Ordinance or there is evidence that permit tee cannot safely operate a qualified Golf Cart or Recreational Off-Highway Vehicle on the designated roadways.

(Ord. #1672- 08-18-14)

(E) Violations:

Any person who violates any provision of this ordinance shall be guilty of a petty offense and shall be punished by a fine of \$150.00. Any second or subsequent offense shall result in the revocation of the permit fro a period of not less than one (1) year nor more than three (3) years. To extent that any violation of this ordinance also constitutes a violation of a criminal statue of the State of Illinois, then the violator shall also be subject to criminal prosecution

(Ord. #1576, 05-17-10)

Sec. 14-5 Exhaust Braking Device

- (a) No person shall operate, or cause to be used or operated, within the City of Henry any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air.
- (b) It shall be an affirmative defense that the person operating, or causing to be used or operated such exhaust device in circumstances where it was necessary to avoid injury or an accident.
- (c) Any person violating the terms and provisions of this Ordinance shall be subject to fines in the sum of \$120.00 for each violation.
- (d) The City of Henry shall provide notice of the prohibition created by this Ordinance by posting clearly visible signs on all truck routes at or near the entrances to the City, utilizing city signs off of state right-of-way with Illinois Department of Transportation authority. (Ord.#1617-09-19-11)

Sec. 14-6 to 14-30. Reserved.

ARTICLE II. SNOWMOBILING

Sec. 14-31. Designated streets.

The City of Henry hereby designates the following specific public streets and properties within their jurisdiction as ingress and egress route for use the of snowmobiles during those periods of time in which there is adequate snowfall on the ground so as not to damage the streets, natural features, or ground vegetation:

Old Indian Town Road; Lincoln Street from Route 29 to Richard Street; Richard Street from the intersection of Richard Street and Lincoln Street to the entrance of the parking lot to Stoner Park; through the west side of Stoner Park along and within a flagged designated path fifteen feet (15') wide to an area on the north side of the City's sewer Lift Station; Second Street from the point where it adjoins the City's sewer Lift Station to North Street; North Street from the intersection of North Street and Second Street to Front Street; and on Front Street from the intersection of Front Street and North Street to West Main Street. (Ord. #905, 12-22-1980; Ord. #1134, 2-13-95 Sec. 31-32 deleted; Ord. #1290, 11-24-97)

Sec. 14-32. State Regulations Applicable.

All rules and regulations of the State of Illinois Snowmobile Registration and Safety Act (65 ILCS 4011-1, et. seq.), except as modified by this ordinance, shall be in full force and effect. (Ord. #1290, 11-24-97)

Sec. 14-33. Ingress and Egress.

Individuals may use for purposes of ingress and egress the shoulder (that part of the roadway outside of the traveled way) of the streets identified above and commonly identified as Old Indian Town Road and all of Lincoln Street from Route 29 to Richard Street for snowmobiles, provided that said snowmobiles may be operated only in the same direction as traffic. (Ord. #1290, 11-24-97)

Sec. 14-34. Hours of Operation.

No person may operate a snowmobile within the corporate limits of the City of Henry between the hours of 10:00 p.m. and 6:00 a.m. (Ord. #1290, 11-24-97)

Sec. 14-35. Speed limits.

No person shall operate a snowmobile within the corporate limits of the City of Henry at a speed exceeding the lesser of any posted speed limit or fifteen miles per hour (15 MPH). (Ord. #1290, 11-24-97)

Sec. 14-36. Penalties.

Any person violating any provisions of this Article shall be fined not less than twenty-five dollars (\$25.00), nor more than five hundred dollars (\$500.00) for each offense. (Ord. #1290, 11-24-97)

Sec. 14-37 to 14-40. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING

(625 ILCS 5/11-208(a)(1) and 5/11-1301)

Sec. 14-41. Parking on East and West Park Row.

- (a) Parking Restrictions:
 - (1) Parking is hereby restricted to two (2) hour parking on the east side (Park side) of West Park Row.

- (2) There will be no semi-tractor and/or trailer parking along the west side of West Park Row.
 - (3) Parking is hereby restricted at the north three (3) parking spaces on the east side of East Park Row (the 3 parking spaces in front of City Hall) between the hours of 9:00 a.m. and 4:30 p.m. Monday through Saturday, inclusive, to vehicles, the driver or drivers of which are, at the time the vehicle is parked, in the Henry City Hall or walking directly to or from City Hall.
- (b) Penalties: Any individual who shall violate Section 14-41(a)(1) or (a)(3) shall be subject to a fine as follows:
- (1) that if the fine shall be paid within five (5) working days of the violation, the fine shall be in the sum of ten dollars (\$10.00) for the first violation of this section.
 - (2) that if the fine shall not be paid within five (5) days, the fine shall be in the amount of fifteen dollars (\$15.00) for the first violation of this section.
 - (3) that if it shall be necessary to file a complaint to enforce this section with respect to a first violation, then the fine shall be in the sum of twenty-five dollars (\$25.00) for the first violation.
 - (4) that if the operator of a motor vehicle shall park a vehicle in violation of this section as set forth above and said vehicle shall remain parked, each day that shall pass shall constitute a separate violation and each cause may be prosecuted separately or jointly or joined in one (1) enforcement in separate counts.
- (c) Penalties: Any individual who shall violate Section 14-41(a)(2) shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

(Ord. #983, 12-8-96; Ord. #1427, 4-8-2002)

Sec. 14-42. Parking on Edward Street.

- (a) Parking restrictions:
- (1) That no vehicle shall be parked between the southerly right of way of Richard Street and the northerly right of way of Front Street which is greater than seven feet (7') in width.
 - (2) That no vehicle shall be parked between the southerly right of way of Richard Street and the northerly right of way of Front Street which is more than twenty and a half feet (20.5') in length. The length of a vehicle shall be measured from the front bumper to the rear most end of said vehicle or the rear most portion of any trailer or other vehicle being towed by said vehicle.
 - (3) That notwithstanding the provisions of paragraphs (1) and (2) above, the above parking restrictions shall not apply during the day from 6:00 a.m. to 8:00 p.m., Monday through Sunday with regard to that portion of Edward Street which lies within three hundred fifteen and a half feet (315.5') from the southerly right of way of Richard Street along the westerly curb line of Edward Street and shall not apply to that portion of Edward Street which

lies within two hundred thirty-seven feet (237') from the southerly right of way of Richard Street along the easterly curb line of Edward Street.

- (b) Penalties - Any individual who shall violate Sec. 14-42 shall be subject to fine as follows:
 - (1) that if the fine shall be paid within five (5) working days of the violation, the fine shall be in the sum of ten dollars (\$10.00) for each violation.
 - (2) that if the fine shall not be paid within five (5) days, the fine shall be in the amount of fifteen dollars (\$15.00) for each violation
 - (3) that if it shall be necessary to file a complaint to enforce this section than the fine shall be in the sum of twenty-five dollars (\$25.00) for each violation
 - (4) that if the operator of a motor vehicle shall park a vehicle in violation of this section as set forth above and said vehicle shall remain parked, each day that shall pass shall constitute a separate violation and each cause may be prosecuted separately or jointly or joined in one (1) enforcement in separate counts.

(Ord. #983, 12-8-1986; Ord. #1427, 4-8-2002)

Sec. 14-43. Parking on College Street.

- (a) Parking restrictions:
 - (1) That no motor vehicle shall be parked on any portion of College Street commencing from the west entrance of Harmony Circle on to College Street until the intersection of College Street with State Highway 29 during the hours of 11:00 a.m. until 1:00 p.m. while Henry-Senachwine Consolidated High School, District #20 is in session Monday through Friday of each week during the fall and spring semesters of Henry-Senachwine Consolidated High School, District #20
 - (2) That appropriate signs shall be posted informing the public of these parking restrictions along the affected portion of College Street.
- (b) Penalties - Any individual who shall violate Section 14-43 shall be subject to punishment by fine as follows:
 - (1) that if the fine shall be paid within five (5) working days of the violation, the fine shall be in the sum of ten dollars (\$10.00) for the first violation of this section.
 - (2) that if the fine shall not be paid within five (5) days, the fine shall be in the amount of fifteen dollars (\$15.00) for the first violation of this section.
 - (3) that if it shall be necessary to file a complaint to enforce this section with respect to a first violation, then the fine shall be in the sum of twenty-five dollars (\$25.00) for the first violation.
 - (4) that if the operator of a motor vehicle shall park a vehicle in violation of this section as set forth above and said vehicle shall remain parked, each day that shall pass shall constitute a separate violation and each cause may be

prosecuted separately or jointly or joined in one (1) enforcement in separate counts.

- (5) that a second or subsequent violation of this section shall result in a fine which is double the amounts specified above for first offenders.

(Ord. #1002, 9-28-1987)

Sec. 14-44. Parking prohibited on certain streets.

- (a) Except on Edward Street, where all vehicles shall be parked in marked lanes, all vehicles parking on any paved street shall park with the right side of such vehicle parallel to and within twelve inches (12") from the curb line.
- (b) No person shall stop, stand or park any vehicle on the south side of Williams Street from North Street to Harrington Road.
- (c) No person shall stop, stand or park a semi-trailer truck on any street so as to obstruct the free movement of two-way vehicular traffic except for emergency conditions.

No person shall park a semi-trailer truck in a residential area for more than one (1) hour. Official trailer truck parking for a two (2) hour period may be permissible on the east side of West Park Row. There shall not be permitted, however, any parking of semi-trailer trucks on the west side of West Park Row.

- (d) Parking of vehicles is prohibited along Route 18 between Route 29 and Front Street excepting that parking may be permitted on Third Street between East Park Row and a point designated as midway between School Street and Edward Street; however, parking shall be limited and restricted to parallel to the curb parking only.
- (e) No person shall park or leave standing on any street a vehicle containing or having thereon any horses, cattle, sheep, or swine for any length of time whatsoever.
- (f) Parking of any type of motor vehicle is prohibited along Route 29 in an area north of the intersection of Route 29 and Route 18 to the northern boundary of the corporate limits of the city and south of the intersection of Route 29 and Route 18 to the southern boundary of the corporate limits of the City of Henry.

(Ord. #460, 10-7-1935; #649, 10-14-1957; #704, 8-8-1960; #722, 5-13-1963; #723, 5-27-1963; #797, 2-9-1970; #832, 2-24-1975; #850, 10-11-1976; #1031, 3-27-1989)

- (g) Parking of vehicles is prohibited on the north side of Lincoln Street from Impala Drive to Route 29. (Ord. #1288, 10-27-97)
- (h) Parking of any type of motor vehicle is prohibited at the East six of the eight parking spaces located on the Northeast corner of the intersection of Railroad Avenue and Third Street, except for emergency vehicles or vehicles operated by ambulance personnel when responding to an emergency situation or attending to duties at the adjoining Emergency Services Building.
- (i) Parking of any type of motor vehicle is prohibited at the West four of the five parking spaces located at the Southeast corner of the intersection of Railroad Avenue and Third Street, except for emergency vehicles, vehicles operated by police personnel or City officials when responding to an emergency situation or attending to duties at the adjoining Emergency Services Building, or any citizen while conducting business at the Police Department.

- (j) Parking of any type of motor vehicle is prohibited at the last parking space located East of the Southeast corner of the intersection of Railroad Avenue and Third Street, except for vehicles having handicapped license plates and/or handicapped stickers issued by the State of Illinois.
- (k) Parking of any type of motor vehicle for a consecutive period of time in excess of thirty (30) minutes at the West two of the eight parking spaces located on the Northeast corner of the intersection of Railroad Avenue and Third Street.

(Ord. #1391, 4-23-01)

Sec. 14-45. Parking of vehicles prohibited.

It shall be unlawful for any person to park any vehicle upon a street to display the same for sale or for selling merchandise therefrom, washing or repairing of vehicle except for repairs necessitated by an emergency; or to block ingress or egress from any public or private driveway or garage or for the primary purpose of advertising. (Ord. #649, 10-14-1957)

Sec. 14-46. Parking restrictions after snowfall.

It shall be unlawful to park any vehicle in the business district of the city after a snowfall of one inch (1") or more has occurred. There shall be no parking of vehicles from 8:00 p.m. to 8:00 a.m. until the snow has been removed therefrom in the business district of the city.

The business district of the city is defined as follows: Second Street from School Street to West Park Row and on East Park Row; third Street from School Street to West Park Row; and Edward Street from the river to Richard Street.

Any violation of this section shall have a fine of five dollars (\$5.00) to fifty dollars (\$50.00), plus the cost of removal of said vehicle.

(Ord. #855, 12-27-1976)

Sec. 14-47. U-turns prohibited.

It shall be unlawful for the driver of any vehicle to make U-turns between the intersections of any streets in the city. (Ord. #381, 8-1-1921; #460, 10-7-1935; 625 ILCS 5/11-802)

Sec. 14-48. Limitations on the parking of semi trailers on streets or highways.

It shall be unlawful for any person to park a semi-trailer on any street, alley, highway or other public way between the hours of 10:00 p.m. and 6:00 a.m.

Any person violating this Section shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense. (Ord. #1397, 5-29-01; Ord. 1454 – 28 Apr. 2003)

Sec. 14-49. Limitations on the parking of trailers, travel trailers and motor homes on streets or highways.

- (a) It shall be unlawful for any person to park a trailer or travel trailer on any street, alley, highway or other public way between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m., unless such trailer or travel trailer is hitched to an operable motor vehicle.
- (b) It shall be unlawful for any person to park a trailer or travel trailer which is hitched to an operable motor vehicle on any street, alley,

highway or other public way for any period longer than twenty-four (24) consecutive hours.

- (c) It shall be unlawful for any person to park a motor home, mini motor home or van camper on any street, alley, highway or other public way for any period longer than twenty-four (24) consecutive hours.

(Ord. 1445 – 28 Apr. 2003)

Sec. 14-50. Parking of vehicles with expired registration.

It shall be unlawful for any person to stop, park, or leave standing upon a public street, highway, or roadway any vehicle not displaying registration plates or any vehicle upon which is displayed an Illinois registration plate or plates or registration sticker after the termination of the registration period for which the registration plate or plates or registration sticker was issued. [State law reference: 625 ILCS 5/11-1304.5]. (Ord. #1398, 6-25-01)

Sec. 14-51 Parking prohibited on parade routes.

It shall be unlawful for any person to stop, park, or leave standing upon a public street, highway, or roadway any vehicle at any time when the City of Henry Police Department has posted temporary “No Parking” signs along a parade route. Any vehicle found to be in violation of this section may be ticketed and/or, towed. The owner of said vehicle shall be responsible for the cost of towing said vehicle. (Ord. #1402, 7-23-01)

Sec. 14-52. Use of residential parking facilities.

All off-street parking facilities on property used for residential purposes shall have a surface that is either gravel or as required for parking spaces under [Chapter 14, Article V, Section 17-101](#) of the Henry City Code. Off-street parking facilities provided for in any residential use shall be used solely for the parking of passenger vehicles that are owned by the occupants of the dwelling structures or guests of said occupants. Any vehicle: (1) not lawfully registered, licensed, or properly displaying registration plates or stickers as required under Article IV of Chapter 3 of the Illinois Vehicle Code or (2) which is inoperable or not regularly used, must remain at all times within a wholly enclosed garage or in the rear yard of the residence. Any such rear yard must be wholly enclosed by a fence and completely screened from public view.

For purposes of this section, the terms “garage” and “rear yard” will have the same definitions as those contained in [Chapter 17, Article II, Section 17-6](#) of the Henry City Code. Furthermore, all fencing must comply with the requirements of Chapter 17 of the Henry City Code.

(Ord. #1408, 9-24-01; Ord. 1454 – 28 Apr 2003)

Section 14-53. Parking Along Riverfront.

- a. Parking Restrictions.
 - i. No person shall stop, stand, or park any vehicle on the East side of Cromwell Drive from its intersection with North Street to a point on Cromwell Drive being three hundred (300) feet North of North Street.
 - ii. No person shall stop, stand, or park any vehicle towing a trailer, or allow any trailer to remain, at the following locations:
 - 1. On the East side of Cromwell Drive from the Henry Harbor boat launch to North Street; and

2. On the East side or the West side of Cromwell Drive between Main Street and Edward Street.
 - iii. Parking is hereby restricted such that the following location shall be used only for staging purposes for persons preparing, by way of trailer, to place a boat in the Illinois River, or to remove, by way of trailer, a boat from the Illinois River: on Front Street between that certain point which is three hundred (300) feet North of the intersection of Front Street and School Street and that certain point which is four hundred (400) feet North of the intersection of Front Street and School Street.
- b. Penalties - Any individual who shall violate Sec. 14-52 shall be subject to fine as follows:
- i. that if the fine shall be paid within five (5) working days of the violation, the fine shall be in the sum of ten dollars (\$10.00) for each violation.
 - ii. that if the fine shall not be paid within five (5) days, the fine shall be in the amount of fifteen dollars (\$15.00) for each violation
 - iii. that if it shall be necessary to file a complaint to enforce this section than the fine shall be in the sum of twenty-five dollars (\$25.00) for each violation
 - iv. that if the operator of a motor vehicle shall park a vehicle in violation of this section as set forth above and said vehicle shall remain parked, each day that shall pass shall constitute a separate violation and each cause may be prosecuted separately or jointly or joined in one (1) enforcement in separate counts.

(Ord. No. 1434, 6-10-02)

Parking Along South Street

- (a) No person shall stop, stand, or park any vehicle on the east side of South Street between its intersections with Second Street and Third Street.
- (b) Penalties – Any individual who shall violate Sec. 14-53 shall be subject to fine as follows;
 1. that if the fine shall be paid within five (5) working days of the violation, the fine shall be in the sum of ten dollars (\$10.00) for each violation.
 2. that if the fine shall not be paid within five (5) days, the fine shall be in the amount of fifteen dollars (\$15.00) for each violation
 3. that if it shall be necessary to file a complaint to enforce this section than the fine shall be in the sum of twenty-five dollars (\$25.00) for each violation

4. that if the operator of a motor vehicle shall park a vehicle in
Violation of this section as set forth above and said vehicle
shall remain parked, each day that shall pass shall constitute
separate violation and each cause may be prosecuted
separately or jointly or joined in one (1) enforcement in
separate counts.

(Ord. #1537, 07-23-07)

Section 14-54. Parking which obstructs water shut-offs is prohibited.

It shall be unlawful for any person to stop, park, or leave standing upon a public street, highway, roadway, or City right-of-way, any vehicle, of any type, in such a manner as to block access to any City water shut-off valve. Any vehicle found to be in violation of this Section may be ticketed and, if necessary, towed. The owner of said vehicle shall be responsible for the cost of towing said vehicle. (Ord. 1445 23 Sep 2002)

ARTICLE IV. STOP INTERSECTIONS AND YIELD INTERSECTIONS

Sec. 14-55. Authorized yield right-of-way streets.

The following streets are hereby designated as authorized yield right-of-way streets:

<u>Traffic on</u>	<u>Shall yield to:</u>
Fisher Street	Bryan Street
South Street	Front Street
Front Street	Carroll Street
Wirt Street	Second Street
Monroe Street	Second Street
Third Street	School Street
(Eastbound turning left or straight ahead at Third Street and School Street)	
Carroll Street	Richard Street
Railroad Street	Western Avenue
Monroe Street	Western Avenue (Ord. #1647, 12-17-12)
Green Street	Western Avenue
Carroll Street	Western Avenue
Warren Street	Williams Street
Warren Street	Normal Street
North Street	Lincoln Street
Harrington Road	Lincoln Street
Adamson Street	Main Street
Thomas Street	Edward Street (Ord. #1364, 6-26-00)

Sec. 14-56. Authorized stop signs and signals.

The following streets are hereby designated as authorized stop streets and signal streets:

On Cromwell	at	East Marina Boat Ramp	one-way
On Cromwell	at	Edward	two-way
On Front	at	Market	two-way
On Front	at	Main	two-way
On Front	at	Edward	two-way

On Front	at	Highway 18	two-way
On Front	at	Carroll	two-way (Ord. #1363 6-26-00)
On Front	at	Cromwell	one-way
On North	at	Second	two-way
On Second	at	School	two-way
On Second	at	Edward	three-way
On Edward	at	Second	three-way
On Second	at	East Park Row	three-way
On Second	at	East Park Row alley	three-way
On Main	at	Second	one-way
On West Park Row	at	Second	one-way
On Second	at	Market	two-way
On Carroll	at	Second	two-way
On Second	at	South	four-way
On South	at	Second	four-way
On Jackson	at	Third (Strong oil)	one-way (Rt. 18)
On Commercial	at	Third	two-way (Rt. 18)
On Railroad	at	Third	two-way (Rt. 18)
On Jefferson	at	Third	two-way (Rt. 18)
On Adams	at	Third	two-way (Rt. 18)
On South	at	Third	two-way (Rt. 18)
On Monroe	at	Third	two-way (Rt. 18)
On Carroll	at	Third	two-way (Rt. 18)
On Wirt	at	Third	two-way (Rt. 18)
On Market	at	Third	two-way (Rt. 18)
On West Park Row	at	Third	one-way (Rt. 18)
On Main	at	Third	one-way (Rt. 18)
On East Park Row	at	Third	one-way (Rt. 18)
On Edward	at	Third	four-way (Rt. 18)
On Third	at	Edward	four-way
On School	at	Third	two-way (Rt. 18)
On Third	at	School	two-way (Rt. 18)
On North	at	Third	two-way
On Richard	at	Fremont	four-way
On Fremont	at	Richard	four-way
On Stoner Drive	at	Richard	one-way
On Shorewood Drive	at	Richard	one-way
On North	at	Richard	two-way
On School	at	Richard	four-way
On Richard	at	School	four-way
On Edward	at	Richard	two-way
On Richard	at	Main	two-way
On Market	at	Richard	two-way
On Wirt	at	Richard	one-way
On Western	at	Richard and Wirt	one-way
On Richard	at	Monroe	two-way
On Monroe	at	Western	one way (Ord. #1647, 12-17-12)
On Monroe and Jefferson (alley between)	at	Richard	one-way

On Commercial	at	Western	one-way
On Western	at	Third	one-way (Rt. 18)
On Harrington	at	Williams	two-way
On Williams	at	Harrington	two-way
Grade School parking lot	at	Williams	one-way
On Williams	at	North	four-way
On North	at	Williams	four-way
On School	at	Williams	four-way
On Williams	at	School	four-way
On Edward	at	Williams	two-way
On Main	at	Williams	four-way
On Williams	at	Main	four-way
On Green	at	Williams	four-way
On Williams	at	Green	four-way
On Edmond	at	School	two-way
On Edward	at	Edmond	two-way
On Edmond	at	Main	two-way
On Green	at	College	two-way
On College	at	Warren	four-way
On Warren	at	College	four-way
On Walnut	at	Western	one-way
On Jackson	at	Western (Bowling Alley)	one-way
On Chestnut	at	Highway 29	two-way
On Maple	at	Highway 29	one-way
On H.S. parking lot	at	Highway 29	one-way
On Lincoln	at	Highway 29	one-way
On Malibu	at	Lincoln	one-way
On Impala	at	Lincoln	one-way
On Warren	at	Lincoln	two-way
On Green	at	Lincoln	one-way
On Lincoln	at	Main	four-way
On Main	at	Lincoln	four-way
On School	at	Lincoln	one-way
On Lincoln	at	Richard	one-way
On Robert	at	Main	one-way
On Marcia	at	Indian Town Road	one-way
On Gateway Drive	at	Indian Town Road	one-way
On Patricia Lane	at	Finfgeld Court	one-way (Ord. #1552 01-19-09)
On Richard Street	at	Wirt Street	four-way
On Richard Street	at	Western Avenue	four-way (Ord. #1553 01-19-08)
On Williams Street	at	Harrington Road	three-way (Ord.#1566 01-16-09)

Sec. 14-57. Stopping Restrictions.

When stop signs are erected, at the entrance of a street intersecting highways, or at the entrance to any intersection, every driver of a vehicle shall stop at every such sign or at a clearly marked stop line before entering the intersection, except when directed to proceed by a police officer or traffic control signal.

Sec. 14-58. Yield Intersection Restrictions.

Where preference is given to traffic through any intersection on any roadway and specified entrances to said intersections are designated as yield right-of-way entrances by the erection of yield right-of-way signs:

- (a) The driver of a vehicle in obedience to a yield right-of-way sign shall slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to other vehicles which have entered the intersection roadway either from the right or left or which are approaching so closely on said intersecting roadways as to constitute an immediate hazard; but such driver having so yielded may proceed at such times as a safe interval occurs.
- (b) If a driver is involved in a collision at an intersection or interferes with the movement of other vehicles after driving past a yield right-of-way sign, such collision or interference shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

Sec. 14-59 to 14-73. Reserved.

ARTICLE V. SPEED LIMIT

Sec. 14-74. Speed restrictions.

- (a) The speed limit of all motor vehicles and motorcycles through the business district of the city shall not exceed twenty (20) miles per hour and twenty-five (25) miles per hour through the residential district.
- (b) No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour on Cromwell Drive.

(Ord. #649, 10-14-1957; 625 ILCS 5/11-604)

Sec. 14-75. Special speed limits while passing schools.

No person shall drive a motor vehicle at a speed in excess of twenty (20) miles per hour on all streets and highways surrounding and adjacent to any and all school property. (Ord. #649, 10-14-1957)

Sec. 14-76. Speed limits enacted for certain areas.

No person shall drive a motor vehicle at a speed in excess of twenty (20) miles per hour on the following designated streets:

- (a) Edward Street from Richard Street to Cromwell Drive
- (b) Second Street from School Street to Main Street.
- (c) Front Street from School Street to Main Street.
- (d) The entire downtown business district on Edward Street from Front Street to Richard Street; on Main Street from Front Street to Second Street; and on East Park Row.

Sec. 14-77. Alleys.

No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour in any alley within the City. (Ord. #499, 7-6-1942; #649, 10-14-1957)

Sec. 14-78 to 14-89. Reserved.

ARTICLE VI. PENALTY

Sec. 14-90. Penalty.

Any person violating any provision of this Traffic Chapter of this ordinance shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, unless otherwise provided in a specific Section.

A person shall fall within the class of persons who shall be deemed to be in violation of a provision of this Traffic Chapter of this ordinance if such person:

1. Has an ownership interest in the vehicle; or
2. Causes the vehicle to be standing, stopped, parked or deposited at the site in question.

In addition, whenever any vehicle of any type, including, without limitation, any motor vehicle, motorcycle, motor home, mini motor home, van camper, trailer, travel trailer, semi trailer or semi-trailer truck, is stopped or parked in violation of any provision of this Traffic Chapter of this ordinance, other than Sections 14-100 and 14-101, any officer of the Police Department may authorize a private towing company to tow and store said vehicle and the owner or operator of said vehicle shall be responsible for the payment of charges associated with the towing and storage of said vehicle.

(Ord. #499, 7-6-1942; #649, 10-14-1957, #1396, 5-29-01; Ord. 1454, 28 Apr 2003)

State Law References: 625 ILCS 5/11-208; Sutton v. City of Milwaukee, 672 F.2d 644 (7th Cir. 1982).

Sec. 14-91 to 14-99. Reserved.

**ARTICLE VII. ABANDONED, AND ~~INOPERABLE~~ UNUSED VEHICLES AND
IMPOUNDMENT OF VEHICLES.**

Sec. 14-100. Inoperable and vehicles not regularly used prohibited.

- (a) It is hereby declared a menace to the public safety and a nuisance for any person to cause, permit or allow the existence of any inoperable vehicle, any vehicle not regularly used, or any parts of a vehicle to exist or to be stored upon any public or private property in view of the general public; provided, however, that nothing in this section shall apply to any vehicle or part thereof which is kept in a building, or to a vehicle or parts thereof completely on the premises of a duly license junkyard.
- (b) Whenever any police officer determines that a nuisance as declared in this section exists, the police officer shall cause a written notice to abate to be served upon the person who is causing, permitting or allowing the nuisance to exist. Said notice shall give the person seven (7) days from the date of service of the notice to abate the nuisance. Such notice shall be by means of personal service or by certified or registered mail. Personal service shall be by a police officer of the Henry Police Department or any person authorized by law to make personal service.
- (c) Any person who shall cause, permit or allow such a nuisance to continue to exist after the expiration of seven (7) days from the date of the notice to abate shall,

upon conviction thereof, be subject to a penalty of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for each such offense. Each day that such nuisance continues or exists after the expiration of the aforesaid seven (7) days shall be deemed to be a separate offense. Further, each such inoperable motor vehicle shall constitute a separate offense.

- (d) Whenever any person causes, permits or allows such a nuisance to continue or exist after the expiration of seven (7) days from the service of the notice to abate, the city may, at its option, cause the abatement of the nuisance specified in this section by the same method of disposal of abandoned vehicles provided in Section 14-101 of this Article. Nothing in this Section shall be constructed as imposing upon the City a duty to abate the nuisance specified in this Section. The action authorized by this Section shall be in addition to and without waiver to any other remedies.
- (e) A person shall fall within the class of persons who shall be deemed to cause, permit or allow such a nuisance to exist if such person:
 - 1. Has an ownership interest in the inoperable vehicle;
 - 2. Causes the inoperable vehicle to be deposited at the site in question;
 - 3. Has an ownership or possessory interest in the real estate upon which the inoperable vehicle is located;
 - 4. Has an ownership interest in or operates a business which causes, permits or allows such a nuisance to exist on the real estate upon which the business is operated or on adjacent real estate which is under the control of the business owner or operator; or
 - 5. Has an ownership or possessory interest in the real estate upon which a business is being operated and the operator or owner of said business causes, permits or allows such a nuisance to exist on the real estate upon which the business is being operated or on adjacent real estate which is under the control of the person have an ownership or possessory interest in real estate upon which said business is being operated.

State law references: Power of the City to declare inoperative motor vehicles a nuisance, 65 ILCS 5/11-40-3; power of the City to define, prevent and abate nuisances, 65 ILCS 5/11-60-2; and power of the City to promote health or suppress disease, 65 ILCS 5/11-20-5. (Ord. #1409, 9-24-01; Ord. 1454 – 28 Apr 2003)

Sec. 14-101. Abandoned vehicles.

The abandonment of a vehicle or any part thereof on any highway in this City is unlawful and subject to the penalties set forth herein. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this City is unlawful except on the property of the owner or bailee of such abandoned vehicle.

- (a) Report of Abandonment.

When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person who is not the owner of the vehicle, such person shall immediately notify the City Police Department when the vehicle is within the corporate limits of the City.
- (b) Towing of abandoned vehicles.

The Chief of the Police Department shall authorize a towing service to remove and take possession of any abandoned, lost, stolen, or unclaimed vehicle. Any such vehicle abandoned on the highway may be ordered removed after a period of ten (10) hours or more; provided, however, an abandoned, unattended, wrecked, burned, or partially dismantled vehicle that creates a traffic hazard because of its position in relation to the highway or its physical appearance may be immediately removed from the highway or private property adjacent to the highway upon order of the Police Department of the City. The Police Department may order any vehicle abandoned on private property to be towed immediately at the request of the owner of the private property. When a vehicle is removed from either public or private property by order of the Police Department under this Section, the owner of the vehicle will be responsible for all towing costs. (Ord. 1454 – 28 Apr 2003).

(c) Towing report.

When a vehicle is authorized to be towed away, the City Police Department shall keep and maintain a record of the vehicle towed, listing the color, year, manufacturer, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, license plate year and number, and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and name of the officer authorizing the tow. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner or any other legal persons entitled to possession thereof, or until the vehicle is disposed of as provided in this Chapter.

(d) Costs of towing, storage, and other fees.

The owner, operator, or any legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage and processing charges and collections costs associated with the vehicle towed or held under order or authorization of the law enforcement agency.

(e) Identity of owner of abandoned vehicle: notice.

1. When the City Police Department does not know the identity of the registered owner or other legally entitled person, they will cause the motor vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

The police department will cause the stolen motor vehicle files of the state police to be searched by a directed communication to the Illinois State Police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the state police. The information determined from these record searches will be used by the police department in sending notification by certified mail to the owner or legally entitled person advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Exceptions to a notification by certified mail to the registered owner or other legally entitled person are set forth in Section 14-101(f) herein.

2. When the registered owner or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of

this state or from the registration files of a foreign state, if applicable, the police department shall notify the state police for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the state police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification of the owner as set forth in Section 14-101(e)(1) above.

- (f) Notice and sale of abandoned vehicles.
1. Whenever an abandoned, lost, stolen or unclaimed vehicle seven (7) years of age or newer remains unclaimed by the registered owner or other personally legally entitled to its possession for a period of thirty (30) days after notice has been given as provided herein, the police department or towing service having possession of the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least ten (10) days prior to the sale on the premises where the vehicle has been impounded. At least ten (10) days prior to the sale, the police department where the vehicle is impounded or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the police department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.
 2. In those instances where the certified notification specified herein has been returned by the postal authorities to the police department or towing service due to the addressee having moved, or being unknown at the address obtained from the registration records of this state, the sending of a second certified notice will not be required.
 3. When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of seven (7) years of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided herein without notice to the registered owner or other person legally entitled to the possession of the vehicle.
 4.
 - (a) When the identity of the registered owner, lien-holder, or other legally entitled persons of an abandoned, lost or unclaimed vehicle seven (7) years of age or newer cannot be determined by any means provided for in this Chapter, the vehicle may be sold as provided in Section 14-101(e) without notice to any person whose identity cannot be determined.
 - (b) When an abandoned vehicle of more than seven (7) years of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the consent of the owner or operator, and is subsequently abandoned, it will be kept in custody for a minimum of ten (10) days for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled person and contacting the registered owner, lienholder, or other legally entitled person by the U.S. mail, public service or in person for a

determination of disposition; and, an examination of the State Police stolen vehicles files for theft and wanted information. At the expiration of the ten (10) day period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled person, the chief of police will authorize the disposal of the vehicle in either of the following two ways:

- (1) the police department will authorize the disposal of the vehicle as junk or salvage;
- (2) the towing service may sell the vehicle in the manner provided in [Section 14-101\(e\)](#) of this Article, provided that this paragraph (2) shall not apply to vehicles towed by order or authorization of a law enforcement agency.

5. A vehicle classified as an antique vehicle may, however, be sold to a person desiring to restore it.

(g) Reclamation by owner of abandoned vehicles.

Any time before a vehicle is sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may claim the vehicle by presenting to the police department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this Section until all towing and storage charges have been paid.

(h) Disposition report.

When a vehicle in the custody of the police department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided by this Chapter, a report of the transaction will be maintained by the police department for a period of one year from the date of the sale or disposal.

(i) Proceeds of sale.

When a vehicle located within the corporate limits of this City is authorized to be towed away by the chief of police and disposed of as set forth in this Chapter, the proceeds of the public sale or disposition, after the deduction of towing, storage and processing charges, shall be disposed in the municipal treasury. (Ord. #1320, 1-25-98).

Sec. 14-103 to 14-109 Impoundment of Vehicle.

Sec. 14-103. Applicability.

- (a) This article shall apply to any vehicle located within the city. For purposes of this article, the term “vehicle” shall mean any of the following:
 - 1. Any vehicle, as defined in Section 1-217 of the Illinois Vehicle Code 625 ILCS 5/1-217.
 - 2. Any low-speed vehicle as defined in Section 1-140.7 of the Illinois Vehicle Code 625ILCS 5/1-140.7.
 - 3. Any recreational vehicle, as defined in Section 14-49 of the City Code.
- (b) The term “vehicle” shall not include bicycles.

Sec. 14-104. Grounds for Impoundment

- (a) A police officer may impound a vehicle in any of the following instances:
 - 1. Any provision of the City Code authorizes impoundment.
 - 2. The motor vehicle is used in the commission of any one or more of the following offenses.
 - a. Possession or delivery of a controlled substance or drug paraphernalia
 - b. Driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof
 - c. Driving without a valid driver’s license
 - d. Driving with a revoked or suspended driver’s license
 - e. Any weapons offense

Sec. 14-105. Procedure

- (a) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this article, the police officer shall provide for the towing of the vehicle by a tow company from the city’s rotation tow list. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner’s right to request a preliminary hearing to be conducted under this section. Said vehicle shall be impounded pending the completion of hearings provided for in this section, unless the owner of the vehicle pays for the towing and storage of the vehicle, and the administrative fee set forth in chapter 14 of the City Code.
- (b) Whenever the owner of a vehicle seized pursuant to this article requests a preliminary hearing within 24 hours after the seizure (excluding Saturdays, Sundays and holidays), a hearing officer of the city shall conduct such preliminary hearing within 72 hours after said seizure (excluding Saturdays, Sundays, and holidays). All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle, operated with the permission, express or implied, of the owners was subject to impoundment under this article, the hearing officer shall order the continued impoundment of the vehicle as provided in this article unless the owner of the vehicle posts with the city a cash bond in the amount of the administrative fee set forth in chapter 14 of the City Code, plus fees for the towing and storage of the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

- (c) Within ten days after a vehicle is seized and impounded pursuant to this article, the city shall notify by certified mail, return receipt requested, the owner of record at his/her last known address as indicated by the vehicle's registration of his/her right to request a hearing before the hearing officer that will be conducted to determine whether the vehicle is subject to impoundment pursuant to this article. However, no such notice need to be sent to the owner of record if the owner is personally served with the notice within ten days after the vehicle is impounded, and the owner acknowledges receipt of the notice in writing. The notice shall state the penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the administrative fee and remaining towing and storage fees may be sold or disposed of by the city or the tow operator in accordance with the applicable law. The owner of record seeking a hearing must file a written request for a hearing with the city no later than 15 days after the notice was mailed or otherwise given under this section. The hearing shall be scheduled and held unless continued by order of the hearing officer, no later than 45 days after the request for a hearing has been filed. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was subject to impoundment pursuant to this article, the hearing officer shall enter any order requiring the vehicle to continue to be impounded until the owner pays towing and storage fees for the vehicle and the administrative fee set forth in chapter 14 of the City Code. The fees shall be a debt due and owing the city. However, if a cash bond has been posted, the bond shall be applied to the penalty. If the hearing officer determines that the vehicle was not subject to impoundment pursuant to this article, he/she shall order the return of the vehicle or cash bond and the city shall be liable for towing and storage fees.
- (d) Any motor vehicle that is not reclaimed within 30 days after the expiration of the time during which the owner of record may seek judicial review of the city's action under this article, or the time at which a final judgment is rendered in favor of the city, may be disposed of as an unclaimed vehicle as provided by law. As used in this section, the "owner of record" of a vehicle means the record title holder.
- (e) The section shall not replace or otherwise abrogate any existing state or federal laws or local ordinances pertaining to vehicle seizure and impoundment.
- (f) After the expiration of the time during which the owner of record may seek judicial review of the city's action under this section and if no judicial review is pending, a person with a lien of record against a vehicle impounded under this article may obtain possession of the vehicle if he pays the administrative fee in addition to fees for towing and storage of the vehicle imposed under this article, prior to the sale of said vehicle. Said lien holder shall be given notice of impoundment pursuant to 625 ILCS 5/4-205 (b), and may notify the city of his intent to obtain possession of the vehicle at any time after receiving notice and prior to the sale of said vehicle. Said lien holder shall make the payments called for herein on or before the date he may obtain possession.

Sec. 14-106 RETURN OF VEHICLE

- (a) The owner of an impounded vehicle may reclaim the vehicle at any time upon the payment of all towing charges plus an administrative fee to the city as set forth in chapter 14 of the City Code.

Sec. 14-107 TRAFFIC AND VEHICLES

- (a) The fees of charges required by or referenced in Chapter 14 are as follows. All references are to Code sections or subsections.
 - 1. Administrative fee for impoundment of all vehicles \$250.00

Sec. 14-108-109 Reserved

Section 3. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith, excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern,

Section 4. This Ordinance is hereby ordered to be published in pamphlet form as provided by law.

Section 5. This Ordinance shall be in full force and effect immediately after its passage and approval in the manner provided by law.

ARTICLE VIII. WEIGHT LIMITATIONS

Sec. 14-110. Weight Limitation Imposed.

Except as otherwise provided in Sections 110 and 111 of this Chapter 14, it shall be unlawful to operate any vehicle having a total licensed weight (as shown on the vehicle registration or license plates, in excess of 16,000 pounds on any public street of the City.

Sec. 14-111. Exceptions to Weight Limitations; Truck Routes.

The weight limitations established in Section 14-110 shall not apply to the following streets, which are established as City truck routes:

Illinois Route 29:	The entire length of the roadway within the corporate limits of the City of Henry.
Illinois Route 18	The entire length of the roadway within the corporate limits of the City of Henry.
West Park Row (southbound)	From its intersection with Third Street (Illinois Route 18) on the north to its intersection with Second Street on the south.
Second Street (eastbound)	From its intersection with West Park Row on the west to its intersection with Main Street on the east.
Main Street (southbound)	From its intersection with Second Street on the north to the grain elevator.
Market Street (northbound)	From its intersection with the grain elevator on the south to its intersection with Illinois Route 18 on the north.

Lincoln Street	From its intersection with Illinois Route 29 on the West to intersection with the Chicago Rock Island and Pacific Railroad tracks on the east.
Western Avenue	From the City limits on the west to its intersection with the Chicago Rock Island and Pacific Railroad tracks to the east.
Walnut Street	From the Chicago Rock Island and Pacific Railroad tracks to the north to its intersection with Jefferson Street to the south.
Railroad Street	From its intersection with Third Street on the east to its intersection with Walnut Street on the west.
Jefferson Street	Section between Third Street and Walnut Street.
Maple Street	From Route 29 to its intersection with Jackson Street.
Jackson Street	From Maple Street to Chestnut Street.

(Ord. #1368, 7-24-00)

Sec. 14-112. Applicability.

The limitations established in [Section 110](#) of this Chapter 14 shall not apply to trucks making local pickups or deliveries or traveling to the driver’s place of residence. In all such cases, trucks must use the shortest usable route if no truck route is available. Trucks traveling to the driver’s place of residence may not carry freight of any kind or be accompanied by an attached trailer. For purposes of this Section 14-112, “freight” shall not include tools used by the driver in his trade or during the scope of employment. The limitations established in [Section 110](#) of this Chapter 14 shall also be inapplicable to passenger buses, whether traveling on established routes in the City or intermittently carrying passengers to other locations in the City which are not on established truck routes. (Ord. #1385, 3-12-01)

Sec. 14-113. Penalties.

Any person violating any provision of this Article VIII shall, upon conviction thereof, be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500). Any police officer may, upon stopping any vehicle exceeding the limitations established in [Section 14-110](#) of this Chapter 14, halt such vehicle until the load is removed to the extent necessary to bring the vehicle into compliance with the limitations established in this Article VIII. (Ord. #1368, 7-24-00)

Sec. 14-114 to 14-116. Reserved.

CHAPTER 15. UTILITIES

ARTICLE I. IN GENERAL

Sec. 15-1. Billing of service charges; penalty; adjustments, etc.

- (a) All bills for water service shall be issued on a monthly basis. Payment for billed charges must be made in full by all users within twenty days from the date of the bill for such charges.

(Ord. #1050, 11-12-1990; Ord.# 1126-12-26-94)

- (b) In every case where a meter fails to register the quantity of water used, the quantity shall be determined and a charge made based upon the quantity registered during the same quarter of the preceding calendar year, provided however, that the use of the property has not substantially changed in the interim. In the event the use of the property has substantially changed and it would be impractical or inequitable to base a current charge on the consumption from the same periods in the preceding year, then the Superintendent shall be authorized to estimate the consumption for the period of time in question based on the consumption made by other comparable or similar users of the water service for that period of time.

(Ord. #613, 9-7-1954; 1050, 11-12-1990; Ord. #1126-12-26-94)

- (c) It is the responsibility of the owner of the premises to maintain his water use system from the street mains to and in his premises in working order at his own expense.

(Ord. #203, 11-17-1902; Ord. #1425, 3-25-2002)

Sec. 15-2. Liability of Owner, Occupant and Consumer.

The owner(s) of the premises, the occupant(s) in actual or legal possession of the premises, and the user(s) of the water service of the City of Henry shall be jointly and severally liable to pay for the service on such premises and the water service shall be furnished to the premises by the City only upon the condition that the owner(s) of the premises, occupant(s) and user(s) of the service are jointly and severally liable therefore to the City.

(Ord. #986, 3-9-1987; 1050, 11-12-1990; Ord. #1126-12-26-94)

Sec. 15-3. Penalties for non-payment.

- (a) Nonpayment; shutting off water.
- 1) The water supply may be shut off to any premises for which the water bill or sewer user charge remains unpaid as set forth in Section 15-46 and Section 15-144 .
 - 2) The water supply shall not be restored until all back water bills, sewer user charges, any costs incurred by the City and an additional Delinquency charge-reconnection fee of twenty-five dollars (\$25.00) fifty dollars(\$50.00) have been paid, unless a payment agreement has been approved by the water and sewer committee.

(b) Delinquent charges; lien.

- 1) Whenever the charges for water service or other charges assessed pursuant to this chapter are not paid by the due date, such charges shall be deemed and are hereby declared to be delinquent, and therefore the City shall have a continuing lien upon the premises and real estate upon or for which water is used or supplied.
- 2) A penalty ~~in the amount of the greater of five Dollars (\$5.00) or five percent (5%) of the outstanding balance due~~, per month ~~or portion thereof~~ shall be added to all delinquent charges for water service.
- 3) Every such lien shall, upon compliance with the conditions hereinafter set forth, become and be prior and superior to the rights and interest of creditors, encumbrances, purchasers and other parties in interest in the premises and real estate.

(c) Affidavit; recording.

- 1) Whenever a bill for water rates, benefits or other charges provided for in this chapter remains unpaid after the due date, the City Clerk shall file with the Recorder of Deeds of Marshall County, State of Illinois, a statement of lien claim verified by the affidavit of herself or other officer of the City having knowledge of the facts. The statement shall contain a sufficiently correct description of the lot, lots or tracts of land to identify the same, the balance due after allowing all credits, the date upon which such amount became delinquent and a notice that the City claims a lien for this amount, as well as for all charges for water or other services in connection therewith supplied subsequent to the period covered by the bill.
- 2) No such lien shall be defeated to the proper amount thereof because of an error or overcharge on the part of the City, nor shall any such lien be defeated upon proof that such water was consumed, or contracted for by a tenant of the premises or occupant hereof other than the owner.
- 3) The failure of the Clerk to record such lien claim, shall not affect the right to foreclose the lien for unpaid water bills, as provided in this chapter.

d) Enforcement.

- 1) If payment shall not be made as provided in this chapter for any amount due for water service, sewer service, or other charges provided for in this chapter when the same becomes due, the City may file or cause to be filed a complaint in the Circuit Court of Marshall County for a foreclosure of such lien or, upon becoming a defendant in any pending suit affecting the premises, or real estate, an answer to the complaint in the nature of an intervening petition or a cross-complaint, and the City may proceed in its corporate name to foreclose such lien in like manner and with like effect as provided by the statutes of the state in foreclosure of mortgages on real estate. Any decree rendered in the court may be enforced and collected as other decrees or judgments in the same court.
- 2) City Attorney is hereby authorized and directed to institute such proceedings in the name of the City, in the Circuit Court of Marshall County or in any court having jurisdiction over such matters, against any property for which water bill has remained unpaid after its-due date.

- 3) The remedy provided in this section for the collection of delinquent water rates, charges or benefits shall not be construed to abridge or in any manner interfere with the right and power of the City to enforce a collection thereof by any other action or as otherwise provided in this chapter, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent water rates, charges or benefits.

(Ord. 1628 04-16-12)

- e) Returned checks.

In the event that the owner or occupant of property receiving water service in the City of Henry issues a check in payment for any water and/or sewage charges which is returned by a bank by reason of insufficient funds, a closed account, or any other reason except an error by the bank, ~~a Ten Dollar (\$10.00)~~ a Twenty-five Dollar (\$25.00) service charge will be added to the account.

(Ord. #1050, 11-12-1990; Ord.# 1126-12-26-94; Ord. 1425, 3-25-2002; Ord. 1628 04-16-12)

Sec. 15-4. Master meters.

When service pipes are intended to supply two (2) or more distinct premises or tenements, and when only one (1) service cock is used, the person or persons controlling the same must pay the water rent of all parties thus supplied as separate water bills will not be made.

(Ord. #203, 11-17-1902)

Sec. 15-5. Meters.

- (a) The City reserves the right to install water meters on any premises to measure the consumption of or by any user or to base periodic charges in whole or in part on such consumption. Such meters and attachments thereto shall be and remain at all times the property of the city, and shall be maintained in good condition and repair at the expense of the city. (Ord. #613, 9-7-1954; 1050, 11-12-90)
- (b) All meters, when placed and ready for use, shall be sealed by the Superintendent. Only licensed plumbers and those persons authorized by the City Council shall have the right to place, work upon or repair such water meters. It shall be unlawful and punishable by a fine not to exceed five hundred dollars (\$500.00) for any person or persons to tamper with, break or remove such seal, or to cause any unauthorized person to work upon a water meter installed by the city. (Ord. #613, 9-7-1954 & 1050, 11-12-1990)
- (c) Whenever a meter is installed, the Superintendent shall keep a record of the date of installing and the dates of all repairs or maintenance of the meter and he shall read and record each meter monthly or as often as is deemed necessary by the Superintendent. (Ord. #331, 1914; 613, 9-7-1954; 1050, 11-12-1990; Ord. #1126-112-26-94)

Sec. 15-6. Owner Responsibility to Maintain Water Use System.

It is the responsibility of the owner of the premises to maintain in proper working order the water use system from the City curb stop and/or the property line to an within his premises at his own expense."

Sec. 15-7. Use of Meters Required.

Except for single-family residences, water service shall not be furnished to any new construction or use not in existence as of the effective date of this ordinance, unless the premises to which water services are furnished are equipped with a water meter of suitable size.

Sec. 15-8 Electricity Tax

1. TAX IMPOSED.

- (a) A tax is imposed on all persons engaged in the following occupations or privileges: The Privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:
- (i) For the first 2,000 kilowatt-hours used or consumed in a month; .535800 cents per kilowatt-hour.
 - (ii) For the next 48,000 kilowatt-hours used or consumed in a month; .351344 cents per kilowatt-hour;
 - (iii) For the next 50,000 kilowatt-hours used or consumed in a month; .316210 cents per kilowatt-hour;
 - (iv) For the next 400,000 kilowatt-hours used or consumed in a month; .307426 cents per kilowatt-hour;
 - (v) For the next 500,000 kilowatt-hours used or consumed in a month; .298642 cents per kilowatt-hour;
 - (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; .276683 cents per kilowatt-hour;
 - (viii) For the next 5,000,000 kilowatt-hour used or consumed in a month; .272292 Cents per kilowatt-hour;
 - (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; .267900 cents per kilowatt-hour;
 - (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; .263508 cents per kilowatt-hour.

(b) Pursuant to 65 ILCS 5/8-11-2, the rates set forth in paragraph (a) above shall be effective on June 1, 2012 for residential and nonresidential customers.

2. EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United states, be made the subject of taxation by this State or any political sub-division thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act as authorized by 65 ILCS 5/8 11-1-1; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

3. ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

4. COLLECTION. The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers

the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. On or before the last day of each month, persons delivering electricity shall make a return to the City for the preceding month and shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Article.

5. **REPORTS TO MUNICIPALITY.** On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in paragraph 1 and who is not otherwise exempted from paying such tax shall make a return to the City Treasurer for the preceding month stating:
 - (A) His Name
 - (B) His principal place of business
 - (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
 - (D) Amount of tax.
 - (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City of Henry, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

6. **CREDIT FOR OVERPAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited. No action to recover any amount of tax due under the provisions of this Article shall be commenced more than three (3) years after the due date of such amount.
7. **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction that Five Hundred Dollars (\$500.00) and in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2)

(Ord. #1625 04-16-12)

Sec. 15-9 to 15-20. Reserved.

ARTICLE II. WATER SYSTEM

DIVISION 1. GENERALLY

Sec. 15-21. Definitions.

Superintendent: wherever the term superintendent shall be used it shall refer to the superintendent of water works of the City of Henry. (Ord. #203, 11-17-1902)

Domestic use: the use of the city's water service upon or for premises used for a single-family residence. (Ord. #986, 3-9-1987)

Commercial use: that use of the city's water service upon or for any premises not exclusively used for residential purposes and shall include premises that do not meet the definition of "domestic" or "multi-family or apartment" use. (Ord. #986, 3-9-1987)

Multi-family or Apartment use: that use of the city's water service upon or for premises constructed to accommodate, or actually used for any residential purpose other than for one (1) single-family residence.

Territorial Use: that use of the city's water premises located completely within the corporate limits of the City of Henry.

Non-Territorial Use: that use of the city's water for premises not located completely within the corporate limits of the City of Henry.

Dwelling Unit: that use of the City's water for one (1) or more rooms constructed to accommodate or actually used for occupancy by one (1) family. (Ord. #986, 3-9-1987; 1050, 11-12-1990)

Sec. 15-22. Applications.

Applications for water must be directed to the Superintendent of the Water Works of the city by the owner of the premises for which water is sought to be supplied, or by his or her duly authorized agent. (Ord. #550, 5-9-1949)

Sec. 15-23. Permit

A special permit must be issued for each service connection, and each building, residence, business place, etc., and also for each branch connection when more than one (1) connection is made from one (1) service pipe. (Ord. #203, 11-17-1902)

Sec. 15-24. Installation of service.

- (a) The Superintendent or person authorized by him, will tap the main, inserting a stop cock which shall be known as the corporation cock, he shall connect the service pipe and lay it to within one foot (1') inside the curb line, or just outside of the lot line if in an alley and there set a stop cock, which shall be known as the service cock, together with the service cock box.
- (b) One (1) service pipe may be used to supply water to all buildings within the property lines of the lot providing that the service line is connected to a tap used for that lot only.

- (c) There shall be a stop and waste cock attached to every supply pipe at the point where it enters the building so as to permit the water being shut off if necessary.
- (d) All taps through one inch (1") must be approved by the superintendent. Larger taps must have council approval.
- (e) No connections with the mains shall be made during freezing weather unless approved by the superintendent. (Ord. #203, 11-17-1902)
- (f) The homeowner will be charged a tap fee (as per ordinance). The location and length of the pipe connections necessary shall be determined by the superintendent. The homeowner shall furnish his own pipe, dig his trench and connect onto the service box at his own cost. (Ord. #527, 5-1-1946)
- (g) No trench shall be dug in any street or alley of the city without written permission of the superintendent and under his supervision; and in case the city elects to push the water pipe through the ground, instead of permitting a trench to be dug, the applicant for water shall pay the charge for use of the pusher, as fixed by the superintendent. (Ord. #527, 5-1-1946)
- (h) The city will hereafter maintain the same service to present users of its water service, as the occasion therefore arises, as that provided in this section for new users. (Ord. #478, 5-6-1940)

Sec. 15-25. Right of city to inspect.

The superintendent or any person duly authorized by him, shall have authority to enter upon any premises supplied with water by the city at all reasonable times to read, repair or replace any water meter(s) placed thereon.

All plumbing work shall be done in accordance with standards as set forth in the city's plumbing code and all work underground shall be subject to inspection prior to being covered up. (Ord. #203, 11-17-1902; 613, 9-7-1954)

Sec. 15-26. Additional taps.

Application must be made and permission obtained for making any additional taps for any house, residence or business place beyond that for which permission may have already been granted.

(Ord. #203, 11-17-1902)

Sec. 15-27. Diversion of water; separate connections and meters.

- (a) It shall be unlawful for any person or other entity connected to the water works of the City of Henry to divert in any manner whatsoever any city water to any premises that has not been duly connected to the city water by the duly authorized personnel of the city.
- (b) A violation hereof shall be punishable by a fine not to exceed five hundred dollars (\$500.00) and each day that such diversion occurs shall be deemed to be a separate violation punishable as such. In addition, however, the city may collect an amount equal to the appropriate current charges that would have been made to the user for the quantity of water diverted.

- (c) In addition to the foregoing, the city may charge and collect any other late charges or fees authorized by [Sec. 15-3](#) and may enforce and collect the same in the manner provided by [Sec. 15-2](#) and [15-3](#).

(Ord. #1005, 10-26-1987; #1050, 11-12-1990)

Sec. 15-28. Water for building or construction.

All water consumed by a user in any initial construction or improvements undertaken on a premises served by the waterworks shall be charged at the rate specified for commercial, territorial use regardless of the anticipated or ultimate use of the premises at the conclusion of such construction or improvement.

The superintendent shall determine whether or not a meter shall be installed during such period of construction or improvements, but in any event the rate for said use of water during said period shall be not less than six dollars (\$6.00) per calendar month, or fraction thereof, commencing from the date of making the water connection or from the date of commencement of the use of said water, whichever shall first occur. After the date of the completion of said construction and improvements the rate charged shall be the rate as determined herein according to the intended or actual use of said construction or improvements.

(Ord. #613, 9-7-1954; #910, 2-8-1982; #1050, 11-12-1990)

Sec. 15-29. Right of city to restrict use.

(a) Water Conservation:

1. All types of watering lawns, flowers, trees, shrubs or other vegetation are not permitted between the hours of 10:00 am to 6:00 pm or between the hours of 10:00 pm to 6:00 am.
2. Individuals are permitted to water lawns, flowers, trees, shrubs or other vegetation of residences with even numbered street addresses (for example, 220, 858, etc.) on even numbered calendar days (for example, 2, 4, 6, 8 etc.) during permitted times;
3. Individuals are permitted to water lawns, flowers, trees, shrubs or other vegetation of residences with odd numbered street addresses (for example, 223, 857 etc.) on odd numbered calendar days (for example, 1, 3, 5, 7 etc.) during permitted times;
4. Residences on private wells or using water not drawn from the City water system are exempt from these restrictions.
5. All commercial, industrial and institutional properties follow the same restrictions as residences.
6. A first violation is subject to a minimum fine of \$100. Each subsequent violation increases by \$50 up to a maximum fine of \$750.

(b) Effective October 26, 1987, the City of Henry shall supply water service only within the corporate boundaries of the city excepting only those users who have previously connected to the works of the City of Henry water supply system.

(Ord. #1005, 10-26-1987; Ord. #1535, 6-25-07)

Sec. 15-30. Liability of city for damages, interruption of service, etc.

No claim shall be made against the city by reason of the breaking of any main or service pipe or cock or any other interruption of the supply by reason of breakage or stoppage for necessary repairs.

(Ord. #203, 11-17-1902)

Sec. 15-31. Fluoride.

Upon receiving the consent and approval of the Illinois Department of Public Health and until further direction of the City Council, the water department is hereby authorized and directed to provide the means and to proceed with the introduction of approximately one (1) part of fluorine as fluoride to every million (1,000,000) parts of water by weight being distributed in the water supply system of the City of Henry. (Ord. #692, 3-22-1960)

Sec. 15-32 to 15-40. Reserved.

DIVISION 2. RATES, BILLING AND COLLECTION

Sec. 15-41. Water rates.

- (a) Territorial Water Rates. There shall be and there are hereby established monthly water rates and/or charges for the use of service supplied by the waterworks system of the City of Henry to users located within the corporate limits based upon the following schedule. For purposes of determining the amount of water consumed per month under Subsections 4 and 5 of this Subsection, increments of five hundred (500) gallons or less shall be rounded down to the previous one thousand (1,000) gallons and increments of more than five hundred (500) gallons shall be rounded up to the next one thousand (1,000) gallons.
- (1) Domestic, Territorial use - unmetered:
The water rate for unmetered domestic, territorial use shall be ~~Eighteen~~ Thirty Dollars (~~\$18.00~~ \$30.00) per month, or fraction thereof.
 - (2) Commercial, territorial - unmetered:
The water rates for unmetered commercial, territorial use shall be ~~Twenty~~ Thirty-Two Dollars (~~\$20.00~~ \$32.00) per month, or fraction thereof.
 - (3) Multi-family or apartment, territorial use - unmetered:
Water rates for unmetered, multi-family or apartment territorial use shall be ~~Eighteen~~ Thirty Dollars (~~\$18.00~~ \$30.00) per dwelling unit per month, or fraction thereof.
 - (4) Domestic or commercial, territorial use - metered:
~~Water~~ Where water consumption per month is equal to or less than four thousand (4,000) gallons, water rates for metered domestic or commercial territorial use shall be ~~Eighteen~~ Thirty Dollars (~~\$18.00~~ \$30.00) per month, or fraction thereof, with an additional sum fixed according to the following schedule:
 - (i) ~~Where water consumption per month is equal to or less than four thousand (4,000) gallons, between four thousand (4,000) and eight~~

thousand (8,000) gallons, the sum of Two Dollars and Twenty-Five Cents (\$2.25) per one thousand (1,000) gallons, per month;

- (ii) Where water consumption per month is between ~~four~~ eight thousand (8,000) gallons and sixteen thousand (16,000) gallons, the sum of One Dollar and Forty-Six Cents (\$1.46) per one thousand (1,000) gallons, per month;
- (iii) Where water consumption per month exceeds sixteen thousand (16,000) gallons, the sum of One Dollar and One Cent (\$1.01) per one thousand (1,000) gallons, per month.

- (5) In the event any person, firm or corporation located within the corporate city limits desires to purchase water in bulk. The rate charged shall be Two Dollars and Twenty-Five Cents (\$2.25) per thousand (1,000) gallons, purchased from time to time.
- (6) Notwithstanding any provision in this Section to the contrary, the rate charged to or for the Henry Housing Authority located on Stoner Drive shall be ~~One Hundred Forty-Four~~ Two Hundred Forty Dollars (\$~~144.00~~240.00) per month, calculated at the rate of Eighteen ~~Thirty~~ Thirty Dollars (\$~~48.00~~30.00) per month for eight (8) buildings charged.

(b) Non-Territorial Water Rates:

There shall be and there are hereby established monthly water rates and/or charges for the use of service supplied by the waterworks system of the City of Henry to users located outside of the corporate limits based upon the following schedule. For purposes of determining the amount of water consumed per month under this Subsections 4 and 5 of this Subsection, increments of five hundred (500) gallons or less shall be rounded down to the previous one thousand (1,000) gallons and increments of more than five hundred (500) gallons shall be rounded up to the next one thousand (1,000) gallons.

- (1) Domestic, non-territorial use -unmetered:

The water rate for unmetered domestic, non-territorial use shall be ~~Twenty-Six~~ Thirty-Eight Dollars (\$~~26.00~~38.00) per month, or fraction thereof.

- (2) Commercial, non-territorial use - unmetered:

The water rates for unmetered commercial, non-territorial use shall be ~~Thirty~~ Forty-Two Dollars (\$~~30.00~~42.00) per month, or fraction thereof.

- (3) Multifamily or apartment, non-territorial use- unmetered: Water rates for unmetered multi-family or, apartment non-territorial use shall be ~~Twenty-Six~~ Thirty-Eight Dollars (\$~~26.00~~38.00) per dwelling unit per month, or fraction thereof.

- (4) Domestic or commercial, non-territorial use-metered:

~~Water~~ Where Water consumption per month is equal to or less than four thousand (4,000) gallons, water rates for metered domestic or commercial non-territorial use shall be ~~Twenty-Six~~ Thirty-Eight dollars (\$~~26.00~~38.00) per month, or fraction thereof, with an additional sum fixed according to the following schedule:

- (i) Where water consumption per month is ~~equal to or less than four thousand (4,000) gallons~~ between four thousand (4,000) gallons and eight thousand (8,000), the sum of Three Dollars and Thirty-Eight Cents (\$3.38) per one thousand (1,000) gallons, per month;
 - (ii) Where water consumption per month is between ~~four~~ eight thousand (4,000 8,000) gallons and sixteen thousand 16,000 gallons, the sum of Two Dollars and Nineteen Cents (\$2.19) per one thousand (1,000) gallons, per month;
 - (iii) Where water consumption per month exceeds sixteen thousand (16,000) gallons, the sum of One Dollar and Fifty-Two Cents (\$1.52) per one thousand (1,000) gallons, per month.
- (5) In the event any person, firm or corporation located outside of the corporate city limits desires to purchase water in bulk, the rate charged shall be Three Dollars and Thirty-Eight Cents (\$3.38) per one thousand (1,000) gallons, purchased from time to time.
- (c) All territorial and non-territorial rates shall be adjusted annually by the City Clerk to reflect the annual percentage increase in the Consumer Price Index for All Urban Consumers for the U.S. City Average for Water and Sewer and Trash Collection Services Not Seasonally Adjusted from the period of April of the previous year through March of the current year. Such adjustment will take place once the percentage increase for March of the current year has been released by the United States Department of Labor Bureau of Labor Statistics and shall take effect May 1 of the current year, commencing May 1, 2018. ~~Notwithstanding the above, the percentage increase to take effect on May 1, 2008 shall be calculated by averaging the monthly percentage increase in the Consumer Price Index for All Urban Consumers for the U.S. City Average for Water and Sewer and Trash Collection Services Not Seasonally Adjusted from the period of June 2007 through March 2008.~~

Ord. #1070, 5-25-1992; Ord. #1079-1-11-93; Ord. #1126-12-26-94; Ord. #1150-4/10/95; Ord. #1531 5-14-07) Ord #1703, 4-17-17

Sec. 15-42. Service charge discounts.

Any user desiring to make an annual payment in advance shall be entitled to a five dollar (\$5.00) discount on the total amount due, provided however, that this discount does not preclude the city from charging the user for any subsequent increases in rates applicable to that user, nor does the discount preclude the city from charging for quarterly consumption as set forth in Sec. 15-41.

(Ord. #1050, 11-12-1990)

Sec. 15-43. Fire hydrants.

No person except the superintendent or the fire department shall take water from any public or private hydrant, fireplug or other fixture connecting with the water mains except for fire purposes or for the use of the fire department in case of fire.

(Ord. #203, 11-17-1902)

Sec. 15-44. Connection fees.

(a) New Connection Fee. A charge of three four hundred dollars (~~\$300.00~~) (\$400.00) shall be made for any new water connection into or for any premises. Separate connections shall be made for separate users on any premises. Such fees shall be payable in full within thirty (30) days of the billing therefore by the city.

If there are tap-ons in excess of one-inch (1") diameter dimension, the fee will be fixed in an amount not less than five hundred dollars (\$500.00) and shall require special permission from the city council with the charge being individually computed and determined.

Each apartment shall be charged tap connection and charged separately for water usage. ~~Any and all connection fees may be enforced or collected in the same manner as provided in~~ Sec. 15-3.

(b) Reconnection Fee. A reconnection fee of fifty dollars (\$50.00) shall apply to the reconnection of water services to any property following a temporary disconnection requested by a user due to an absence from or vacancy of the premises for an extended period of time.

(c) Any and all connection fees may be enforced or collected in the same manner as provided in Section 15-3 of this Code.

(Ord. #910, 2-8-1982, #1050, 11-12-1990, Ord. #1628, 04-16-12 Ord. #1703, 4-17-17)

Sec. 15-45. Charges for special services.

A charge consisting of the total of the following amounts:

- (a) ~~Forty-five~~ Thirty-five Dollars (~~\$45.00~~ 35.00) per month for each month or part thereof that service is disconnected; and
- (b) a ~~Twenty-five Dollar~~ (~~\$25.00~~) Fifty Dollar (\$50.00) reconnection fee shall be paid for reconnection of water service when water user voluntarily requests water be discontinued, provided however, that this charge shall not be made when the request for the disconnection is made in order to effect repairs to the water system of the owner if the request for reconnection is made within a period of one (1) week from the date of the turn off.

(Ord.#613,9-7-1954;#910,2-8-1982;#1050,11-12-1990;#1261, 10-14-96; #1316, 10-26-98; Ord. 1531, 5-14-07, Ord. #1628, 04-16-12, Ord. #1689, 12-21-15)

Sec. 15-46. Disconnection of Water Service for Non-Payment.

- (a) Whenever charges for water service or any additional charges provided in this chapter are not paid within twenty (20) days after rendition of the bill therefore, the City Clerk's office is authorized and directed to issue written notification that such delinquency exists and that service shall be discontinued without further notice if such amounts are not paid within five (5) working days after the date such notice is mailed or, in the event of personal service, delivered. It shall be the duty of the superintendent of public works to secure copies of all delinquent notices from the City Clerk's office each month and to disconnect service to such delinquent user or users at the end of the five (5) working day period if the delinquent amounts are not paid. All notifications required in this Section shall be in writing and shall be served on the person who applied for water service at the location in question or

said notification may be served on the person paying real estate taxes on the property in question in the last preceding year in which real estate taxes were paid. Such notices may be served in the following manner:

1. By personal service, or
 2. With respect to the application for water service by regular mail addressed to such applicant at the address last known to the City Clerk's office; or
 3. With respect to the person paying real estate taxes in the last preceding year, by regular mail at the address at which the bill for such taxes was mailed.
- (b) Water service, which has been disconnected for nonpayment, shall not be restored until:
1. All delinquent charges for water service and/or wastewater service are paid in full;
 2. A fee of ~~twenty-five (\$25.00)~~ Fifty Dollars (\$50.00) is paid to the City for reconnection.
- (c) Any such notice required by this Section may be combined with a notice for failure to pay water service charges.

(Ord. #1425, 3-25-2002, Ord. #1628, 04-16-12)

Sec. 15-47. Partial Payments.

- (a) The City Clerk's office shall not accept partial payments from any customer who so requests prior to termination. However, it is the policy of the City, upon the request of a customer or user, to seek to negotiate a partial payment schedule with the customer or user. ~~if the request was received prior to the issuance of disconnect notice.~~ The amount of the partial payment required shall be determined pursuant to negotiation between the superintendent and the officials of the water and sewer committee. It lies in the sole discretion of the ~~commissioners~~ Committee to accept or reject partial payment arrangements.
- (b) After a payment schedule has been arranged, the City Clerk's Office shall include a notation on subsequent monthly bills indicating the amount of the arrearage due pursuant to the payment schedule as well as the amount of current billing. The City Clerk's office shall also prepare a payment schedule agreement, which shall be executed by the customer or user and the City Clerk or the Deputy City Clerk. The customer shall receive a copy of the agreement and the agreement shall state:
1. The amount of the partial payment required each month.
 2. The obligation of the customer or user to make the partial payment by the twentieth of each month.
 3. The total amount of the arrearage on which the partial payment shall be made.
 4. That if the customer or user fails to make any partial payment when due or fails to notify the department in writing of a substantial change in circumstances, then termination may occur any date after the twentieth of the month. (Ord.#1316,10-26-98, Ord. #1628, 04-16-12)

Sec. 15-48 to 15-52. Reserved.

DIVISION 3. WATER EMERGENCY

Sec. 15-53. Declaration.

- (a) At any time when the water supply/usage of the city water system reaches dangerous levels so as to result in a "state of emergency" requiring the immediate imposition of the restrictions following regarding water usage, the mayor may declare a "state of emergency" to exist, by signing under oath, a statement finding that such standards for the emergency have been met, setting forth facts to substantiate such findings, describing the nature of the emergency, and declaring that a "state of emergency" exists in which case all of the restrictions listed below shall be immediately effective as of the date of filing of such declaration with the city clerk of the City of Henry.
- (b) The mayor shall cause notice to be given of the calling of a "state of emergency" and the time at which he signed the declaration by every and all available means reasonably known to him at the time of calling such a "state of emergency".
- (c) After declaring a "state of emergency" the mayor may declare the "state of emergency" at an end by giving written notice to that effect to the city clerk, but in no event shall a "state of emergency" declared to exist extend beyond the adjournment of the first regular meeting of the City Council after the "state of emergency" is declared.
- (d) When a "state of emergency" is declared, the following restrictions on water usage will be followed:

No user of the city water system shall utilize city water to soak, spray or in any other manner fall upon residential or commercial lawns. However, notwithstanding this, watering by hand of gardens, trees and shrubs shall be permitted.
- (e) Any violation of the above restrictions shall result in the superintendent or his duly authorized representative disconnecting the violator's water service and the water service shall not be resumed until such time as an one hundred dollars (\$100.00) "turn on" fee is paid to the City of Henry. Notwithstanding the above, one (1) oral warning prior to disconnection of service may be given at the discretion of the superintendent. (Ord. #1018, 6-27-1988)

Sec. 15-54 to 15-60. Reserved.

DIVISION 4. CROSS-CONNECTIONS

Sec. 15-61. Definitions.

Backflow shall mean water of questionable quality, wastes or other contaminants entering a public water supply system due to a reversal of flow. "Back siphonage" is one (1) type of backflow.

Cross-connection shall mean a connection or arrangement of piping or appurtenances in which a backflow could occur.

Safe air gap shall mean the minimum distance of a water inlet or opening above the maximum high water level or overflow rim in a fixture, device or container to which public water is furnished

which shall be at least two (2) times the inside diameter of the water inlet pipe; but shall not be less than one inch (1") and need not be more than twelve inches (12").

Secondary water supply shall mean a water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

Submerged inlet shall mean a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

Water utility shall mean the City of Henry Waterworks or Water Department. (Ord. #1024, 12-12-1988)

Sec. 15-62. Compliance with existing laws.

A connection with a public water supply system shall comply with the existing laws, rules and regulations, the Illinois State Plumbing Code, and the provisions of the Code of the city. (Ord. #1024, 12-12-1988)

Sec. 15-63. Cross-connections prohibited.

Cross-connection of the public water supply system and any other water supply system or source including but not limited to the following are prohibited:

- (a) Between a public water supply system and a secondary water supply.
- (b) By submerged inlet.
- (c) Between a lawn sprinkling system and the public water supply system.
- (d) Between a public water supply system and piping which may contain sanitary waste or chemical contaminants.
- (e) Between a public water supply system and piping immersed in a tank or vessel which may contain a contaminant.

(Ord. #1024, 12-12-1988)

Sec. 15-64. Local cross-connection control program.

The city shall develop a comprehensive control program for the elimination and prevention of all cross-connections, and removal of all existing cross-connections and prevention of all future cross-connections.

(Ord. #1024, 12-12-1988)

Sec. 15-65. Corrections and protective devices.

Any user of the water supply system shall obtain written approval from the superintendent for any proposed corrective action or installation of any protective device before using or installing it. The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install equipment. If the cross-connection has not been removed within the time specified, the city shall physically separate the water supply from the on-site piping system in such manner that the two (2) systems cannot be connected by any unauthorized person.

(Ord. #1024, 12-12-1988; 1050, 11-12-1990)

Sec. 15-66. Piping identification.

When a secondary water source is used in addition to the public water supply, the public water supply and secondary water piping shall be identified by distinguishing colors or tags and shall be so maintained that each pipe may be traced readily in its entirety. It will be necessary to protect the water supply system and the service connections in a manner acceptable to the superintendent. (Ord. #1024, 12-12-1988; 1050, 11-12-1990)

Sec. 15-67. Private water storage tanks.

A private water storage tank supplied from the water supply system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.

(Ord. #1024, 12-12-1988)

Sec. 15-68. Elimination of existing cross-connections.

The city, through the superintendent, shall implement its control program and continue the same and proceed as expeditiously as possible to eliminate any cross-connections. The expenses of such elimination shall be and remain the liability of those parties as identified in [Sec. 15-2](#). Expenses may be collected and enforced pursuant to the provisions of Sec. 15-3. (Ord. #1024, 12-12-1988; #1050, 11-12-1990)

Sec. 15-69. Survey.

The water department or any representatives thereof shall have the authority to inspect any premises to determine the presence of an existing cross-connection and shall have the authority to enter upon such premises and to effect the removal of such cross-connection. (Ord. #1028, 2-27-1989; #1050, 11-12-1990)

Sec. 15-70. Discontinuance of water service.

The water department is hereby authorized to discontinue water service provided that the parties liable for the expense and removing the cross-connection have been provided not less than a seven (7) day written notice of the city's intention to terminate service. Notification required in this section shall be in writing and served on the person who applied for water service at the location in question or to the last known occupant of the premises. Water service to such property shall not be restored until such cross-connection has been eliminated and a reconnection fee in the amount of One Hundred Dollars (\$100.00) is paid. (Ord. #1028, 2-27-1989; #1050, 11-12-1990; Ord. #1261, 10-14-96)

Sec. 15-71 to 15-80. Reserved.

ARTICLE III. STORM WATER DRAINAGE SYSTEMS

Sec. 15-81. Connection of sewers.

- (a) It shall be unlawful for any person, firm, 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 of Henry.

- (b) Any person, firm, or corporation violating this section shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

(Ord. #831, 2-24-1975)

Sec. 15-82. Discharge of sanitary sewage.

- (a) The storm sewers and storm drains within the City of Henry shall be used only to discharge storm water. The discharge of sanitary sewage, or industrial wastewater or any other polluting substance into any storm sewers, storm water drain, ditch or inlet constructed as a part of Federal aid Route 63 (marked Illinois Route 29) in the City of Henry is prohibited.
- (b) Any violation of this section shall be punishable by a fine of not less than one hundred fifty dollars (\$150.00) nor more than five hundred dollars (\$500.00), and each day after any conviction for the violation of this section shall be considered as a separate offense so long as the same shall continue.

(Ord. #949, 6-10-1985)

Sec. 15-83-15-90. Reserved.

ARTICLE IV. SEWER USE ORDINANCE

This Ordinance regulates the use of public and private sewers and drains, ~~discharge of septage into the public sewerage system,~~ and the discharge of storm waters and ~~wastewaters~~ into the public sewerage system within the City of Henry. The public sewer system of the City of Henry shall include both sanitary sewers and storm water sewers. ~~† This Ordinance provides for and explains the method used for levying and collecting storm water and wastewater treatment service charges, sets uniform requirements for discharges into the treatment public sewer system, and enables the City to comply with administrative provisions, and other discharge criteria which are required or authorized by the State of Illinois or Federal law. Its intent is to derive the maximum public benefit by regulating the characteristics of wastewater discharged into the Henry sewerage system.~~

This Ordinance provides a means for determining storm water, wastewater and septage volumes, constituents and characteristics, the setting of charges and fees, and the issuing of permits to certain users. Revenues derived from the application of this Ordinance shall be used to defray the costs of operating and maintaining ~~adequate~~ storm water and wastewater collection and treatment systems and to provide sufficient funds for capital outlay, debt service costs and capital improvements. The charges and fees herein have been established pursuant to requirement of the Illinois Statues. This Ordinance shall supersede any previous Ordinance, Rules or Regulations; and shall repeal all parts thereof that may be inconsistent with this Ordinance. If there is any conflict between this Ordinance and any applicable Statute, the State Statute shall be controlling.

DIVISION 1- GENERAL

Sec. 15-91. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Administrator means the Administrator of the U.S. Environmental Protection Agency.

Ammonia Nitrogen (NH₃-N). One of the oxidation states of nitrogen, in which nitrogen is combined with hydrogen in molecular form as NH₃ or in ionized form as NH₄⁺. Quantitative determination of Ammonia Nitrogen shall be made in accordance with procedures set forth in "Standard Methods".

Approving Authority shall mean the City council of the City of Henry, or its duly authorized deputy, agent or representative, which shall include, but not be limited to, the Plumbing Inspector and the City of Henry Wastewater Treatment Plant personnel.

Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at 20 degrees Centigrade, expressed as milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in "Standard Methods".

Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipe inside the walls of the building and conveys it to the building sewer, beginning approximately five (5) feet (1.5 meters) outside the inner face of the building wall.

Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection or lateral.

Except as provided in this Ordinance, building sewers located outside of the public right-of-way or easements, shall not be subject to the jurisdiction of the City of Henry and the City shall not be responsible for the construction and/or maintenance of such sewers.

City shall mean the City of Henry, Illinois.

~~**Combined Sewer** shall mean any sewer intended to serve as a sanitary sewer and a storm sewer.~~

Commercial User shall mean any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of construction, wholesale or retail trade, finance, insurance, real estate or services.

Composite Sample (24 Hours) shall be the combination of individual samples taken at intervals of not more than one hour.

Compatible Pollutant means biochemical oxygen demand, suspended solids, ammonia nitrogen pH, or fecal chloroform bacteria, plus additional pollutants identified in the NPDES permit for the publicly owned treatment works receiving the pollutants if such works was designed to treat such additional pollutants, and in part does not remove such pollutants to a substantial degree.

Control Manhole shall mean a structure located on a site from which wastewater of greater than normal domestic strength is discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Approving Authority and Owner to obtain a representative sample and/or measure discharges.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Effluent Criteria are defined in any applicable NPDES permit.

Federal Act means the Federal Clean Water Act (33 U.S.C. 466 et. seq.) as amended (Pub. L. 95-217).

Fixed Charge shall mean the portion of the sewerage service charge based upon the number of the customer's connections to the wastewater works and the size of the customer's water meters.

Fixed charges shall recover the cost of debt retirement and associated reserves and depreciation associated with the construction, erection, modification or rehabilitation of the wastewater works. Fixed charges may also include operation costs for customer billing, administrative costs and insurance costs.

Floatable Oil is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Flow Proportional Sample shall mean sample taken that is proportional to the volume of flow during the sampling period.

Garbage shall mean the residue from the preparation, cooking and dispensing of food, and from the handling, storage, and sale of food products and produce.

Ground Garbage shall mean the residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half (%) inch in any dimension.

Ground Water shall mean water which is contained in or flows through the ground.

Illinois State Plumbing Code shall mean the code and appendices adopted May 16, 1986 by the Illinois Department of Public Health and any subsequent amendments thereto under the "Illinois Plumbing Code Law". All pertinent parts or sections of said code are adopted and made part of this ordinance as through those parts or sections were fully set out herein.

Incompatible Pollutant means any pollutant that is not a compatible pollutant.

Industrial User shall mean any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of manufacturing, dairy products processing, meat processing, other food and drink products, painting or finishing operations, transportation, communications or utilities, mining, agriculture, forestry or fishing.

Industrial Waste. Any trade or process waste as distinct from segregated domestic wastes or wastes from sanitary conveniences.

Intercepting Sewer A sewer whose primary purpose is to convey sewage from a collection system or systems to a wastewater treatment plant. Size of the sewer is not a factor.

Major Contributing Industry shall mean an industrial user of the publicly owned treatment works that: (a) has a flow of 50,000 gallons or more per average work day; or (b) has a flow greater than ten percent of the flow carried by the municipal system receiving the waste; or (c) has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the Federal Act; or (d) is found by the permit issuant authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

Milligrams Per Liter or mg/l shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

Natural Outlet shall mean any outlet, including storm sewers ~~and combined sewer overflows,~~ into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Normal Domestic Sewage shall mean sanitary sewage resulting from the range of normal domestic activities, in which BOD and SS concentrations do not exceed normal concentration of (1) a five day, 20 degree C, BOD of not more than 250 mg/l; (2) a suspended solids content of not more than 300 mg/l.

NPDES Permit means any permit or equivalent document or requirements issued by the Administrator or where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

Owner shall mean the person or persons who has legal responsibility for building or property.

Person shall mean any and all persons including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration. Neutral water, for example, has a pH value of 7 and a hydrogen concentration of 10^{-7} .

Plumbing Inspector shall mean the authorized representative of the common council of the City of Henry whose responsibility it is to review building sewer connection applications, issue connection permits, and inspect new or existing building sewers and enforcing city requirements as directed by the city.

Population Equivalent is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 80 gallons of sewage per day, containing 15 lbs of BOD and 20 lbs of suspended solids.

ppm shall mean parts per million by weight.

Pretreatment shall mean an arrangement of devices and structures, for the preliminary treatment or processing of wastewater required to render such wastes acceptable for admission to the public sewers.

Private Sewer shall mean any sewer outside of a public right of way or public easement. Except as provided in this Ordinance, a private sewer shall not be subject to the jurisdiction of the City of Henry and the City of Henry shall not be responsible for the construction and/or maintenance of such sewer.

Public Sewer shall mean any storm or sanitary sewer provided by or subject to the jurisdiction of the City of Henry. It shall also include sewers within or outside the City of Henry boundaries that serve one or more persons and ultimately discharge into the City of Henry sanitary sewer system, even though those sewers may not have been constructed with the City of Henry funds. Public sewer shall not include private sewers or building sewers.

Public User shall mean any user whose premises are used for the conduct of the legislative, judicial, administrative, or regulatory activities of federal, state, local or international units of government; government-owned educational facilities; government-owned health facilities; or government-owned recreational facilities. This does not include government-owned or operated business establishments.

Replacement shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential Equivalent User (REU) is an average residential household contributing 200 gallons/day (80 gallons per person) of wastewater with CBOD and suspended solids loading of not more than 375 lb. per day and 50 lb. per day, respectively.

Residential User shall mean all dwelling units such as houses, mobile homes, apartments, or permanent multi-family dwellings discharging sanitary wastes.

Sanitary Sewage shall mean a combination of water carried wastes from residences, business buildings, institutions and industrial plants (other than industrial wastes from such plants), together with such ground, surface and storm waters as may be present.

Sanitary Sewer shall mean a sewer that carries sanitary and industrial water-carried wastes from residents, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm and surface water that are not admitted intentionally.

Segregated Domestic Wastes may be defined as wastes from nonresidential sources resulting from normal domestic activities. These activities are distinguished from industrial, trade, and/or process discharge wastes.

Sewage is the spent water of a community. The preferred term is "wastewater".

Sewage System shall mean the composite network of underground conduits carrying wastewater and appurtenances incidental thereto (i.e., manholes, lift stations, service lateral).

Sewer shall mean a pipe or conduit that carries wastewater or drainage water.

Sewer Service Charge shall mean a charge levied on users of the storm water and wastewater collection and treatment facilities for capital related expenses as well as operation, and maintenance (including replacement) of such works.

"**Shall**" is mandatory; "**May**" is permissive.

Slug shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and shall adversely affect the system and/or performance of the wastewater treatment works.

Standard Methods shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Associations.

Storm Drain (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

Storm Sewer shall mean a sewer that carries storm, surface and groundwater drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

Storm Water Runoff ~~shall mean that portion of the rainfall that is drained into the sewers~~ shall mean that portion of rain, snow, sleet, or other precipitation that flows over the surface of the ground, streets, and structures into public sewers or drainage channels.

Surcharge shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than the normal domestic sewage concentration values established in [Article IV Division I, Sec. 15-91](#) definition of normal domestic sewage.

Suspended Solids (SS) shall mean solids that either float on the surface of, or are in suspension in water, wastewater, or other liquid, and that are removable by laboratory filtering as prescribed in "Standard Methods" and are referred to as non-filterable residue.

Toxic Discharges means discharge containing a substance or mixture of substances which, through sufficient exposure, or ingestion, inhalation, or assimilation by an organism, either directly from the environment or indirectly by ingestion through the food chain, will, on the basis of information available to the Department, cause death, disease, behavioral or immunological abnormalities, cancer, genetic mutation, or developmental or physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.

Unpolluted Water is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Useful Life shall mean the estimated period during which the collection system and/or treatment works will be operated.

User Charge System is that system which generates operation, maintenance and replacement (O M&R) revenues equitably for providing each user class with services.

User Classes are categories of users having similar flows and waste water characteristics; that is, levels of biochemical oxygen demand, suspended solids, phosphorus, ammonia nitrogen, etc. For the purposes of this ordinance, there shall be four user classes: residential, commercial, industrial, and public authority.

Variable Charge shall mean a sewer use charge based upon the volume of normal strength wastewater to be transported.

Wastewater shall mean the spent water of a community. From the standpoint of source, it may be combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

Wastewater Facilities shall mean the treatment works defined in below exclusive of interceptor sewers, and wastewater collection systems.

Wastewater Treatment Works shall mean an arrangement of devices and structures for the storage, treatment, recycling, and reclamation of wastewater, liquid industrial wastes, and sludge. These systems include interceptor sewers, outfall sewers, wastewater collection systems, individual systems, pumping, power and other equipment and their appurtenances; any works that are an integral part of the treatment process or are used for ultimate disposal of residues from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal or industrial wastes.

Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

Water Quality Standards are defined in the Water Pollution Control Regulations of Illinois.

Sec. 15-92. Unlawful Deposits.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

Sec. 15-93. Discharge To Watercourses Prohibited.

It shall be unlawful to discharge to any natural outlet or watercourse within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

Sec. 15-94. Connection Drainage Facilities.

Except as permitted or hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of untreated sewage.

It shall be unlawful for any person 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 HW drainage purposes in the City.

Sec. 15-95. Use Of Public Sanitary Sewers Required.

The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right-of-way in which there is located available public sanitary sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within one hundred twenty (120) days after date upon which the City Council for the City of Henry certifies that said sanitary sewers are completed and ready for use, provided that said public sewer available as defined below.

Available public sanitary sewer shall mean sanitary sewer within two hundred feet (200') of any property line describing the lot or tract in question, which discharge into the Henry Treatment Facility. Provided, however, that where a sanitary sewer lies within 200' of any property line describing the lot or tract in question but the building to be served lies more than 200' from the sanitary sewer, then such sanitary sewer shall not be considered an available sanitary sewer within the meaning of this section if the City Council determines by resolution that all the following conditions have been met:

1. The building will be connected to an alternative sewage disposal system which is constructed and operated in accordance with regulations adopted from time to time by the Marshall County Health Department, and
2. The proposed alternative sewage disposal system will not in the opinion of the City Engineer adversely affect public health, and
3. The estimated cost of attaching the building to be served to the closest sanitary sewer exceeds the cost of an alternative sewage disposal system by a factor of two (2).

DIVISION 2. BUILDING SEWERS AND CONNECTIONS

Sec. 15-96. Connection Permit Required.

No person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Plumbing Inspector. An application for a permit shall be submitted in writing to the City Clerk.

In every case of a proposed sewer connection, notice shall be given to the Approving Authority, specifying the time and place where the work is to commence. Such shall be in writing and given at least one full day prior to the commencement of the work.

Sec. 15-97. Sewer Contractors Registration.

Any person who desires to engage in or who shall hereafter at any time engage in the business of the construction, alternation or repair of any building sewers within the City shall, before commencing such work, make application to the City Clerk for registration as a sewer contractor and shall deliver to the Clerk his certificate of bond from one of two Sureties to be approved by the Council in the amount of ten thousand dollars (\$10,000), payable to the city.

In addition, the contractor shall provide to the City Clerk insurance certified verifying \$500,000 of Public Liability Insurance which name the City of Henry, its officers and employees, additional insureds with respect to any and all costs and liabilities for damage to persons or property by reason of or resulting directly or indirectly from the construction, alteration, maintenance, or repair by such person of any Building Sewer or any work or act of omission or commission incidental thereto. Upon approval of the said bond by the Council, the City Clerk shall forthwith issue to such applicant a certificate of registration to operate as a sewer contractor within the City. No registration shall be complete until the applicant pays to the City Clerk an annual registration fee of One Hundred Dollars (\$100.00). Registration shall be valid for one year from the date of issuance of the certificate and is not refundable. A sewer contractor shall, at all times, comply with all provisions of this ordinance and any street, alley, sidewalk, or pavement disturbed by him must be returned to and left in at least as good a condition as before the work was commenced.

An owner or occupant of a single-family residence or duplex dwelling shall not be considered a sewer contractor for the purposes of this Section.

Sec. 15-98. Standards.

All disposal or drainage by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

Sec. 15-99. Permit Application Written and Cost for Lateral Installation and Hook-up.

1. The permit application shall state the name of the person intended to have charge of the work, and shall be accompanied by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector. At a minimum, plans showing the nature and extent of the proposed work shall be submitted with the application.
2. Except in project areas where federal Community Development Block Grant funds and other low-income targeted intergovernmental revenues are used for sewer system improvements, the property owner shall be required to pay a tap fee to the City of Henry to defray the cost of installing sewer mains constructed after the effective date of this ordinance (except in areas where public improvements are financed by special assessment or special service areas).
3. Except as otherwise provided by the City Council ordinance on a site-specific basis or by this ordinance, an application fee of \$25.00 for each connection desired to the municipal sewage system shall be submitted with the application. This cost shall be

for the administrative expense of processing the application and one inspection by the Approving Authority. The owner shall pay the costs of any additional inspections that may be required for quality assurance.

4. The owner of any lot or parcel serviced by the City's public ~~sanitary~~ sewer shall pay the full amount of lateral installation fees and hook-up fees in every case of a proposed connection to the City's public sanitary or storm sewer. The lateral installation fees are as follows and are to be paid at the time the permit is granted:
 - a. For lateral installation in the back or side yard (not through a paved street), the fee is \$1,000.00. In the event that the lateral is longer than 15 feet and/or the installation is problematic, as determined by a representative of the Approving Authority, additional fees may be imposed by the Water and Sewer Committee of the City of Henry.
 - b. If the lateral is through a paved street, or at a location other than as set forth in a. above the fee is \$2,000.00. In the event that the lateral is longer than 35 feet and/or the installation is problematic, as determined by a representative of the Approving Authority, additional fees may be imposed by the Water and Sewer Committee of the City of Henry.

Regardless of the type of lateral installation, and in addition to the lateral installation fees, a hook-up fee of \$400.00 must be paid at the time the permit is issued.

All hook-up fees and lateral installation fees presume a maximum pipe size of 6 inches and customary residential usage. Greater pipe sizes or other uses will require individual analysis and review by a representative of the Approving Authority and may result in the assessment of additional fees.

5. No sewer installation permit shall be issued until after plans and specifications showing the proposed plumbing work have been submitted, reviewed and approved by the Approving Authority. If a plumbing permit is denied, the applicant shall submit revised plans and specifications. When it is found necessary to make any change in the plumbing from the plans and specifications on which a permit has been issued, amended plans and specifications shall be submitted to the Approving Authority for approval prior to making any change in the plumbing system.
6. Minor repairs which do not require changes in the piping to or from plumbing fixtures or involve the removal, replacement, installation or re-installation of any pipe or plumbing fixtures ~~and no plumbing permit is required~~ do not require a plumbing permit.
7. The Industrial or commercial user as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity.
8. Whenever any work for which a permit has been issued hereunder is not commenced within six (6) months after the issuance of said permit, or if the work is not satisfactorily completed after its commencement, such permit shall be considered as having expired and shall be null and void.

(Ord. #1421, 2-11-2002)

Sec. 15-100. Downstream Sewage Facilities.

A sewer installation permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump

stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently transport and treat the additional waste load.

Sec. 15-101. Cost To Be Borne By Owner.

1. Where it can be identified that a new sewer line must be oversized or upsized, beyond the minimum sizes required to serve residential customers and normal non-residential flows, to service a particular commercial or industrial facility, the owner(s) of such commercial or industrial facilities will be required to pay a fee equal to the extra capital cost directly attributable to that facility's waste flow prior to making connection.
2. Except in project areas where Federal Community Development Block Grant funds and other low-income targeted intergovernmental revenues are used for sewer system improvements the following is required:
 - a. All costs incident to the installation and connection of building sewers shall be born by the owner.
 - b. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
 - c. All equipment, material, and labor required for testing a plumbing system or any part thereof is the responsibility of the owner.
 - d. The maintenance of the building sewer and lateral to the point of connection to the municipal sewer system shall be the responsibility of the owner.
3. Streets and right-of-ways shall be restored in accordance with the City's street restoration requirements.
4. Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building shall be lifted by an approved means and discharged to the building sewer.

Sec. 15-102. Separate Sewers Required For Each New Building.

A separate and independent building sewer shall be provided for every new or upgraded building construction.

A variance may be requested from the City Council from this criterion. The request for variance shall include a description of the proposed new or modified system, the reason the variance is needed, and any plans necessary to adequately show the proposed system.

Sec. 15-103. Use Of Old Building Sewers.

Existing building sewers may be used in connection with newly constructed buildings only when they are found, on examination and test by the Plumbing Inspector, to meet all requirements of this ordinance and the Illinois Department of Public Health Plumbing code. Where necessary, metal banding will be used to join new PVC fitting to older clay or other existing pipe material.

Sec. 15-104. Conformance To Regulations Required.

The connection of a Building Sewer into the public sewer including, but not limited to:

1. the size, slope, alignment, materials of construction of a building sewer;
2. the methods to be used in excavating and placing of the pipe;
3. jointing, testing, and backfilling the trench;

shall all conform to the requirements of the Illinois plumbing code and any other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in Illinois shall apply.

Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation.

The ends of all pipes not to be connected immediately shall be securely stopped by a water tight plug of durable material manufactured for said purpose.

Sec. 15-105. Clearwater Connection Are Prohibited.

No person(s) shall discharge, or cause to be discharged, any storm water, surface water, groundwater, roof runoff, footing drainage, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters into any sanitary sewer.

Sanitary or domestic sewage may be taken to include basement floor drainage; however, this shall not include any storm or groundwater intentionally or knowingly conveyed to the basement floor, and from said basement floor to and into the sanitary sewer system. Sump pumps installed and used for this purpose are prohibited.

Sec. 15-106. Inspection And Tests.

1. Inspections
 - a. A plumbing system/sewer installation or any part thereof shall not be enclosed, covered or used until after such system has been inspected and approved and a certificate of approval has been issued by the Approving Authority. It is the responsibility of the holder of the plumbing permit to arrange for such inspection with the Approving Authority at least 24 hours before such inspection is to be made. Tests shall be made by the permit holder and observed by the Plumbing Inspector or other authorized representative of the City. Plumbing found not to be in compliance with the Plumbing Code or otherwise defective or unsafe shall not be approved. The use of a plumbing system not complying with the provision of the Plumbing Code or found to be defective or unsafe shall not be approved until such time as such plumbing system is brought into compliance with the Plumbing Code. The City reserves the right to disconnect any building sewer that is not in such compliance.
 - b. Roughed-in inspections shall be made when the plumbing is roughed-in and before fixtures are set. Plumbing work shall not be closed-in, concealed or covered until it has been inspected and approved by the Plumbing Inspector.
 - c. Upon completion of the plumbing work and before final approval is given, the Plumbing Inspector shall inspect the plumbing and observe the final tests of the plumbing system to insure compliance with the requirements of the Plumbing Code.

- d. A reinspection, at owners cost, is mandatory whenever a plumbing system is found not in compliance with the Plumbing Code. It is the responsibility of the plumbing permit holder to arrange for reinspection of the plumbing system by the Plumbing Inspector. Request for reinspection shall be made at least 24 hours before such inspection is to be made.
- e. All new, altered, extended, replaced or repaired plumbing shall be left uncovered and unconcealed until after it has been tested and approved. When plumbing work has been covered or concealed prior to being tested and approved, it shall be exposed for testing. It is the responsibility of the permit holder to expose plumbing for inspection purposes.

2. Testing of Plumbing System

New plumbing systems or systems which have been altered, extended or repaired shall be tested as prescribed in the Illinois Plumbing Code to disclose leaks and defects, except that testing may be waived in the following cases:

- a. In any case which does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping.
- b. In any case where plumbing equipment may be set up temporarily for exhibition purposes.

3. Defective Work

Defective work where there is reason to believe that the plumbing system is defective, it shall be subjected to tests, inspected, and any defects found shall be corrected. Defective work shall be corrected within ten (10) days following such inspection, or as the Plumbing Inspector may direct and the work shall be reinspected at owners cost.

Sec. 15-107. Protection From Public Hazard.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

Sec. 15-108. Sewer Main Extensions.

In addition to all other pertinent sections of this Ordinance, any person requesting an extension of the public sanitary sewer main may be responsible for all the following:

- 1. All costs and expenses incidental to the installation of a sewer main extension, including engineering and any fees associated with the connection or hookup to the sewer, shall be borne by the person requesting the extension. This person shall secure and furnish proof of an escrow account for the estimated amount of the total sewer costs as approved by the City. The account shall be so arranged and a special agreement executed between the person, the bank and the City to allow the latter to withdraw monthly amounts from the account sufficient to cover monthly payments to subcontractors under the contract with the City for the sewer installation. The amounts of monthly withdrawals, as determined by the City, shall be billed to the person requesting the extension and shall be due within ten (10) days of the date of billing.
- 2. Designs of any proposed sewer extension shall be performed by an engineering consultant selected by the Approving Authority. The resulting construction plans

and specifications shall be reviewed and approved by the Approving Authority prior to submittal to the Illinois Environmental Protection Agency (IEPA). All plans shall conform to the standards of the IEPA, and such additional requirements and standards that the Approving Authority may establish, and shall be prepared by a professional engineer registered to practice in the State of Illinois. Full time construction observation and contract administration shall be performed by the City's engineer.

3. The person requesting the sewer extension shall secure all required utility easements, the location and width of which will be determined by the City. The City will furnish blank easement forms to the person who will be responsible for the proper legal description of the easement parcel and for the proper execution of the easement by the grantor. All completed easements shall be submitted to the City, designated as the grantee for its review, and shall be recorded at the Marshall County Register of Deeds office by the City.
4. The person requesting the sewer extensions shall also execute any other special agreements deemed necessary by the Approving Authority.

DIVISION 3. PUBLIC SEWER USER RESTRICTIONS

Sec. 15-109. Discharge Prohibited Generally.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes (hereinafter prohibited substances), or additional waste if it appears likely in the opinion of the City that such wastes can harm either the sewers sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F), (65°C).
2. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
3. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
4. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
5. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage,

paunch manure, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

6. Any waters or wastes containing oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty degrees Fahrenheit (150°F), (0 and 65°C).
7. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of greater than three-fourths (3/4) horsepower (0.76 hp metric) shall be subject to the review and approval of the Plumbing Inspector.
8. Any wastes or waters having a pH in excess of 9.5.
9. Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the City in compliance with applicable State and Federal regulations.
10. Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.
11. Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Approving Authority, EPA or other Regulatory Agency for such materials.
12. Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Approving Authority, EPA, or other Regulatory Agency as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
13. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Approving Authority in compliance with applicable State or Federal regulations.
14. Any cyanide in excess of .05 mg/l at any time except as permitted by the Approving Authority in compliance with applicable State and Federal regulations.
15. Materials that exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.
16. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to

treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

Sec. 15-110. Discharge Of Unpolluted Waters To Sanitary Sewers Generally Prohibited.

No person shall discharge, or cause to be discharged, any storm water, surface water, groundwater roof runoff, subsurface drainage, non-contact cooling water, or unpolluted industrial process waters to any sanitary sewer except as hereinafter provided. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City and any appropriate Regulatory Agency. Industrial cooling water, unpolluted process waters, or non-content cooling waters, may be discharged with approval from the appropriate Regulatory Agency, to a storm sewer or natural outlet. If user can not discharge to a storm sewer, or other approved discharge point, Industrial cooling water, unpolluted process waters, or non-contact cooling water may be discharged with approval from the approving authority to a sanitary sewer. All costs for meter installation or piping modifications to the sanitary sewer shall be borne by the user. The Approving Authority will determine the location of the approved discharge point to the sanitary sewer.

Sec. 15-111. Control Of High Strength. Toxic Wastes Directed To Public Sewers.

1. Submission of Basic Data. Within three (3) months after passage of this Ordinance, establishments discharging industrial wastes into a public sewer shall prepare and file with the Approving Authority a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater treatment works.

Similarly, each establishment desiring to make a new connection to public sewer for the purpose of discharging industrial wastes shall prepare and file with the Approving Authority a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

2. Extension of Time. When it can be demonstrated that circumstances exist which would create an unreasonable burden on the establishment to comply with the time schedule imposed by [Sec. 15-114](#), a request for extension of time may be presented for consideration of the Approving Authority.

Sec. 15-112. High Strength Flow Or Toxic Discharges Subject To Review And Approval.

1. The admission into the public sewers of any of the following waters or wastes shall be subject to the review and approval of the Approving Authority:
 - a. Having a five-day biochemical oxygen demand greater than two hundred fifty (250) parts per million by weight; or
 - b. Containing any quantity of substances having the characteristics described in [Sec. 15-109](#); or
 - c. Having an average daily flow greater than two (2) percent of the average daily sewage flow of the City,
 - d. In violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto.

2. The Approving Authority may elect to:
 - a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewer;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of [Article IV, Division 9](#) of this ordinance.

3. The toxic pollutants subject to prohibition or regulation under this Article shall include, but need not be limited to, the list of toxic pollutants or combination of pollutants established by Section 307(a) of the Clean Water Act of 1977 and subsequent amendments. Effluent standards or prohibitions for discharge to the sanitary sewer shall also conform to the requirements of Section 307(a) and associated regulations.

Pretreatment standards for those pollutants which are determined not to be susceptible to treatment by the treatment works or which would interfere with the operation of such works shall conform to the requirements and associated regulations of Section 307(b) of the Clean Water Act of 1988 and subsequent amendments. The primary source for such regulations shall be 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution.

4. Where necessary in the opinion of the approving authority, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to two hundred-fifty (250) parts per million and the suspended solids to three hundred (300) parts per million by weight, or reduce objectionable characteristics or constituents to within the maximum limits for which [Sec. 15-109](#) provides, or control the quantities and rates of discharge of such waters or wastes.

If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the approving authority and the Illinois E.P.A. and subject to the requirements of all applicable codes, ordinances, and laws.

Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the approving authority and the Illinois E.P.A. and no construction of such facilities shall be commenced until approvals from both are obtained in writing. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

5. Each industry shall be required to notify the Approving Authority when changes in industry's processing might affect the characteristics of wastewater being treated by the City.

Sec. 15-113. Interceptors.

Grease, oil, sand interceptors shall be provided when, in the opinion of the Plumbing Inspector, they are necessary for the proper handling of liquid wastes containing grease in

excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Plumbing Inspector, and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at the owner's expense, in continuously efficient operation at all times.

Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 15-114. Monitoring Manholes And Locations.

Where required by the approving authority, the owner of a property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with approved plans. The plans detail the location and type of manhole, meter, flume and other appurtenances deemed necessary by the approving authority shall be submitted for review to the approving authority. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

The preferred location of the control manhole shall be outside of any building structure so as to be more accessible. If locks are place on the entrance to the manhole structure, the owner shall provide the approving authority with a key.

1. Where required by the Approving Authority, other users who discharge or could potentially discharge greater than normal domestic strength wastewater to the public sewer shall provide a monitoring location, sampling equipment, or other appurtenances that are deemed necessary by the Approving Authority to characterize the quantity and strength of the wastewater discharged to the public sewers. The required flow monitoring equipment and other appurtenances specified by the Approving Authority shall be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times.
2. A maintenance schedule of flow monitoring and sampling equipment must be accepted by the Approving Authority. All maintenance and equipment repair shall be preformed within a reasonable time as determined by the Approving Authority. Failure to perform maintenance within a reasonable time shall be subject to the same forfeiture and procedural provisions as applied to violations under this sewer use ordinance. Prior to completion of satisfactory repairs, and for any preceding period during which the Approving Authority determines there existed a malfunction, error, or bias in the metering and sampling, the volume and strength of the wastewater for that period of discharge shall be based on historical data and a reasonable engineering estimate of flow and strength, taking into account materials and known production variations, etc. All such factors shall be determined by the Approving Authority in consultation with the discharger. If prolonged periods of breakdown are anticipated, approved interim measuring and sampling needs shall be provided, and used to determine the volume and strength of wastewater.

Following approval and installation of permanent or temporary metering or sampling equipment, such equipment shall not be removed without the consent of the Approving Authority.

Sec. 15-115. Tests.

The owner of any property serviced by a building sewer carrying industrial wastes, or other users who discharge or could potentially discharge greater than normal domestic strength wastewater to the public sewer shall provide, where required by the Approving Authority, laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this ordinance and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the Approving Authority or regulatory agency and shall be such that the wastewater can be adequately characterized so that fair and equitable user charges may be assessed to the owner and to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the Approving Authority at such times and in such manner as prescribed by the Approving Authority. The owner shall bear the expense of all measurements, analyses, and reporting required by the Approving Authority. At such times as deemed necessary, the Approving Authority reserves the right to take measurements and samples for analysis by an outside laboratory service.

All measurements, test, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of IEPA Division of laboratories Manual of Laboratory Methods, and shall be determined at the monitoring manhole or sampling location as specified in [Sec. 15-114](#) of this article or other approved location. In the event that no special manhole has been required, the meter manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD suspended solids and ammonia nitrogen analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

Sec. 15-116. Septic Tank And Holding Tank Waste Disposal.

No person in the business of gathering and disposing of septic tank sludge or holding tank sewage shall transfer such material into any portion of the City of Henry treatment works unless a permit for disposal has been first obtained from the City. Written application for this permit shall be made to the City and shall state the name and address of the applicant; the number of its disposal units; and the make, model and license number of each unit. Permits shall be nontransferable. The permit may be obtained upon payment of a fee of \$100.00 per calendar year for each licensed hauler or contractor. The time and place of disposal will be designated by the City. The City may impose such conditions, as it deems necessary, on any permit granted. Each vehicle will need to have a visible permit permanently displayed at least 2" in height.

Charges for disposal shall be established in accordance with the City of Henry User Charge System. Bills shall be mailed on a monthly basis and if payments are not received in 30 days thereof, disposal privileges shall be suspended.

Any person or party disposing of septic tank or holding sludge agrees to carry public liability insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000) to protect any and all persons or property from injury and/or damage caused in any way or manner by an act, or failure to act, by any of his employees. Said insurance shall name the City, its representatives and employees as additionally insured. The person(s) shall furnish a certificate certifying such insurance to be in full force and effect. All materials discharged to the treatment works shall be of domestic origin only and septic tank wastes shall be segregated from holding tank wastes. The discharger shall also certify that he will comply with the provisions of any and all applicable provisions of the City and will not deposit or drain any gasoline, oil, acid, alkali, grease, rags, waste, volatile or inflammable liquids, or other deleterious substances into any manhole nor allow any earth, sand, or other solid material to pass into any part of the treatment works.

The person(s) or party disposing waste shall furnish bond to the City in the amount of \$10,000.00 to guarantee performance. Said performance bond shall be delivered to the City prior to the issuance of the permit hereunder.

Any disposal of septic tank or holding tank wastes by any person or corporation who has not paid the license fee in full or who discharges such wastes without notifying the City or at times other than as designated by the City Hall be in violation of this Ordinance and be subject to the penalty provisions of this ordinance.

Representative samples of wastewater from both non-Industrial Users and Industrial Users discharged by a wastewater hauler shall comply with the provisions of this Ordinance. Wastewater from a non-industrial user shall not be mixed with that from an industrial user. Vehicles hauling wastewater from an industrial user shall not be used to haul wastewater from a non-industrial user for disposal at the treatment facility.

The source or sources of all liquid wastes being hauled to the treatment facility shall be properly documented using the manifest system. Each load delivered to the septage receiving station at the treatment facility must have the wastewater hauler manifest properly filled out by the treatment facility operator on duty and signed by the wastewater hauler.

All procedures for discharging, for cleanliness and for general sanitary operation on the treatment plant property as prescribed by the treatment facility shall be strictly adhered to by all wastewater haulers delivering wastewater to the septage receiving station at the treatment facility.

Violation of any of these provisions shall subject the discharger to immediate suspension and/or revocation of his disposal privileges and may make him liable to the penalty provision of this Ordinance. The City also retains the right to suspend or revoke any disposal privileges upon 30 days notice if, in the opinion of the Approving Authority, the acceptance of such wastewater would cause the treatment works to violate the provisions of its discharge permit due to the volume or character of the wastes.

Sec. 15-117. Special Agreements.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with this ordinance, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System.

DIVISION 4. PRIVATE SEWAGE DISPOSAL

Sec. 15-118. Use.

Where a public sanitary sewer is not available under the provisions of Division 2, [Sec. 15-95](#), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Division 4.

Sec. 15-119. Permit.

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the City. The application for such a permit shall contain the name and address of the person or persons intended to have responsibility of the work and a written description of the system, explanation of flows and loading to the private system and any plans, specifications and other information necessary to explain the proposed system and discharge location or other information as deemed necessary by the City. A permit and inspection fee of \$25.00 shall be paid to the City at the time the application is filed.

Sec. 15-120. Inspection.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Approving Authority. The Plumbing Inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of written notice by the City.

Sec. 15-121. Approval.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Sec. 15-122. Connection To Public Sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Div. 4, [Sec. 15-118](#), a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge and filled with clean bank-run sand, gravel or dirt.

Sec. 15-123. Owner Shall Bear Expense.

The owner shall operate, maintain, and obtain any approvals, easements or other requirements necessary to own and operate the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

Sec. 15-124. Additional Requirements.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by any other governmental regulatory body.

DIVISION 5. PROTECTION OF SEWAGE WORKS FROM DAMAGE

Sec. 15-125. Tampering.

No person shall maliciously, willfully, or negligently break, damage, or tamper with any structure, appurtenance, or equipment that is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of damage to public property.

DIVISION 6. POWERS AND AUTHORITY OF INSPECTORS

Sec. 15-126. Right Of Entry.

Any duly authorized employee of the Approving Authority, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance.

Any duly authorized representative of the Approving Authority shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Inspectors shall make all inspections of plumbing which may be necessary to ensure compliance with ordinances, and for this purpose inspectors may enter any premises where plumbing work is being done at any reasonable hour. Building access may be refused to the inspector, but the City is not obligated to issue permits where inspection access is denied. The inspector shall promptly notify owner of the results of all inspections. (1968 Code, 2.602)

Sec. 15-127. Easements.

Any duly authorized representative of the Approving Authority bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 15-128. Indemnification.

While performing the necessary work on private properties referred to in Division 6, Sec. 15-126 and Sec. 15-127 above, the City of Henry or duly authorized employees of the City of Henry, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency shall observe all safety rules applicable to the premises established by the property owner or operator and the property owner or operator shall be held harmless for injury or death to the City of Henry employees and the City of Henry shall indemnify the property owner or operator against liability claims and demands for personal injury or property damage asserted against the property owner or operator and growing out of the gauging and sampling operating, except as such may be caused by negligence or failure of the property owner or operator to maintain conditions as required in [Sec. 15-114](#).

DIVISION 7. PENALTIES

Sec. 15-129. Violations Of Ordinance.

Any person found to be violating any provision of this ordinance except [Division 5](#) shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The City may revoke any permit for sewage disposal as a result as a result of any violation of any provision of this ordinance.

Sec. 15-130. Penalties.

Any person who shall continue any violation beyond the time limit provided for in Div. 7, Section 15-129, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not less than \$25 per day and not exceeding \$500 per day. Each day in which any such violation shall continue shall be deemed a separate offense.

These charges shall be over and above any charges for violations by other regulatory bodies such as the Illinois E.P.A. or other charges noted in this Sewer Use and User Charge Ordinance, whether willful or accidental.

Sec. 15-131. Violations.

Any person violating any of the provisions of this ordinance shall become liable to the City for any expenses, loss, or damage incurred by the City in remedying the violation.

In addition to any other penalty or action provided or authorized hereby, the City may institute any appropriate action or proceeding to prevent any violation hereof, to restrain, correct, or abate such violation.

DIVISION 8. APPEALS

Sec. 15-132. Appeals Procedures.

Any user, permit applicant, or permit holder affected by any decision, action or determination, including cease and desist orders, made by the Approving Authority interpreting or implementing the provisions of the Ordinance or in any permit issued herein, may file with the Approving Authority a written for reconsideration within ten (10) days setting forth in detail the facts supporting a user's request for reconsideration.

The City shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing fifteen (15) days of receipt of request.

DIVISION 9. BASIS FOR SANITARY SEWER SERVICE CHARGES

Sec. 15-133. Sanitary Sewer Users Served By Water Utility Water Meters.

For each lot, parcel of land, building or premises having a connection with the ~~wastewater~~ sanitary sewer system and being served with water solely by the water utility, the water utility water meter used upon the premises shall measure the quantity of wastewater for billing purposes. All sewer users served by the water utility (except single family residences) will be required to have one water meter installed for each dwelling or commercial unit within the building served by the water utility prior to connection to the wastewater system. Notwithstanding the

foregoing, for any use in existence on the date of this ordinance, not more than one water meter shall be required regardless of the number-of dwelling or commercial units within said building.

Sec. 15-134. Metering Of Industrial Waste.

Devices for measuring the volume of waste discharged may be required by the Approving Authority if this volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of waste shall be installed, owned, and maintained by the discharger. The Approving Authority must accept a maintenance schedule. Following approval and installation, such meters may not be removed without the consent of the Approving Authority.

Sec. 15-135. Waste Sampling.

Wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Approving Authority. The use of flow proportional composite sampling is preferred.

Sec. 15-136. Change Categories.

The Approving Authority may reassign sewer users into appropriate sewer service charge categories if wastewater sampling program and other related information indicate a change of categories is necessary.

Sec. 15-137. No Free Service.

No user shall receive free service or pay a sewer use charge less than the user's proportional share of operation, maintenance and replacement costs.

Sec. 15-138. Outside Service.

All users within the sewer service area of the City shall be treated equally as to variable charges (charge according to volume which relates to operation, maintenance and replacement) regardless of their location with respect to the City boundaries.

All fixed costs (charges relating to debt retirement of capital expenses) will be doubled for those users outside the City boundaries.

DIVISION 10. BILLING PRACTICE

Sec. 15-139. Billing Period.

Sewer service charges shall be billed on a monthly basis.

Sec. 15-140. Liability Of Owner, Occupant And User.

The owner of the premises, the occupant thereof and the user of the sewer services of the City shall be jointly and severally liable for the payment of the sewer service on such premises, and the sewer services is furnished to the premises by the City only upon the condition that the owner of the premises, the occupant thereof and the user of the sewer services are jointly and severally liable therefore to the City.

Sec. 15-141. Delinquent Charges; Lien; Collection.

- (a) Charges and penalties shall constitute a lien upon the property pursuant to provisions 65 ILCS 5/11-139-8 of the Illinois Laws and Compiled Statutes and any amendments thereto or subsequent section of the Illinois Laws and Compiled Statutes and shall be collected in the manner therein provided.
- (b) Whenever the charges levied in accordance with this ordinance are not paid within twenty (20) days after rendition of the bill therefore, such charges shall be deemed and are hereby declared to be delinquent and thereafter the City shall have a continuing lien upon the premises and real estate upon or for which sewer service is provided.
- (c) Every lien shall, upon compliance with the conditions hereinafter set forth, become and be prior and superior to the rights of purchasers, mortgagees, judgment creditors or any other lienholder in interest in the premises and real estate.
- (d) A penalty of the greater of Five Dollars (\$5.00) or Five Percent (5%) of the ~~outstanding balance due per month, or any portion thereof,~~ shall be added to all charges for sewer service and debt reduction not paid within twenty (20) days after rendition of the bill therefor. (Ord. #1216, 2-26-96, Ord. #1628, 04-16-12)
- (e) The City Clerk's office shall not accept partial payments from any customer who so requests prior to termination. However, it is the policy of the City, upon the request of a customer or user, to seek to negotiate a partial payment schedule with the customer or user ~~if the request was received prior to the issuance of a disconnect notice.~~ The amount of the partial payment required shall be determined pursuant to negotiation between the superintendent and the officials of the Water & Sewer Committee and the customer or user. It lies in the sole discretion of the ~~commissioners~~ Committee to accept or reject partial payment arrangements. (Ord. #1628, 04-16-12)

After a payment schedule has been arranged, the City Clerk's office shall include a notation on subsequent monthly bills indicating the amount of the arrearage due pursuant to the payment schedule as well as the amount of current billing. The City Clerk's office shall also prepare a payment schedule agreement, which shall be executed by the customer or user and the City Clerk or the Deputy City Clerk. The customer shall receive a copy of the agreement and the agreement shall state:

1. The amount of the partial payment required each month.
2. The obligation of the customer or user to make the partial payment by the twentieth day of each month.
3. The total amount of the arrearage on which the partial payment shall be made.
4. That if the customer or user fails to notify the department in writing of a substantial change in circumstances, then termination may occur any date after the twentieth of the month.

Sec. 15-142. Affidavits; Recording.

- (a) Whenever a bill for sewer service charge remains unpaid twenty (20) days after it has been rendered, the City Clerk or Deputy Clerk is authorized and directed to file with the Recorder of Deeds of Marshall County, State of Illinois, a statement of

lien claim verified by the affidavit of herself or other officer of the City having knowledge of the facts. The statement shall contain a sufficiently correct description of the lot, lots or tracts of land to identify the same, the balance due after allowing all credits, the date upon which such amount became delinquent and a notice that the City claims a lien for this amount, as well as for all charges for sewer service or other services in connection therewith supplied subsequent to the period covered by the bill.

- (b) No lien shall be defeated to the proper amount thereof because of an error or overcharge on the part of the City, nor shall any such lien be defeated upon proof that such sewer service was provided to or contracted for by a tenant of the premises or occupant thereof other than the owner.
- (c) The failure of the clerk to record such lien claim, shall not affect the right to foreclose the lien for unpaid sewer charges as provided in this chapter and under the Illinois Municipal Code.

Sec. 15-143. Enforcement.

- (a) If payment shall not be made as provided in this Chapter, any amount due for sewer service, benefits or other charges provided for in this Chapter when the same becomes due, the City may file or cause to be filed a complaint in the circuit court of Marshall County for a foreclosure of such lien, or, upon becoming a defendant in any pending suit affecting the premises or real estate, an answer to the complaint in the nature of an intervening petition or cross complaint, then the City may proceed in its corporate name to foreclose such lien in like manner and with like effect as provided by the statutes of the State of Illinois in foreclosure of mortgages on real estate. Any decree rendered in the court may be enforced and collected as other decrees or judgments in the same court.
- (b) The City attorney is hereby authorized and directed to institute such proceedings in the name of the City, in the circuit court of Marshall County, or in any court having jurisdiction over such matters, against any property for which a bill for sewer service charge has remained unpaid twenty (20) days after it has been rendered.
- (c) The remedy provided in this section for the collection of delinquent sewer use charges or benefit shall not be construed to abridge or in any manner interfere with the right and power of the City to enforce a collection thereof by any other action or as otherwise provided in this Chapter, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent rates, charges or benefits.

Sec. 15-144. Disconnection Of Sewer And/Or Water Services.

- (a) Whenever charges for sewer services or any additional charges provided in this Chapter are not paid within twenty (20) days after rendition of the bill therefore, the City Clerk, is authorized and directed to issue written notification that such delinquency exists and that service shall be discontinued without further notice if such amounts are not paid within five (5) working days after the date such notice is mailed or, in the event of personal service, delivered. It shall be the duty of the superintendent of public works to secure copies of all delinquent notices from the City Clerk each month and to disconnect service to such delinquent user or users at the end of the five (5) working day period if the delinquent amounts are not paid. Disconnection shall be either by disconnecting the sewer lateral at a convenient

location near the point where such service connects to the City's sewer main or by disconnecting the water supply to the premises; whichever is deemed by the superintendent of public works to be most economical and expedient. All notifications required in this Section shall be in writing and shall be served on the person who applied for water service at the location in question or in the event water service is not supplied by the City at that location, then to the last known occupant of the premises or said notification may be served on the person paying real estate taxes on the property in question in the last preceding year in which real estate taxes were paid. Such notices may be served in the following manner: (Ord. #1261, 10-14-96; Ord. #1316-10/26/98)

1. By personal service, or
 2. With respect to the applicant for water service or the occupant of the premises, in the event water service is not supplied by the City, by regular mail addressed to such applicant or occupant at the address last known to the City Clerk; or
 3. With respect to the person paying real estate taxes in the last preceding year, by regular mail at the address at which the bill for such taxes was mailed.
- (b) Sewer service which has been disconnected for nonpayment (either by disconnecting the sewer lateral or disconnecting the water supply to the premises) shall not be restored until:
1. All delinquent charges for water service and/or wastewater service are paid in full.
 2. The cost to the City of disconnecting the sewer service (in the event of disconnecting the sewer lateral) or the appropriate reconnection fee as set forth in this City Code (in the event disconnection is by disconnecting the water supply of the premises) is reimbursed to the City. (Ord. #1261, 10-14-96)
 3. A sewer connection permit is duly issued by the City to a duly licensed contractor of the City in the manner prescribed in this Chapter.
 4. Payment in the amount of ~~Forty-five Dollars (\$45.00)~~ Thirty-five Dollars (\$35.00) per month for each month that service is disconnected is made, in full, to the City. In the event disconnection is effectuated by disconnecting the sewer lateral, service shall be restored by the owner, occupant or other interested person at the sole cost and expense of such person. (Ord. #1628, 04-16-12, Ord. #1689, 12-21-15)
- (c) Upon the disconnection of sewer service, the City Clerk shall notify the Marshall County Health Department of the aforesaid disconnection.
- (d) Any such notice required by this section may be combined with a notice for failure to pay water service charges.

(Ord.# 1316-10/26/98; Ord. 1425, 3-25-2002)

Sec. 15-145. Notice Of Rates.

Notice of Rates: A copy of this Chapter properly certified by the City treasurer, shall be filed in the office of the Recorder of Deeds of Marshall County and shall be deemed notice to all owners of real estate of the charges of the sewerage system of said City on their properties.

Sec. 15-146. Disposition Of Revenue.

The amounts received from the collection of charges authorized by this Ordinance shall be credited to a ~~sanitary public~~ public sewerage account that shall show all receipts and expenditures of the public sewerage system. Charges collected for replacement expenses shall be credited to a segregated, non-lapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by the City, the credits to the sewerage account shall be available for the payment of the requirements for operation, maintenance, repairs, and depreciation of the sewerage system. Any surplus outside of said account, shall be available for the payment of principal and interest of bonds issued and outstanding, or which may be issued, to provide funds for said sewerage system, or part thereof, and all or a part of the expenses for additions and improvements and other necessary disbursements or indebtedness, and the City may resolve to pledge each surplus or any part thereof for any such purpose. All present outstanding sewer system general obligation bonds, including the refunding bonds, shall be paid from this fund as to both principal and interest.

DIVISION 11- AMOUNT OF USER CHARGE

Sec. 15-147. Sewer Service Charges.

(a)Sanitary Sewer Charges. There is hereby levied and assessed upon each lot, parcel of land, building, premises or unit having a connection with the wastewater treatment works, a sanitary sewer service charge, based upon the quantity of wastewater discharged. Such sewer service charge shall be billed to the person, firm, corporation or other entity owning, using or occupying the property served. The ~~total sanitary~~ sewer service charge shall consist of a ~~fixed charge and a~~ variable charge as set forth in the following sections. ~~The total sewer service charge shall be adjusted annually by the City Clerk to reflect the annual percentage increase in the Consumer Price Index for All Urban Consumers for the U.S. City Average for Water and Sewer and Trash Collection Services Not Seasonally Adjusted from the period of April of the previous year through March of the current year. Such adjustment will take place once the percentage increase for March of the current year has been released by the United States Department of Labor Bureau of Labor Statistics and shall take effect May 1 of the current year. Notwithstanding the above, the percentage increase to take effect on May 1, 2008 shall be calculated by averaging the monthly percentage increase in the Consumer Price Index for All Urban Consumers for the U.S. City Average for Water and Sewer and Trash Collection Services Not Seasonally Adjusted from the period of June 2007 through March 2008.~~

(b)Storm Sewer Charge. There is hereby levied and assessed upon each developed lot or parcel of land within the City of Henry a storm sewer charge to provide for the maintenance and operation of the City storm sewers. The storm sewer charge shall consist of a fixed charge as set forth in the following sections. Such storm sewer charge shall be billed to the person, firm, corporation or other entity owning, using or occupying such lot or parcel.

(c)The total sewer service charges assessed pursuant to this Section shall be adjusted annually by the City Clerk to reflect the annual percentage increase in the Consumer Price Index for All Urban Consumers for the U.S. City Average for Water and Sewer and Trash Collection Services Not Seasonally Adjusted from the period of April of the previous year through March of

the current year. Such adjustment will take place once the percentage increase for March of the current year has been released by the United States Department of Labor Bureau of Labor Statistics and shall take effect May 1 of the current year, commencing May 1, 2018.

(Ord. 1531, 5-14-07 Ord. #1703, 4-17-17)

Sec. 15-148. Methodology.

This methodology is to be utilized by the City to determine the total sewer service charge for use of the public sewer system and the Henry Wastewater Treatment Works. The charges are to be reviewed at least annually and revised as necessary to fulfill equitable and sufficiency requirements. This same methodology can be utilized regardless of the frequency of revision. The review process will include updating the tables located in Section 15-149 from the previous year and making any changes in the projection of types and characteristics of users. Although the debt retirement and replacement fund schedule should remain relatively constant over time, the O&M costs and number of users may not.

The purpose of the methodology is to insure that each user pays its proportionate share of operation, maintenance and replacement costs, debt retirement and any other costs associated with constructing and operating the public sewer system and the treatment works within the City of Henry Service Area. Following the completion of the review, the City shall revise, as necessary, the charges for users to maintain the proportionate distribution costs among users and generate sufficient revenue to pay the total costs necessary for the proper operation of the public sewer system and treatment works. If excess revenues are collected from the users of the system, they must be applied to the expenses attributable to those users for the next year's expenses and the rates adjusted accordingly.

- (a) Storm Sewer Fixed Charge Determination. The fixed charge is a minimum charge for each developed lot currently receiving water and/or sanitary sewer service from the City, based on the designated land use of such lot, with the expectation that lots with higher intensity land use produce more storm water than lots with a lower intensity use. ~~user based on the costs for debt retirement. These are allocated according to the number of REUs. The tables for determining metered and unmetered REU numbers for the fixed charge are located in Section 15-149 of this Code. The fixed charge or minimum charge is for expenses that are not directly related to a customer's flow or organic loading. The component to the fixed charge is further defined below:~~

~~Debt Retirement - The cost for financing to include principal and interest for all capital expenditures made by the City of Henry for wastewater collection facilities and treatment works. Any new debt will be added as it is incurred.~~

- (b) Sanitary Sewer Variable Charge Determination. The variable charge is based on the quantity of water used as measured by a water meter. The relationship between metered water and sewer usage is not precise, but is sufficient to accurately ensure a reasonably fair distribution of costs. The water metered will be converted by a flow-based conversion factor to obtain a REU number for billing purposes. If a water meter is not installed, the REU number will be determined according to the Standard Equivalency Table. The tables for determining metered and unmetered REU numbers for the variable charge are located in Section 15-150 ~~15-149~~ of this Code. The costs to be allocated in this manner are related to

the cost of operating and maintaining the treatment works. These costs have a direct relationship to the amount of flow and are further defined below:

Operation and Maintenance Cost. The costs to operate and maintain the treatment works to maintain the capacity and performance required. These costs include treatment, labor, supplies, etc.

Replacement. A separate fund must be established and contributed to each year to ensure all equipment, accessories, or appurtenances that are necessary to maintain the treatment works are accounted for. These costs are determined by using the installed cost of the equipment (excluding the cost of technical, legal, administrative, and other fees since such costs generally are not required when materials are replaced) and assigning a service life to such facilities in order to estimate when replacement will be required. A sinking fund factor is then applied to determine the amount of money to be collected per year to insure that an adequate amount will be available at the time the equipment is likely to need replacement. It is anticipated that such funds will be invested by the City in an interest bearing account until required.

Surcharge. Any user discharging wastewater of greater than normal strength must pay a surcharge on the additional loadings. These costs relate to the increased treatment needed to handle these loadings.

- (c) The users of the wastewater treatment services will be notified annually, in conjuncture with a regular bill, of the rate and that portion of the user charges that are attributable to the storm water and wastewater operation, maintenance and replacement.
- (d) Total Sewer Service Charge. The sum of the fixed and variable charges will determine the final sewer service charge. The City will bill each user for ~~their share of the treatment costs~~ it's final sewer service charges according to this Ordinance and User Charge System.

(Ord. 1531, 5-14-07 Ord.1703, 4-17-17)

Sec. 15-149. Fixed Charge.

~~The fixed charge shall be a minimum charge for all users based upon the number of REUs connected to the wastewater treatment works as calculated below. Each user shall pay the sum, per month or fraction thereof, of \$45.00 \$35.00 per REU where there is one REU, or \$45.00 \$35.00 plus \$39.00 per REU over one REU where there is more than one REU. If a water meter is installed, the REU number will not be determined by a meter's actual size, but will be determined by the associated Waterflow Guidelines. If a water meter is not installed, the REU number will be determined according to the Standard Equivalency Table. This charge includes the debt service retirement costs. Notwithstanding any provision in this Section to the contrary, the REU number for the Henry Housing Authority located on Stoner Drive shall be one per building.~~

~~If a water meter is installed, the REU number will be determined on the basis of water consumption per month according to the following table:~~

~~Waterflow Guidelines~~

~~MONTHLY WATER CONSUMPTION _____ REU
(GALLONS) BETWEEN:~~

0 and 8,333	1
8,344 and 12,500	1.5
12,501 and 16,666	2
16,667 and 20,833	2.5
20,834 and 25,000	3
25,000 and 29,167	3.5
29,168 and 33,334	4
33,335 and greater	4 REU plus an additional .5 REU for each 4,166 gallons (or portions thereof) in excess of 33,335 gallons

If a water meter is not installed, the REU number will be determined according to the following table:

Standard Equivalency Table

CLASSIFICATION	REU RESIDENTIAL
Single Family Residence	1 Unit
Mobile Home	1 Unit
Duplex 2 Units	
Apartment/Condominiums	1 Unit per Dwelling Unit
Single Residence w/Apartments	1 Unit + 1 Unit per Dwelling Unit
Single Residence w/Side Business	1 Unit
COMMERCIAL/PUBLIC	
General Business	1 Unit Per 20 Employees
Commercial w/Apartments	1 Unit + 1 Unit per Dwelling Unit
Shopping Center/Retail Business	1 Unit per 6,000 sq.ft. floor space
Supermarket	1 Unit per 4,000 sq.ft. floor space
Motel Without Laundry	1 Unit=Bed Space X % Occupancy/ 8
Motel With Laundry	1 Unit=Bed Space X % Occupancy/6
Bowling Center With Bar	.5 Units Per Alley
Service Station or Garage	1 Unit
Country Club	1 Unit Per 25 Members
School 1 Unit Per 12 Students	
School with Meals Served	1 Additional Unit Per 40 Students
School With Showers	1 Additional Unit Per 40 Students
Church 1 Unit	
Tavern 1 Unit Per 40 Seats	
Tavern With Meals Served	1 Additional Unit Per 60 Seats
Standard Restaurant	1 Unit Per 60 Seats
Drive-In or Short Order Restaurant	1 Unit Per 25 Seats and/or 15 Car Spaces (Outside Service)
Restaurant With One Bar	1 Unit Per 40 Seats
Restaurant With Two Bars	1 Unit Per 35 Seats
Restaurant With Three Bars	1 Unit Per 30 Seats
Other Commercial, Public, or Industrial Users	To be determined by the City on a case by case basis taking into

~~consideration the type, volume and strength of the wastewater to be discharged in comparison with other users.~~

~~All totaled computations shall be rounded upward to the nearest unit. No classification shall receive less than one REU including seasonally occupied buildings.~~

(a) Storm Sewer Fixed Charge. The fixed charge shall be a minimum charge for all users based upon the land use of the parcel and calculated as follows:

1. Single Family Residential. The storm sewer fixed charge for single family residential properties shall be Ten Dollars (\$10.00) per month, or fraction thereof.
2. Multi-Family Residential. The storm sewer fixed charge for multi-family residential properties shall be Twelve Dollars (\$12.00) per month, or fraction thereof.
3. Commercial. The storm sewer fixed charge for commercial properties shall be Fifteen Dollars (\$15.00) per month or fraction thereof.
4. Industrial. The storm sewer fixed charge for industrial properties shall be Twenty Dollars (\$20.00) per month.

In the event multiple uses are occurring on the same parcel, the parcel shall be assessed a storm sewer fixed charge based on the most intensive use being made of the property. For purposes of this section, the above uses are listed in order from least to most intensive.

Properties located outside the corporate limits of the City of Henry that receive City water and sewer services, including storm sewer services, shall pay a storm sewer fixed charge in an amount equal to two times the fee listed above for the land use of such extraterritorial property.

(b) Fixed Charge Credits. Parcels subject to a storm water fixed charge under this Section shall be eligible to receive a storm sewer fixed charge credit of (i) 50% of the storm sewer fixed charge if the owner of the parcel can demonstrate that they have facilities or controls in place to temporarily store or treat storm water runoff, thereby reducing the impact on the drainage system, or (ii) 100% if the owner of the parcel can demonstrate that storm water runoff from such property is entirely contained within the property or drained in such a manner that no runoff drains into the Public Sewer System. To qualify for this credit, a user must submit an application to the Approving Authority that includes the following:

1. An application fee of fifty dollars (\$50.00);
2. Conceptual site plan and structural location diagram of any existing

or proposed drainage system;

3. Plat of survey certified by an Illinois Registered Land Surveyor, or a site construction plan certified by an Illinois Professional Engineer, indicating the following:
 - i. The location of the Illinois River, detention pond, or other alternative drainage location;
 - ii. Watershed breaks across the property;
 - iii. Layout of the existing and proposed drainage system on the property, including location and elevations of natural and man-made features;
 - iv. Sufficient topographic data or elevations to verify general drainage patterns across the property.
 - v. Existing and proposed grading and location of all structures, parking, driveways, and other impervious areas.
4. As-built data and calculations sufficient to demonstrate either (i) the reduced impact on the public sewer system, or (ii) the complete retention or rerouting of storm water run off such that no storm water drains into the public sewer system. As-built data shall be in a form and from a source acceptable to the Approving Authority and shall be submitted in order to complete the application.
5. A signed statement by the property owner certifying that the information is correct and acknowledging that the credit determination will be based on the information provided. A later determination that the information was inaccurate may result in the loss of the credit.

Any storm water detention facility constructed or installed pursuant to this Section shall remain privately owned and maintained. Such facilities shall not be accepted by the City and shall not become a part of the City of Henry public sewer system. All maintenance shall be and remain with the property owner.

Any credit approved pursuant to this section shall be valid for a period of Five (5) years, provided, however, that the City may request no more than annually that the property owner file an inspection report verifying that current storm water runoff are consistent with the original application submitted under this Section and the credit approved pursuant thereto. If the property owner fails to provide such an inspection report in response to the City's request, or if any inspection report demonstrates that the property owner is no longer eligible for a fixed storm water rate credit, the City will send a letter informing the property owner of the required action to avoid revocation of the fixed charge credits. If the property owner fails to take the required action, the credits will be revoked until the situation is corrected.

(Ord. 1531, 5-14-07, Ord. #1689, 12-21-15 Ord. 1703, 4-17-17)

Sec. 15-150. Sanitary Sewer Variable Charge.

Users will be billed on the volume and strength of wastewater discharged to the wastewater treatment works. Normal domestic wastewater, as defined in Section 15-91 of this Code will be billed based upon the number of REUs connected to the wastewater treatment works as determined pursuant to the provisions of this Section 15-149 and the Waterflow Guidelines and Standard Equivalency Table located at the end of this Section in Section 15-149 of this Code. The current variable charge is Twenty Dollars (\$20.00) for the first REU used and Then Dollars (\$10.00) for each half of an REU used after the first REU per REU where there is one REU, or \$7.00 plus \$5.00 per REU over one REU where there is more than one REU. Users discharging wastewater into the wastewater treatment works shall be subject to surcharges, in addition to the charge per REU, if their wastewater has a concentration greater than the normal domestic concentration specified in the preceding sentence. The amount of such surcharges shall reflect the costs incurred by the City from the wastewater.

- (a) Normal Domestic Sewage:

Volume Charge - price per REU.

- (b) Sewage Of Greater Than Normal Strength

Charges to users discharging wastewater of greater than normal strength shall be computed in accordance with the formula presented below:

$$C = (V \times \$D) + .00834(V)[(B \times \$B) + (S \times \$S)]$$

Where:

C = Charge to sewer user for operation, maintenance and replacement costs for treatment works.

V = Wastewater volume in 1,000 gallons.

\$D = Price for total variable charge per 1,000 gallons normal domestic strength wastewater.

B = The concentration of BOD above the normal domestic strength in mg/l.

\$B = Price per pound of BOD. S = The concentration of suspended solids (SS) above the normal domestic strength in mg/l.

\$S = Price per pound of SS. .00834 = Conversion factor (mg/ l to lbs.)

- (c) Holding Tank Waste Disposal Charges.

Charges to licensed dischargers shall be computed and accessed on the charge for price per 1,000 gallons.

- (d) Septage Tank Waste Disposal Charges.

Charges to licensed dischargers shall be computed and accessed on the charge for price per 1,000 gallons.

Waterflow Guidelines

MONTHLY WATER CONSUMPTION REU (GALLONS) BETWEEN:

0 and 8,333 gal. -- 1 REU

8,334 and 12,500 gal. -- 1.5 REU

12,501 and 16,666 gal. -- 2 REU

16,667 and 20,833 gal. -- 2.5 REU

20,834 and 25,000 gal. -- 3 REU

25,000 and 29,167 gal. -- 3.5 REU

29,168 and 33,334 gal. -- 4 REU

33,335 gal. and greater 4 REU plus an additional
.5 REU for each 4,166 gallons (or portions thereof) in excess of 33,335 gallons

If a water meter is not installed, the REU number will be determined according to the following table:

Standard Equivalency Table

CLASSIFICATION REU RESIDENTIAL

Single Family Residence 1 Unit

Mobile Home 1 Unit

Duplex 2 Units

Apartment/Condominiums 1 Unit per Dwelling Unit

Single Residence w/Apartments 1 Unit + 1 Unit per Dwelling Unit

Single Residence w/Side Business 1 Unit

COMMERCIAL/PUBLIC

General Business 1 Unit Per 20 Employees

Commercial w/Apartments 1 Unit + 1 Unit per Dwelling Unit

Shopping Center/Retail Business 1 Unit per 6,000 sq.ft.floor space

Supermarket 1 Unit per 4,000 sq.ft. floor space

Motel Without Laundry 1 Unit=Bed Space X % Occupancy/ 8

Motel With Laundry 1 Unit=Bed Space X % Occupancy/6

Bowling Center With Bar .5 Units Per Alley

Service Station or Garage 1 Unit

Country Club 1 Unit Per 25 Members

School 1 Unit Per 12 Students

School with Meals Served 1 Additional Unit Per 40 Students

School With Showers 1 Additional Unit Per 40 Students Church 1 Unit

Tavern 1 Unit Per 40 Seats

Tavern With Meals Served 1 Additional Unit Per 60 Seats

Standard Restaurant 1 Unit Per 60 Seats

Drive-In or Short Order Restaurant 1 Unit Per 25 Seats and/or 15 Car
Spaces (Outside Service)

Restaurant With One Bar 1 Unit Per 40 Seats

Restaurant With Two Bars 1 Unit Per 35 Seats

Restaurant With Three Bars 1 Unit Per 30 Seats

Other Commercial, Public, or To be determined by the City on

Industrial Users a case by case basis taking into consideration the type,
volume and strength of the wastewater to be discharged in comparison with other
users.

All totaled computations shall be rounded upward to the nearest unit. No
classification shall receive less than one REU including seasonally occupied buildings.

(Ord. 1531, 5-14-07 Ord. 1703, 4-17-17)

DIVISION 12. AUDIT

Sec. 15-151. Annual Review.

The City shall annually review the wastewater contribution of sewer users and sewer user classes, the operation and maintenance expenses of the collection and treatment facilities, and the sewer service charge system.

Sec. 15-152. Revision of charges.

The City may revise the sewer service charge system to accomplish the following:

- (a) Maintain a proportionate distribution of operation and maintenance expenses among sewer users and sewer user classes;
- (b) Generate sufficient revenues to pay for the total operation and maintenance expenses (including replacement costs) of the treatment works; and

- (c) Apply excess revenues collected from sewer users to the operation and maintenance expenses.

Sec. 15-153. Access To Records.

The IEPA or its authorized representative shall have access to any books, documents, papers and records of the City of Henry which are applicable to the City system of user charges for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Loan Agreement and Rules of any State Loan.

DIVISION 13. VALIDITY

Sec. 15-154. Superseding Previous Ordinances.

This Chapter governing sewer use, sewer service charges, and sewer connections and construction shall supersede all previous ordinances of the City.

Sec. 15-155. Invalidation Clause.

Invalidity of any section, clause, sentence, or provision in the Chapter shall not affect the validity of any other section, clause, sentence, or provision of this Chapter, which can be given effect without such invalid part or parts.

Sec. 15-156. Amendment.

The City, through its duly authorized officers, reserves the right to amend this ordinance in part or in whole whenever it may deem necessary, but such right will be exercised only after due notice to all persons concerned and after proper hearing on the proposed amendment.

ARTICLE V. PROTECTION OF SOURCE OF WATER

Sec. 15-160. Purpose.

This Ordinance prohibits within two miles of any water well operated by the City as part of its public water supply, the discharge of waste and pollutants and certain other activities that could in the opinion of City engineers provide means by which the City's source of water could become polluted. It is the intent of the City to prevent any pollution or injury to the City's source of water. The City recognizes that in certain individual cases there may exist circumstances that would allow for a prohibited activity to take place without the possibility of pollution, injury or adverse affect to the City's supply of water. In such cases, it is the intent of the City to allow the prohibited activity to take place when the person intending to engage in the otherwise prohibited activity has provided proof, which in the opinion of the City engineers, gives adequate assurances that the City's source of water will not be polluted, injured or adversely affected.

Sec. 15-161. Definitions.

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

Person: "Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate,

political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

Pollute: "Pollute" means to cause water pollution.

Pollutant: "Pollutant" or "pollutants" means any substance or activity that could by any means cause or have the potential to cause water pollution.

State: "State" means the State of Illinois.

Waste: "Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921).

Watercourse: "Watercourse" means a channel in which a flow of water occurs, either above or below ground level, either continuously or intermittently.

Water Pollution: "Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

City Well: "City Well" or "City Wells" means each and every public water supply well used for the purpose of supplying water to the citizens of the City of Henry.

Sec. 15-162. Obstructing or Polluting Watercourse or Water Supply.

It shall be unlawful and is hereby declared a nuisance for any person to obstruct or pollute any City watercourse or source of water supply, regardless of whether such obstruction or pollution occurs within or up to 20 miles outside the corporate limits of the City.

Sec. 15-163. Pollution of Source of Water.

- (a) Except as provided in Subsection (b) or Subsection (c), no person shall within a two (2) mile radius of the City's wells:
1. Place, throw, discharge, or cause to be discharged, any sewage; garbage; decayed or fermented fruit or vegetables; offal; dead body; manure; polluted, filthy, decaying, fermenting, putrescible, or oily matter or liquid or industrial waste; or any substance defined as a water pollutant by the regulations of the State pollution control board;
 2. Construct or modify any open or covered sewer, ditch, tile, or drain; create any lake, pond or impoundment with a depth below or within twenty feet of the ground water table elevation; or make any change or connection to the environment so as

- to cause any waste or water pollution to flow into or reach more quickly the ground water table from which the City derives its source of water;
3. Construct or cause to be constructed or use any toilet, water closet, urinal, sink, cesspool, privy, garage, slaughterhouse, or other structure, establishment, or place, which is so situated that polluted or oily liquid therefrom may continuously or intermittently so flow as to ultimately reach and pollute or tend to pollute the City's source of water; and
 4. Construct or operate any mining operation, including, but not limited to, any oil, gas, sand, gravel, stone, granite or other mineral mining or extraction operation.
- (b) Subsection (a) shall not apply to single family homes on five acres or more possessing permits from the Marshall County Health Department for septic systems or private water wells, or to the spreading of commercial fertilizer in conjunction with a farming operation.
- (c) Where in certain individual cases a person intending to engage in an activity otherwise prohibited by Subsection (a) provides documentation or other information to the City engineers in accordance with Subsection (d) which, in the opinion of the City engineers, gives adequate assurances that the City's source of water will not be polluted, injured or adversely affected, such use shall not be prohibited by this Article.
- (d) Any person who desires to obtain the permission of the City to engage in an activity otherwise prohibited by Subsection (a) shall submit to the City engineers c/o The City of Henry, a written request that the City engineers review and approve the activity prohibited by Subsection (a). Such request shall contain: (1) the name, mailing address and telephone number of the person making the request; (2) the Parcel Identification Number(s), mailing address, and legal description of the property upon which the person making the request desires to engage in the prohibited activity; (3) a description of the prohibited activity which the person making the request desires to engage in; (4) any engineering data, ground water test results, hydrology studies, or other evidence which he believes will give adequate assurances to the City that the City's source of water will not be polluted, injured or adversely affected; and (5) any other information deemed reasonably necessary by the City engineers. The City engineers shall review the request and any data and evidence submitted and shall be authorized to conduct or require such further tests or activities deemed necessary to form an opinion as to whether the request should be approved or denied. The City engineers shall within 30 days from the date of submission of the request issue a written response to the person submitting the request either approving or denying the request and providing the reasons therefor.

Sec. 15-164. Enforcement; Penalty.

- (a) The City Attorney is authorized and directed to enforce and take any legal action necessary to enforce this Article, including, but not limited to, initiating and prosecuting any criminal, quasi-criminal or civil proceeding; seeking an order or injunction restraining any person from violating a provision of this Article; or seeking such other relief as may in his opinion be appropriate for the enforcement of this Article.

- (b) Any person convicted of a violation of any provision of this Article shall be fined seven hundred fifty dollars (\$750) for each offense. Each separate occurrence or day in which a violation occurs shall be deemed a new offense.

(Ord. 1478, Jan. 12, 2004)

CHAPTER 16. VEGETATION

DIVISION I. TREES, SHRUBS AND OTHER PLANTS

Sec. 16-1. Title.

This Ordinance shall be known and may be cited as the "CITY OF HENRY TREE ORDINANCE" of Henry, Illinois.

Sec. 16-2. Purpose and Intent.

- (a) Purpose. It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs and other plants within Henry, Illinois.
- (b) Intent. It is the intent of the City Council of Henry that the terms of this Chapter shall be construed so as to educate and promote:
 - (1) the planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the City; and
 - (2) the protection of community residents from personal injury and property damage and the protection of the City of Henry from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

Sec. 16-3. Definitions.

As used within this Chapter, the following terms shall have the meanings set forth in this Section:

Arboricultural Specifications and Standards of Practice for City of Henry (hereinafter "Arboricultural Specifications Manual"). A manual prepared by the Tree Commission containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City-Owned Property.

City-Owned Property. Property within the City limits of Henry, Illinois, and (1) owned by the City in fee simple absolute, or (2) dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements. This shall include any land which lies between the curb line of any street or highway and the lot line of the abutting premises.

Property Owner. The record owner or contract purchaser of any parcel of land.

Trees, Shrubs and Other Plants. All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.

Street Trees. Trees, shrubs, bushes and all other woody vegetation on land lying within the City right of way for all streets, avenues, alleys or ways within the City.

Park Trees. Trees, shrubs, bushes and all other woody vegetation on public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Sec. 16-4. General Authority of City Council.

The City Council, or its authorized representatives, are hereby empowered to superintend, regulate and encourage the preservation, culture and planting of shade trees, plants and shrubs upon City-Owned Property, and to direct the method and time of trimming the same; to advise, without charge, owners and occupants of lots regarding the kind of trees, plants and shrubs, and the method of planting best adapted to and most desirable on particular streets and public highways; and to take such measures as may be deemed necessary for the control and extermination of insects, pests and plant diseases which may injuriously affect trees, plants and shrubs that are now growing or hereafter may be growing on the public highways and parks of the City.

Sec. 16-5. The City of Henry Tree Commission; Establishment, Composition, Appointment of Members, Duties.

- (a) Establishment. For the purposes of assisting the City Council with respect to its general authority concerning trees, shrubs and other plants, the City of Henry Tree Commission (hereinafter "Tree Commission") is hereby established.
- (b) Composition. The Tree Commission shall be composed of eight commissioners. Five commissioners shall be appointed by the Mayor with the approval of the City Council. These five commissioners shall serve without pay and shall reside within the City of Henry, Illinois. The remaining three commissioners, who shall be ex officio and shall not vote, shall be: the Superintendent of Public Works, Alderman of the Building and Grounds and the Chairman of the Parks and Recreation Board of the City of Henry Park District or his/her representative. Subject to the exceptions in paragraph C, immediately below, each non ex-officio commissioner of the Tree Commission shall serve for a term of three years. Each non ex officio Commissioner of the Tree Commission member shall serve for a term of three years. (Ord. #1389, 4-23-01, Ord. #1563, 08-17-09)
- (c) Appointment of Members. One of the five commissioners initially appointed to the Tree Commission, who are not ex-officio members, shall serve for a term of one year; two of the five commissioners initially appointed shall serve for a term of two years; and, two of the five commissioners initially appointed shall serve for a term of three years. They shall start on a common date. Determination of the length of terms of the five commissioners initially appointed shall be determined by the Mayor at the time of appointment. (Ord. #1563, 08-17-09)
- (d) Expiration or Vacation of Terms. Within thirty days following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the Council, and the successor shall serve for a term of three years. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the consent of the City Council.
- (e) Quorum: A quorum of the Tree Commission shall be three of its voting members. All actions of the Tree Commission shall be determined by a majority vote of those present and voting. (Ord. #1563, 08-17-09)

(f) Organization.

1. Chairman: The Tree Commission shall select from among its members a chairman. In the temporary absence of the chairman, the members of the Tree Commission may designate an acting chairman to serve in his or her absence.
2. Secretary: The Tree Commission shall select from among its members a Secretary. The Tree Commission may designate a temporary secretary to serve in the absence of the Secretary.
3. Rules: The Tree Commission may adopt such rules or bylaws for the conduct of its business as it may deem necessary or desirable consistent with this article and other applicable ordinances of the City of Henry.
4. Meetings: The Tree Commission shall meet regularly at such times and places as it may determine. Special meetings as are necessary or desirable may be called by the chairman, secretary, and any three members of the Tree Commission.
5. Quorum: A quorum of the Tree Commission shall be five of its voting members. All actions of the Tree Commission shall be determined by a majority vote of those present and voting.

(f) Duties and Responsibilities. The Tree Commission shall perform the following duties:

1. Advise and consult with the City Council, through the City Council's Building and Grounds Committee, on any matter pertaining to the City of Henry Tree Ordinance and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
 - (i) develop an Urban Forestry Plan for adoption by the City;
 - (ii) propose amendments to the City of Henry Tree Ordinance, and alterations or revisions to the Arboricultural Specifications Manual, and Urban Forestry Plan;
 - (iii) establish policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the City;
 - (iv) the allocation of funds and expenditures of funds for planting, care and maintenance of trees, shrubs and other plants on public property;
 - (v) the establishment of education and informational programs; and
 - (vi) the issuance of permits required by this Chapter;
2. Investigate, counsel, update annually and administer an Urban Forestry Plan for the care, preservation, pruning, planting, replanting and removal or disposition of trees and shrubs along City streets and other public places. Such plan will be presented annually to the Mayor and the City Council, and the Tree Commission will determine, with the assistance of any experts the Tree Commission wishes to consult, a list of Street Tree species for the City. This list shall be used to select appropriate trees to be

planted on City rights of way and shall become part of the overall comprehensive tree plan for the City.

Sec. 16-6. Permits.

(a) Scope of Requirement.

Except for a City employee at the direction of the City Council or a contractor hired by the City of Henry, no person may perform any of the following acts without first obtaining a permit from the Tree Commission.

1. plant or treat, on City-Owned Property, any tree, shrub, or other plant except that this provision shall not be construed to prohibit owners of property adjacent to City-Owned Property from watering or fertilizing any tree, shrub, or other plant located on such City-Owned Property;
2. remove, destroy, cut down, break, deface, trim or in any way injure any tree, shrub, hedge, fruit, flower, plant, vegetable or anything which may be thereon for ornament or utility on City-Owned Property;
3. trim, prune, or remove any tree or portions thereof if such a tree or portions thereof reasonably may be expected to fall on City-Owned Property and thereby to cause damage to persons or property;
4. place, on a City-Owned Property, either above or below ground level, a container for trees, shrubs, or other plants;
5. damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on City-Owned Property;
6. attach any rope, wire, nail, sign, poster, or any other man-made object to any tree, shrub or other plant located on City-Owned Property; or permit any such wire to come into contact with any such tree;
7. dig a tunnel or trench on City-Owned Property;
8. climb any tree growing on City-Owned Property or walk upon the branches thereof, while wearing spurs unless any such person is in the act of removing such tree;
9. place or maintain upon the ground in any street, park, or parkway in the City any stone, cement or other material which shall impede free passage of water and air to the roots of any tree, without leaving an open space of ground not less than two (2) feet in width all around the trunk of such trees. Whenever there is no such open space about any tree in any street, park or parkway in the City, the Superintendent of Public Works may make such open space or cause the same to be made.

(b) Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as required by law.

(c) Copies of all permits issued, along with all supporting documentation shall be filed with the City Clerk's office by the Tree Commission within five (5) days after issuance.

Sec. 16-7. Planting on City-Owned Property General Requirements.

The Tree Commission shall not issue a permit for the planting of, and no person shall plant, any tree or shrub upon City-Owned Property except under the following conditions:

- (a) That such tree is one of the varieties approved in the Urban Forestry Plan adopted by the City Council.
- (b) That such tree is free from infectious disease;
- (c) An application, signed by the applicant, has been submitted to and approved by the Tree Commission detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Tree Commission may find reasonably necessary;
- (d) The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Chapter, the Urban Forestry Plan and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
- (e) The applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan; this Chapter and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought.

Sec. 16-8. Trimming Trees or Shrubs.

General Requirements. The Tree Commission shall not issue a permit for the destruction, removal or trimming of any tree or shrub on City-Owned Property or on private Property if such tree, or portion thereof reasonably may be expected to fall on City-Owned Property, except under the following conditions:

- (a) Proper preventions, approved by the Superintendent of Public Works, are taken to insure the safety of the public while such work is being done;
- (b) Such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Arboricultural Specifications Manual;
- (c) An application has been signed by the applicant and submitted to the Tree Commission detailing the location, number, size and species of trees, shrubs or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Tree Commission may find reasonably necessary;
- (d) The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of the Chapter, the Urban Forestry Plan and with the regulations and standards set forth- in the Arboricultural Specifications Manual; and
- (e) If the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon City-Owned Property, and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and of hold the City of Henry harmless for all damages resulting form work conducted pursuant to the permit and shall deposit with the City Clerk a Liability Insurance Policy in the amount of \$100,000 per

person/\$300,000 per accident for Bodily Injury Liability and \$50,000 aggregate for Property Damage Liability, which policy shall name the City of Henry as additional insured.

Nothing in this section shall be construed to exempt public utility companies or their agents from any of the requirements of this Chapter.

Sec. 16-9. Trees or Shrubs Obstructing Public Lamps or Street Signs; Notice to Owner.

It shall be unlawful for the owner, lessee or person in possession, charge or control of any premises upon which any tree or shrub is growing to permit the same to grow in such a manner as to obstruct or prevent in any way the light from any public lamp from falling upon the street, or to obstruct visibility of any traffic control device.

Sec. 16-10. Minimum Height of Tree Branches Over Streets and Sidewalks.

No person shall maintain upon any lot which he is an owner or person in control, any tree which is so located as to extend its branches over a public alley or highway, unless the same shall be kept so trimmed that there shall be a clear height, unobstructed by branches, above vehicular traffic and sidewalks as specified in the Arboricultural Specifications Manual; and every such person shall remove all dead branches or stubs on such trees which are or may become a menace to persons or vehicles upon the public ways.

Sec. 16-11. Maximum Height of Hedges and Shrubs.

- (a) No person shall maintain any hedge or shrub, or permit the same to grow or remain, along the sidewalks abutting his premises or within the lesser of ten (10) feet from the curb line or five (5) feet from the nearest right-of-way line of any intersecting street at a height greater than three (3) feet.
- (b) No person shall maintain any hedge or shrub, or permit the same to grow or remain, anywhere upon his premises, which interfere with the clear view of traffic by drivers approaching the intersection.

Sec. 16-12. Failure to Trim Trees; Notice; Failure to Obey Notice; Penalty.

- (a) Whenever any person whose duty it is to keep any tree, hedge or shrub trimmed or cut as provided in [Sections 16-9](#) through 16-11, inclusive shall fail to do so, the City shall cause to be served upon such person notice requiring the same to be done forthwith; and if such person shall fail to cause such trees, etc., to be trimmed within ten (10) days after the service of such notice, he shall, upon conviction thereof, be subject to a fine as provided in this Chapter for each such offense; and each day following the tenth day after service of such notice during which such person shall fail to trim said trees, etc., shall be deemed to be a separate offense.
- (b) Such notice may be served by delivering the same, or a copy thereof, to such owner or occupant, or by leaving the same at his usual place of business or abode; and in case such owner is a nonresident of the City, by mailing notice to his last known address and by posting a copy of the same in a conspicuous place upon the lot on or in front of which such trees may be located.

Sec. 16-13. Trimming By the City.

In the event of the failure of an owner or person in control to trim, or cause to be trimmed, any trees, hedges or shrubs as provided in [Sections 16-9](#) through 16-11, inclusive, within the time provided by notice served pursuant to the preceding section, such trees, etc. may be trimmed by the City; and the expenses therefor shall be deemed a debt to the City on the part of said owner or person in control.

Sec. 16-14. Safeguarding of Trees During Construction.

In the erection, alteration, repair or removal of any building or structure, the owner thereof shall place or cause to be placed such guards around all near trees on the public highway as will effectually prevent injury to such trees.

Sec. 16-15. City Trees Provided to Private Citizens.

- (a) Any citizen that has a city tree removed under high lines or in restricted area and a new tree cannot be replanted in the same area are eligible to request the City of Henry provided a replacement tree for the purpose of planting on homeowner property as long as the following criteria is met;
 - 1. Homeowner requests a tree on a form provided by the City Clerk
 - 2. Tree is selected from recommended tree list
 - 3. Tree complies with City tree size requirements
 - 4. Homeowner plants tree at homeowner's expense
 - 5. Homeowner accepts all responsibility for the tree
 - 6. Tree planting location is approved by the City
- (b) The City Council may approve the purchase of a tree to be planted on private property subject to requirements of paragraph (a) above.

(Ord. #1588, 09-20-10)

Sec. 16-16 to 16-19. Reserved.

DIVISION II. DEAD AND DISEASED TREES

Sec. 16-20. Dead and Infected Trees Declared Nuisances.

The following are hereby declared to be public nuisances:

- (a) Any dead or dying tree, shrub or other plant, if such tree, shrub or plant or portions thereof may reasonably be expected to fall on City-Owned Property;
- (b) any tree affected with a fungus disease caused by Graphium Ulmi, commonly known as Dutch Elm Disease;.
- (c) Any otherwise healthy tree, shrub, or other plant, which harbors insects or diseases which, reasonably, may be expected to injure or harm any tree, shrub or other plant; and
- (d) Any tree, shrub, other plant, or portion thereof, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public.

Sec. 16-21. Keeping Infected Trees Prohibited.

It shall be unlawful for any person owning property whereon any tree or shrub such as is mentioned in the preceding section is situated, to possess, keep or preserve such tree or shrub.

Sec. 16-22. Notice to Remove; Removal By City; Lien Upon Property.

The Mayor or his representative shall give to the owner of premises where a public nuisance described in [Section 16-20](#) is found, written notice of the existence of such nuisance, requiring the removal and burning of the same within thirty (30) days following such notice, such removal, and burning to be done under the direction and supervision of the Tree Commission. Such notice shall also notify the owner that unless such nuisance is removed and burned in compliance with the terms thereon within such thirty (30) day period, the City will proceed with the removal and burning of such nuisance, and any expenses incurred by the City in so doing shall be a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens.

Sec. 16-23. Notice to Remove; Manner of Service; Substance.

The notice provided for in the preceding section shall be personally served upon or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, such notice to be delivered or sent not less than thirty (30) days prior to the removal of the tree or trees affected. The notice shall contain the substance of the provisions of this chapter, and identify the property by common description and the tree or trees affected.

Sec. 16-24. Duty to Remove; Nuisance after Notice.

Upon service of notice pursuant to the preceding section, it shall become the duty of the person so served within thirty (30) days from such service to cause such tree or breeding place to be removed and burned under the direction and supervision of the Tree Commission.

Sec. 16-25. Option to Request City Action.

In lieu of removing and burning a nuisance pursuant to the preceding section, the person charged with such removal and burning may request that the same be done by the City.

Sec. 16-26. Nuisances on Public Property.

Trees growing upon public property constituting nuisances under this chapter shall be removed at the expense of the City.

Sec. 16-27. Enforcement of Division.

The City Council may appoint any officer or other person to carry out the intent or purpose of this chapter, who shall act under their specific direction or as he may be instructed thereto by the Mayor, and the Mayor is hereby empowered to carry out and execute the terms of this chapter, and to aid him in fulfilling the same he may require members of the police department or Tree Commission to assist therein.

Sec. 16-28. Right of Entry.

In the enforcement of this chapter, the Mayor or his representative or City employees may enter upon private property at all reasonable hours for purposes of inspecting any trees, shrubs,

weeds or plants thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected or noxious.

Sec. 16-29. Hindering Enforcement Officers Prohibited.

It shall be unlawful for any person to prevent the Mayor or his representative, or a City employee, from entering upon private property for the purposes of performing his duties under this chapter, or to otherwise interfere with the Mayor or his representative in the lawful performance of his duties under this chapter.

DIVISION III. PENALTIES

Sec. 16-30. Penalty.

Any person who violates, neglects or refuses to comply with, or who resists or opposes the enforcement of, any provision of this chapter shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for each offense, and for each subsequent offense such person shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00); and such person shall be deemed guilty of a separate offense for each and every day during which said violation, neglect or refusal to comply with the provisions of this chapter shall continue.

Sec. 16-31. Restitution.

Upon conviction, for the mutilation, death or removal of a tree, shrub or other plant located on City-Owned Property, the person convicted shall provide restitution to the City by paying to repair or replace such tree, shrub or other plant as determined in accordance with the "Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens" as published by the International Society of Arboriculture.

(Ord. #1269, 12-09-96)

CHAPTER 17. ZONING

ARTICLE I. IN GENERAL.

Sec. 17-1. Short title.

This ordinance shall be known, cited and referred to as the City of Henry Zoning Ordinance. (Ord. #1060, 11-25-1991)

Sec. 17-2. Extra Territorial Powers.

- a. The provisions of this Chapter 17 of the City Code of City of Henry (Zoning) shall also apply to such territory which is contiguous to and outside of the corporate limits of the City, is not more than one and one-half mile beyond the corporate limits, is not included within any municipality, all as shown on the map adopted by reference and identified as the "City of Henry Environs Zoning Map".
- b. The City of Henry shall not exercise its powers as set forth in this Section 17-2, at any time that the County in which any such territory which is contiguous to the corporate limits and not more than one and one-half mile beyond the corporate

limits and not included within a municipality is located, has lawfully adopted “An Act in Relation to County Zoning”, approved June 12, 1935, as amended.

(Ord. #1545, 1-31-08)

Sec. 17-3. Elimination of Incompatible Uses in Territory Outside the Corporate Limits.

To the extent that at the time of the effective date of this Section, any property which is in the territory contiguous to the corporate limits of the city and not more than one and one-half mile beyond the corporate limits, and which is subject to the provisions of this Chapter 17, is used or maintained for a purpose which is lawful at that time but which is incompatible with the character of the district in which it is located in accordance with the zoning classifications of this Chapter 17, then the City may provide for the elimination of such use, as follows:

- (i) without compensation, at the time such uses of unimproved lands or lot areas are discontinued by the owner;
- (ii) without compensation, when such buildings or structures may be reasonably adapted to a permitted use;
- (iii) without compensation, at any time such buildings or structures have been destroyed or damaged in major part or have reached the age fixed by the corporate authorities of the City from time to time as the normal use for life of such buildings or structures; or
- (iv) upon amortization of the reasonable value of such use.

Attached hereto and made part hereof is the map identified as the “City of Henry Environs Zoning Map” (Ex. CC-1) referenced herein.

(Ord. #1545, 1-31-08)

Sec. 17-4 to 17-5. Reserved.

ARTICLE II. DEFINITIONS

Sec. 17-6. Definitions.

Accessory Use - Accessory Building or Structure: A subordinate use or building or portion of the main building which is clearly incidental to the main use or the use of the main building, and is located on the same lot as the principal structure and/or use.

Apartment: One (1) or more rooms in a multi-family structure arranged, intended, or designed or occupied as the residence of a single family, individual, or group of individuals.

Automobile Repair: General repair, engine rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; over-all painting of motor vehicles.

Automobile Service Station: A place where gasoline stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public in premises, and including, as incidental thereto, minor accessories and services for automobiles, but not including body and motor rebuilding and repair. When dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Auto Wrecking or Junk Yard: Any place where two (2) or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not restored to operation within thirty (30) days of their arrival, or any portion of any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging and scavenging of any other goods, articles or merchandise.

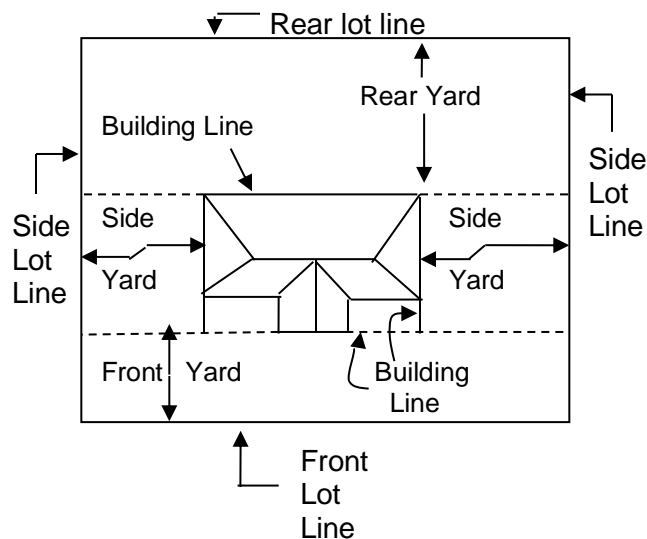
Basement: A story, three (3) sides of which are partly below the level of the street grade or ground nearest the building. A basement shall not be counted as a story for the purpose of height regulation unless it is subdivided, rented, or sold or leased for dwelling purposes.

Bed and Breakfast Inn: An owner-occupied dwelling unit that contains no more than five (5) guest rooms where lodging, with or without meals, is provided for compensation.

Billboard: Any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, civic organization locations, church or fraternal organization bulletin boards, or signs advertising the sale or lease of the premises on which the sign is located.

Block: That property abutting on one (1) side of a street between the two (2) nearest intersecting streets, railroad rights-of-way, or other natural barriers. **Boarding House:** A building where meals or lodging and meals are offered or provided for compensation for three (3) or more, but not exceeding twenty (20), persons.

Building: Any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals, or chattels.



Building Area: The maximum horizontal projected area of a building and its accessory buildings, excluding open steps, terraces, and cornices projecting not more than thirty inches (30").

Building Line: For the purpose of this ordinance the building line is the same as the setback from the front lot line.

Building, Main: A building in which is conducted the main or principal use of the lot on which it is situated. (Ord. #1436, 6-24-02)

Community Residence: A non-medical single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of no more than fourteen (14) persons who, due to advanced age or a disability or disabilities require assistance and/or supervision (plus paid professional support staff provided by a sponsoring agency or operators of the Community Residence, either living with the residents on a twenty-four (24) hour basis, or present whenever residents are present at the dwelling); and complies with the zoning regulations for the district in which the site is located. (Ord. 1089, 6-29-93)

Corner Lot: A lot in one (1) ownership located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) chords of which form an angle of one hundred twenty (120) degrees or less measured on the lot side.

Court: An open space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

Curb Grade: The established elevation of the curb in front of the building measured at the center of such front. Where no curb -grade has been established, the city shall establish such curb level or its equivalent for the purpose of this ordinance.

Depth of Lot: The mean horizontal distance between the front and rear lot lines.

Disability: A physical or mental impairment that substantially limits one (1) or more of a person's major life activities, impairs their ability to live independently, or a record of having such impairment, or being regarded as having such an impairment, but such term does not include current use of, nor addiction to a controlled substance.

District: A section of the City of Henry for which regulations governing the height, area, and use of building and premises are uniform.

Dwelling: A building or portion thereof, but not an automobile house trailer, designed exclusively for residential occupancy, including one (1) family, two (2) family and multiple dwellings but not including hotels, boarding and lodging houses.

Dwelling Unit: One (1) or more rooms in a dwelling or apartment designed primarily for occupancy by one (1) family or for a community residence as a single housekeeping unit for living or sleeping purposes, including kitchen and bathroom facilities.

Dwelling, One (1) Family: A detached building designed exclusively for occupancy by one (1) family.

Dwelling, Multiple: A building or portion thereof designed for occupancy by two (2) or more families living independently of each other.

Dwelling, Row: A group of two (2) or more attached one (1) family dwellings, not more than two and one-half (2 1/2) stories in height, nor more than two (2) rooms deep.

Efficiency Unit: An efficiency unit is a dwelling unit consisting of one (1) room, exclusive of a bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing such dining alcove does not exceed one hundred twenty-five (125) square feet in area.

Family: Any number of individuals related by blood, marriage or adoption, living, cooking and dining together in the same premises as a single housekeeping unit, including domestic servants for whom, subject to the provisions of this ordinance, separate living quarters may be provided.

Front: The front of a lot or front lot line shall be that boundary of a lot along a public street. (Ord. 1185, 9-11-95)

Garage, Private: An accessory building for the storage of not more than three (3) motor-driven vehicles, of which not more than one (1) shall be a commercial vehicle of not more than two (2) ton capacity.

Garage, Public: A building other than a private garage, used for the care, repair or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure.

Guest House: A structure for human habitation, containing one (1) or more rooms with bath and toilet facilities, but not including a kitchen or facilities, which would provide a complete housekeeping unit.

Half Story: That portion of a building under a gable, hip or gambrel roof, which is unused or used only in conjunction with and by the occupants of the floor immediately below.

Height of Building: The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height level (between eaves and ridge) for gable and hip roofs. Where a building is located upon a terrace or slope the height may be measured from the average ground level at the building wall.

Home Occupation: An accessory use of a dwelling unit for gainful employment which:

- (a) is clearly incidental and subordinate to the use of the dwelling unit as a residence
- (b) is carried on solely within the main dwelling and does not alter or change the exterior character or appearances of the dwelling
- (c) is located in a residential district
- (d) is created and operated as a sole proprietorship.

Hospital or Sanitarium: An institution open to the public, in which sick patients or injured persons are given medical or surgical care; or for the care of contagious diseases or incurable patients.

Hotel: A building in which lodging is offered or provided by compensation with or without meals in which there are more than ten (10) guest rooms.

Kennel: Any lot or premises on which four (4) or more dogs, at least four (4) months of age, are kept.

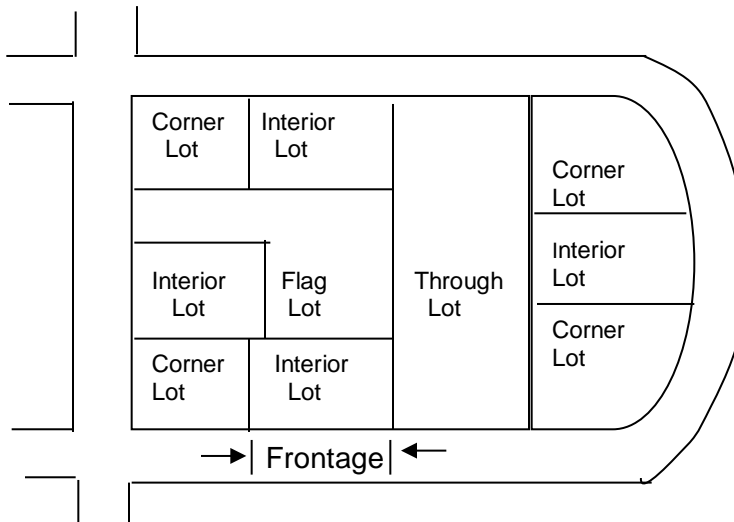
Lodging House: A building where lodging is offered or provided for compensation for six (6) or more, but not to exceed ten (10) guest rooms.

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot: A platted parcel of land made up of one or more parcels which is or may be occupied by one (1) Main Building or one (1) main use with permitted accessory buildings or, in B-1 or B-2 Districts, by Uses or Buildings, and providing open spaces as required by this ordinance and having its principal frontage upon a public street, and is a parcel of land where boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. (Ord. #1436, 6-24-02)

Lot, Interior: A lot other than a corner lot.

Lot Lines: The lines bounding a lot as defined herein.



Lot, Width: The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Mobile Home: A structure designed for permanent habitation and constructed so as to be drawn by a motor vehicle, by wheels temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for one or more persons. (Ord. #1405, 7-23-01)

Mobile Home Park: An area where one (1) or more mobile homes can be or are intended to be parked, designed or intended to be used as living facilities for one (1) family per mobile home. (Ord. #1405, 7-23-01)

Modular Unit: A factory-fabricated building unit designed to be transported to a building site by other than wheels temporarily or permanently attached to its frame. (Ord. #1405, 7-23-01)

Motel: A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for travelers and having a parking space provided for each sleeping room. A tourist court, tourist home or motor lodge with more than one (1) unit shall be deemed a motel.

Motor Home, Mini Motor Home, or Van Camper. A self-contained motor vehicle, not used commercially, designed or converted to provide living quarters for recreational, camping or travel use, with or without direct walk through access to the living quarters from the driver's seat. Such vehicles must include at least two of the following:

- (a) A cooling facility with an on-board fuel source;
- (b) A refrigerator;
- (c) A toilet with exterior evacuation;

- (d) A heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;
- (e) A portable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;
- (f) A 100-125 volt electric power supply;
- (g) Sleeping facilities

(Ord. #1542, 01-14-08)

Non-Conforming Use: Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations established therein.

Nursing Home or Rest Home: An institution which offers medical care to its residents, is staffed by trained medical personnel, and cares for the aged or infirm, or provides a place of rest for those suffering bodily disorders." (Ord. 1089; 6-29-93)

Parking Area, Public: An open area, other than street, used for the temporary parking of more than four (4) automobiles and available for public use whether free, or for compensation or as an accommodation for clients or customers.

Parking Area, Private: An open area for the parking of privately owned automobiles and not for public use.

Parking Space: An area, enclosed in the main building, in an accessory building, or unenclosed in size to store one (1) standard automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Rear Yard: An open space (unoccupied except for accessory buildings) on the same lot with a building, between the rear line of the building and the rear line. of the lot, for the full width of the lot. (See illustration under "building line").

Reversed Corner Lot: A corner lot on which the residential structure is turned ninety (90) degrees such that its front and front yard are facing the side street as compared with the other structures on that street.

Sectional/Modular Home: A single-family dwelling constructed of one or more modular units that are factory fabricated and transported to the building site where they are attached to a permanent foundation and in the event of more than one modular unit, are joined to make a single-family residence. (Ord. #1405, 7-23-01)

Setback: The minimum horizontal distance between the street wall of the buildings and the front street line.

Side Yard: An open unoccupied space on the same lot with a building between the building and the side lot line of the lot and extending from the front building line to the rear building line. (See illustration under "building line")

Signs, Outdoor Advertising: Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising

structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever.

Story: That portion of a building included between any floor and the floor next above it, or if there is no floor above, then the space between such floor and the ceiling next above it.

Street Line: The division line between a lot, tract, or parcel of land and a contiguous public street, including in such street, all property dedicated for street purposes or subject to public easements therefore, or proposed for future street right-of-way as designated in the Major Street Plan.

Street Wall: That wall or part of a wall of a building or that part of the wall or supports of a porch or other structure, nearest to and most nearly parallel with the street, extending more than four feet six inches (4'6") above the finished grade.

Structure: Anything constructed or erected, which required location on the ground, or attached to something having location on the ground.

Structural Alterations: Any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Terrace, Open: A level and rather narrow plain or platform which for purposes of this ordinance is located adjacent to one (1) or more faces of the main structure, and which is constructed not more than four feet (4') in height above the average level of the adjoining ground.

Through Lot: A lot having its front and rear yards each abutting on a street (See illustration under "Lot, interior").

Travel Trailer: A trailer, not used commercially, designed to provide temporary living quarters for recreational camping or travel use, and of a size or weight not requiring an over-dimensioned permit when towed on a highway. (Ord. #1405, 7-23-01)

Use, Principal: A "principal use" is the main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be either "permitted" or "special."

Use, Permitted: A "permitted use" is a use which may be lawfully established in a particular district, provided it conforms with all requirements and regulations of such districts.

Yard: An open space on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

Yard, Front: A yard extending across the full width of the lot and lying between the front lot line, and the nearest building line.

(Ord. #1060, 11-25-1991, Ord. #1098, 6-29-93)

Sec. 17-7 to 17-10. Reserved.

ARTICLE III. DISTRICTS AND REGULATIONS ESTABLISHED

DIVISION 1. IN GENERAL

Sec. 17-11. Classifications.

In order to classify, regulate and restrict the locations of trades and industries, and the locations of buildings designed for specified uses; to regulate and limit the height and bulk of buildings hereafter erected or altered; to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts, and other open spaces within and

surrounding such buildings, the City of Henry, Illinois is hereby divided into seven (7) "districts." The districts shall be known as:

(Ord. #1185, 9-11-95)

- (a) "C" Conservation district
- (b) R-1 Single-family district
- (c) R-2 Multi-family district
- (d) B-1 Commercial - retail
- (e) B-2 Commercial
- (f) I-1 Light industrial
- (g) I-2 Heavy industrial

The boundaries of these districts are indicated upon the zoning map of the city which map is hereto attached and made a part of this ordinance. The said zoning map of Henry with all the notations, references, and other matters shown thereon, shall be as much a part of this ordinance as if the notations, references and other matters set forth by said map were all fully described herein. Except after obtaining written permission from the building commissioner and except as hereinafter provided:

- (a) No building shall be erected or altered, nor shall any building or premises be used for any purpose, other than is permitted in the district in which such building or premises are located.
- (b) No buildings shall be erected or altered to exceed in height the limit herein established for the district in which such building is located.
- (c) No building shall be erected, nor shall any existing building be altered, enlarged, or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the area regulations hereby established for the district in which such building is located.
- (d) Unless otherwise prohibited, or restricted, a permitted use also allows such a use, building or structure as is clearly incidental thereto and compatible with the principal use, if located on the same lot. Incidental uses, buildings or structures shall not be established or erected prior to the establishment or construction of the principal use. (Ord. 1185, 9-11-95)

Sec. 17-12. General conditions.

- (a) Public or semi-public buildings, churches, hospitals, sanitariums, or schools may be erected to a height not exceeding forty feet (40'), or three (3) stories, provided that where they are located in any residential (R) district they must be setback from each property line at least one foot (1') for each foot of additional building height above the limit for the district, in addition to the other front and side yards requirements of the district.
- (b) Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, cooling towers, skylights, towers, steeples, flagpoles, chimneys, smokestacks, radio and television aerials or antennas, wireless masts, water tanks, or similar structures may be erected above the height limits herein

prescribed. No such structure may be erected to exceed by more than twenty-five feet (25') the height limits of the district in which it is located, except that aerials or antennas designed to aid home television reception may be erected to a height not to exceed sixty feet (60') from the ground level, provided said aerial or antenna is attached to the building or erected in the rear yard area.

- (c) No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other space required by this ordinance, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court, or other open space requirement of or for any other dwelling.

An open terrace, but not including a roofed-over porch or terrace, may occupy a front yard provided the unoccupied portion of the front yard has a depth of not less than fifteen feet (15'). A one (1) story bay window may project into a front yard not more than three feet (3'). Overhanging eaves, including gutters, may project over the minimum required side yard not more than thirty inches (30").

The minimum yards or other open spaces, including lot areas per family required by this ordinance for each and every building existing at the time of passage of this ordinance or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building

- (d) Any separate tract, the title of which was of public record at the time of the adoption of this amendment, that does not meet the requirements of this amendment for yards, courts or area of a lot, may be utilized for single-family residence purposes.
- (e) No building shall be constructed or erected upon a lot or parcel of land, which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of twenty-five feet (25'), unless an easement of lesser width was of record or of established use for seventeen (17) years prior to the adoption of this ordinance.
- (f) Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this ordinance and upon which building actual construction has been diligently carried on, and provided further that such building shall be completed within two (2) years from the date of passage and publication of this ordinance.
- (g) Land, which may be annexed to the City shall be classified as R-1 Single Family District until such time as the City Council designates a different classification in accordance with the provisions of this chapter. (Ord. #1336, 7-12-1999)
- (h) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of skylights above the bottom of such yard or court, and except for the projections of sills, belt course, cornices and ornamental features not to exceed thirty inches (30").
- (i) On any corner lot where a front or side yard is required or provided, no building, fence or hedge or other obstruction shall be placed so as to interfere with the clear vision of the driver of an automobile from one (1) street to the other across the corner.
- (j) No private property located in an "R" residential district shall be used as a vehicular access way to any parcel located in any "B" or "I" district.

- (k) No basement shall be occupied as living quarters until a story above-grade has been completed and is ready for occupancy.
- (l) Established setbacks: Notwithstanding any other provisions in regard to setback in residential areas as are set forth in this ordinance, if sixty percent (60%) of any defined residential block is improved with buildings at the time of the passage of this ordinance, and the entire improved frontage shall have been established to a setback line which is less than the minimum requirement as provided for in the appropriate residential district in which the property is located, then the setback existing at the time of the passage of this ordinance shall be accepted as a proper minimum and no hearing for variation shall be required to permit the construction of a building or structure conforming to the existing setback.
- (m) When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located are contiguous and are held in one (1) ownership, they may be used as one (1) zoning lot for such use.
- (n) No improved and zoned lot shall be divided into two (2) or more lots and no portion of any improved and zoned lot shall be sold, unless all improved and zoned lots resulting from each such division or sale shall conform with all the bulk regulations of the zoning district in which the property is located.
- (o) Except as provided in this section, Travel Trailers, Van Campers, Motor Homes, and Mini Motor Homes shall not be permitted in any district as either principal or accessory structures and mobile homes shall not be permitted in any district as accessory structures. Mobile homes shall not be occupied for dwelling or lodging purposes except in an approved mobile home park. A Travel Trailer, Van Camper Motor Home, or Mini Motor Home may be parked for lodging purposes on a vacant lot or the same lot as a dwelling unit but not for more than seventy-two (72) hours in any consecutive thirty (30) day period. Trailers for the sale of food, beverages and other concessions may be permitted for festivals, fairs and other special occasions, for a period not to exceed five (5) days, with the approval of the City Council.
- (p) Microwave antenna systems shall be a permitted use in any zoning district. However, such antennas shall not be installed on any building or structure so as to front on any public street nor project above the highest point of the roof line. If such antennas are installed on a pad, tower or other structure other than the building housing the principal use of the lot, such antenna shall be located in the rear yard.

(Ord. #1060, 11-25-1991; Ord. 1185, 9-11-95; Ord. #1542, 1-14-08)

Sec. 17-13. Lot Area, Dimension.

When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one Lot for such use. (Ord. #1436, 6-24-02)

Sec. 17-14. Buildings on Lot.

Every main building hereafter erected or structurally altered shall be located on a Lot as herein defined and, except in planned unit developments or for commercial buildings located in a B-1 or B-2 zoning district, there shall be no more than one such Main Building on one Lot. (Ord. #1436, 6-24-02)

Sec. 17-15 to 17-20. Reserved.

DIVISION 2. "C" CONSERVATION DISTRICT

Sec. 17-21. Use regulations.

Permitted uses are:

- (a) farms of not less than five (5) acres in size.
- (b) public parks and forest preserves.
- (c) single family dwellings on a lot of five (5) acres or more.
- (d) large scale residential developments in accordance with [Article VIII](#).
- (e) privately operated outdoor recreational facilities, including riding stables, lakes, swimming pools, tennis courts, and golf courses, provided they are located on sites containing not less than five (5) acres.
- (f) fishing and hunting clubs.
- (g) wild life preserves and sanctuaries.
- (h) public and private schools.
- (i) truck gardening.
- (j) bed and breakfast inn.
- (k) Community Residence the sponsoring agency must obtain an Occupancy Certificate prior to establishing a community residence. No dwelling unit shall be occupied as a community residence until the Building Commissioner has issued an occupancy certificate. No certificate of occupancy shall be issued for a community residence unless:
 - (1) the community residence is located at least six hundred feet (600') from any existing community residence, as measured from lot line to lot line; and
 - (2) the applicant demonstrated that it either has obtained or is eligible for state licensing or certification to operate the proposed community residence, or that the proposed community residence is licensed or certified or eligible for licensing or certification, or that licensing or certification is not required by the State of Illinois. (Ord. 1185, 9-11-95)

The Building Commissioner may revoke a certificate of occupancy for a community residence if its license or certification, or the operator's license or certification to operate community residences, is revoked. A certificate of occupancy is not transferable to another operator or to another location.

- (l) signs, subject to [Article VII](#).

Sec. 17-22. Building heights.

No building or structure shall hereafter be erected or enlarged to exceed two and one-half (2 1/2) stories, nor to exceed thirty-five feet (35') in height except farm buildings.

Sec. 17-23. Areas.

No building or structure shall hereafter be erected and no building or structure shall hereafter be enlarged which would when erected conflict with or when enlarged or altered further conflict with the following requirements for yards and lot areas and coverage of lot:

- (a) Front yard - there shall be a front yard of not less than fifty feet (50').
- (b) Side yard - on corner and interior lots there shall be a side yard on each side of a main building of not less than twenty feet (20') and a combined total of side yards of not less than forty-five feet (45').
- (c) Rear yard - there shall be a rear yard having an average depth of not less than fifty feet (50').
- (d) Lot area - every lot, farm or other parcel of land shall have a minimum width at the front building line of two hundred feet (200'), and a minimum of five (5) acres for all uses permitted in this section.
- (e) Lot coverage - not more than twenty percent (20%) of the area of a lot may be covered by main buildings, structures, or accessory buildings.
- (f) Site plan review - improvements conducted pursuant to this Article shall be subject to review procedures as defined in Article X, [Sec. 17-164 \(d\)](#).

Sec. 17-24. Reconstruction.

Any building or structure which conforms to the uses permitted in this Article, but does not conform to the area requirements set forth in Sec. 17-23 above, and which is destroyed or severely damaged by fire or natural disaster, may be reconstructed to the same dimensions that existed prior to the fire or natural disaster.

Sec. 17-25. Fencing of Swimming Pools.

Every person owning land on which there is situated a swimming pool, which is capable of containing twenty-four inches (24") or 610 mm or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, shall be not less than four feet (4') or 1219 mm above the underlying ground. All gates shall be self-closing, lockable and self-latching, with latches placed four feet (4') or 1219 mm above the underlying ground or otherwise made inaccessible from the outside to small children. Such enclosures shall include all opportunities, to access the pool. This requirement shall apply to all swimming pools existing on the date this section becomes law, as well as to swimming pools which are placed on any property within the City of Henry subsequent to this section becoming law; provided that, all swimming pools existing or under construction prior to the enactment of this section shall be enclosed within six (6) months after the effective date of this section, and swimming pools located on land annexed to the City of Henry shall be enclosed within three (3) months after annexation. (Ord. #1484, July 12, 2004)

Sec. 17-26. Special Uses.

Special uses that might be considered under this Article and use will be considered pursuant to the provisions of [Article IV](#).

(Ord. #1060, 11-25-1991)

Sec. 17-27 to 17-28. Reserved.

DIVISION 3. "R-1" SINGLE FAMILY DISTRICT (6,000 SQUARE FEET)

Sec. 17-29. Use regulations.

Permitted uses are:

- (a) single family detached dwellings.
- (b) church, rectory, seminary, convent, and other accessory use required for their operation.
- (c) public primary and secondary schools and private primary and secondary schools with curricula substantially equivalent to a public school, including playgrounds and athletic fields auxiliary thereto.
- (d) golf courses, not including miniature courses or commercial driving ranges, country clubs and tennis courts.
- (e) police and fire stations and building for storage of municipal equipment.
- (f) public park, playground and library.
- (g) public administration building.
- (h) uses customarily incident to any of the above uses.
- (i) accessory building or structure, including a private garage, recreation room, greenhouse, swimming pool, bathhouse, -provided that no kitchen facilities shall be provided except in the principal residential building.
- (j) temporary buildings and uses for construction purposes for a period not to exceed one (1) year.
- (k) signs, subject to Article VII.
- (l) automobile parking space to be provided as required in Article V.
- (m) Home occupation as defined in Article II. However, no commodities may be sold on the premises. No display may indicate from the exterior of the building that it is being used in whole or in part for any purpose other than that of a dwelling. No person may be employed other than a member of the immediate family who resides on the premises. No mechanical or electrical equipment may be used except such equipment as would customarily be used for domestic or household purposes. No accessory building shall be used for a home occupation. Home beauty shops shall be limited to two (2) chairs.
- (n) Temporary real estate office in conjunction with new residential development, limited to the selling or renting of units in such development, and in no case to be operated for more than one (1) year following completion of construction of the housing development.

Sec. 17-30. Building height.

No building or structure shall hereafter be erected, altered or enlarged to exceed two and one-half (2 1/2) stories or to exceed thirty-five feet (35') in height.

Sec. 17-31. Areas.

No building or structure shall hereafter be erected and no building or structure shall hereafter be enlarged which would when erected conflict with, or when enlarged or altered, further conflict with the following requirements for yards and lot areas and coverage of lot:

- (a) Front yard - there shall be a front yard of not less than twenty-five feet (25').
- (b) Side yard - on interior lots there shall be a side yard on each side of the main building. Each such side yard shall be ten percent (10%) of the width of the lot, but in no instance shall it be necessary to have a side yard of more than eight feet (8') on each side.

On corner lots, the side yard requirements shall be the same as for interior lots, except that there shall be maintained a side yard of not less than fifteen feet (15') from the side adjacent to the street which intersects the street upon which the building or structure maintains frontage, and except in the case of a reversed corner lot, there shall be maintained a setback from the side street of not less than fifty percent (50%) of the front yard required on the lots in the rear of such corner lots, but such setback need not exceed fifteen feet (15'). No accessory building or structure on said reversed corner lot shall project beyond the front yard required on the adjacent lot to the rear, nor be located nearer than six feet (6') to the side lot line of said adjacent lot.
- (c) Rear yard - there shall be a rear yard having an average depth of not less than twenty-five feet (25').
- (d) Lot coverage - no building with its accessory buildings shall occupy in excess of thirty percent (30%) of the area of the lot.
- (e) Lot area - every dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than six thousand (6,000) square feet and width at the front building line of not less than sixty feet (60'). Single ownership lots of record at the date of adoption of this ordinance may be used for a permitted use providing the required area, lot width, side or rear lots are each not reduced to less than seventy-five percent (75%) of the required dimensions. Use of lots of record requiring further reductions of yards may be approved by the Planning and Zoning Board of Appeals.
- (f) Accessory buildings and structures - accessory buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings or structures are closer to the lot lines than six feet (6'), and provided further that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets. Accessory buildings shall be set back from the rear lot line by no less than six feet (6') and shall be set back from the side lot line of the rear yard by at least six feet (6'). No detached accessory building or structures shall occupy more than twenty-five percent (25%) of the area of the required rear yard. No detached accessory building or structure located in a rear yard shall exceed eighteen feet (18') in height, nor be any closer than eight feet

(8') to the principal residential structure. Within these restrictions, swimming pools and television receiving dishes are allowable.

(Ord. #1185, 9-11-93)

(g) Fencing

(1) Purpose statement - this section is intended to provide for fences in residential areas in an attractive, safe and functional manner.

(2) General conditions:

(aa) fences shall be constructed such that vertical and/or horizontal supports and cross members are facing the interior of the lot.

(bb) fences in residential front yards - no fence shall be constructed in the required front yard of any residential zoning lot, without administrative approval of a permit or a variance approved pursuant to the provisions of this Article.

(cc) fences in residential side yards - a fence may be constructed in the side yard on any residential zoning lot. Such a fence shall not exceed six feet (6') in height.

(dd) fences in residential rear yards - a fence which is not greater than six feet (6') in height may be constructed in the rear yard of any residential zoning district.

(ee) fences on through lots - fences on through lots shall comply with the foregoing regulations; provided, however, that where all zoning lots in a block fronting on a given street are through lots without vehicular access to the street at the rear of said lots, and where no dwellings front on one (1) street side in the same block, a fence may be constructed in the yard adjacent to the street to which there is no vehicular access and dwelling frontages, so long as the fence is not greater than six feet (6') in height and does not encroach on the right-of-way. Where dwelling frontages do occur in the same block, however, both the front and rear yards shall be regarded as front yards for the purpose of these regulations. In construing this paragraph, the front yard shall have a width equal or greater than the minimum required front yard.

(ff) fences on corner side yards - on a corner side yard the following regulations shall apply:

(1) except as provided below, the fence regulations for corner side yards shall be the same regulations for front yards.

(2) a fence may be erected in a corner side yard no closer than ten feet (10') from the property line. (Ord. #1376, 9-25-00)

(gg) fencing of swimming pools - every person owning land on which there is situated a swimming pool, which is capable of containing twenty-four inches (24") or 610 mm or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, shall be not less than four feet (4') or 1219

mm above the underlying ground. All gates shall be self-closing, lockable and self-latching, with latches placed four feet (4') or 1219 mm above the underlying ground or otherwise made inaccessible from the outside to small children. Such enclosures shall include all opportunities to access the pool. This requirement shall apply to all swimming pools existing on the date this section becomes law, as well as to swimming pools which are placed on any property within the City of Henry subsequent to this section becoming law; provided that, all swimming pools existing or under construction prior to the enactment of this section shall be enclosed within six (6) months after the effective date of this section, and swimming pools located on land annexed to the City of Henry shall be enclosed within three (3) months after annexation. (Ord. #1484, July 12, 2004)

(hh) screening - nothing in these fence regulations shall be interpreted to prohibit or exempt a lot owner from complying with the screening requirements for parking areas set forth in this Ordinance.

(ii) standards for the granting of a variation of fence height or setback requirements. A variance may be granted only after the following findings have been made:

(1) that the proposed fence, considering its placement, height and construction, is compatible with the surrounding neighborhood and does not deprive neighboring property of its full use and enjoyment; and,

(2) that there exist special circumstances unique to the lot in question or use thereof which would make the variation necessary for the full enjoyment of the lot by the owners or occupiers.

(jj) revocation - in any case where a fence allowed by a variation of these regulations has not been maintained for six (6) continuous months after granting thereof, then without further action it shall be null and void.

(kk) standards for front yard fences

(1) the fence is to be located in the front yard of a lot in a subdivision that has recorded covenants that specifically address the type and/or placement of such fences on property within the subdivision.

(2) Irrespective of subdivision covenants the height of the fence shall not exceed four feet (4') and shall be at least seventy percent (70%) open in design. Where a lot is located at the intersection of two (2) or more streets, and there are dwellings in the same block which front on both streets, on that portion of the lot to which the dwelling does not front, the fence shall be constructed at least ten feet (10') from the property line and shall be at least fifty percent (50%) open in design.

(3) the fence shall not encroach on the right-of-way or impair vehicular visibility at intersections of public rights-of-way.

(4) fences in front yards of lots in existing subdivisions with no covenants addressing fencing are authorized.

- (II) minor fence variations - minor variations of no more than two feet (2') to fence heights are permitted and variances of no more than seven feet (7') to side yard requirements on each yard may be granted by the Building Commissioner, provided that the owner of a lot desiring such variations obtains written approval of the locations and type of fence from all owners of adjoining residentially zoned lots.
- (mm) term of approval
 - (1) where an approved fence has not been established within six (6) months after the granting of the fence approval, then without further action by the City, said permit shall be null and void.
 - (2) if a fence permit pursuant to this ordinance has been discontinued for a period of six (6) months or more, it shall not be reestablished without obtaining new approval.
 - (3) any repair, replacement or change to a fence must be in accordance with standards specified.
- (h) Reconstruction of demolished or damaged structures which are nonconforming as to area -
 - (1) Any principal building or structure which conforms to the uses permitted in this article, but does not conform to the area requirements set forth in [Sec. 17-31](#), and which is destroyed or severely damaged by fire or natural disaster, may be reconstructed to the same dimensions that existed prior to the fire or natural disaster.
 - (2) Any accessory building or structure which is permitted in this article, but does not conform to the area requirements set forth in [Sec. 17-31\(f\)](#) above and which is demolished for whatever reason, may be reconstructed with a setback from the rear lot line of not less than three (3) feet, and from the side lot line of the rear yard by not less than three (3) feet and may be closer than eight (8) -feet to the principal structure, provided the applicant can show by the site plan review process that the required setbacks will cause undue harm to existing trees, bushes or other structures.

(Ord. #1185, 9-11-95)

Sec. 17-32 Special uses

The following may be allowed by special use permit in accordance with the provisions of [Article IV](#):

- (a) cemetery;
- (b) convent, monastery, seminary;
- (c) church, temple, synagogue;
- (d) day care center and nursery school, provided there is a minimum of one hundred (100) square feet of outdoor play area for each child to be cared for, and that the play area is fenced and screened from any adjoining lot in any "R" district with a decorative solid wall or fence to a height of six (6) feet;
- (e) golf, tennis, outdoor recreation facility;

- (f) planned unit development;
- (g) public use buildings and service;
- (h) public and private schools and colleges, parks and playgrounds;
- (i) nursing and rest homes; and
- (j) bed and breakfast;
- (k) Community residence - provided that no dwelling unit shall be occupied as a community residence until an occupancy certificate has been issued by the Building Commissioner. No certificate of occupancy shall be issued for a community residence unless:
 - (aa) the community residence is located at least six hundred feet (600') from any existing community residence, as measured from lot line to lot line; and
 - (bb) the applicant demonstrated that it has either obtained or is eligible for state licensing or certification to operate the proposed community residence, that the proposed community residence is licensed or certified or eligible for licensing or certification, or that licensing or certification is not required by the State of Illinois.
 - (cc) the applicant has received any and all required approvals from other governmental bodies, which permit the use of the premises in conformance with the approval for which the applicant has applied.

The Building Commissioner may revoke a certificate of occupancy for a community residence if its license, certification, or approval from any required governmental body is revoked, or the operator's license or certification to operate community residences, is revoked. A certificate of occupancy is not transferable to another operator or to another location.

(Ord. #1060, 11-25-1991, Ord. #1089, 6-29-93, Ord. #1185, 9-11-95)

Sec. 17-33 to 17-36. Reserved.

DIVISION 4. "R-2" MULTI-FAMILY DISTRICT

Sec. 17-37. Use regulations.

Permitted uses are:

- (a) any use permitted in the "R-1" single family district, including special uses, subject to the provisions of [Article IV](#).
- (b) two (2) family dwelling structures.
- (c) row dwellings containing three (3) or more family units.
- (d) multiple dwellings and apartments.
- (e) boarding or lodging houses.
- (f) signs, subject to [Article VII](#).
- (g) required off-street parking.
- (h) bed and breakfast inn.

Sec. 17-38. Height.

No building or structure shall hereafter be erected, altered or enlarged to exceed two and one-half (2 1/2) stories or to exceed thirty-five feet (35') in height.

Sec. 17-39. Areas.

No building or structure shall hereafter be erected and no building or structure shall hereafter be enlarged which would when erected conflict with or when enlarged or altered further conflict with the following requirements for yards and lot areas and coverage of lot. All such yards shall be landscaped, except where parking or sidewalks are designated.

- (a) Front yard - there shall be a front yard of not less than thirty feet (30').
- (b) Side yard - on interior lots there shall be a side yard on each side of the main building. Each such side yard shall be ten percent (10%) of the width of the lot, but in no instance shall it be necessary to have a side yard of more than ten feet (10') on each side. On corner lots the side yard on the intersecting street side shall not be less than ten feet (10'), except in the case of a reversed corner lot, where there shall be a side yard on the street side of the corner lot of not less than fifty percent (50%) of the front yard required in the lots in the rear of such corner lot. No accessory building on said reversed corner lot shall project beyond the front yard line required on the adjacent lot in the rear, nor be located nearer than six feet (6') to the side lot line of such adjacent lot.
- (c) Rear yard - there shall be a rear yard of not less than twenty-five feet (25') for interior lots, nor less than fifteen feet (15') for corner lots.
- (d) Lot area - no building shall hereafter be erected or structurally altered on any lot less than fifty feet (50') in width nor less than five thousand (5,000) square feet in area except that a single family dwelling may be erected on any lot of smaller area and less width which has been duly recorded prior to the passage of this ordinance if it was then and still remains separately owned from adjoining lots on either side. Every residential building hereafter erected or structurally altered for use other than for a single family dwelling shall provide a lot area per dwelling unit or, where indicated, per sleeping room, as follows:

Two (2) family dwelling 2,500 square feet per dwelling unit Multiple dwelling, apartment or row 2,500 square feet per dwelling unit dwelling of more than two (2) units; provided a one (1) bedroom dwelling unit shall require only 2,000 square feet per dwelling unit and an efficiency unit shall require only 1,500 square feet per dwelling unit boarding and lodging houses, orphanages, nursing or rest home 500 square feet per sleeping room.
- (e) Courts - no inner court or courts completely surrounded on all sides by a building shall be permitted. Outer courts are permitted, provided the depth of the court is no greater than the width of- the court.
- (f) Accessory buildings - the same regulations shall apply as required in the ["R-1" district](#).
- (g) Fencing
 - (1) Purpose statement - this section is intended to provide for fences in residential areas in an attractive, safe and functional manner.
 - (2) General conditions:

- (aa) fences shall be constructed such that vertical and/or horizontal supports or cross members are facing the interior of the lot.
- (bb) fences in residential front yards - no fence shall be constructed in the required front yard of any residential zoning lot, without administrative approval of a permit or a variance approved pursuant to the provisions of this Article.
- (cc) fences in residential side yards - a fence may be constructed in the side yard on any residential zoning lot. Such a fence shall not exceed six feet (6') in height.
- (dd) fences in residential rear yards - a fence which is not greater than six feet (6') in height may be constructed in the rear yard of any residential zoning district.
- (ee) fences on through lots - fences on through lots shall comply with the foregoing regulations; provided, however, that where all zoning lots in a block fronting on a given street are through lots without vehicular access to the street at the rear of said lots, and where no dwellings front on one (1) street side in the same block, a fence may be constructed in the yard adjacent to the street to which there is no vehicular access and dwelling frontages, so long as the fence is not greater than six feet (6') in height and does not encroach on the right-of-way. In construing this paragraph, the front yard shall have a width equal or greater than the minimum required front yard.
- (ff) fences on corner side yards - on a corner side yard the following regulations shall apply:
 - (1) except as provided below, the fence regulations for corner side yards shall be the same as regulations for front yards.
 - (2) a fence may be erected in a corner side yard no closer than ten feet (10') from the property line. (Ord. #1376, 9-25-00)
- (gg) fencing of swimming pools - every person owning land on which there is situated a swimming pool, which is capable of containing twenty-four inches (24") or 610 mm or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, shall be not less than four feet (4') or 1219 mm above the underlying ground. All gates shall be self-closing, lockable and self-latching, with latches placed four feet (4') or 1219 mm above the underlying ground or otherwise made inaccessible from the outside to small children. Such enclosures shall include all opportunities to access the pool. This requirement shall apply to all swimming pools existing on the date this section becomes law, as well as to swimming pools which are placed on any property within the City of Henry subsequent to this section becoming law; provided that, all swimming pools existing or under construction prior to the enactment of this section shall be enclosed within six (6) months after the effective date of this section, and swimming pools located

on land annexed to the City of Henry shall be enclosed within three (3) months after annexation. (Ord. #1484, July 12, 2004)

- (hh) screening - nothing in these fence regulations shall be interpreted to prohibit or exempt a lot owner from complying with the screening requirements for parking areas set forth in this ordinance.
- (ii) standards for the granting of a variation of fence height or setback requirements. A variance may be granted only after the following findings have been made:
 - (1) that the proposed fence, considering its placement, height and construction, is compatible with the surrounding neighborhood and does not deprive neighboring property of its full use and enjoyment; and,
 - (2) that there exist special circumstances unique to the lot in question or use thereof which would make the variation necessary for the full enjoyment of the lot by the owners or occupiers.
- (jj) revocation - in any case where a fence allowed by a variation of these regulations has not been maintained for six (6) continuous months after granting thereof, then without further action it shall be null and void.
- (kk) standards for front yard fences
 - (1) the fence is to be located in the front yard of a lot in a subdivision that has recorded covenants that specifically address the type and/or placement of such fences on property within the subdivision.
 - (2) irrespective of subdivision covenants, the height of the fence shall not exceed four feet (4') and shall be at least seventy percent (70%) open in design. Where a lot is located at the intersection of two (2) or more streets, and there are dwellings in the same block which front on both streets, on that portion of the lot to which the dwelling does not front, the fence shall be constructed at least ten feet (10') from the property line and shall be at least fifty percent (50%) open in design.
 - (3) the fence shall not encroach on the right-of-way or impair vehicular visibility at intersections of public rights-of-way.
 - (4) fences in front yards of lots in existing subdivisions with no covenants addressing fencing are authorized.
- (ll) minor fence variations - minor variations of no more than two feet (2') to fence heights are permitted and variances of no more than seven feet (7') to side yard requirements on each yard may be granted by the Building Commissioner, provided that the owner of a lot desiring such variations obtains written approval of the locations and type of fence from all owners of adjoining residentially zoned lots.

- (mm) term of approval.
 - (1) where an approved fence has not been established within six (6) months after the granting of the fence approval, then without further action by the City, said permit shall be null and void.
 - (2) if a fence permit pursuant to this ordinance has been discontinued for a period of six (6) months or more, it shall not be reestablished without obtaining new approval.
 - (3) any repair, replacement or change to a fence must be in accordance with standards specified.
- (h) Site plan review-Improvements conducted pursuant to this article shall be subject to review procedures defined in Article X, [Sec. 17-164 \(d\)](#).
- (i) Reconstruction of demolished or damaged structures which are nonconforming as to area:
 - (1) Any principal structure which conforms to the uses permitted in this article but does not conform to the area requirements set forth in Sec. 17-39 above, and which is destroyed or severely damaged by fire or natural disaster, may be reconstructed to the same dimensions that existed prior to the fire or natural disaster.
 - (2) Any accessory building or structure which is permitted in this article, but does not conform to the area requirements set forth in Sec. 17-39 above and which is demolished for whatever reason, may be reconstructed with a setback from the rear lot line of not less than three feet and from the side lot line of the rear yard by not less than three feet and may be closer than eight feet to the principal structure, provided that the applicant can show by the site plan review process that the required setbacks will cause undue harm to the existing bushes, trees or other structures, etc.

(Ord. #1060, 11-25-1991, #1185 9-11-95)

Sec. 17-40 Special uses

The following may be allowed by special use permit in accordance with the provisions of Article IV:

- (a) libraries, parks, playground;
- (b) golf courses, country clubs, tennis courts and similar recreation use;
- (c) public and private schools and colleges;
- (d) churches, temples and synagogues;
- (e) nursery and day care centers provided that there is a minimum of 100 square feet of outdoor play area for each child to be cared for and that the play area is fenced and screened from any adjoining lot in any "R" district with a decorative solid wall or fence to a height of six feet;
- (f) rest homes, nursing homes;
- (g) public buildings and service;
- (h) cemetery;

- (i) hospitals and sanitarium;
- (j) mobile home park. (Ord. #1185, 9-11-95, #1405, 7-23-01)

Sec. 17-41 to 17-45. Reserved.

DIVISION 5. "B-1" COMMERCIAL RETAIL DISTRICT

The commercial retail area is designed primarily for the retail shopping activities of persons residing in the trading area and to permit such retail uses as shall be compatible with each other as distinguished from non-retail activities that are not conducive to enhancing a retail shopping area.

Sec. 17-46. Permitted uses.

- (a) automobile service stations
- (b) banks, financial institutions
- (c) bakeries, where all goods are sold on the premises at retail
- (d) barber shops and beauty shops
- (e) billiard and poolrooms
- (f) books and stationery stores
- (g) bowling alleys and skating rinks
- (h) clubs and lodges
- (i) dry cleaners pick-up stations and facilities for cleaning not more than one thousand (1,000) pounds of dry goods per day and using non-flammable cleaning agents
- (j) drug stores
- (k) electrical appliance shops
- (l) florist shops and greenhouses for retail trade only
- (m) garages and lots, public or private, for storage of automobiles
- (n) grocery, fruit or vegetable stores
- (o) hardware stores, plumbing, heating sales and shops
- (p) laundrettes, laundromats, and hand laundries
- (q) marine sales and service, boathouse, bait store, yacht club
- (r) meat markets or poultry stores, if no slaughtering or stripping is involved
- (s) motels and hotels, lodging houses, bed and breakfast inns
- (t) offices: business, governmental, professional, non-profit
- (u) package liquor stores
- (v) pet shops
- (w) radio and television sales and service and repair
- (x) restaurants including the sale of alcoholic beverages; includes fast food restaurant
- (y) retail stores and services

- (z) shoe repair shops
- (aa) signs subject to Article VII
- (bb) tailor and dressmaking shops, not employing more than five (5) people
- (cc) taverns and lounges
- (dd) temporary buildings incidental only to construction of permitted use
- (ee) department, furniture and home appliance stores
- (ff) required off-street parking
- (gg) theaters, indoor
- (hh) professional or service office
- (ii) retail lumber, hardware and building supplies, not including redi-mix
- (jj) art galleries and studio
- (kk) catering service
- (ll) computer service
- (mm) cultural facility
- (nn) employment agency
- (oo) funeral homes, chapel, service
- (pp) health center, gymnasium, weight reducing salon, and masseur
- (qq) medical and dental clinic and laboratory
- (rr) museum
- (ss) newsstand
- (tt) photo finishing, photo studio
- (uu) printing, blueprinting
- (vv) recreation building
- (ww) service and repair business
- (xx) veterinarian (household pets)
- (yy) apartments (second or third floor only)
- (zz) business, music, dance or commercial school
- (aaa) dance and meeting hall
- (bbb) radio broadcasting station
- (ccc) lodge rooms, fraternal hall
- (ddd) public utility and public service use
- (eee) hospital and sanitarium
- (fff) nursery school and day care center
- (ggg) nursing and rest home
- (hhh) vehicle washing facilities; and

(iii) uses customarily incidental to any of the above uses and accessory buildings when located on the same lot;

All business or services of aforesaid stores, shops, and businesses shall be conducted wholly within a completely enclosed building except for automobile parking and off street loading areas. (Ord. #1185, 9-11-95)

Sec. 17-47. Special Uses.

The following uses may be allowed by special use permit in accordance with the provisions of Article IV:

- (a) other retail or commercial uses not specifically listed above when found to be compatible with established or planned uses on adjoining property
- (b) transportation terminal for bus or rail service.
- (c) church, temple, synagogue

Sec. 17-48. Height.

No building or structure shall hereafter be erected, altered or enlarged to exceed three (3) stories or to exceed thirty-five feet (35') in height.

Sec. 17-49. Areas.

No buildings or structures shall hereafter be erected and no buildings or structures shall hereafter be enlarged which would when erected conflict with or when enlarged or altered further conflict with the following requirements for yards and lot areas and coverage of lot:

- (a) Front setback - all new structures and remodeled structures permitted in this district shall be permitted to be built to the front property line. (Ord. #1185, 9-11-95)
- (b) Side yard - where a lot is used for any of the purposes permitted in this district and is located at the intersection of two (2) or more streets, and where "R" district adjoins the rear of said lot, the side yard on the side of the lot adjacent to the street shall not be less than ten feet (10') in width, except that the buildable width of the lot shall not be reduced to less than twenty feet (20'). In all other cases a side yard is not required except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than six feet (6'). Notwithstanding the above, if there is more than one Main Building on the Lot, each Lot shall have a side yard of not less than ten (10) feet and there shall be a minimum separation of the Main Buildings of not less than ten (10) feet.
- (c) Rear yard - there shall be a rear yard having a depth of not less than ten feet (10') when abutting upon a public alley and not less than twenty feet (20') when no dedicated alley or public way exists at the rear of the lot.

(Ord. #1436, 6-24-02)

Sec. 17-50. Design Controls.

- (a) All ground level and rooftop mechanical equipment shall be fully screened from view from public streets.

- (b) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into parks. Lighting proposed for any development shall be indicated on the site plan, and shall include: height of fixtures, type of fixture, light throw area, and location of fixture.

Sec. 17-51. Site Plan Review.

Improvements conducted pursuant to this Article shall be subject to review procedures defined in Article X, [Sec. 17-164 \(d\)](#).

Sec. 17-52. Swimming Pools.

Swimming pools in this B-1 district shall comply with the fencing regulations and requirements of Article III, [Sec. 17-39, \(g\) \(2\) \(gg\)](#).

(Ord. #1060, 11-25-1991; #1064, 3-23-1992; #1185 9-11-95)

Sec. 17-53. Standards.

All buildings, structures and uses in the "B-1" commercial district shall comply with the following regulations:

- (a) All operation and production activities shall be conducted or maintained wholly inside an enclosed building. Where open storage is used, the area should be effectively screened by a decorative solid wall or fence or dense evergreen planting of sufficient height to block out the view of the storage area from any park or residential district. No open storage shall be permitted within sixty feet (60') of an adjoining residential district or public park.
- (b) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (c) No vibrations shall be detectable beyond the lot lines.
- (d) No glare or heat shall be detectable beyond the lot lines.
- (e) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks. Lighting proposed for any development shall be indicated on the site plan, and shall include: height of fixtures, type of fixtures, light throw area, and location of fixture.
- (f) No fuel except electricity, oil or gas shall be used.
- (g) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
 - (1) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning is permitted.
 - (2) The storage, utilization or manufacture of materials or products ranging from free to active burning is permitted, provided the following condition is met: said materials or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 - (3) The storage, utilization or manufacture of flammable materials which produce explosive vapors of gases is prohibited, except as follows:

- (i) the storage of gasoline and fuel oil for retail sale by an automobile service station and
- (ii) the storage of gasoline and fuel oil, provided storage is underground and does not exceed a capacity of one thousand (1,000) gallons, for use solely for heating or operating of vehicles in connection with the principal use.
- (h) No raw materials shall be processed into any of the following basic products: metals of any kind, gases, plastics, textiles, paper and leather.
- (i) All premises shall be furnished with all-weather surface walks; and except for parking areas, grounds shall be planted and landscaped.
- (j) All ground level and rooftop mechanical equipment shall be fully screened from view from public streets.

(Ord. #1185, 9-11-95)

Sec. 17-54. Reserved.

DIVISION 6. "B-2" COMMERCIAL DISTRICT

Sec. 17-55. Standards.

All buildings, structures and uses in the "B-2" commercial district shall comply with the following regulations:

- (a) No building shall be used for residential purposes.
- (b) All operation and production activities shall be conducted or maintained wholly inside an enclosed building. Where open storage is used, the area should be effectively screened by a decorative solid wall or fence or dense evergreen planting of sufficient height to block out the view of the storage area from any park or residential district. No open storage shall be permitted within sixty feet (60') of an adjoining residential district or public park.
- (c) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (d) No vibrations shall be detectable beyond the lot lines.
- (e) No glare or heat shall be detectable beyond the lot lines.
- (f) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks. Lighting proposed for any development shall be indicated on the site plan, and shall include: height of fixtures, type of fixture, light throw area, and location of fixture.
- (g) No fuel except electricity, oil or gas shall be used.
- (h) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
 - (1) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning is permitted.
 - (2) The storage, utilization or manufacture of materials or products ranging from free to active burning is permitted, provided the following condition is

met: said materials or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

- (3) The storage, utilization or manufacture of flammable materials which produce explosive vapors or gases is prohibited, except as follows:
- (i) the storage of gasoline and fuel oil for retail sale by an automobile service station and
 - (ii) the storage of gasoline and fuel oil, provided storage is underground and does not exceed a capacity of one thousand (1,000) gallons, for use solely for heating or operating of vehicles in connection with the principal use.

(Ord. #1185, 9-11-95)

- (i) No raw materials shall be processed into any of the following basic products: metals of any kind, gases, plastics, textiles, paper and leather.
- (j) All premises shall be furnished with all-weather surface walks; and except for parking areas, grounds shall be planted and landscaped.
- (k) All ground level and rooftop mechanical equipment shall be fully screened from view from public streets.

Sec. 17-56. Permitted uses.

- (a) any use permitted in the "B-1" commercial retail district
- (b) automobile service station, auto accessory store, auto and truck sales and service shops including body work
- (c) agricultural implement sales and service
- (d) air conditioning and heating sales and service
- (e) auction rooms
- (f) automobile sales and service shop
- (g) battery and tire service stations
- (h) beverage distributors, but not including bottling plants
- (i) book binding
- (j) catering establishments
- (k) clubs, lodges or fraternal organizations
- (l) expressing, baggage, and transfer delivery service
- (m) garages or lots, public or private, for storage of passenger automobiles, trucks, or buses
- (n) laboratories
- (o) laundry
- (p) painting and decorating shops
- (q) plumbing, heating, and roofing supply and work shop

- (r) printing, publishing, and issuing of newspapers, periodicals, books, and other reading matter
- (s) printing shops
- (t) radio broadcasting station, including transmitting equipment, antennas and towers
- (u) taxi service stations
- (v) telegraph service station, telephone exchange, repeater stations, microwave towers and station
- (w) trailer sales
- (x) wholesale establishments
- (y) manufacturing or processing which is clearly incidental to use that is permitted. Such manufacturing or processing is limited to that which employs not more than ten (10) persons in the manufacturing process
- (z) offices, professional offices, and medical clinics
- (aa) undertaking establishments
- (bb) temporary buildings incidental only to construction of a permitted use
- (cc) uses customarily incidental to any of the above uses and accessory buildings when located on the same lot
- (dd) signs, subject to Article VII
- (ee) used car lots
- (ff) construction offices
- (gg) required off-street parking
- (hh) hospital and sanitarium
- (ii) bait and fishing tackle shop
- (jj) storage and sale of fertilizer, L.P. gas, and seed
- (kk) ambulance service
- (ll) exterminating service
- (mm) monument sale
- (nn) second-hand store; rummage shop
- (oo) lumber yard.
- (pp) mini-storage units

Sec. 17-57. Height.

No buildings or structures shall hereafter be erected, altered or enlarged to exceed three (3) stories or to exceed thirty-five feet (35') in height, except additions to buildings as of the date of this Code may be erected not to exceed the height of the existing principal building. (Ord. #1185, 9-11-95; Ord. #1436, 6-24-02)

Sec. 17-58. Areas.

No buildings or structures shall hereafter be erected and no building or structure shall hereafter be enlarged which would, when erected, conflict with, or when enlarged or altered, further conflict with the following requirements for yards and lot areas and coverage of lot. All such yards shall be landscaped, except where parking or sidewalks are designated.

- (a) Front setback - all new structures and remodeled structures permitted in this district shall be permitted to be built to the front property line.
- (b) Side yard - where a lot is used for any of the purposes permitted in this district and is located at the intersection of two (2) or more streets, and where an "R" district adjoins the rear of said lot, the side yard on the side of the lot adjacent to the street shall not be less than ten feet (10') in width, except that the building width of the lot shall not be reduced to less than twenty feet (20'). In all other cases a side yard is not required except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than ten feet (10'), thereby permitting sufficient space for a landscaped buffer. Notwithstanding the above, if there is more than one (1) Main Building on the Lot, each Lot shall have a side yard of not less than ten (10) feet and there shall be a minimum separation of the Main Buildings of not less than ten (10) feet. (Ord. #1436, 6-24-02)
- (c) Rear yard - there shall be a rear yard having a depth of not less than ten feet (10') when abutting upon a public alley and not less than twenty feet (20') when no dedicated alley or public way exists at the rear of the lot.

(Ord. #1185, 9-11-95)

Sec. 17-59. Use intensity.

No building, with its accessory buildings, shall occupy more than forty percent (40%) or more of the area or lot or tract.

Sec. 17-60. Special uses.

The following uses may be allowed by special use permit in accordance with the provisions of Article IV:

- (a) other retail or commercial uses not specifically listed above when found to be compatible with established or planned uses on adjoining property.
- (b) church, temple, synagogue

Sec. 17-61. Site plan review.

Improvements conducted pursuant to this Article shall be subject to review procedures defined in [Article X, Sec. 17-164\(d\)](#).

Sec. 17-62. Swimming pools.

Swimming pools in this B-2 district shall comply with the fencing regulations and requirements of Article III, [Sec. 17-39, \(g\)\(2\)\(gg\)](#).

(Ord. #1060, 11-25-1991; 1064, 3-23-1992)

Sec. 17-63 to 17-65. Reserved.

DIVISION 7. "I-1" LIGHT INDUSTRIAL DISTRICT

Sec. 17-66. Standards.

All buildings, structures, and uses in the light industrial district shall comply with the following regulations:

- (a) No building shall be used for residential purposes.
- (b) No retail sales or services shall be permitted, except as incidental or accessory to a principal and permitted use.
- (c) All operations, activities and storage shall be conducted or maintained wholly inside enclosed buildings.
- (d) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (e) No vibrations shall be detectable beyond the lot lines.
- (f) No glare or heat shall be detectable beyond the lot lines.
- (g) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or parks. Lighting proposed for any development shall be indicated on the site plan, and shall include: height of fixtures, type of fixture, light throw area, and location of fixture.
- (h) No fuel except electricity, oil, or gas shall be used.
- (i) The storage or use of chemicals, either solid, liquid, or gas, shall be subject to the following conditions:
 - (1) The storage, utilization, or manufacture of materials or products ranging from incombustible to moderate burning is permitted.
 - (2) The storage, utilization, or manufacture of materials or products ranging from free to active burning is permitted, provided the following condition is met: said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 - (3) The manufacture of flammable materials, which produce explosive vapors or gases, is prohibited.
- (j) No raw materials shall be processed into any of the following basic products: metals of any kind, glass, plastics, textiles, leather, or paper.
- (k) All premises shall be furnished with all-weather surface walks, and except for parking areas, grounds shall be planted and landscaped.

Sec. 17-67. Permitted uses.

Any building or premises within the light industrial district shall be used only for the following purposes:

- (a) compounding, processing and blending of chemical products
- (b) general, administrative, research data processing offices

- (c) machine shops and metal products manufacture, and tool and die shops
- (d) processing and assembling of light weight products
- (e) research laboratories
- (f) signs, subject to Article VII
- (g) storage warehouses for a specific business enterprise, but not including commercial storage for hire
- (h) accessory buildings incidental to the foregoing
- (i) required off-street parking
- (j) special uses, subject to the provisions of Article IV
- (k) recycling drop-off and transfer station
- (l) freight terminals and transfer station
- (m) uses permitted in the B-1 and B-2 districts
- (n) manufacturing, assembly, compounding, processing, packaging or other comparable treatment of the following:
 - (1) bakery goods, candy, and food products
 - (2) photographic equipment
 - (3) outdoor advertising
 - (4) medical, dental instruments
 - (5) mobile homes, camping trailers
 - (6) musical instruments, toys, novelties and stamps
 - (7) precision small instruments

Sec. 17-68. Height.

No building shall hereafter be erected or altered to exceed fifty feet (50') in height.

Sec. 17-69. Area regulations.

No building, or any part thereof, shall be hereafter erected, altered, or relocated so that any part of said building shall be less than forty-seven feet (47') from the center line of an established thirty-three foot (33') right-of-way, as measured from back to curb, or thirty feet (30') from the right-of-way line of any other type of roadway.

Each principal building shall have a side yard on each side, the total width of both side yards to be not less than forty feet (40'), with a minimum side yard of fifteen feet (15'). Each building shall have a rear yard of not less than twenty-five feet (25') in depth.

Sec. 17-70. Intensity of tract use.

No building in the I-1 light industry district, which taken together in area with its accessory buildings shall occupy more than fifty-five percent (55%) of the lot or tract.

Sec. 17-71. Parking regulations.

Each light industrial district site shall provide a parking area containing not less than one hundred (100) square feet of space for each employee. If the location of the site shall be on a thirty-three foot (33') improved roadway, as provided in the light industrial district, the provisions in regard to such roadway and establishment of easements shall apply. If the site shall front upon any other permitted roadway, local regulations as to parking shall control in such areas.

Sec. 17-72. Site plan review.

Improvements conducted pursuant to this Article shall be subject to review procedures defined in Article X, [Sec. 17-164\(d\)](#). (Ord. #1060, 11-25-1991)

Sec. 17-73-17-77. Reserved.

DIVISION 8. "I-2" HEAVY INDUSTRIAL DISTRICT

Sec. 17-78. Purpose.

The heavy industrial district is designed primarily to permit administrative, industrial, and other related activities, which do not in any way detract from the character of the city and which are not permitted in the light industrial district and to restrict such activities to an area of low-lying terrain located adjacent to heavily traveled transportation routes but in proximity to residential areas. All of the following restrictions are imposed to protect and foster the aforementioned residential character of the city.

Sec. 17-79. Standards.

All buildings, structures and uses in the heavy industrial district shall comply with the following regulations:

- (a) No building shall be used for residential purposes.
- (b) No retail sales or services shall be permitted, except as incidental to a principal and permitted use.
- (c) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (d) No vibrations shall be detectable beyond the lot lines.
- (e) No glare or heat shall be detectable beyond the lot lines.
- (f) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence districts or parks. Lighting proposed for any development shall be indicated on the site plan, and shall include: height of fixtures, type of fixture, light throw area, and location of fixture.
- (g) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
 - (1) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning is permitted.
 - (2) The storage, utilization or manufacture of materials ranging from free to active burning and flammable materials which produce explosive vapors or gases is permitted, provided the following condition is met: Said materials

or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system, all in accordance with accepted best practices of the National Board of Fire Underwriters.

- (h) All premises shall be furnished with all-weather surface walks; and, except for parking areas, grounds shall be planted and landscaped.
- (i) All operation and production activities shall be conducted or maintained wholly inside an enclosed building. Where open storage is used, the area should be effectively screened from view by a decorative solid wall or fence, or dense evergreen planting of sufficient height to block out the view of the storage area from any public street, park or residential district. No open storage shall be permitted within sixty feet (60') of an adjoining residential district or public park.

Sec. 17-80. Permitted uses.

Permitted uses within the "I-2" heavy industrial district are:

- (a) contractor's plant, including storage yards
- (b) building materials and fuel yards
- (c) feed, flour and grain storage
- (d) fertilizer processing and manufacturing plants
- (e) warehouse and storage plants
- (f) bulk oil and gasoline storage
- (g) auto dismantling and storage of junk
- (h) rubber and other manufacturing plants
- (i) other industrial and manufacturing uses meeting all requirements of this and all applicable ordinances
- (j) cement, lime, gypsum manufacturing
- (k) airport and related services
- (l) uses permitted under "I-1" light industrial district (Ord. #1185, 9-11-95)
- (m) the growing and harvesting of agricultural crops (Ord. #1250, 7-8-96)

Sec. 17-81. Height.

No building shall hereafter be erected or altered to exceed one hundred feet (100') in height.

Sec. 17-82. Intensity of tract use.

No building in the "I-2" heavy industrial district, which, taken together in area with its accessory buildings, shall occupy more than fifty-five percent (55%) of the lot or tract provided.

Where a tract is improved with an existing building or structure, the structure or building shall not be deemed to be non-conforming unless it occupies in excess of seventy-five percent (75%) of the tract, and any such existing structure or building may be enlarged and additional buildings may be erected, provided such addition shall not, when added to the existing building or structure, occupy more than seventy-five percent (75%) of the tract.

Sec. 17-83. Parking regulations.

Each heavy industrial district site shall provide a parking area containing not less than one hundred (100) square feet of space for each employee. If the location of the site shall be on a thirty-three foot (33') improved roadway, as provided in the heavy industrial district, the provisions in regard to such roadway and establishment of easements shall apply. If the site shall front upon any other permitted roadway, local regulations as to parking shall control in such areas.

Sec. 17-84. Site plan review.

Improvements conducted pursuant to this Article shall be subject to review procedures as defined in [Article X, Sec. 17-164 \(d\)](#). (Ord. #1060, 11-25-1991)

Sec. 17-85. Special Uses.

The following uses may be allowed by special use permit in accordance with the provisions of Article IV:

- (a) Other industrial uses not specifically listed as a permitted use when found to be compatible with established or planned uses on adjoining property. (Ord. #1185 9-11-95)
- (b) The construction or operation of a port on the Illinois River subject to the following condition:
 - (1) Prior to operation of any such port, the owner or operator has received all permits required by any state or federal authority including, without limitation, the United States Army Corps of Engineers.
- (c) Mining and any associated activities subject to the following conditions:
 - (1) Special Use Permit Application. In addition to the requirements of this section, the application for special use shall contain the following plans and permit. Each plan shall be drawn to scale not less than 1" = 100' (or 1" = 200' if the site is over fifty (50) acres) and shall show north point, date, graphic scale, and section lines.
 - A. Predevelopment plan, including the following information:
 - i. Name and address of all owners of the site proposed for development.
 - (ii) A written legal description and parcel identification numbers of the site proposed for development.
 - (iii) A map showing:
 - (a) The location of all property lines, existing roads, easements, utilities and other significant features;
 - (b) The existing conditions on the tract, including contour lines (at least five-foot intervals), watercourses, existing drainage facilities, and wooded areas;
 - (c) The existing buildings and structures with an indication of those which will be retained as part of the development; and
 - (d) The existing land uses of adjacent tracts.
 - B. Site Plan of operations, demonstrating the following:

- i. Excavation lines in relation to property lines.
 - ii. Ingress and egress during operation.
 - iii. Proposed buffer strips and plantings.
 - iv. Stockpiles of mineral material and overburden.
- C. Redevelopment Plan for the Property.
 - i. Where overburden will exceed ten (10) feet in depth or where the operation will affect more than ten (10) acres during a year, an operating permit, including any conservation and reclamation plan and bonding (if required by the City) shall be secured as required by the IEPA or the Illinois Department of Mines and Minerals (DoMM), in accordance with the provisions of the Surface-Mined Land Conservation and Reclamation Act, 225 ILCS 715/1 et seq.
 - (ii) Where overburden will not exceed ten (10) feet in depth and where the operation will not affect more than ten (10) acres during a year, a reclamation plan shall be submitted to the City along with bonding for the cost of reclamation if bonding is required by the City.
- D. An explanation of the need for the special use.
- E. A written description of the proposed use that includes information concerning proposed hours of operation, expected traffic impacts, and any other pertinent details concerning the proposed use, including a description of how the request satisfies the review standards of Section 17-92 of Article IV of the City of Henry Zoning Code.
- F. The names and addresses of owners of petitioned property.
- G. The following statements:
 - i. Whether the applicant is a corporation, and if a corporation, disclose the correct name and address of all officers and directors and of all stockholders or shareholders owning any interest in excess of twenty (20) percent of all outstanding stock or shares of such corporation;
 - ii. Whether the application, or his principal if other than the applicant, is a business or an entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business entity.
 - iii. Whether the applicant or his principal if other than the applicant is a partnership, a joint venture, a syndicate or an unincorporated voluntary association, and if so, include the names and addresses of all partners, or members of the partnership, joint venture, syndicate or unincorporated voluntary association.

iv. Whether the applicant is acting for himself or in the capacity of an agent, an alter ego, or a representative of a principal. The applicant shall include the name and address of the true principal.

(2) Fee. The application fee for this special use shall be \$50 per acre based on the total area to be used for the activities requiring the special use permit, excluding the separation and setback distances. The minimum fee shall be \$500.

(3) Separation Distances. No mining or associated activities will be permitted within 1000 feet of the nearest point of a residence, public school, nursing home, health clinic, hospital, or church existing and occupied at the time the special use application was applied for unless the owner of the affected real estate provides a written waiver of the separation distance and specifies the alternate distance. Associated activities are defined as aggregate screening, washing, crushing, grinding or other processing, creation and depletion of stockpiles, loading and unloading trucks and conveyors and access points to public right-of-way. Further, no transportation means may be utilized on the property which is the subject of the special use, within 1000 feet of the nearest point of a nursing home or hospital existing and occupied on the date the special use application was filed, whether the same be by truck, conveyor, rail or otherwise; provided, however, that this exception shall not apply to transportation of minerals on any public road.

(4) Setback Distances. No mining or associated activities are permitted within 75 feet of the lot line, except for fencing, berming and landscaping.(5)

(5) Berms, Screening and Site Security. All operations within 500 feet of an occupied residence, public school, or health clinic (or such greater distance as may be provided in the particular ordinance granting the special use permit) existing on the date the special use application was filed will be, screened with an earthen berm a minimum of 10 feet high, with side slopes not steeper than 3: 1 on the foreslope and 2: 1 on the backslope.

The berm shall be seeded with a conservation grass mixture or native grasses, which will be established within one year of construction. The vegetation shall be maintained appropriately. Screening, in addition to berming, may be required as a condition to the issuance of the Special Use Permit, if deemed appropriate by the City.

(6) Access and Traffic. All access points to and from the operation, including conveyors, railroads and roads shall be identified by the operator in the site plan and be approved by the Special Use Permit.

Approval of the Special Use Permit does not relieve the operator for the liability of accidents or damage caused by their negligent actions. The repair of any damage solely caused to City roads by trucks or equipment using the facility will be the responsibility of the operator.

(7) Water Table. If to a reasonable degree of engineering certainty the mining activities adversely impact the water table supply or quality such that the City is prevented from fulfilling the demands on its water system, then the applicant shall take such action as is necessary to remedy the conditions which are responsible for the adverse impact.

(8) Hours of Operation. External mining activities including loading and unloading of materials from trucks entering or leaving the property, sale of materials, or other activities which require large trucks or other vehicles to enter or leave the property shall occur only during the following hours:

(A) On Mondays through Fridays only between the hours of 6 AM and 6 PM.

(B) On Saturdays between the hours of 7 AM and sunrise, whichever is earlier, to a maximum of eight hours, and no later than 4 PM.

(C) No non-emergency operations of any kind may occur on Sundays, New Years Day, Memorial Day, July 4, Labor Day, Thanksgiving or Christmas.

Internal mining operations may occur 24 hours per day. For purposes of this provision, internal mining operations consist of excavation, processing, and transfer of material within the boundaries of the Property and maintenance of equipment.

(9) Fill Material. No material imported from off the property, intended to be used as permanent fill, will be allowed, unless it is "clean construction or demolition debris", as defined in 415 ILCS 5/3.160(b) or uncontaminated soil as defined by 35 Ill.Admin.Code §742. All fill material and its placement will be consistent with the planned end use. The Operator shall provide and adhere to a Fill Material Acceptance Plan, which will consist of the following:

A. General description of the flow of material from the origin, e.g. IDOT construction or municipal construction, to accumulation sites, loading, hauling, unloading and placement in the reclamation area.

B. Description of any construction site inspections and control, receiving facility gate control and recordkeeping. Procedure the facility uses for rejected loads will be addressed.

C. Copies of permits and/or specifications which the material will adhere to in other jurisdictions, e.g. municipal and/or IDOT construction specifications and permits.

D. A Plan and description of stockpiling and loading at the accumulation site which assures that adequate security is provided to eliminate risk of contamination by fly dumping or spills.

Compliance with State and Federal Laws and Regulations. In addition to the requirements herein, all operations shall comply with any applicable State and Federal laws.

(Ord. 1523, Dec. 11, 2006)

Sec. 17-86 to 17-90. Reserved.

ARTICLE IV. SPECIAL USES

Sec. 17-91. Application for special use permit.

Applications for special use permits shall be in the same form as those filed for variations and amendments to this ordinance, and all procedures shall be as herein set forth in regard to such hearings and findings.

Sec. 17-92. Standards.

Special uses shall be authorized by the City Council, provided that a public hearing concerning such request for special use permit shall first be held by the Planning and Zoning Board of Appeals. In order to recommend approval of a special use, the Planning and Zoning Board of Appeals shall find, and in order to approve the special use permit, the City Council shall find that:

- (a) the special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
- (b) the location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is to be located;
- (c) the location, nature and height of buildings, walls and fences, and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or will not impair the value thereof;
- (d) parking areas shall be of adequate size for the particular use, properly located, and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.

Sec. 17-93. Conditions.

The Planning and Zoning Board of Appeals may recommend and the City Council may provide such conditions or restrictions upon the construction, location and operation of a special use, including but not limited to provisions for off-street parking and loading, as shall be deemed necessary to secure the general objectives of this ordinance and to reduce injury to the value of property in the neighborhood.

(Ord. #1060, 11-25-1991)

Sec. 17-94 to 17-100. Reserved.

ARTICLE V. OFF-STREET PARKING AND LOADING

Sec. 17-101. Off-street parking.

For the purpose of this Article, one hundred fifty-seven and one quarter (157.25) square feet of lot or floor area, with minimum dimensions of at least eight and one half feet (8 1/2') wide by eighteen and one-half feet (18 1/2') long, which has a means of ingress or egress from an alley

or street, shall be deemed parking space for one (1) vehicle. Such space shall not occupy any part of any required front yard, but where open may be included as part of a required open space for side or rear yard, as provided in the district regulations. On corner or through lots, parking space may not be included as part of required yards lying adjacent to either street. Such parking spaces and access driveways beginning at the curb line, required in non-residential districts, when used in compliance with the provisions of this ordinance, shall be, paved or asphalt, "chips and seal," Portland cement concrete, or bituminous cement binder pavement of a four inch (4") minimum thickness, treated to provide a durable and dustless surface, and graded so as to drain surface water off the sidewalk or driveway.

Parking areas serving non-residential uses of property shall be hard surfaced as indicated above and graded so as to drain off all surface water to storm sewer inlets. When such parking areas or lots abut upon adjacent residential properties, there shall be provided a wall or solid screen planting of appropriate shrubs to a height of not less than four feet (4'), along the entire boundary, common to both the residential and parking areas. Walls or solid screen planting to a height of not less than four feet (4') shall also be placed along the street line where a parking lot abuts upon a street that provides access to adjacent residential properties. Lights used to illuminate such parking lots shall be so arranged as to reflect lighting away from the adjoining premises in the residential district. Such parking spaces shall be reserved for the sole use of the occupants of the building or lots, their customers, and the visitors thereto. Churches, theaters, stadiums, auditoriums, and other places of assembly may make arrangements for joint use of parking spaces as hereinafter specified.

In any district, except as noted below, every building built, or structurally altered, enlarged or increased in capacity, and every land use initiated subsequent to the adoption of this Article, shall be provided with minimum off-street parking facilities as follows:

- (a) One (1) family dwelling and multiple family dwellings - one (1) parking space for each dwelling unit, up to a maximum of four (4) spaces.
- (b) Motels, hotels, rooming houses, bed and breakfast inns, and fraternal homes-one (1) parking space for each guest sleeping room.
- (c) Hospitals - one (1) parking space for each three (3) hospital beds..
- (d) Churches, auditoriums, gymnasiums, stadiums, theaters and other places of public or private assembly with fixed seats - one (1) parking space for each three (3) seats or bench seating spaces, based upon maximum seating capacity.

For the purpose of this type of use, parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments, or off-street parking facilities provided by the municipality, lying within three hundred feet (300') of the place of public assembly as measured along lines of public access, and that are not normally in use between the hours of 6:00 p.m. and midnight, and are made available for other parking, may be used to meet up to seventy-five percent (75%) of the total requirements of parking space for places of public assembly.

- (e) Dance halls, bowling alleys and private clubs - one (1) parking space for each two hundred (200) square feet of floor area, to be provided on the premises or within three hundred feet (300') of the entrance.
- (f) Funeral homes - fifteen (15) parking spaces on the premises, plus five (5) spaces for each area which can be used as a parlor.

- (g) Stores and other retail establishments where such uses are permitted one (1) parking space for each two hundred (200) square feet of store space, to be provided on the premises or within three hundred feet (300') of the entrances, or in conjunction with a plan of parking approved by the Planning and Zoning Board of Appeals, and off the street, except that restaurants or establishments whose primary use is to serve meals and refreshments to patrons shall provide one (1) parking space for each one hundred (100) square feet of floor space in the building.
- (h) Wholesale and distributing establishments including telephone exchanges - one (1) parking space for each two (2) employees.
- (i) Manufacturing and non-retail commercial establishments - five (5) parking spaces and, in addition, one (1) parking space for each two (2) persons employed at any one (1) time or shift. Parking space shall be on the same premises or at other off-street locations within one thousand feet (1,000') of the entrance to the principal building.

Parking space required under this Article shall be increased or reduced at a time when the capacity or use of a building is changed in such a manner that a new use or capacity would require. Such reductions may not be below the standards set forth in the Article.

Loading or unloading areas shall not be considered as parking areas.

The joint use of parking facilities may be permitted in cases where major parking demands occur on different days of the week or during different hours, provided that:

- (a) parking spaces will be available for each use in accordance with the above standards; and
- (b) that the owners agree in writing and record that any subsequent sale or division of the property or change in use thereof will not interfere with the joint use of the parking facilities.

A plan of parking facilities shall accompany each application for a building permit or certificate of compliance. The completion of the improvements for parking according to such plan shall be a requisite for the validity of the permit or certificate.

The City Council may authorize a special permit to allow a parking lot in an adjacent zoning district for the purpose of meeting the requirements of this Article, subject to the following limitations:

- (a) Public notice must be given and a public hearing held by the Planning and Zoning Board of Appeals on the request for a special permit in the same manner in which said notice is given and such hearing is held on a request for a variance.
- (b) Notice must be given by registered mail to all owners of property lying within three hundred feet (300') of the land for which the special permit is sought.
- (c) A special permit shall not be granted unless the application shows and warrants that in the proposed development of the parking area, front and side yards will be met and maintained, and that the area will be improved as required in this Article.

Sec. 17-102. Off-street loading facilities.

On the same lot with every building or part thereof, erected hereafter to be used for other than exclusive dwelling purposes, or as an accessory use for dwelling purposes, there shall be provided on the lot adequate space for motor vehicles to load and unload in order to avoid interference with the public use of streets or alleys. Such space, unless otherwise adequately

provided for, shall include a ten foot (10') by twenty-five foot (25') loading space, with fifteen feet (15') height clearance, and a minimum of one (1) such space shall be provided for each structure in the "I-1" light industrial district and "I-2" heavy industrial district.

(Ord. #1060, 11-25-1991)

Sec. 17-103 to 17-108. Reserved.

ARTICLE VI. ACCESSORY BUILDINGS

Sec. 17-109. Accessory buildings.

Except as otherwise permitted in this ordinance, accessory buildings shall be subject to the following regulations:

- (a) Where an accessory building is structurally attached to the main building, it shall be subject to, and must conform to all regulations of this ordinance applicable to the main building.
- (b) Accessory buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings or structures are closer to the lot lines than six feet (6'), and provided further that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets. Accessory buildings shall be set back from the rear lot line by no less than six feet (6'), and shall be set back from the side lot line of the rear yard by at least six feet (6'). No detached accessory building shall occupy more than twenty-five percent (25%) of the area of a required rear yard.
- (c) An accessory building shall not be erected prior to the establishment or construction of the principal use of building, unless the owner agrees as part of his application for building permit that he will begin construction of the main building within ninety (90) days of the date of issuance of that permit.
- (d) No accessory building shall be located within the required front yard. (Ord. #1060, 11-25-1991)

Sec. 17-110 to 17-115. Reserved.

ARTICLE VII. SIGNS.

Sec. 17-116. In general.

The primary intent of this Sign Code is to regulate signs intended to be viewed from any vehicular public right-of-way.

Sec. 17-117. Definitions

Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity.

Banner Sign. A sign on paper, cloth, fabric or other flexible or combustible material of any kind.

Canopy. A permanent roof like shelter extending from part or all of the building face.

Directional/Information Sign. An on-premises sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g. parking or exit and entrance signs.

Free Standing Sign. A sign permanently supported upon the ground by poles or braces and not attached to any building.

Frontage. The length of the property line of any one premises along each public right-of-way on which it borders.

Frontage, Building. The length of an outside building wall along a public right-of-way.

Indoor Signs. Indoor neon signs and window signs are allowed at or near windows (within 6 inches) in any side of a building, facing a paved public right of way and provided that they do not, in the aggregate, cover more than 50% of the area of any windows in which such signs are displayed. Other indoor signs, not visible from any street right-of-way, are also allowed.

Parasite Signs. A sign intended to draw attention to any one or more various services, items for sale, contests, etc., and is attached as an appendage to a, sign support or any part of a principal building, accessory building or other structure located on any premises not to exceed 48 square feet and must be enclosed in a frame.

Pump Toppers. Informational inserts to increase customers' awareness of business or product placed on top of gasoline service station pump islands. Signs are two sided with one (1) per island with dimensions not to exceed 14 inches by 21 inches or 2 square feet.

Sign. Any device, structure, fixture or placard using graphics, symbols and/or written copy, designed specifically for the purpose of advertising or identifying any establishment, product, goods or service.

Sign, Area of.

1. The area of a freestanding sign shall be computed on the basis of its largest face. The area of the sign shall be measured by enclosing the entire perimeter of the sign and/or its modules within a single continuous geometric figure and said area shall be considered as the area of the sign. The pole, pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising.
2. The area of a wall sign shall be computed by enclosing the entire perimeter of the sign within a single continuous geometric figure and determining the area of that geometric figure. If the sign is composed of individual letters or symbols using the wall as a background, the total sign area shall be calculated by calculating the area of the smallest continuous geometric figure within which the sign will fit.
3. For purposes of this section, the term geometric figure shall mean either an oval or a parallelogram.

Wall Sign. A sign attached to, erected against or painted on the wall or roof of a building. This includes painted individual letter signs.

Window. Opening for light and air in a building, car, etc. Glass in a frame set in this.

Window Sign. Any sign attached outside of the window or within 6 inches of the inside.

(Ord. 1466; 8-25-03)

Sec. 17-118. General Provisions.

- (a) It shall be unlawful for any person to erect, place or maintain a sign within the city or to permit a sign to remain on property which such person controls or has an ownership interest in, except in accordance with the provisions of this Code.
- (b) The following types of signs are permitted in any zoning district provided that any and all requirements stated herein have been met and further provided that the signs are in conformance with all other aspects of the City of Henry Zoning Code.
 - 1. Construction signs may be erected on any property during construction or improvements on said property, indicating the architect, engineer, contractor or subcontractor. No more than two such signs may be erected and each may not exceed 50 square feet in a commercial or industrial zoned area nor ten square feet in a residential zoned area. Such signs shall not be erected until a building permit is issued for the construction (if applicable) or until construction is actually begun and must be removed from the property within 30 days after completion of construction.
 - 2. Directional/informational signs located entirely on the property to which they pertain not exceeding four square feet and an overall height of three feet such as those identifying restrooms, public telephones and walkways, parking lot entrances and exits.
 - 3. The flags, emblems or insignia of any nation or political subdivision or corporate flag.
 - 4. A real estate sign on any lot advertising the rent, sale or lease of the land or building upon which it is located provided that the sign is not directly illuminated, does not exceed ten square feet in area, and is not closer than eight feet to any other lot. When the lot upon which the sign is displayed is a corner lot, two such signs, one facing each street, shall be permitted. No such sign shall project or be within the public right of way and must be removed within seven days after the sale, rental or lease of the property.
 - 5. Garage, yard or rummage sale signs not exceeding two square feet and which are not posted for more than five days.

Sec. 17-119. R Districts and C Districts.

The following signs, meeting the other provisions of this Code, are permitted in the R districts and C districts:

- (a) One subdivision identification sign for the primary entrance for each subdivision or development, the dimensions of which shall be approved by the City on the recommendation of the Planning and Zoning Board of Appeals at the time of final plat approval.
- (b) Unlighted house numbers and nameplates not exceeding two square feet in area for each dwelling unit. For multiple family dwellings and apartment buildings, a single identification sign not exceeding ten square feet in area and indicating only the name and address of the building and the name of the management company thereof may be displayed.

- (c) For a structure other than a dwelling unit, one identification sign not exceeding ten square feet, except that a church may have a bulletin board or sign, which may not exceed thirty-five square feet.

Sec. 17-120. B Districts.

The following signs, meeting the other provisions of this Code, are permitted in the B districts:

- (a) One free standing sign per premises having street frontage on a public right of way not to exceed 50 square feet, provided that any such sign shall be setback not less than ten feet from the front lot line, shall not project beyond the property line into the public right of way, and shall not relate to a business other than that conducted on the premises. Freestanding signs may not exceed a height of 25 feet.
- (b) Directional /Informational Signs.
- (c) One wall sign displayed flat against the wall for each business occupying a certain building, except that corner building may have two signs, one located on each side of the building. No portion of any business sign may be placed on or extended over the right of way of any street or highway except for 18 inches of a sign displayed against a building where such buildings have no front or side yards. The total area of all wall signs on any building, including all printed exposed sides, shall not exceed three times the number of lineal feet of frontage of the principal building located on the lot. . Parasite signs are permitted when placed in a holder that has been approved by site plan review and is affixed permanently using the guidelines stated in Section 17-12 B Districts. Pump Toppers must follow the dimensions listed with its definition.
- (d) No sign attached to a building or structure shall project more than 18 inches from the face of the wall of any building or structure.
- (e) No wall sign shall extend over four feet beyond the peak of the roofline of the building to which it is attached.
- (f) Canopies, canopy signs and awnings are permitted provided, however, that no canopies, canopy signs, or awnings shall be constructed with a clearance of less than eight feet. Illuminated signs are permitted under such canopies provided that they shall be installed or hung in such a manner so as to permit a minimum clearance of eight feet from the walkway. No sign installed under a canopy shall be of the flashing or blinking type. No canopy, canopy sign or awning shall extend further from the building to which it is attached the greater of (i) four feet from the front of the building or (ii) the distance from the building to a point perpendicular to a point on the ground located two feet inside the curb line of the nearest street towards which the canopy will project. (Ord. #1313,8/24/98)
- (g) Banners are allowed by permission of the Mayor or his designee and only for a special use (fund-raisers or event) by not-for-profit organizations for a specific time period. An application containing such information as the Clerk shall require must be completed.
- (h) Indoor signs must follow guidelines listed with its definition.
- (i) Business may place signs on premises located in a B District on land other than where the business is located under the following conditions:

1. An application for a sign permit must be filed with the City Clerk. The form shall be provided by the City Clerk and shall at a minimum require:
 - a. The dimensions of the sign.
 - b. The attachment of a picture, drawing, or sketch of the proposed sign.
 - c. The address of the premises where the sign is to be placed.
 - d. The name of the owner of the premises where the sign is to be placed.
 - e. The applicant and owner of the premises must both sign the application.
2. An annual Sign permit fee of \$15.00 must be paid to the City Clerk at the time of application and every June 1st thereafter.
3. Multiple signs may be placed at one location so long as the signs in aggregate fit within the dimensional and location requirements of Sec. 17-120.

(Ord. 1466; 8-25-03, Ord. 1577; 6-21-10)

Sec. 17-121. I Districts.

The following signs, meeting the other provisions of this Code, are permitted in the I districts:

- (a) One free standing sign per premises having street frontage on a public right of way not to exceed 50 square feet in area in an I district provided that all such signs shall be setback not less than ten feet from the front lot line, shall not project beyond the property line into the public right of way, and shall not relate to a business other than that conducted on the premises. Free standing signs may not exceed a height of 25 feet.
- (b) Directional/Information Signs.
- (c) One wall sign displayed flat against the wall for each business occupying a certain building, except that a corner building may have two signs, one located on each side of the building. No portion of any business sign may be placed on or extended over the right of way of any street or highway except for 18 inches of a sign displayed against a building where such buildings have no front or side yards. The total area of all wall signs on any building, including all printed exposed sides, shall not exceed three times the number of lineal feet of frontage of the principal building located on the lot.
- (d) No sign attached to a building or structure shall project more than 18 inches from the face of the wall of any building or structure.
- (e) No wall sign shall extend over four feet beyond the peak of the roof line of the building to which it is attached.
- (f) Businesses may place signs on premises located in an I District on land other than where the business is located under the following conditions:
 1. An application for a sign permit must be filed with the City Clerk. The form shall be provided by the City Clerk and shall at a minimum require:

- a. The dimensions of the sign.
 - b. The attachment of a picture, drawing, or sketch of the proposed sign.
 - c. The address of the premises where the sign is to be placed.
 - d. The name of the owner of the premises where the sign is to be placed.
 - e. The applicant and owner of the premises must both sign the application.
2. An annual sign permit free of \$15.00 must be paid to the City Clerk at the time of application and every June 1st thereafter.
 3. Multiple signs may be placed at one location so long as the signs in aggregate fit within the dimensional and location requirements of Sec. 17-121.

(Ord. 1578 – 06-21-10)

Sec. 17-122. Non-conforming signs.

All signs which are non-conforming under the terms of this article shall not be permitted further maintenance, rehabilitation or repair, except that the replacement of neon tubing or light bulbs shall be permitted. Should such signs become a hazard due to their condition, the building commissioner may cause such signs to be removed.

Sec. 17-123. Removal of Signs.

Any signs which for 30 consecutive days have directed attention to a product, place, activity, person, institution or business which is no longer in operation or in existence at that location shall be deemed to be abandoned and shall be removed within 45 days after the expiration of said 30 day period. The person who erected the sign on the premises and the owner of said premises shall be jointly and severally liable for the removal of said sign, including all structural supports, braces, poles and framework.

Sec. 17-124. Billboards.

Free standing off premises advertising signs, commonly known as billboards, are prohibited within the city limits of the City of Henry. (Ord. #1185, 9-11-95)

Sec. 17-125. Reserved.

ARTICLE VIII. PLANNED RESIDENTIAL DEVELOPMENTS

Sec. 17-126. In general.

City Council may authorize, by ordinance, after a public hearing and a report by the Planning and Zoning Board of Appeals, held and made in the manner provided for amendments herein, the location and development in the "R-1" and "R-2" residential districts of a planned residential development of single and multi-family dwellings, provided that:

- (a) Every development under this Article shall be consistent with the purpose and intent of this ordinance, and shall be laid out and developed as a unit in accordance with an integrated overall design, as recommended by the Planning and Zoning

Board of Appeals through a site plan review as provided for in Article X, [Sec. 17-164\(d\)](#) of this ordinance, and as approved and authorized by the City Council.

- (b) The buildings shall be used only for single and multi-family dwellings and permitted accessory uses, such as garages, storage space, and project activities.
- (c) Sections of this Zoning Code may, by specific mention, be varied in whole or in part for any planned residential development under the terms of this section.
- (d) An area equal in aggregate to not less than twenty percent (20%) of the total land to be developed shall be either set aside as common land to be used by owners of homes in the development, or may be added to the public lands, provided dedication is accepted by the city.
- (e) Each proposed single family lot must have at least fifteen percent (15%) of its periphery bounded by the common open area or dedicated lands. Such lots may face each other across streets, but may not back up to each other. The average minimum width of any continuous open space shall be not less than fifty feet (50'). All open spaces shall be directly accessible to a public street or a public area having access to a public street.
- (f) The arrangement and use of the common land or land to be dedicated to the city and the method of maintenance of any common land shall be subject to approval by the Planning and Zoning Board of Appeals and City Council before the provisions of this section apply.
(Ord. #1060, 11-25-1991)
- (g) The area encompassed by the planned residential development be not less than fifteen (15) acres except for planned residential developments subject to a restriction that the same shall, for a period of not less than twenty (20) years, be used for senior citizen housing meeting guidelines specified by the Department of Housing and Urban Development; in which such event the area encompassed by the planned residential development shall be not less than five (5) acres. (Ord. #1329, 5-10-99)

Sec. 17-127 to 17-130. Reserved.

ARTICLE IX. NON-CONFORMING USES

Sec. 17-131. In general.

The purpose of this provision is to provide for the short-term maintenance of uses which do not conform to the provisions of this ordinance and which were lawful at the time this ordinance was adopted. The purpose is also to provide for the gradual elimination of non-conforming uses to uses which conform to this ordinance. A non-conforming use is not to be regarded as a permanent condition or a substitution for a rezoning when that is proper under the provisions of this ordinance.

In order to accomplish the objectives of this ordinance, without posing any hazard to the public or occupants of buildings and structures, nothing in this ordinance shall be deemed to prevent the strengthening or restoration of an unsafe structure in accordance with an order of the Building Commissioner, who finds that the structure which is the subject of the order is unsafe in its then present condition, and that repair or restoration is not in violation of the provisions of this ordinance.

Any building or structure, or use of any building or structure or tract of land, lawfully existing or under construction at the time of the adoption of this ordinance, or of a later amendment, but which does not conform with the requirements of this ordinance, shall be known as a non-conforming use and may remain and the use then being made thereof may be continued.

However, any enlargement, alteration, relocation or change in use of such a building, structure, or tract of land, can be continued only as hereafter provided. A non-conforming use occupying a part of a building or structure may be extended throughout that part of the building or structure originally designed for such use, or throughout the entire building or structure if of uniform design, but in no case shall an addition be made which will provide for the expansion of the non-conforming use.

A non-conforming use of land shall not be expanded beyond the area actually so used at the time of the passage of this ordinance, or of a later amendment creating the non-conforming use.

Any non-conforming use of a building, structure, or land, which is discontinued for a period of six (6) months or more, shall not be continued again and any further use thereof shall be in conformity with the provisions of this ordinance.

Any building or structure devoted to a non-conforming use which may be destroyed or damaged by fire, or otherwise, to the extent of fifty percent (50%) or more of its full assessed value shall not be repaired or rebuilt, nor shall another building or structure be erected on the premises except in conformity with the provisions of this ordinance. The same rule shall apply to any accessory building. However, if the main building or structure may not be repaired or rebuilt, the accessory building also loses its rights as a non-conforming structure under this ordinance.

A non-conforming use may not be changed except to a conforming use. A building which conforms as to use but does not conform as to height, lot area or yards may be altered or enlarged provided the alteration or enlargement does not itself encroach or further encroach upon a required yard and does not exceed or further exceed the maximum height requirement. No such additions or enlargement shall reduce the lot area per dwelling unit below the minimum required for each multiple and two (2) family dwelling unit.

So long as a building or structure is used or is eligible for use in a non-conforming manner only ordinary repairs and maintenance, including replacement of the roof covering, shall be permitted.

The enforcing officer shall make and keep a record, including photographs of all buildings, structures, and land uses which do not conform to the use regulation of the district in which they are located.

(Ord. #1060, 11-25-1991)

Sec. 17-132 to 17-137. Reserved.

ARTICLE X. ADMINISTRATION

DIVISION 1. IN GENERAL

Sec. 17-138. Statement of Purpose.

The administration of this ordinance and the promulgation of its purpose are hereby vested in three (3) offices of the City of Henry as follows:

The Office of the Department of Building Services

The Planning and Zoning Board of Appeals

The City Council

(Ord. #1060, 11-25-1991; Ord. #1262, 10-14-96)

Sec. 17-139 to 17-144. Reserved.

DIVISION 2. OFFICE OF THE DEPARTMENT OF BUILDING SERVICES

Sec. 17-145. Reserved.

(Ord. # 1262, 10-14-96)

Sec. 17-146. Zoning certificates.

Except as hereinafter provided, no Building Permit pertaining to the use of land or buildings shall be issued by any employee of this city unless the application for such permit has been examined by the Department of Building Services in accordance with the provisions of the City Code and has affixed to it or stamped thereon a certificate of the Office of the Department of Building Services that the proposed building or structure complies with all the provisions of this ordinance. Any permit or occupancy certificate issued in conflict with the provisions of this ordinance shall be null and void.

Every application for a building permit for a building in the "I-1" light industrial district or "I-2" heavy industrial district shall have affixed to it the certificate of an architect or registered professional engineer licensed by the State of Illinois stating that in his opinion the building or structure and the proposed use thereof comply with all the provisions of this ordinance. Within twenty (20) days after the receipt of such application, with the aforesaid certificate attached thereto, the Department of Building Services shall affix a zoning certificate to the building permit provided all relevant provisions of this ordinance are complied with, or the Department of Building Services shall refuse to issue a zoning certificate and shall advise the applicant in writing as to the reasons for said refusal.

Sec. 17-147. Plats.

Every application for a building permit shall be accompanied by a plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, according to the registered or recorded plat of such land; and said plat shall further show the ground area, height, and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building or structure or land, and such other information as may be required by the Department of Building Services for the proper enforcement of this ordinance.

Sec. 17-148. Occupancy certificates.

No building, or addition thereto, constructed after the effective date of this ordinance and no addition to a previously existing building shall be occupied, and no land vacant on the effective date of this ordinance shall be used for any purpose, until an occupancy certificate has been issued by the office of the Department of Building Services. No change in a use in the "B" or "I" districts shall be made until an occupancy certificate has been issued by the office of the Department of Building Services. Every occupancy certificate shall state that the use of occupancy complies with all the provisions of this ordinance.

Sec. 17-149. Application for occupancy certificate.

Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land where no building permit is required shall be made directly to the office of Department of Building Services.

Sec. 17-150. Issuance of occupancy certificate.

No occupancy certificate for a building or addition thereto, constructed after the effective date of this ordinance, shall be issued until construction has been completed and the premises inspected and certified by the office of the Department of Building Services to be in conformity with the plans and specifications upon which the zoning certificate was based. No addition to a previously existing building shall be occupied in any district, and no new use of a building in any "B" or "I" district, shall be established until the premises have been inspected and certified by the office of the Department of Building Services to be in compliance with all the applicable standards of the zoning district in which it is located. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six (6) months from its date during the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than fourteen (14) days after the office of the Department of Building Services is notified in writing that the building or premises is ready for occupancy.

(Ord. #1060, 11-25-1991)

Sec. 17-151 to 17-156. Reserved.

DIVISION 3.. PLANNING AND ZONING BOARD OF APPEALS

Sec. 17-157. Creation and membership.

A Planning and Zoning Board of Appeals is hereby authorized to be established. The word "Board" when used in this section shall be construed to mean the Planning and Zoning Board of Appeals.

- (a) The said Board shall consist of seven (7) members appointed by the mayor of the City of Henry by and with the consent of the City Council.
- (b) The members of said Board shall serve respectively for the following terms, or until their respective successors are appointed and qualified:
 - One (1) for one (1) year
 - One (1) for two (2) years
 - One (1) for three (3) years
 - One (1) for four (4) years
 - One (1) for five (5) years
 - One (1) for six (6) years
 - One (1) for seven (7) yearsfor the first seven (7) appointed, the successor to each member so appointed to serve for a term of five (5) years
- (c) One (1) of the members of said Board shall be designated by the mayor as chairman of said Board and shall hold his said office as chairman until his

successor is appointed. The chairman shall conduct all meetings of the Board, but, in case of his absence, the attending member shall delegate one (1) of the members present to serve as acting chairman.

- (d) The mayor shall have the power to remove any member of said Board for cause and after a public hearing.
- (e) Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant in the same manner herein provided for the appointment of such member.
- (f) The members of the Board shall serve without salary.

Sec. 17-158. Jurisdiction.

The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made by the administrative office charged with the enforcement of this ordinance. It shall also hold public hearings on all matters referred to it or upon which it is required to act under this ordinance, and make its recommendations to the City Council.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

Sec. 17-159. Petitions.

All petitions for hearings held in accordance with the provisions of this ordinance shall be filed with the office of the Building Commissioner. The petitions shall conform to the information requirements as established by this ordinance and as the Board may, from time to time, by rule provide. The Board shall set a hearing date, which shall be not more than sixty (60) days after the filing of the petition. A notice of the hearing shall be published at least once, not more than thirty (30) nor less than fifteen (15) days before the said hearing date, in one (1) or more newspapers with a general circulation within the City of Henry, and which is published within Marshall County. The petitioner shall provide the notice, which shall contain information as provided by rule of the Board. The Board may supplement such published notice by additional form, or forms, of notice as it may by rule provide.

Sec. 17-160. Decisions of the Board.

Except as provided in [Sec. 17-163](#) below, the Board shall have the power of recommendation only, such recommendations to include findings in accordance with, the provisions of this ordinance and to be submitted to the City Council for final action in such form and at such times as are provided by rule in this ordinance. All such final actions of the City Council shall be decided by majority vote of a quorum except as defined below.

No amendments of the regulations of this ordinance, or variation of the requirements of this ordinance, or permit for special uses, shall be made or given except after a hearing before the Board.

In the event the report of the Board does not recommend passage of the proposed amendment, granting of the variation, or issuance of the special use permit, a favorable vote of two-thirds (2/3) of all members of the City Council shall be required to pass the amendment, grant the variation or issue the special use permit.

In the event a written protest against the proposed amendment, variation or special use permit, is filed with the city clerk prior to the City Council voting upon the recommendation of the Board, and provided that the written protest is signed and acknowledged by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, a two-thirds (2/3) vote of all the members of the City Council shall be required to effect passage of the amendment, granting of the variation, or issuance of the special use permit.

The powers granted the Board in this ordinance may, from time to time, be altered, enlarged, or restricted, as the City Council may, from time to time, determine and effect by ordinance.

Sec. 17-161. Meeting and rules.

- (a) All meetings of the Board shall be held at the call of the chairman and at such times as such chairman shall determine.
- (b) All meetings of the Board shall be open to the public.
- (c) The chairman, or in his absence, the acting chairman, shall administer oaths to those testifying, and may compel the attendance of witnesses through the use of the subpoena.
- (d) Any person may appear and testify at a hearing, and it is not necessary that such persons be represented by an attorney. All testimony given shall be under oath.
- (e) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
- (f) Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall be filed in the office of the Building Commissioner and shall be a public record.
- (g) The Board shall adopt its own rules of procedure, not in conflict with this ordinance, or in conflict with the applicable Illinois statutes.
- (h) The City Council shall provide such secretarial, legal, or administrative assistance as shall be necessary, in the opinion of the council, to permit the Board to fulfill its functions.

Sec. 17-162. Standards for variations.

Where an application for a variation of any of the regulations of the ordinance is made to the Board in which it is alleged that practical difficulties or particular hardship, not intended, or not common to the owners of property in the vicinity will be imposed in carrying out the strict letter of any such regulation, the Board may recommend to the City Council that the application of such regulations should be varied in harmony with the general purposes and intent of this ordinance and in accordance with the following rules.

No variations in the application of the provisions of this ordinance shall be made concerning the use of land, the intensity of such use, or other requirements of this ordinance unless, after a public hearing as provided for in this ordinance, the Board shall find and report to the City Council that:

- (a) the particular physical surroundings, shapes, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as

distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

- (b) the conditions upon which the petition for a variation is based are unique and would not be applicable, generally, to other property within the same zoning classification;
- (c) the purpose of the variation is not based exclusively upon a desire to make more money out of the property;
- (d) the alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- (e) the granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- (f) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Sec. 17-163. Appeals from determination of the Department of Building Services.

- (a) Scope of appeal - An appeal may be taken to the Board by any person, firm or corporation, or by an officer, department, Board or Bureau affected by a decision of the office of the Department of Building Services relative to the interpretation of this ordinance. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule, by filing with the office of the Department of Building Services a notice of appeal, specifying the grounds thereof. The Supervising Director of the Department of Building Services shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
- (b) Findings on appeals - An appeal shall stay all proceedings in furtherance of the action appealed from unless the Supervising Director of the Department of Building Services certifies to the Board after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Department of Building Services and on due cause shown.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the interested parties and shall render a written decision on the appeal without unreasonable delay.

The Board may affirm or may, upon the concurring vote of four (4) members, reverse, wholly or in part, or modify the order, requirement, decision, or determination, as in its opinion ought to be done, and to that end shall have all the powers of the officer from whom the appeal is taken.

The Department of Building Services shall maintain complete records of all actions of the Board relative to appeals, and shall keep the City Council informed on a current basis of the disposition of each case.

Sec. 17-164. Amendments.

- (a) Statement of purpose - It is recognized that changes in conditions within the City of Henry may require that there be amendments from time to time to this zoning ordinance. Said amendments shall be made, if at all, only when it is found by the City Council, following a report of the Planning and Zoning Board of Appeals, that such amendments are required in the public interest. No amendments shall be made to this ordinance solely for the private interest of an applicant. While variations as herein provided are designed to relieve individual hardship and the basis for variations is the injury which may be caused to the individual by the general application of the provisions of this ordinance, the considerations upon which amendments shall be judged are directed exclusively to the welfare of the entire community.
- (b) Authority - The regulations imposed and the districts created under the authority of this ordinance may be amended from time to time by ordinance, but no such amendments shall be made without a public hearing before the Board of the City of Henry.
- (c) Initiation of amendment - Amendments may be proposed by the City Council, by the Board, or by any resident of or owner of property in the City of Henry.
- (d) Site plan review - In addition to its other duties enumerated in this ordinance, the Board shall conduct site plan reviews:
 - (1) Purpose of site plan reviews - to exercise a more orderly control of land use, particularly within areas of concern, areas subject to traffic delays, areas of special environmental character, and areas of high density zoning. In this way, the meaning and intent of the Comprehensive Plan and this ordinance shall be fully complied with.
 - (2) Authority and procedure - the Planning and Zoning Board of Appeals shall conduct site plan reviews for all building permit applications in the C, R-2, B-1, B-2, I-1, and I-2 zoning districts. The Planning and Zoning Board of Appeals shall also conduct site plan reviews for building permit applications for an accessory building or accessory structure in an R-1 zoning district, which has been demolished and intended to be reconstructed within the setback requirements set forth in [Sec. 17-31\(h\)](#). Site plan reviews shall also be required for all "planned residential developments" proposed under Article VIII of this ordinance. The Board shall conduct technical reviews of all site plans and official development plans, and find solutions to problems that might arise in these reviews. Site plan reviews do not provide for variances in the standards of any section (or division) of this ordinance, and may not be used for that purpose or be a substitution for that process.
(Ord. #1185, 9-11-95)
 - (3) The Planning and Zoning Board of Appeals shall approve, disapprove, or cause to be revised, any plans submitted to it, within fifteen (15) days of the receipt by the City of the permit application. If in the Board's judgment the building permit application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the fifteen (15) day period is suspended pending receipt of all information requested by the Board.

- (4) When a site plan review is required by this section, issuing of the building permit may take place only after a site plan approval is granted by the Planning and Zoning Board of Appeals.
- (5) Appeals of the Board's action may be made to the City Council. Final authority resides with the City Council.
- (6) Standards to be employed:
 - (aa) City of Henry Zoning Ordinance
 - (bb) City of Henry Comprehensive Plan
 - (cc) City of Henry Subdivision Ordinance
 - (dd) Engineering and planning studies that have been adopted by the city of Henry
 - (ee) Engineering or planning standards that might be recommended, particularly with regard to traffic movement and safety, and also, parking, landscaping and screening or buffering considerations.
- (7) The effect of a disapproval of a site plan by the Planning and Zoning Board of Appeals is that no building permit shall be issued by the Building Commissioner on the subject property or proposed improvement. (Ord. #1060, 11-25-1991)

Sec. 17-165 to 17-170. Reserved.

ARTICLE XI. RULES OF PROCEDURE AND CONDUCT

Sec. 17-171. Petitions.

All petitions shall be brought in the name of the record title owner, or the owner or owners, of the beneficial interest, through their attorneys or authorized agents. If a contract purchaser or tenant shall be involved, either with or without a contingent right, the contract purchaser or tenant shall be revealed and become a second party to the petition, but such contract purchaser or tenant may not file without the owner.

Sec. 17-172. Appeals.

Every appeal, which shall be made to the Planning and Zoning Board of Appeals, shall be initiated in the following manner only:

- (a) There shall be delivered to the Building Commissioner a proper petition requesting such hearing and setting forth the facts and details as prescribed by ordinance.
- (b) There shall be paid to the Building Commissioner the required filing fee.
- (c) In the event the location or description in the petition of the property concerned is such as to not be adequately ascertainable, in the opinion of the Building Commissioner, then a plat of survey, made by a registered Illinois land surveyor, shall be attached to the petition when filed, or shall be presented at the time of the hearing.
- (d) The petitioner, his attorney or his agent, shall also furnish the Building Commissioner with the full names and addresses of the persons who have last paid taxes on all property contiguous to or abutting the parcel or parcels concerned

in the petition, including such taxpayers of record as may own property across the road, street, or alley, which may abut the premises concerned on one (1) or more sides. It shall then be the duty of the Building Commissioner to send such persons a copy of the publication notice concerning the hearing, by certified mail. Petitioner shall furnish the Building Commissioner with as many copies of the publication notice as shall be required for this purpose.

Sec. 17-173. Publication notices.

All publication notices shall contain a simple description of the property as to area and location, of such a nature as to enable the ordinary reader to accurately locate such parcel. This description shall be in addition to the required metes and bounds or lot and block description.

Sec. 17-174. Objections.

In the event objectors to any petition shall employ counsel to represent them at the hearing, it shall be the obligation of such counsel to notify the petitioner, his attorney or agent, that he has been so retained and will be present to object. Such notice shall be delivered to the petitioner, his attorney, or agent, not later than four (4) days prior to the scheduled hearing date. Failure of objector's counsel to give such notice shall give petitioner, his attorney or agent, the option to postpone the hearing until another day certain.

Sec. 17-175. Continuances.

Continuances may be granted on good cause shown and at the discretion of the Board by a majority vote.

Sec. 17-176. Listing of proponents or opponents.

Attorneys may submit a listing of proponents or opponents of the petition and the same will be accepted as an exhibit. However, such a list shall contain nothing more than the signatures of those for or against the petition, along with a brief statement concerning their position.

Sec. 17-177. Change in classification.

When the prayer of the petition requests a change in classification only, with no prayer for a variation in the alternative; no evidence concerning the type of structure or intended use shall be admitted without the approval of the Board.

Sec. 17-178. Evidence.

Evidence concerning the particular use and character of use, including plans, specifications, cost of improvement, and duration of use, shall be properly admitted when the petition shall request a variation, or an amendment with an alternative prayer for variation, covering such particular use.

Sec. 17-179. The public hearing.

- (a) Call to order.
- (b) Parties of interest in petition present.
- (c) Reading of the petition, verification of notice by publication and to abutting owners.
- (d) Presentation of evidence by petitioner.

- (e) Identification and recording of individuals wishing to address the Board on the subject matter, if any.
- (f) Questions by Planning and Zoning Board of Appeals members -- by others.
- (g) Presentation of evidence by individuals wishing to address the Board on the subject matter, if any.
- (h) Questions by Planning and Zoning Board of Appeals members -- by others.
- (i) Petitioner's closing statement, if desired.
- (j) Adjournment.

Sec. 17-180. Required quorum for hearing.

Any matter coming before the Board by scheduled hearing may be heard by any four (4) or more members of the said Board. Should any less than four (4) members be present, any petitioner or objector, or representative thereof, may request a continuance of the matter in order that it may be heard before four (4) or more members of the Board.

Sec. 17-181. Meetings.

The Board shall hold a voting meeting within a month after the hearing of petitions, for the purpose of voting on said petitions. Copies of the report of the Board as made to the City Council shall be mailed to petitioners, their attorneys or agents, and to the attorney or agent of the objectors, if any. Such copies of the report shall be mailed not less than five (5) days prior to the meeting of the City Council at which the recommendation is to be acted upon.

Sec. 17-182. Petition approved.

Should the Board recommend to the City Council that the prayer of the petition be granted, it shall direct the attorney to prepare a suitable ordinance incorporating the exact finding and recommendation of the Board for submission to the City Council in order to affect the amending or variance of the ordinance properly, should the City Council accept the recommendation of the Board. The petitioner shall be required to reimburse the City for the expenses of the City Attorney in preparing said ordinance.

Sec. 17-183. Zoning Board of Appeals report.

The report of the Board shall contain a short summary of the petition, locate the property, and the reasons advanced by the Board for rejecting or approving the prayer of the petition. The report shall also contain the recommendation of the Board and shall indicate the making of the motion, the seconding thereof, and all votes for or against the motion. Members not voting or absent shall also be recorded.

Sec. 17-184. Petition denied.

A petition for variation, amendment, or special use, which shall have been denied by the Board and the City Council, shall not be brought before the Board again, until one (1) year shall have passed from the date of the first public hearing, unless the prayer of the petition shall request a different amendment or variation, or some change in circumstances has affected the status of the property in a substantial manner. Petitioner, his attorney or agent, may present to the Board such reason, or reasons, as he feels should be sufficient to justify a hearing on the plot or parcel within the one (1) year period, and it shall be at the discretion of the said Board to allow or disallow such subsequent hearing.

Sec. 17-185. Postponing a vote.

The Planning and Zoning Board of Appeals may postpone a vote and recommendation on any petition for only one (1) of its voting meetings, but a vote and recommendation upon such petition must be made at the next voting meeting thereafter, unless further delay is with the approval of the petitioner, his attorney, or agent. (Ord. #1060, 11-25-1991, Ord. #1068, 4-13-92.)

Sec. 17-186 to 17-190. Reserved.

ARTICLE XII. INTERPRETATION AND CONFLICT

Sec. 17-191. In general.

In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any ordinance or rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this ordinance or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, nor is it intended by this ordinance to interfere with or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of building or requires larger open spaces than are imposed or required by such ordinances, rules, regulations or permits, or by easements, covenants, or agreements, the provision of this ordinance shall control.

Where the conditions imposed by any provision of this ordinance and amendments thereto upon the (1) use of land, buildings, or structures; (2) height of buildings or structures; (3) floor area requirements; (4) lot area and width requirements; (5) yard and other open space requirements; and (6) other provisions of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

(Ord #1060, 11-25-1991)

Sec. 17-192 to 17-195. Reserved.

ARTICLE XIII. VIOLATION, PENALTY, ENFORCEMENT

Sec. 17-196. In general.

Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. The Building Commissioner is hereby designated and authorized to enforce this ordinance.

(Ord. #1060, 11-25-1991)

Sec. 17-197 to 17-200. Reserved.

ARTICLE XIV. BOUNDARIES OF DISTRICTS

Sec. 17-201. In general.

Where uncertainty or dispute exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (a) The district boundaries are the centerlines of either streets or alleys, unless otherwise shown and where the designations on the zoning map indicate that the various districts are approximately bounded by streets or alley lines, such alleys' or streets' centerlines shall be construed to be the boundaries of such districts.
- (b) Where the district boundaries are not shown to be streets or alleys and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the designations on the zoning map indicate that the various districts are approximately bounded by lot lines, such lot lines shall be construed to be the boundaries of such districts.
- (c) Where the district boundaries are not shown by streets or alleys or lot or block lines, the district boundaries shall be determined by use of the scale shown on the maps.

(Ord. #1060, 11-25-1991)

Sec. 17-202 to 17-205. Reserved.

ARTICLE XV. VALIDITY

Sec. 17-206. In general.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

(Ord. #1060, 11-25-1991)

Sec. 17-207 to 17-209. Reserved.

ARTICLE XVI. FEES

Sec. 17-210. In general.

Any applications for a variation, amendment, or special use, which is filed by, or on behalf of, the owner or owners of the property affected, shall be accompanied by a fee of one hundred dollars (\$100.00). (Ord. #1004, 10-12-1987; amended by 1060, 11-25-1991)

Sec. 17-211 to 17-220. Reserved.

ARTICLE XVII. OFFICIAL MAPS AND STANDARDS

Sec. 17-221. Short title.

This ordinance shall be known and may be cited as the Official Map and Standards Ordinance.

Sec. 17-222. Purpose.

It is the purpose of this ordinance:

- (a) to adopt an official map;
- (b) to adopt and designate official standards for the development redevelopment of the municipality; and
- (c) to provide for the filing of copies of such maps and standards in the office of the municipal clerk for the information of the public.

Sec. 17-223. Identification of maps and standards adopted by reference.

Previously printed maps and standards attached hereto and incorporated herein by reference and hereby made a part of this ordinance shall be identified by the following statement marked or stamped thereon:

"Adopted by reference as a part of the Official Map and Standards passed on _____, 19____, by the Mayor and City Council of the City of Henry, Illinois, approved by Mayor attest by City Clerk

Sec. 17-224. Official maps adopted by reference.

The following map attached hereto is hereby incorporated by reference and adopted as a part of this ordinance and shall be known as the Official Map or parts thereof.

Sec. 17-225. Official standards adopted by reference.

The following standards attached hereto are hereby incorporated by reference and shall be known as the official standards of the City of Henry:

- (a) Walks and pavements - Standards and outline specifications for the design and construction of pedestrian walks, vehicle parking areas, driveways, and street roadways, _____ 19____
- (b) Sanitary sewerage - Standards and outline specifications for the design and construction of sanitary sewerage facilities, _____, 19____,
- (c) Storm water drainage - Standards and outline specifications for the design and construction of storm sewers, floodwater runoff channels, culvert and bridge openings and detention ponds and basins, _____, 19____
- (d) Water supply - Standards and outline specifications for the design and construction of water supply and distribution facilities, including fire hydrants, _____, 19____
- (e) Street lighting - Standards and outline specifications for the design and construction of street lighting, _____, 19____

- (f) Roadway cross section - Standards and outline specifications for the design and construction of roadway cross section, _____, 19__

Sec. 17-226. Use of maps and standards in other ordinances.

The maps and standards adopted under Sections 17-224 and 17-225 of this ordinance may be adopted by reference to their titles in other ordinances, which regulate the development of the municipality without further filing or publication except where the statutes require otherwise.

Sec. 17-227. Administration and enforcement.

Provisions of this ordinance, including such maps and standards the ordinance adopted by reference, which also may be incorporated by reference in other regulatory ordinances, shall be administered and enforced by the officers designated in such regulatory ordinances. Those provisions of this ordinance not incorporated in other ordinances shall be enforced by the superintendent of public works.

Sec. 17-228. Penalties.

A violator of any provision of this ordinance shall, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00). Each day a violation is permitted to continue shall constitute a separate offense.

Sec. 17-229. Availability of copies of this ordinance.

The city clerk shall keep in her office at least three (3) copies of this ordinance, including such maps and standards as are incorporated herein by reference, and any amendment thereof, for inspection by interested persons. The clerk shall also make available copies of this ordinance for purchase at fifty cents (\$.50) each, either through duplication in advance of contemplated demand or upon order as required. The foregoing copies of the ordinance shall be in addition to the original copy which the statutes require the clerk to keep as a part of the official record of enacted ordinances. (Ord. #775, 11-27-1967)

Sec. 17-230 to 17-235. Reserved.

CHAPTER 18.

LAND SUBDIVISION ORDINANCE AND FLOODPLAIN DEVELOPMENT

ARTICLE I. LAND SUBDIVISION ORDINANCE.

DIVISION 1. TITLE AND PURPOSE

Sec. 18-1. Purpose.

The purpose of this ordinance is to provide for the health, comfort, safety, and convenience of the inhabitants of Henry and vicinity; to establish reasonable standards of design for subdivisions and for re-subdivision of improved land and of areas subject to redevelopment, including reasonable requirements for public streets, alleys, ways for public service facilities, parks, playgrounds and other public grounds; to provide that no map or plat of a subdivision within the corporate limits or within contiguous territory not more than one and one-half (1 1/2) miles

from the corporate limits shall be entitled to record or shall be valid unless it provides for streets, alleys, and public grounds in conformity with the heretofore adopted official plan of Henry, Illinois.

Sec. 18-2. Title.

This ordinance shall be known as "The Land Subdivision Ordinance of the City of Henry.
(Ord. #774, 11-13-1967)

Sec. 18-3 to 18-5. Reserved.

DIVISION 2. DEFINITIONS

Sec. 18-6. Definitions.

For the purposes of this ordinance, certain terms and words are herewith defined as follows:

Building line: A line on a plat between which line and a street, alley, or private place, no building or structure may be erected.

Final plat: A plat drawn in ink upon tracing cloth and conforming to the requirements of Division 7, [Sec. 18-51](#).

Improvements: The furnishing of all materials, equipment, work and services, including plans and engineering services, staking and supervision, necessary to construct all the improvements required in Division 6 of this ordinance, or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to construct or complete such improvements.

Major street: A street shown on the major streets plan, a part of the official comprehensive plan.

Plans: All of the drawings including general plans, cross sections, profiles, working details and specifications which the subdivider prepares or has prepared to show the character, extent and details of the improvements required in Division 6 of this ordinance.

Plat: A map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval and intends in final form to record.

Preliminary plat: A plat drawn upon tracing paper or other materials from which reproductions can be made and conforming to the requirements of Division 5, [Sec. 18-51](#) and [18-52](#).

Subdivision: For the purpose of these regulations a subdivision of land is:

- (a) the division of land into two (2) or more tracts, sites or parcels of five (5) acres or less in an area;
- (b) the establishment or dedication of a road, highway, street or alley through a tract of land regardless of area; provided, however, that the sale or exchange of small parcels of land to or between adjoining property owners, where such sale or exchange does not create additional lots, shall not be considered as a subdivision of land.

Subdivider: The person or persons, firm or corporation who are owners of or agents for the area being subdivided and who are responsible for preparing and recording the plat of the subdivision and for carrying out all appropriate requirements outlined in these regulations for the subdividing of land.

Specifications: The standard specifications for road and bridge construction, prepared by the Department of Public Works and Buildings, of the State of Illinois, and adopted and amended by said department, and which are in effect at the time the area is being subdivided. Any term in such specifications referring to state departments or officials or to persons contracting with the state shall be deemed to refer to applicable departments, officials or persons in the County of Marshall, and the term "contractor" shall specifically apply to the subdivider who is responsible for installing all of the improvements required in Division 6 of this ordinance even though the subdivider may enter into agreements for such installation by other persons, firms, or corporations. (Ord. #774, 11-13-1967)

Storm water runoff rate: The rate at which storm water runoff is released to adjacent land.

Storm water Detention Area: Areas designated to store excess storm water.

25-Year Rainfall Event: The 25-year rainfall event is the average rainfall measured in inches that statistically will occur once in a 25-year period or, in other words, it has a 4% chance of occurring in any given year.

Release Rate: The release rate is the allowable discharge rate of storm water from a subdivision, typically measured in cubic feet per second.

Runoff Rate: The runoff rate is the amount of storm water runoff or volume of rain over a given time that is generated over an entire site for a selected rainfall event. It is typically measured in cubic feet per second.

(Ord. #1365, 6-26-00)

Sec. 18-7 to 18-10. Reserved.

DIVISION 3. JURISDICTION AND PROCEDURE

Sec. 18-11. Plat, when required.

It shall be unlawful for the owner, agent or person having control of any land within the corporate limits of the city or within one and one-half (1 1/2) miles of its corporate limits and not included within or closer to the corporate limits of any other incorporated community, to subdivide or lay out such land into lots, blocks, streets, avenues, alleys, public ways, and grounds, unless by a plat in accordance with the laws of the State of Illinois and the provisions of this ordinance. Each subdivider of land shall confer with local officials before preparing the preliminary plat, in order to become thoroughly familiar with all the regulations and the official plan proposals affecting the territory in which the subdivision lies.

Sec. 18-12. Preliminary plat to be approved.

Any person proposing to subdivide land shall submit to the city planning and Zoning Board of Appeals, for its consideration, a preliminary plat prepared in accordance with the specifications of [Division 5](#). The design and layout of the subdivision shall conform to the requirements of [Division 4](#) herein. Following consideration of the plat, the Board shall report its findings and recommendations in writing to the Council for its consideration and approval or disapproval.

Sec: 18-13. Requisites for final plat approval.

Following approval of the preliminary plat by the Board and the council, the subdivider shall:

- (a) install the required improvements, or
- (b) furnish a bond for such installation, all in accordance with the requirements of [Division 6](#) herein.

Upon approval of the improvements, or arrangements therefor, the final plat shall be submitted in accordance with the provisions and requirements of [Division 7](#) herein.

No plat or re-plat shall be filed for record or recorded in the office of the Recorder of Deeds of Marshall County, Illinois, unless and until the approval of the Council is endorsed thereon by the city clerk, and no lot shall be sold from such plat or re-plat unless and until approved by the Council and filed for record in the office of the Recorder of Deeds of Marshall County, Illinois, as herein provided.

(Ord. #774, 11-13-1967)

Sec. 18-14. Hearing.

Prior to consideration of any preliminary or final plat, the Zoning Board of Appeals shall conduct a hearing, which, in connection with a preliminary plat, shall not be more than sixty (60) days subsequent to the filing of the proposal to subdivide land. A notice of the hearing shall be published at least once, not more than thirty (30) nor less than fifteen (15) days before the said hearing date in one (1) or more newspapers with a general circulation within the City of Henry and which is published within Marshall County. The petitioner shall provide the notice, which shall contain information as provided by rule of the Board. The Board may supplement such published notice by additional form, or forms, of notice as it may by rule provide. All publication notices shall contain a simple description of the property as to area and location, and be of such a nature as to enable the ordinary reader to accurately locate such parcel. This description shall be in addition to the required metes and bounds or lot and block description. (Ord. #1394, 5-14-01)

Sec. 18-15. Notification of Adjoining Property Owners.

Upon submission of a Proposal to Subdivide Land, the petitioner, his attorney or agent, shall also furnish the City with the full names and addresses of the persons who have last paid taxes on all property contiguous to or abutting the parcel or parcels concerned in the petition, including such taxpayers of record as may own property across the road, street, or alley, which may abut the premises to be subdivided on one (1) or more sides. It shall then be the duty of the City Clerk's office to send such persons a copy of the publication notice concerning the hearing on the preliminary plat, by certified mail. The petitioner shall furnish the City with as many copies of the publication notice as shall be required for this purpose. (Ord. #1394, 5-14-01)

Sec. 18-16 to 18-18. Reserved.

DIVISION 4. SUBDIVISION DESIGN STANDARDS

The arrangement of streets and lots shall give due regard to the topography and other physical features of the property and shall meet the following requirements and standards:

Sec. 18-19. Relation to adjoining street system.

The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be deemed necessary for public requirements. The street and alley arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it. Offset streets shall be avoided.

The angle of intersection between minor streets and major streets shall not vary by more than ten (10) degrees from a right angle. Streets obviously in alignment with existing streets shall bear the names of the existing streets. Proposed street names that are in conflict with existing street names shall not be approved.

Sec. 18-20. Streets, alleys and sidewalks.

- (a) The widths and locations of major streets shall conform to the widths and locations of such streets designated on the major streets plan.
- (b) The minimum width for minor streets shall be sixty feet (60') except that in cases where the topography or special conditions make a street of less width more suitable the Commission may waive the above requirements. When a street adjoins unsubdivided property, a half street at least thirty feet (30') in width shall be dedicated and whenever the property being subdivided adjoins a half street, the remainder of the street shall be dedicated.
- (c) Alleys shall not be provided in a residential block. Alleys are required in the rear of all business lots unless other adequate provisions are made for service and deliveries, and shall be at least twenty feet (20') wide.
- (d) Curves in streets may be permitted provided that no curve is greater than approved by the city engineer.
- (e) Except where specifically authorized by the City Council, all sidewalks in a subdivision should be located one foot (1') from the front line of the lot or lots by which it passes and be three and one-half feet (3 1/2') wide.

Sec. 18-21. Easements.

Easements of at least five feet (5') in width shall be dedicated on each side of all rear lot lines and along side lot lines, where necessary, for poles, wires, conduits, storm and sanitary sewers, gas, water or other utilities. Easements of greater width may be required along or across lots where necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement.

Sec. 18-22. Blocks.

- (a) No block shall be longer than one thousand two hundred feet (1,200'). Where blocks are over seven hundred fifty feet (750') in length, a crosswalk with a right-of-way of at least ten feet (10') in width may be required near the center of the block.
- (b) Courts, dead end streets, or other street space may be provided if proper access is given to all lots from a dedicated street or court. All dead end streets shall terminate in a dedicated street space having a minimum radius of fifty feet (50'), or other satisfactory arrangement for turning of vehicles. Dead end streets shall not exceed seven hundred fifty feet (750') in length.

Sec. 18-23. Lots.

- (a) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and to the character of surrounding development.
- (b) All side lines of lots shall be at right angles to straight street lines and radial to curved street lines except where a variation of this rule will provide a better street and lot layout. Lots with double frontage shall be avoided.
- (c) No lot shall have a depth of less than one hundred feet (100') or a depth in excess of three (3) times its width. No lot shall have an area or width less than that required by any zoning ordinance or resolution in effect within the area.
- (d) Corner lots shall have a width sufficient to permit the establishment of front building lines on both the adjoining streets.
- (e) Lots at major street intersections and at acute angle intersections of less than eighty-five (85°) degrees shall have a radius of twenty feet (20') at the street corner. On business lots a chard may be substituted for the circular arc.

Sec. 18-24. Maintenance of improvements outside corporate limits.

Where a subdivision outside the corporate limits contains sewers, sewage treatment plants, water supply system, park areas, or other physical facilities necessary or desirable for the welfare of the area and of common use or benefit, which the city or county does not desire to or cannot maintain, provision shall be made by trust agreements made a part of the deed restrictions acceptable to the city, for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision.

Sec. 18-25. Parks, school sites, etc.

Where an area being subdivided includes land proposed for parks or schools, under the duly adopted official comprehensive plan of the city and its environs, the subdivider shall either dedicate such lands to the appropriate public agency as a part of the plat or he shall reserve such lands for a specified period to permit their acquisition by purchase or by other means by said public agency, such period to be determined by an agreement entered into between the subdivider and the appropriate public agency regarding the time and method of acquisition and the cost of the land.

Sec. 18-26. Easements along streams.

Whenever any stream or important surface drainage course is located in an area being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving, or protecting the stream and such easement shall be dedicated to the city or other appropriate public agency.

(Ord. #749, 4-11-1966; #774, 11-13-1967)

Sec. 18-27 to 18-30. Reserved.

DIVISION 5. PRELIMINARY PLATS

Sec. 18-31. Where filed, exceptions.

Three (3) copies of the preliminary plat, drawn to a scale of not more than one hundred feet (100') to the inch, shall be submitted to the city Planning and Zoning Board of Appeals. The plat shall be accompanied by a filing fee of ten dollars (\$10.00) or of one dollar (\$1.00) for each lot within the proposed subdivision whichever is greater. Plats containing three (3) lots or less and not involving new streets may be exempted from the provisions of this Division, upon application to the Board.

Sec. 18-32. The preliminary plat shall show.

- (a) The location of the present property lines and section lines and streets, buildings, water courses and other existing features within the area to be subdivided and similar information regarding land immediately adjacent thereto.
- (b) The proposed location and width of streets, alleys, lots, building lines and easements.
- (c) Existing sanitary and storm sewers, water mains, culverts, and other underground structures within the tract immediately abutting thereto; the location and size of the nearest water main and sewer outlet.
- (d) The title under which the proposed subdivision is to be recorded and the name of the engineer, the registered land surveyor, and the subdivider platting the tract.
- (e) Contours referred to the City of Henry datum with intervals of five feet (5') or less.
- (f) The north point, scale, and date.
- (g) Plans or written statements describing the grades or profiles of the streets, the proposed grades and facilities for all required improvements and the subdivider's proposal to the city for accomplishing their installation in accordance with Division 6 hereof.

Sec. 18-33. Approval of preliminary plat.

If the Board finds that the preliminary plat satisfies the requirements of this ordinance, it shall approve said plat and recommend approval by the Council. If the Board finds otherwise, it shall specify in writing the objections found to such plat and may either recommend disapproval or recommend approval conditioned upon specific changes in the plat.

One (1) copy of the proposed plat, together with a copy of the findings of the Board, shall be filed by the Board with the city clerk for submission to the Council. One (1) copy of the proposed plat and findings shall be retained by the Board and one (1) copy and findings shall be given the person offering the proposed plat, together with certificate of approval or disapproval of the Board and the Council.

(Ord. #774, 11-13-1967)

Sec. 18-34 to 18-40. Reserved.

DIVISION 6. MINIMUM IMPROVEMENTS

Sec. 18-41. Authority to proceed with final plat.

Receipt by the subdivider of the copy of the preliminary plat together with the approval of the Board and City Council shall constitute authority for the subdivider to proceed with final plans and specifications for the installation of the required improvements and preparation of the final plat. Prior to the construction of any of the required improvements, the subdivider shall submit such final plans and specifications to the city official having jurisdiction over their construction. If said city official shall find such plans and specifications to be in accordance with applicable policies and standards of the city, he shall authorize construction and determine the amount of bond, if required. Following the approval of the plans and specifications, construction may be started or the bond may be filed.

Sec. 18-42. Requirements for approval of final plat.

No final plat of any subdivision shall be approved unless:

- (a) The improvements listed hereinafter have been installed prior to such approval, or
- (b) The subdivider shall have filed with the Council a surety bond, cashier's or certified check, to insure the construction of the improvements listed in this Division in a satisfactory manner and within the period specified by the Council, such period not to exceed two (2) years. No surety bond shall be accepted unless it be enforceable by or payable to the city in a sum at least equal to the cost of constructing the improvements as estimated by the city official having jurisdiction and conform with surety and conditions approved by the Corporation Council.
- (c) The final plat is approved not later than one year after approval of the preliminary plat. (Ord. #1394, 5-14-01)

Sec. 18-43. Installation of part of improvements.

The owner of a tract may prepare and secure approval of a preliminary plat for the entire tract and may install the required improvements only in a portion of such tract, but the improvements must be installed or provision made for their installation in any portion of the area for which a final plat is approved for recording; provided, however, that any water mains, storm sewers, trunk sewers, and any sewage treatment plants shall be designed and built to serve all the area owned by the subdivider or designed and built in such a manner that they can easily be expanded or extended to serve the entire area, and provided further that the requirements of [Section 18-24](#) of Division 4 have been met.

Sec. 18-44. Survey monuments.

All subdivision boundary corners and the centers of all street intersections shall be marked with permanent survey monuments. All points of tangency and points of curvature of all curves shall be marked with permanent survey monuments. A permanent monument shall be deemed to be concrete with rod center at least thirty inches (30") long with a minimum dimension of four inches (4") extending below the frost line. Should conditions prohibit the placing of monuments on the line, offset marking will be permitted; provided, however, that exact offset courses and distances are shown on the subdivision plat. Iron pipes or steel rods shall be set at all lot corners. If survey monuments are removed during construction, they shall be replaced before the final plat is approved.

Sec. 18-45. Street improvements.

All street and public ways shall be graded to their full width, including side slopes, and the appropriate grade and shall be surfaced to a width of thirty-six feet (36') back to back of curbs with eight inches (8") of compacted crushed stone or gravel and with two inches (2") of hot bituminous mix or six inches (6") of concrete may be used for the surfacing. Concrete curbs shall be in accordance with applicable standard specifications of the city and shall be subject to inspection and approval by the proper city official.

Sec. 18-46. Water lines.

Where a subdivision is located within the city limits, each lot therein shall be provided with a connection to the city water system, said water service to terminate not less than two feet (2') inside of the curb line or easement line. Fire hydrants, not more than four hundred feet (400') apart, shall also be installed in all subdivisions within the corporate limits and the location of same shall be approved by the superintendent of public works. The water supply system shall be constructed under the direction and control of, and all construction shall be subject to the approval of the superintendent of public works.

Where it is determined by the City Council that water mains are to be extended into any subdivision, the mains are to be not less than six inches (6") in diameter and will include such shut-off valves, fire hydrants, etc., as the City Council may deem necessary.

Where any water main is extended the same is to be done by the owner under direction and supervision of the city and in accordance with its requirements and specifications.

Where water mains are extended, the subdivider will pay the total cost thereof, including the cost of such shut-off valves, fire hydrants, provide easements conveying to the city within the subdivision and to provide easements with the subdivision for future subdivisions and install fire hydrants within four hundred feet (400') of each other; the owner will pay for a minimum six inch (6") water main to his subdivision, by the most direct means, while the city shall reimburse said owner for this extension to his subdivision, at the rate of four dollars (\$4.00) per lineal foot payable at one hundred dollars (\$100.00) per occupied dwelling within his respective subdivision, and/or adjacent subdivision in direct connection with the installed extended water main, however, the city shall have the option to require the installation of a water main larger than six inches (6") with the increased cost paid by the city.

The city will charge the customary and usual tap-on fee for each connection made with said water main.

Under no circumstances are the provisions of this section to be construed to require the City Council to extend such water mains or water lines or provide any other type of water service as a matter of right.

In subdivisions outside the city limits, pending availability of a public water supply, the subdivider shall construct wells or a private water supply system in such a manner that an adequate supply of potable water will be available to every lot in the subdivision at the time improvements are erected thereon. The installation shall conform to standards and requirements and be subject to the approval of the Illinois Department of Health and appropriate county authorities.

Sec. 18-47. Drainage.

- (a) The subdivider shall construct or cause to be constructed a storm water system which shall be adequate to properly drain the subdivision and all other upstream

areas that are tributary to the subdivision. The storm water runoff rate from the subdivision shall not exceed the storm water runoff rate from the subdivision in its natural undeveloped state. The storm water runoff rates shall not exceed the available capacity of the downstream drainage system.

- (b) The storm water system shall be designed and constructed in accordance with the standard road and bridge specifications. Minimum capacity of storm sewers shall be adequate to carry a 25-year rainfall event as defined in publications of the Illinois State Water Survey or other agency performing a similar function. Existing natural waterways in subdivisions shall be preserved or improved as part of the storm water system.
- (c) Storm water control facilities are required to control the release of storm water from the subdivision in such a manner which will minimize the impact of storm water from the subdivision on downstream property whether by release rate, erosion or siltation.
- (d) Storm water detention facilities shall be designed for a minimum of a 25-year rainfall event. Each storm water detention area shall be provided with a method of emergency overflow in the event that a rainfall event in excess of the 25-year rainfall event occurs. This emergency overflow facility shall be designed to function without attention or maintenance. Detention facilities shall be designed to have a dry bottom.
- (e) Storm water detention basin calculations shall be based on the following criteria:
 - (1) The undeveloped storm water runoff rates for areas thirteen (13) acres or less in area, shall be calculated based on the rational method with a coefficient of runoff not less than twenty-five hundredths (0.25).
 - (2) The undeveloped storm water runoff rates for areas thirteen (13) acres or larger in area, shall be calculated based on the method presented in the IDOT Division of Water Resources and USGS Water Resources Investigations 87-4207, "Technique for Estimating Flood Peak Discharges and Frequencies of Rural Streams in Illinois" or any successor publication.
 - (3) The design storm water runoff rates shall take into account the effects of the development on the time of concentration, rate and quantity of the water discharged.
- (f) The subdivider's engineer shall analyze and report on the adequacy of the storm water detention outlet and on the consequences of a 50- and 100-year rainfall event. The system shall be designed to minimize the effects of such events on downstream facilities.
- (g) Outlet control structures shall be simply designed and shall require little or no maintenance for proper operation. Control structures shall be designed to operate at full capacity with only a minor increase in the water surface level.
- (h) The velocity of storm water runoff shall be kept at a minimum and turbulent conditions at outfall control structures will not be permitted.
- (i) No structures shall be constructed within storm water detention areas or discharge channels.
- (j) In all subdivisions, ownership and maintenance responsibilities for any component of a storm water control system lying outside of the dedicated and accepted right-of-way and for all detention facilities shall remain with the property owner or owners and shall be a part of existing lots within the subdivision, or be provided for by a legal entity. Prior to the final approval of the subdivision, the City Council, after

recommendation of the Planning and Zoning Board of Appeals, must approve the method of perpetual maintenance selected by the subdivider. No change shall be made in the approved method by the subdivider until approved by the City Council after a hearing before the Planning and Zoning Board of Appeals.

- (1) If a homeowner's association is formed, the articles must minimally contain the following provisions:
 - (i) Legal description which geographically defines the area controlled by the homeowner's association and the property which is to be owned by the homeowner's association or the easement which is to be owned by the homeowner's association.
 - (ii) That all owners of property located within the development shall automatically become members of the homeowner's association. Provision shall be made for the timing of the transfer of control from the developer to the homeowner's association.
 - (iii) That no open space within the subdivision utilized for storm water control shall be converted to other uses.
- (2) In the event that the entire development is to remain under a single ownership, the developer shall then file a deed restriction between the owner and the City of Henry with the county recorder of deeds providing for a legal entity to be responsible for the maintenance of all components of the storm water control system, including, all detention facilities, lying outside of the dedicated and excepted right-of-way.

(Ord. #1365, 6-26-00)

Sec. 18-48 to 18-50. Reserved.

DIVISION 7. FINAL PLAT

Sec. 18-51. Final plat.

The final plat shall be drawn with permanent ink on tracing cloth to a scale of not more than one hundred feet (100) to the inch from an accurate survey and on one (1) or more sheets whose maximum dimensions shall not exceed seventeen inches (17") by twenty-two inches (22"). If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one (1) sheet and the component areas shown on other sheets.

The original and four (4) prints of the final plat shall be submitted to the city Planning and Zoning Board of Appeals at least one (1) week before the meeting thereon. When the final plat conforms to the approved preliminary plat, and the requirements of Divisions 6 and 7 have been accomplished, certification to this effect shall be endorsed on the final plat by the chairman of the Board, and the plat thereupon submitted to the Council for its approval or disapproval. Where the final plat does not conform to the approved preliminary plat, the Board shall submit its recommendations to the Council for approval or disapproval of the final plat.

Sec. 18-52. Information required.

The final plat and accompanying documents shall show:

- (a) The boundary lines of the area being subdivided with accurate distances and angles. The correct legal description of the property being subdivided shall be shown on the plat, or on an accompanying certificate.
- (b) The lines of all proposed streets and alleys with their widths and the names of all streets.
- (c) The accurate outline of any portions of the property intended to be dedicated or granted for public use.
- (d) The lines of all adjoining property and the lines of adjoining streets and alleys with their widths and the names of all streets.
- (e) All lot lines together with an identification of all lots and blocks.
- (f) The location of all easements provided for public use, services or utilities.
- (g) All dimensions, linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot.
- (h) The radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
- (i) The location of all survey monuments and their descriptions.
- (j) The name of the subdivision and the scale of the plat, points of the compass, the name of the owner or owners or subdividers.
- (k) The certificate of a registered Illinois land surveyor attesting the accuracy of the survey and the correct location of all monuments shown.
- (l) Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.
- (m) Calculations showing the error of linear closure which error shall, in no case, be greater than one in five thousand (5,000).
- (n) Acknowledgment of the owner or owners to the plat, and restrictions including dedication to public use of all streets, alleys, parks, or other open spaces shown thereon and the granting of easements required.
- (o) A receipt or certificate showing that there are no unpaid taxes or assessments upon any part of the area within the subdivision.
- (p) Certificate of approval by the Council for endorsement by the mayor and city clerk.

Sec. 18-53. Approved plat filed with recorder of deeds.

After the approval of the final plat by the City Council, said plat shall be recorded in the County Recorder's Office within thirty (30) days and if not so filed, such plat shall have no validity and shall not be recorded without reapproval.

(Ord. #774, 11-13-1967)

Sec. 18-54 to 18-58. Reserved.

DIVISION 8. EXCEPTIONS

Sec. 18-59. Modification of requirements.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this ordinance would result in real difficulties or substantial hardship or injustice, the Council, after report by the Board, may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that, at the same time, the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of this ordinance is preserved. (Ord. #774, 11-13-1967)

Sec. 18-60 to 18-65. Reserved.

DIVISION 9. CHANGES AND AMENDMENTS

Sec. 18-66. Changes and its.

Any regulations or provisions of this ordinance may be changed and amended from time to time by the City Council; provided, however, that such changes or amendments shall not become effective until after study and report by the city Planning and Zoning Board of Appeals and until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation at least fifteen (15) days prior to such hearing.

(Ord. #774, 11-13-1967)

Sec. 18-67 to 18-70. Reserved.

DIVISION 10. VALIDITY

Sec. 18-71. Validity.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this ordinance.

(Ord. #774, 11-13-1967)

Sec. 18-72 to 18-75. Reserved.

DIVISION 11. PENALTY

Sec. 18-76. Penalty.

It shall be illegal to sell or offer to sell any lot, tract or property, which does not conform to the requirements and regulations of this ordinance, and every such sale or attempt to sell shall be subject to a fine of not less than twenty-five dollars (\$25.00) for each lot or tract as provided by the Illinois Statutes. (Ord. #774, 11-13-1967)

Sec. 18-77 to 18-80. Reserved.

ARTICLE II. FLOOD PLAIN DEVELOPMENT

Sec. 18-81. Purpose.

This, ordinance is enacted pursuant to the police powers granted to this city by 65 Illinois Laws and Compiled Statutes, Sections 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2 in order to accomplish the following purposes:

- (a) to prevent unwise development from increasing the flood or drainage hazards to others;
- (b) to protect new buildings and major improvements to buildings from flood damage;
- (c) to protect human life and health from the hazards of flooding;
- (d) to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (e) to maintain property values and a stable tax base by minimizing the potential for creating flood blight areas;
- (f) to make federally subsidized flood insurance available for property in the city of Henry;
- (g) to provide for the orderly growth and development (pursuant to the city's comprehensive plan) of an environment that is especially sensitive to changes from human activity.

Sec. 18-82. Provisions for accomplishing the purpose.

All new development proposals in the Special Flood Hazard Areas shall be reviewed and approved by the building official. The building official's review is to ensure the following:

- (a) new development will not change the flow of flood or other surface drainage waters so that other properties became more susceptible to damage;
- (b) new developments will not create special hazards or nuisances when flooded; and
- (c) new buildings and major improvements to existing buildings will not be subject to damage by the base flood.

Sec. 18-83. Definitions.

For the purposes of this ordinance, the following definitions are adopted:

Base flood means the flood having a one percent (1%) probability of being equaled or exceeded in any given year. The base flood is also known as the one hundred (100) year flood. The base flood elevation at any location is as defined in [Sec. 18-84](#) of this ordinance.

Building means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank in order that such tanks will be constructed to the same flood damage protection standards. The term includes a manufactured home or prefabricated building, which is affixed on a permanent site and connected to the required utilities. The term includes recreational vehicles or travel trailers installed on a site for more than one hundred eighty (180) days.

Development means any man-made change to real estate, including:

- (a) construction, reconstruction, or placement of a building or an addition to a building valued at more than one thousand dollars (\$1,000);
- (b) installing a manufactured home or prefabricated building on a site or preparing a site for a manufactured home or prefabricated building;
- (c) drilling, mining, installing utilities or facilities, construction of roads, bridges or similar projects valued at more than one thousand dollars (\$1,000);
- (d) construction or erection of levees, walls, or fences;
- (e) filling, dredging, grading, excavating, or other nonagricultural alterations of the ground surface;
- (f) storage of materials; or
- (g) any other activity that might change the direction, height, or velocity of flood or surface waters.

Development does not include:

- (a) maintenance of existing buildings and facilities such as re-roofing or re-surfacing roads;
- (b) gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

Flood means a general and temporary condition of inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood proofing shall mean any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FPE or Flood Protection Elevation means the elevation of the base flood (plus one foot [1']) at any given location of the SFHA.

Floodway means that portion of the SFHA required to store and convey the base flood. If not prohibited, building or placing obstructions in a floodway will increase flood damages to other properties.

Habitable Floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SFHA or Special Flood Hazard Area means those lands within the jurisdiction of the city that are subject to inundation by the base flood. The SFHAs of the city are generally identified as such on the Flood Insurance Rate Map dated January 7, 1983.

Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

- (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance means a grant of relief by a community from the terms of a flood plain management regulation.

Sec. 18-84. Base flood elevation.

This ordinance's protection standard is the base flood according to the best data available to the Illinois State Water Survey's Floodplain information Repository. Whenever a party disagrees with the best available data, he may finance the detailed engineering study needed to replace existing data with better data and submit it to the State Water Survey.

The base flood elevation for the SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map dated January 7, 1983 shall be the one hundred (100) year flood depth calculated with the help of the State Water Survey according to the formulas presented in Depth and Frequency of Floods in Illinois published by the U. S. Geological Survey, 1976.

Sec. 18-85. Development permit.

No person, firm, or corporation shall commence any development in the SFHA without first obtaining a development permit from the building official. The building official shall not issue a development permit if the proposed development does not meet the requirements of this ordinance.

- (a) Application for a development permit shall be made on a form provided by the building official. The application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and (in those parts of the site that are below the base flood elevation):
 - (1) existing grade elevations and all changes in grade resulting from excavation or filling;
 - (2) the direction of flow of surface drainage and flood flows;
 - (3) the location of all watercourses and drainage facilities;
 - (4) the location and dimensions of all buildings and additions to buildings; and
 - (5) the elevation of the lowest floor (including basement) of all buildings subject to the requirements of [Section 18-87](#) of this ordinance.
- (b) Upon receipt of an application for a development permit, the building official shall compare the elevation of the site to the base flood elevation. Any development located on land higher than the base flood elevation is not in the SFHA and therefore not subject to the requirements of this ordinance.
- (c) The building official shall inform the applicant of any and all other local, state, and federal permits that may be required for this type of development activity. The development permit will only be issued on the condition that the other specified permits are obtained. The building official shall not issue a use permit/certificate of use or occupancy unless all required permits have been obtained.

Sec. 18-86. Preventing increased damages.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health or safety.

- (a) For development proposals within a riverine SFHA, the following standards shall apply:
- (1) In addition to the other requirements of this ordinance, a development permit for a site located in a floodway (or in a riverine SFHA where no floodway has been identified) shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from the Illinois Department of Transportation, Division of Water Resources, issued pursuant to 615 Illinois Laws and Compiled Statutes, Section 5/5 et seq.
 - (2) The following activities may be constructed without the individual permit required in [Sec. 18-86\(b\)\(1\)](#) in accordance with Statewide Permits issued by the Illinois Department of Transportation, Division of Water Resources provided the activities do not involve placement of fill, change of grade, or construction in the normal channel. Such activities must still meet the other requirements of this ordinance:
 - (a) The construction of wells, septic tanks, and underground utility lines not crossing a lake or stream;
 - (b) The construction of light poles, signposts and similar structures;
 - (c) The construction of sidewalks, driveways, athletic fields, (excluding fences) patios and similar surfaces that are built at grade;
 - (d) The construction of properly anchored, unwallied, open structures such as playground equipment, pavilions, and carports;
 - (e) The placement of properly anchored buildings not exceeding seventy (70) square feet in size, nor ten feet (10') in any dimension (e.g. animal shelters and tool sheds); and
 - (f) The construction of additions to existing buildings that do not increase the first floor area by more than twenty percent (20%), which are located on the upstream or downstream side of the existing building, and which do not extend beyond the sides of the existing building that are parallel to the flow of floodwaters.
 - (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot (1') for the affected hydraulic reach of the stream and will not increase flood damages or potential flood damages.
 - (4) For all projects involving channel modifications or fill (including levees), the city shall submit sufficient data to the Federal Emergency Management Agency to revise the regulatory flood data.
- (b) Public health standards in all SFHAs:
- (1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the FPE unless such materials are stored in a storage tank of flood proofed building constructed according to the requirements of [Sec. 18-87\(c\)](#) of this ordinance.

- (2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPE are watertight.

Sec. 18-87. Protecting buildings.

In addition to the damage prevention requirements of [Sec. 18-86](#), all buildings to be located in the SFHA shall be protected from flood damage below the FPE. This building protection requirement applies to the following situations:

- (a) construction or placement of a new building valued at more than one thousand dollars (\$1,000);
- (b) improvements made to an existing building that increase the first floor area by more than twenty percent (20%);
- (c) reconstruction or repairs made to a damaged building that are valued at or more than fifty percent (50%) of the value of the building before the damage occurred; and
- (d) installing a manufactured home on a new site or a new manufactured home on an existing site. This building protection requirement does not apply to returning a manufactured home to the same site it formerly lawfully occupied.

This building protection requirement may be met by any one (1) of the following methods:

- (a) A building may be constructed on permanent landfill in accordance with the following:
 - (1) The area to be filled shall be cleared of all standing trees, brush, down timber, trash, and other growth or objects unsuitable for use as foundation material.
 - (2) The fill shall be placed in layers no greater than one foot (1') deep before compaction.
 - (3) The surface of the fill shall be at or above the FPE. The fill shall extend at least ten feet (10') beyond the foundation of the building before sloping below the FPE, the bottom of the lowest floor including joist, if any, and all utility meters shall be located at/or above the FPE.
 - (4) The fill shall be protected against erosion and scour during flooding by vegetation cover, rip rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
 - (5) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (b) A building may be elevated in accordance with the following:
 - (1) The building or improvements shall be elevated on stilts, piles, walls, crawl space, or other foundation that is permanently open to flood waters and not subject to damage by hydrostatic pressures. Elevated residential buildings must have permanent openings no more than one foot (1') above grade.
 - (2) The foundation and supporting members shall be anchored, shaped and aligned so as to minimize exposure to known hydrodynamic forces such as current, waves, and floating debris.

- (3) All areas below the FPE shall be constructed of materials resistant to flood damage. The bottom of the lowest floor, including joists, if any, and all electrical, plumbing, ventilating, heating and air conditioning equipment, related ductwork and utility meters shall be located at or above the FPE.
 - (4) The building official shall maintain a record of the "as built" elevation of the lowest floor.
 - (5) No area below the FPE shall be used for storage of items or materials subject to flood damage unless such items or materials are declared, "property not covered" by a Standard Flood Insurance Policy of the National Flood Insurance Program.
 - (6) Any future alteration of the area below the FPE that violates the requirements of Sec. 18-87 (b)(5) shall be deemed a violation of this ordinance. The building official shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a Standard Flood Insurance Policy to be suspended.
 - (7) No manufactured home may be placed on a new site located within an identified SFHA.
- (c) A non-residential building may be flood-proofed in accordance with the following
- (1) A registered professional engineer shall certify that the building has been designed so that below the FPE, the structure and attendant utility facilities are watertight and capable of resisting the affects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice.
 - (2) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.
 - (3) The building official shall maintain the engineer's certificate and a record of the "as built" elevation to which the building was flood-proofed.

Sec. 18-88. Other development requirements.

The City Council shall take into account flood hazards, to the extent that they are known, in all official actions related to land management, use and development.

- (a) The City Council shall not approve any annexation agreement or plat of subdivision located outside the corporate limits unless such agreement or plat is in accordance with the provisions of this ordinance. The building official shall obtain the best available SFHA maps and data for the unincorporated areas.
- (b) New subdivisions, manufactured home parks, and planned unit developments (PUDs) shall meet the requirements of [Secs. 18-86 & 87](#) of this ordinance. Plats or plans for new subdivisions, manufactured home parks, and planned unit development (PUDs) shall include a signed statement by a registered professional engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).
- (c) Plats or plans for new subdivisions, manufactured home parks, and planned unit development (PUDs) shall display the following flood data:

- (1) the boundary of the SFHA;
 - (2) the boundary of the floodway, if shown on available SFHA maps;
 - (3) easements of lands dedicated to the city for access for channel maintenance purposes; and
 - (4) the FPE for each building site. Where the Base Flood Elevation is not available from an existing study filed with the Illinois State Water Survey, the applicant shall be responsible for calculating the FPE and submitting it to the State Water Survey for review and approval as best available elevation data.
- (d) Plans for the development activities to be undertaken by the city in the SFHA shall be reviewed by the building official to ensure that they comply with this ordinance. Except as exempted by law, no other local government shall commence any development activity in the SFHA without first obtaining a development permit from the building official.
- (e) The City Council shall take the following into consideration when preparing or revising the comprehensive plan, community development program, housing assistance plan, and other land use or development programs:
- (1) preserving SFHA land for open space uses such as farming or recreation;
 - (2) acquiring and removing frequently flooded buildings;
 - (3) prohibiting hospitals, water treatment plants, natural gas storage and other critical or especially hazardous facilities from locating in the SFHA;
 - (4) identifying the elevations of the Base Flood and past floods at entrances to public buildings, on street signs, or other prominent locations;
 - (5) other flood hazard mitigation or floodplain management activities that could help accomplish the purposes of this ordinance.

Sec. 18-89. Variances.

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Planning and Zoning Board of Appeals for a variance. The Board shall review the applicant's request for a variance and shall submit its recommendation to the City Council.

- (a) No variance shall be granted unless the applicant demonstrates that:
- (1) the development activity cannot be located outside the SFHA;
 - (2) a substantial economic hardship would result if the variance were not granted;
 - (3) the relief requested is the minimum necessary;
 - (4) there will be no additional threat to public health or safety or creation of a nuisance;
 - (5) there will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities; and
 - (6) the provisions of [Sec. 18-85\(c\)](#) of this ordinance can still be met.

- (b) The building official shall notify an applicant in writing that a variance from the requirements of [Sec. 18-87](#) that would lessen the degree of protection to a building will:
 - (1) result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage;
 - (2) increase the risks to life and property; and
 - (3) require that the applicant proceed with knowledge of these risks and that he will acknowledge in writing that he assumes the risk and liability.
- (c) A variance from the requirements of [Sec. 18-87](#) may be granted to permit a "wet flood-proofed" building, that is, a building to be intentionally flooded during a flood, provided;
 - (1) No part of such a building below the FPE may be subject to flood damage.
 - (2) The variance shall be conditioned on the contents being:
 - (a) of materials resistant to flood damage; or
 - (b) items declared "property not covered" by a Standard Flood Insurance Policy of the National Flood Insurance Program; or
 - (c) readily moveable to a place of protection during a flood provided there will be personnel available and adequate warning.
 - (3) Any future alteration of the area below the FPE that violates the conditions of the variance shall be deemed a violation of this ordinance. The building official shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a Standard Flood Insurance Policy to be suspended.
- (d) Variances requested in conviction with restoration of a site or building documented as worthy of preservation by the Illinois Department of Conservation may be granted using criteria more permissive than the requirements of this section.

Sec. 18-90. Disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the SFHA will be free from flooding or damage. This ordinance does not create liability on the part of the city or any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Sec. 18-91. Penalty.

The building official may determine upon due investigation that a violation of the minimum standards of this ordinance exist and after such owner fails after ten (10) days notice to correct his property, the city may make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court sees necessary to secure compliance with the ordinance. Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars

(\$200.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of this ordinance. Nothing herein shall prevent the city from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Sec. 18-92. Abrogation and greater restrictions:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 18-93. Separability.

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

(Ord. #888, 5-14-1979; #938, 3-13-1984; #1022, 10-24-1988)

Sec. 18-94 to 18-100. Reserved.

EXHIBIT CC-1

