

# TITLE 5

## POLICE REGULATIONS

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# **CHAPTER 1**

## **POLICE DEPARTMENT**

### **SECTION:**

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**5-1-2: Chief of Police**

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### **5-1-1: DEPARTMENT CREATED:**

There is hereby created a Police Department, an executive department of the City. The Police Department shall consist of the Chief of Police who shall be appointed by the Mayor, with approval of the Council, eight (8) full-time police officers and such other members as may be provided, from time to time, by the Board of Fire and Police Commissioners. To that end, Division 2.2. of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.2) is hereby adopted. (Ord. 845, 2-8-1994; amd. Ord. 1995-5, 228-1995; Ord 2013-16, 9-17-2013)

### **5-1-2: CHIEF OF POLICE:**

- A. Office Created: There is hereby created the office of Chief of Police. He shall be ex officio City Marshall and Superintendent of Police.
- B. Term Of Office: The term of appointment shall not exceed one year and ends, in any case, at the end of the fiscal year.
- C. Powers And Duties: The Chief of Police shall:
  - 1. Keep such records and make such reports concerning the activities of his Department as may be required by statute or by the Mayor and Council.
  - 2. Be responsible for the performance by the Police Department of all its functions, and all persons who are members of the Department shall serve subject to the orders of the Chief of Police.

3. Carry out administrative duties. (1978 Code §4.02)
4. Be the custodian of all lost and abandoned or stolen property in the City. (1978 Code §4.08)

### **5-1-3: DUTIES OF DEPARTMENT MEMBERS:**

It shall be the duty of the members of the Police Department to see to the enforcement of all of the ordinances of the City and all statutes applicable herein and to preserve order and prevent infractions of the law and arrest violators thereof. (1978 Code §4.03)

### **5-1-4: CONDUCT OF MEMBERS:**

It shall be the duty of every member of the Police Department to conduct himself in a proper and law-abiding manner at all times, and to avoid the use of unnecessary force. Each member of the Department shall obey the orders and directions of his superior. (1978 Code §4.05)

### **5-1-5: RULES AND REGULATIONS:**

The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable, and such rules, when approved by the Mayor and Council, shall be binding on such members. (1978 Code §4.07)

### **5-1-6: SERVING PROCESS:**

No member of the Police Department except the Chief shall serve any process except on command of the Chief of Police. (1978 Code §4.04)

### **5-1-7: SERVE AS WITNESS; FEES:**

Any member of the Police Department shall appear as witness whenever it is necessary in the prosecution for a violation of an ordinance or of any State or Federal law. No such member shall retain any witness fee for service as 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 Finance Office Manager. (1978 Code §4.06; Ord. 2017-14, 04-18-2017))

### **5-1-8: PART-TIME POLICE:**

- A. Appointment: The Chief of Police is authorized to appoint part-time Patrol Officers. The Chief will interview part-time officer candidates after a complete background investigation has been done. The Chief of Police will keep the Mayor and City Council informed of all part-time police appointments. (Ord 2012-17B, 08-07-2012)
- B. A part-time police officer shall have all the responsibilities of a full time police officer and such specific duties as delineated in the Policies and Procedures of the Genoa Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police 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 Illinois Law Enforcement Training and Standards Board (ILETSB). (Ord. 2012-15, 06-05-2012)
- C. 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 if requested.
  - 4. Possess a high school diploma or GED certificate.
  - 5. Possess a valid State of Illinois Driver's License.
  - 6. Possess a valid Firearms Owners Identification Card (FOID) Card.
  - 7. Possess no prior felony convictions.
  - 8. Any individual who served in the U.S. military must have been honorably discharged. (Ord. 2012-15, 06-05-2012)
  - 9. Pass a background investigation conducted by the Police Department.

D. Relationship to Police Department; Duties:

1. Part-time policemen shall not be members of the regular Police Department for the purposes of tenure and promotion only.
2. Part-time policemen shall supplement members of the regular Police Department in the performance of their assigned and normal duties and shall have the powers of a regular police officer when on duty and in the performance of those assigned and normal duties.
3. Part-time policemen shall, at all times during the course of their duties, be subject to the direction and control of the Chief of Police.

E. Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time officers serve at the discretion of the City of Genoa Authorities, shall not have any property rights in said employment, and may be removed by the City of Genoa Authorities at any time. Part-time police officers shall comply with all applicable Policies and Procedures issued by the Genoa Police Department. (Ord. 2012-15, 06-05-2012)

F. Uniforms and Firearms:

1. Part-time police officers shall wear the uniform prescribed by the Chief of Police and approved by the City Council.
2. Part-time police officers may carry firearms while off duty if the following standards are followed: (The Law Enforcement Officer's Safety Act of 2010)
3. The Part-time police officer is a qualified, active law enforcement officer employed with the City of Genoa Police Department.

Qualified Law Enforcement Officer is defined as:

- a. Authorized by law to engage in or supervise the prevention, detection, investigation, prosecution, or the incarceration of any person for any violation of law;
- b. Has statutory powers of arrest;
- c. Is authorized by the agency to carry a firearm;
- d. Is not the subject of any disciplinary action by the agency;
- e. Meets the standards, established by the agency which require the employee to regularly qualify in the use of the firearm.

- f. Is not under the influence of alcohol or other intoxicating or hallucinatory drug or substance; and is not prohibited by Federal law from possessing a firearm.
4. Authorized retirees (Police Officers) in good standing are allowed to carry a concealed firearm if the following standards are followed: (Retired Officer Law Enforcement Safety Act Firearms Class, HR-218)

Qualified Retired Law Enforcement Officer is defined as:

- a. Has retired in good standing from service with a government agency as a law enforcement officer for an aggregate of fifteen (15) years or more for reasons other than mental instability, or retired from such an agency due to a service-connected disability after completing any applicable probationary period of such service;
  - b. Was authorized by law to engage in or supervise the prevention, detection, investigation, prosecution or the incarceration of any person for any violation law;
  - c. Had statutory powers of arrest;
  - d. Has a non-forfeitable right to benefits under the retirement plan of the agency for which he was employed;
  - e. Meets, at his own expense, the same standards for qualification with a firearm as an active officer with the State in which he resides;
  - f. Is not under the influence of alcohol or another intoxicating hallucinatory drug or substance; and
  - g. Is not prohibited by Federal law from possessing a firearm.
5. Additional Requirements for Part-time and Retired officers to carry a firearm.
- a. Always be in possession of their Department Identification or unexpired Retired Officer Identification Card issued by their department.
  - b. Retired officers must bring documentation that they are qualified with the firearm they are carrying within the last twelve (12) months if they transport a concealed firearm across State lines.
  - c. Follow any other requirements outlined in the Police Department's policies and procedures.
  - d. The ordinance doesn't exempt any Police Officer from the concealed carry of firearms that are strictly prohibited under Federal Laws.

G. Compensation: Part-time police officers shall serve with such pay as shall be fixed by the City Council from time to time. (1978 Code §4.12; Ord 2015-16, 9-1-2015)

### **5-1-9: AUXILIARY POLICE:**

A. Appointment: Auxiliary Officers shall be appointed by the Police Chief after the completion of a thorough background investigation. Auxiliary Officers shall not be considered "Conservators of the Peace" as defined and shall not be utilized to supplement members of the regular police department. Auxiliary Officers are not authorized to carry firearms while on duty.

B. Any person employed as an Auxiliary 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 eighteen (18) years of age.
3. Possess a High School Diploma or GED Certificate.
4. Possess a valid State of Illinois Driver's License.
5. Possess no prior felony convictions.
6. Pass a background investigation conducted by the Police Department.

C. Relationship to Police Department; Duties:

1. Auxiliary Police shall not be members of the regular Police Department for the purpose of tenure and promotion only;
2. Support for community relations activities including special events;
3. Quasi law enforcement duties including but not limited to emergency procedures or similar operations;
4. Aiding or directing traffic;
5. Assist Police Officers when needed with the processing of arrestees;
6. Auxiliary Officers shall, at all times during the course of their duties, be subject to the direction and control of the on duty Police Officer.

- D. Auxiliary Police Officers shall be under the disciplinary jurisdiction of the Chief of Police.
- E. Uniforms and Firearms:
  - 1. Auxiliary Police Officers shall wear the uniform prescribed by the Chief of Police.
  - 2. Auxiliary Police Officers shall not carry firearms while on duty.
- F. Compensation: Auxiliary Police Officers shall served with such pay as shall be fixed by the City Council from time to time. (1978 Code 4.12; Ord. 2017-03, 02-07-2017)

## **CHAPTER 2 MINORS**

### **SECTION:**

#### **5-2-1: Curfew**

#### **5-2-2: Tobacco Products; Sale of to Minors**

#### **5-2-3: Parental Responsibility for Acts of Minor Established**

### **5-2-1: CURFEW:**

- A. Age and Hours Restrictions: No person less than seventeen (17) years of age shall be present at or upon any public assembly, building, place, street or highway between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. unless accompanied and supervised by a parent, legal guardian or other responsible companion at least twenty one (21) years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of the State authorize a person less than seventeen (17) years to perform. (Ord 2005-50, 12-062005)
- B. Responsibility of Adult: Any parent, legal guardian or other person shall not knowingly permit a person in his custody or control to violate this Section. (1978 Code §42.13; 1993 Code)
- C. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1.(Ord 2008-16, 04-28-08)

### **5-2-2: TOBACCO PRODUCTS; SALE OF TO MINORS:**



- A. Purchase or Possession Unlawful: It shall be unlawful for any person under eighteen (18) years of age to attempt to purchase, or to possess, in a public building, place, school or park, or upon any public highway, a tobacco product.
- B. Unlawful Sales: It shall be unlawful for any person to sell, buy, or distribute any tobacco product to a person under eighteen (18) years of age.
- C. Definition: For purposes of this Section, "tobacco product" means cigar, cigarette, pipe tobacco, chewing tobacco or tobacco pouches.
- D. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with section 1-4-1.

### **5-2-3: PARENTAL RESPONSIBILITY FOR ACTS OF MINOR ESTABLISHED:**

- A. Specific Acts Enumerated: It shall be unlawful for the parent, parents or legal guardian of a minor not emancipated residing with such parent, parents or legal guardian to fail to exercise proper parental responsibility by permitting said minor to commit any violation of a City ordinance or a violation of State statute concerning vandalism, fireworks, obscene conduct, trespass, possession of alcoholic liquor or any willful or malicious acts causing injury to persons or property. (Ord. 2017-14, 04-18-2017)
- B. Notice to Responsible Party(s): The parents or legal guardian of a minor shall be notified in person or by U.S. mail sent by the Police Department and required to appear in court whenever the minor is charged with a violation of an ordinance concerning vandalism, fireworks, obscene conduct, trespass, possession of alcoholic liquor or any willful or malicious act causing injury to persons or property which requires the minor's appearance in court. Such notice shall be sent to the parents or legal guardian of the minor, and shall state the alleged violation, that the minor must appear in court, and that one of the parents or legal guardians must appear in court on the date set for the minor's first appearance and at such other times as ordered by the Court. The notice shall also state that failure to appear will result in a subpoena being issued by the court to bring such parent or legal guardian into court, and that failure to obey a subpoena can result in contempt of court. (Ord. 2017-14, 04-18-2017)
- C. Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-2011)

# **CHAPTER 3**

## **ANIMAL CONTROL**

### **SECTION:**

- 5-3-1: Certain Animals Prohibited**
- 5-3-2: Prohibited Acts and Conditions**
- 5-3-3: Rabies Control**
- 5-3-4: Interfering with Officer**
- 5-3-5: Provisions are Additional**
- 5-3-6: Dogs**
- 5-3-7: Cats**
- 5-3-8: Violation; Penalty**

### **5-3-1: CERTAIN ANIMALS PROHIBITED:**

- A. Livestock, Fowl, Wild Animals: Except as provided in paragraph C of this Section, it shall be unlawful to keep any swine, cows, horses, sheep, goats, domestic fowl and pigeons, or any wild animal which is dangerous to mankind, in the City.
- B. Bee Keeping: No person shall keep or house bees in the City. (1978 Code §14.06)
- C. Chickens:
  - 1. The Finance Office is authorized to issue permits, upon application therefore, allowing the applicant to keep chickens in the City. The application shall be provided by the Finance Office (Ord 2015-19, 10-6-2015).
  - 2. The application must set forth the location in the City where chickens will be kept, which shall be within a residential zoning district and on a lot with a minimum size of one-half (1/2) acre upon which there is an existing principal building used as a single family dwelling by the applicant, and must be signed by the property owner and the applicant, if different. (Ord. 2013-12, 07-02-13)
  - 3. The completed permit application must include a copy of a plat of survey for the property and the survey and application form shall be submitted with such information provided by the applicant as required by the Development Administrator to allow a determination to be made by the Development Administrator that the proposed areas for the keeping of chickens and property thereon comply with the provisions of this section.

4. A Permit issued shall allow the person to whom it is issued to keep chickens in the City for one year following issuance, upon the payment of an initial permit fee of \$20.00, and upon a determination by the Development Administrator that the applicant has complied with the provisions of this Section (Ord 2015-19, 10-6-2015).
5. The permit shall authorize the keeping of chickens only under the following conditions:
  - a. Only hen chickens, to the exclusion of roosters, shall be kept;
  - b. A maximum of six chickens may be kept.
  - c. Chickens shall be contained within areas that shall not be within a front yard area as defined by the Unified Development Ordinances, and may only be within side or rear yards as defined by the Unified Development Ordinances, and areas containing chickens shall have a minimum setback of 25 feet from any property line.
6. A permit issued hereunder shall automatically renew for subsequent periods of one year, upon payment of a renewal fee established by ordinance.
7. A Permit issued hereunder may be revoked at any time if 1) the City Council by ordinance so provides, or 2) the Development Administrator determines that chickens are being kept in violation of this ordinance or the conditions of the permit. (Ord. 2011-10, 0419-11; Ord 2013-12, 07-02-13)

### **5-3-2: PROHIBITED ACTS AND CONDITIONS :**

- A. Cruelty to Animals: No person shall abuse or mistreat any animal. No person shall beat, injure or otherwise abuse any dumb animal or fail to provide any animal in his charge or custody with proper and necessary food, drink or shelter. Any person who underfeeds, overloads or abandons any animal shall be deemed guilty of violating this Section. (1978 Code §14.07)
- B. Noisy Animals: It shall be unlawful to keep or harbor any animal which continually and unreasonably alarms or disturbs the public by loud noises. Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance. (1978 Code §14.03) Any person who violates this section and has been

issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-46, 12-20-2011)

### **5-3-3: RABIES CONTROL:**

- A. Any dog or animal which shall have bitten any person shall be reported to the Chief of Police or any person authorized by him to impound dogs and animals. The Chief of Police or any person authorized by him to impound dogs and animals may contact DeKalb County Animal Control for the purpose of impounding said dog or apprehend and impound in the City pound said dog or animal, unless in the case of a dog, it is wearing evidence of inoculation and a certificate of inoculation can be produced pursuant to 510 Illinois Compiled Statutes. The owner shall be liable for all expenses. (Ord. 2017- 14, 04-18-2017)
- B. When a dog or animal is apprehended and impounded following a bite report, notice, in writing, shall be given to the owner, if known, within twenty-four (24) hours of apprehension or within twenty-four (24) hours of discovery of the owners if not known at the time of apprehension.
- C. The owner is any person having any right of property in a dog or other animal or who keeps or harbors a dog or who has a dog in his care or acts as its custodian or who knowingly permits a dog to remain on or about any premises occupied by him. (1978 Code §14.04)

### **5-3-4: INTERFERING WITH OFFICER:**

No person shall molest, resist, interfere with, hinder or prevent any officer in discharging the duties or powers defined by this Chapter. (1978 Code §14.11)

### **5-3-5: PROVISIONS ARE ADDITIONAL:**

The regulations in this Chapter are in addition to the rules and regulations pertaining to dogs and other animals as contained in the Illinois Compiled Statutes, as amended <sup>44</sup> . (1978 Code §14.13)

### **5-3-6: DOGS**

#### **A. Running at Large Prohibited**

- 1. No dog shall be permitted to run at large within the limits of the City; and no person shall allow any dog owned or harbored by him to run at large. A dog is "running at large" when it is walking or running about without restraint or

confinement off its custodian's premises and within the City limits. (1978 Code §14.05)

2. Dogs, at all times, shall be kept on a leash or tied, except when confined within or on the premises of the owner or possessor thereof. (1978 Code §14.03)

Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-52011)

#### B. Impoundment and Redemption Procedures:

1. Authority to Impound: When any dog or other animal is found running at large, it shall be lawful for the Chief of Police, other police officer or the appointed dog catcher to use any necessary means to capture and impound the dog.
2. Rules of Confinement:
  - a. Any impounded dog with proper County rabies identification shall be confined at the facilities designated by the City.
  - b. Any impounded dog with proper City identification may be confined at temporary quarters within the City for up to a period not exceeding twenty four (24) hours.
  - c. Any impounded dog confined in temporary quarters within the City shall be transferred to the facilities of a designated veterinarian one hour prior to his normal closing hours. (1978 Code §14.05; 1993 Code)
3. Redemption: In case the owner of any impounded dog or other animal desires to make redemption thereof, he may do so on the following conditions:
  - a. He must present proof of current rabies inoculation.
  - b. He must pay the City for the board of the animal for the period it was impounded. The daily fee for impounding shall be five dollars (\$5.00). The owner is also responsible for any fees charged by animal shelters and/or veterinarians.
  - c. He must pay the City for the City's services in apprehending and safeguarding said animal the sum of twenty (\$20.00). (Ord. 812, 8-11-92)

#### C. Dangerous, Vicious Dogs:

1. Definitions:

- a. "Biting" means seizing with teeth or jaws, so that the person or animal seized has been nipped, gripped, wounded or pierced, and includes contact of saliva with any break or abrasion of the skin.
  - b. "Dog" means an animal of the canine species.
  - c. "Owner" means any person or persons of a household who collectively possess a legal or equitable right of property in a dog, or any person having a right of property in a dog, or who keeps or harbors a dog, or who has a dog in his/her care, or acts as its custodian or will knowingly permit a dog to remain on any premises occupied by that person.
  - d. "Spayed female dog" means a female dog certified by a licensed veterinarian to have been spayed.
  - e. "Neutered male dog" means a male dog certified by a licensed veterinarian to have been neutered.
  - f. "Dangerous Dog" means (i) a dog present anywhere other than upon the property of the owner or custodian of the dog and un-muzzled, unleashed, or unattended by its owner or custodian, and that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal, or (ii) a dog that, without justification, bites a person and does not cause serious physical injury.
  - g. "Vicious dog" means a dog that, without justification, attacks a person or animal causing serious physical injury or death of an animal or person, or any dog that has been found to be a "dangerous dog" on two separate occasions.
2. No person owning or having in his/her possession or under his/her control, any dog which shall have attacked any person on any street or public place, either by chasing, biting or attempting to bite any person, shall after notice or having knowledge of such attack, or of the vicious propensity of such dog, allow such dog on any street or public place.
  3. The Mayor or the Mayor's designee may find a dog to be a dangerous dog, and shall notify the owner of the dog of such finding.
    - a. The owner of a dog that has been found to be dangerous dog shall (i) have the dog microchipped and spayed or neutered within ten days of the finding, (ii) have the dog muzzled any time the dog is outside in a public place, and (iii) provide proof of liability insurance in the amount of \$1,000,000.00 insuring against property damage, injury to a person or animal, or the death of an animal or person, and its owner shall keep said insurance in effect and

- provide proof of such, upon demand of the Mayor or his designee during the time that ownership continues.
- b. The owner of the dog can dispute the “Dangerous Dog” finding through the City’s Administrative Adjudication process. A request for a hearing must be received by the City within ten days of the owner’s receipt of the dangerous dog finding.
4. The Mayor or the Mayor’s designee may find a dog to be a Vicious Dog, and shall notify the owner of the dog of such a finding.
- a. The owner of a dog that has been found to be a vicious dog shall (i) cause the dog, while on the owner’s property, to be kept inside a building or an enclosure with secure sides at least six feet in height and a top, (ii) have the dog micro-chipped and spayed or neutered within ten days, (iii) have the dog muzzled any time the dog is outside, and (iv) provide proof of liability insurance in the amount of \$1,000,000.000 insuring against property damage, injury to a person or animal, or the death of an animal or person, and the owner shall keep said insurance in effect and provide proof of such, upon demand of the Mayor or his designee, during the time that ownership continues. The only times a vicious dog may be allowed out of a building on the owner’s property or the enclosure, are (1) if it’s necessary for the owner or keeper to obtain veterinary care for the dog, (2) in the case of an emergency or natural disaster where the dog’s life is threatened, or (3) to comply with the order of a court of competent jurisdiction. While outside of a building on the owner’s property or the enclosure, the vicious dog must be muzzled securely, restrained by a substantial chain or leash, and under the control of a responsible adult at all times.
  - b. Any dog which has been found to be a vicious dog and which is not inside the building of an owner or not confined to an enclosure or is not muzzled, restrained and supervised shall be impounded by the order of the Mayor or his designee, and the owner of the dog shall be notified of such order. The impoundment shall be for seven days at the owner’s expense, unless the owner redeems the dog sooner by paying the impoundment fee. The seven day holding period shall not apply to a vicious dog relinquished by its owner to the City under owner signature authorizing the City to make immediate disposition of the animal at its discretion at the owner’s expense, nor shall any required holding period apply to an animal received for impounding in obviously critical physical condition or for which immediate euthanasia shall be deemed proper for humane reasons by the Mayor or the Mayor’s designee. A vicious dog of unknown ownership shall be held for a minimum of five days, or for such longer length of time as the Mayor or the Mayor’s designee may deem necessary to permit location of and redemption of the rightful owner. Any vicious dog remaining unredeemed after the prescribed holding period

shall at once become the property of the City and thereafter, the Mayor may order the vicious dog to be transferred to a humane shelter or rescue group or may order its humane destruction.

- c. The owner of the dog can dispute the Vicious Dog finding through the City's Administrative Adjudication process. A request for a hearing must be received by the City within ten days of the owner's receipt of the vicious dog finding.
5. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, shall be fined in accordance with section 1-4-1. (Ord. 2014-01, 02-18-2014; Ord 2015-12, 7-7-15)
6. When a dog or animal is apprehended and impounded following a bite report, notice, in writing, shall be given to the owner, if known, within twenty four (24) hours of apprehension or within twenty four (24) hours of discovery of the owners if not known at the time of apprehension.
7. The owner is any person having any right of property in a dog or other animal or who keeps or harbors a dog or who has a dog in his care or acts as its custodian or who knowingly permits a dog to remain on or about any premises occupied by him. (1978 Code §14.04)

#### D. REMOVAL OF EXCREMENT:

No owner or person who has possession or control of a dog shall fail to remove excrement deposited by such dog or other animal upon the public ways or within the public places of the City or upon the premises of any person other than the owner. (1978 Code §14.12; Ord. 2017-8, 03-07-2017)

Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-2011)

#### **5-3-7: CATS:**

- A. There is hereby created a program within the police Department of the City of Genoa to provide for the capture and sterilization of stray and feral cats within the City. Any cat found within the City of Genoa and off the premises of its owners or harborers, and not under the immediate control of its owners or harborers, is hereby declared to be subject to capture and sterilization.
- B. The Chief of Police is authorized to enter into a contract with an appropriate entity to provide for the capture, sterilization, and return to its owners stray and feral cats found off the premises of the cat's owners or harborers.
- C. In entering into an agreement for the purposes of the program set forth in this ordinance, the agreement shall provide for:



1. The obligation of the contracting party to respond to the direction of the Chief of Police and his designees and agents to take possession of cats which are off the premises of their owners or harborers;
2. The obligation of the contracting party to establish traps within the City to capture stray or feral cats;
3. The sterilization of stray and feral cats;
  - a. A reimbursement amount for services provided under the contract;
  - b. The contracting party to hold the City of Genoa harmless from any liability for operation of the program, and to indemnify the City for any costs it incurs with the administration of the program, or defense of any actions related to the program.(Ord 2006-25, 07-03-06)

#### **5-3-8: VIOLATION, PENALTY:**

Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-2011)

## **CHAPTER 4 MISCELLANEOUS OFFENSES**

#### **SECTION:**

- 5-4-1: Disorderly Conduct**
- 5-4-2: Quiet Hours**
- 5-4-3: Offenses Involving Property**
- 5-4-4: Trespasses**
- 5-4-5: Theft of Recyclable Materials**
- 5-4-6: Loitering**
- 5-4-7: Offenses Relating to Public Health and Safety**
- 5-4-8: Reserved**
- 5-4-9: Pollution**
- 5-4-10: Offenses Involving Weapons**

- 5-4-11: Offenses Involving Morals and Decency**
- 5-4-12: Possession of Drug Paraphernalia**
- 5-4-13: Possession of 30 Grams or Less of Cannabis**
- 5-4-14: Littering**
- 5-4-15: Consumption of Alcohol by a Minor**
- 5-4-16: Possession of Alcohol by a Minor**
- 5-4-17: Retail Theft**
- 5-4-18: Theft**

### **5-4-1: DISORDERLY CONDUCT:**

No person shall engage in disorderly conduct in the City. Any of the following acts constitute disorderly conduct and are classified as petty offenses, unless otherwise provided:

- A. Breach of Peace: Making, aiding or assisting in making any improper noise, riot, disturbance, breach of peace or diversion tending to a breach of the peace.
- B. Fighting: Engaging in or aiding or abetting any fight, quarrel or other disturbance.
- C. Disturbing Assemblies: Disturbing any religious service, public or private meeting or assembly of persons.
- D. Creating Crowd: Collecting in crowds for unlawful purposes or for any purpose to the annoyance or disturbance of other persons.
- E. Public Intoxication: Being intoxicated in public spaces, or in any place to the annoyance and disturbance of other persons, which is hereby classified as a misdemeanor.
- F. Obstructing Officer: Resisting or obstructing the performance of one known to be a police officer or any authorized act within the police officer's official capacity, which is hereby classified as a misdemeanor.
- G. Inciting Disturbance: Assembling with two (2) or more persons for the purpose of using force or violence to disturb the public peace.
- H. Failure to Obey Officers: Failing to obey a lawful order of dispersal by a person known to be a peace officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm.
- I. Unauthorized Occupancy: Lodging in or being in outhouses, sheds, barns, stables or unoccupied buildings.

- J. Offensive Language: Using any obscene, profane, threatening or inciting language in any public place.
- K. Throwing Missiles: Throwing stones or missiles in public places or at any person or property or brandishing or threatening to use any missile or dangerous weapon or object.
- L. Vandalism: Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings or vehicles or engaging in any acts of vandalism. (1978 Code §42.01)
- M. Noxious Odors: Engaging in any act that emits noxious odors or fumes for the purpose of alarming or disturbing another and to provoke a breach of the peace. (Ord. 784, 5-28-91)
- N. Noise: Disturbing the peace and quiet of any other person by creating excessive noise on his or any property. Excessive noise shall include, but not by way of limitation, any of the following:
  - 1. Loud playing of phonographs, radios, television sets or music machines or musical instruments.
  - 2. Barking or howling dogs or cats.
  - 3. Vehicles without mufflers or the unnecessary use of horns on vehicles. (1978 Code §42.05)
- O. Gang Activity:
  - 1. Temporary Questioning Without Arrest: A police officer, after having identified himself as a police officer, may stop any person in a public place for a reasonable period of time when the person is wearing known gang colors, emblems or other gang insignia, or appears to be engaged in communicating gang-related messages through the use of hand signals or other means of communication, or as otherwise provided by law, and the officer reasonably believes from the circumstances that the person is committing, is about to commit or has committed any offense set forth in the ordinances of the City. Once stopped, the officer may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.
  - 2. Search Authorized: When a police officer has stopped a person for temporary questioning pursuant to subsection P1 and the officer reasonably suspects that he or another officer is in danger of attack, he may search the person for weapons. If an officer discovers a weapon, he may take it until the completion of

the questioning, at which time he shall return the weapon, if lawfully possessed, or arrest the person so questioned. (Ord. 841, 1-11-94)

- P. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2008-16, 04-28-08)

#### **5-4-2: QUIET HOURS:**

- A. Quiet Hours Established: As used in this section, Quiet Hours shall be a time commencing every evening at 10:00 p.m. and ending at 7:00 a.m. Monday through Friday and ending 8:00 a.m. on Saturday and Sunday.
- B. Violation Established: It shall be a violation of this Section for any person to cause, allow or permit the following conditions to exist:
1. Construction or Repairing of Buildings: The erection (including excavation), demolition, alteration or repair of any building (or structure) during quiet hours, except in case of urgent necessity in the interest of public health and safety, and then only with a permit issued by the City that may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.
  2. Pile Drivers and Hammers: The operation during quiet hours of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
  3. Loudspeakers, Amplifiers, Paging Systems:
    - a. Use for Advertising & Entertainment: The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets of the City for the purpose of commercial advertising, entertainment or of attracting the attention of the public to any building or structure during quite hours, unless a permit has been issued by the City.
    - b. Location Within One Hundred Fifty Feet of Residentially Zoned Property: The operating of, or permitting to be operated, any receiving set, phonograph, loudspeaker, sound amplifier, paging system or other machine or device for the production or reproduction of sounds in such a manner that distinct and loudly audible noises are emitted upon or proximate to a public way, which public way

is within one hundred fifty feet (150') of property used for residential purposes during quiet hours, unless a permit has been issued by the city.

4. Lawn Care Equipment: The use of any motorized mower, edger, hedge cutter, leaf blower or chain saw during quiet hours. (Ord 2004-40, 09-07-2004)

### **5-4-3: OFFENSES INVOLVING PROPERTY:**

#### **A. DAMAGE, INJURY TO PROPERTY:**

1. Damaging Property: No person shall damage, destroy or deface any public or private property without permission of the owner. (1978 Code §42.07)
2. Injury to Bills or Posters: No person shall destroy, tear or mutilate or otherwise deface or injure any bill or poster posted in such places as may be permitted without the consent of the person on whose behalf the same shall have been posted. (1978 Code §5.23)

#### **B. POSTING BILLS:**

1. No person shall paste, post, paint, print or nail or otherwise fasten or append or distribute any handbill, poster, advertisement, sign or notice of any kind on or to any curb, sidewalk, tree, lamppost, utility pole, bridge, hydrant or upon other property of the City or over which the City has control without the consent of the Public Works Director or his designee, or upon any private property without the consent of the owner thereof. (Ord. 815, 1110-92; Ord 2015-19, 10-6-2015;)
2. Courtesy signs, defined as temporary directional signs such as for garage sales, real estate open houses, and religious and civic events, are permitted on City parkways; provided that:
  - a. A courtesy sign shall not exceed four (4) square feet in size per sign face, may be double sided, shall not exceed three (3) feet in height from ground level, and the address and date of the event must be clearly marked on the sign.
  - b. The location of the courtesy sign shall be installed no less than three (3) feet from the edge of a road or curb and the number of courtesy signs shall not exceed one (1) per zoning lot that abuts a City parkway. The sign(s) shall be installed in the ground to withstand adverse weather conditions.
  - c. The total number of courtesy signs shall not exceed five (5) in total and may be installed a maximum of seventy-two (72) hours prior to the event and shall be removed no later than the day after the event.

- d. Courtesy signs shall not be installed on any City parkway that abuts private property without the consent of the abutting private property owner of the sign is liable for any damages to public property that may be caused by the sign becoming unsecured from the ground.
  - e. Courtesy signs are prohibited on City property that is located between Park Avenue and W. Main Street, commonly referred to as the “Y” section, unless approved by the City Clerk.
3. An applicant’s request for approval shall be submitted a minimum of 3 business days prior to the date that the courtesy sign will be installed at the “Y” section. The maximum number of signs permitted per request is one (1). The maximum total number of signs per the “Y” section area is three (3) by separate applicants.
  4. The courtesy sign shall not exceed four (4) square feet in size per sign face, shall not exceed three (3) feet in height from ground level and the address and date of the event is to be clearly marked on the sign. The sign may be installed a maximum of seventy-two (72) hours prior to the event and shall be removed no later than the end of the day of the event.
  5. Courtesy signs installed at the “Y” section that would exceed four (4) square feet per sign face in size may be installed upon City Council approval. As part of the approval process, the City Council may extend the allowable time the sign can be posted.
  6. The City may remove an illegal sign(s) found to be in violation of this section without notice and shall retain the sign(s) for (3) days. If the owner has not claimed the sign(s) within that time period, the City may dispose of it. (Ord. 2012-18, 08-07-2012)
  7. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2012-18, 08-17-2012)

#### **5-4-4: TRESPASSES:**

- A. It shall be unlawful for any person to commit a trespass within the City upon either public or private property.
- B. Without constituting any limitations upon the provisions of this Section, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of this Section; the aforesaid enumerated acts so included, being as follows:
  1. An entry upon the premises, or any part thereof, of another, including any public property, in violation of a notice posted or exhibited at the main entrance to such

premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof.

2. The pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof.
3. A failure or refusal to depart from the premises of another in case of being requested, either orally or in writing, to leave by any owner or occupant thereof.
4. An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right. (1978 Code §42.08)

C. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2008-16, 04-28-08)

#### **5-4-5: THEFT OF RECYCLABLE MATERIALS:**

- A. A person who obtains possession of recyclable materials with the intent to prevent the pickup of such materials by the Municipal garbage disposal service <sup>48</sup> commits theft of recyclable materials, if such possession was not authorized by the Mayor or by the Municipal garbage disposal service.
- B. As used in this Section, "recyclable materials" means newsprint or aluminum, tin, plastic or glass containers which have been segregated for recycling purposes and placed for pickup by a Municipal garbage disposal service on or near a public right of way. (1978 Code §42.14)

#### **5-4-6: LOITERING:**

- A. Definition: As used in this Section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly.
- B. Prohibited Conduct:
  1. No person shall loiter or prowl in a public place in such manner as to:

- a. Warrant a justifiable and reasonable alarm or immediate concern for the safety of person or property in the vicinity;
  - b. Create or cause to be created a danger of a breach of the peace;
  - c. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;
  - d. Obstruct the free passage of pedestrians or vehicles; or
  - e. Obstruct, molest or interfere with any person lawfully in any public place.
2. This subsection shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.
- C. Request to Leave: Whenever the presence of any person in any public place is causing any of the conditions enumerated in subsection B, any peace officer may order that person to leave the place. Any person who shall refuse to leave after being ordered to do so shall be guilty of separate, nonexclusive violation of this Section if at trial it appears by a preponderance of the evidence that the defendant committed any act prohibited by subsection B of this Section. (Ord. 802, 5-12-92)
- D. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2008-16, 04-28-08)

#### **5-4-7: OFFENSES RELATING TO PUBLIC HEALTH AND SAFETY:**

##### A. Fireworks:

###### 1. Definitions:

For the purpose of the enforcement of City Ordinances, "fireworks" shall mean:

"Any explosive 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, firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any fireworks containing any explosive compound; or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects."



2. Violation. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1 (Ord 2008-16, 04-28-08)

No person shall possess, sell, offer for sale, use or explode any fireworks in City, except as provided in Paragraph C herein.

3. Permit for Public Display.

Upon written application, the City Council may grant to the applicant a permit for the public display of fireworks. The applicant must:

- a. Allow the Genoa Fire Protection District Chief, or his designee, to supervise the display; and
- b. Comply with all requirements set forth in 425 ILCS 35/2 as now or hereafter amended. (Ord 2005-33, 09-06-2005)

#### **5-4-8: RESERVED:**

(Rep. by Ord. 840, 1-11-94)

#### **5-4-9: POLLUTION:**

No person shall pollute the air or any watercourse by excessive discharge of waste products or foreign matter. (1978 code §42.10)

#### **5-4-10: OFFENSES INVOLVING WEAPONS:**

##### **A. Discharging Firearms/Rifles; Hunting**

No person shall discharge any firearms, air rifles, or do any hunting in the City. This shall not apply to peace officers in the line of duty or any person acting in self defense or to any person engaged in target practice with a firearm in the basement of an occupied residence; provided, that there is an adequate backstop or bullet trap in use. The term air rifles as used in this ordinance shall be as defined in 720 ILCS 535/1. (1978 Code §42.02; Ord 2003-14, 07-15-03)

##### **B. Concealed Weapons:**

A person who is not a City officer shall not carry about his person any concealed pistol, switchblade knife, razor, slingshot, metal knuckles or any other weapon or thing of deadly character. (1978 Code §42.03)

#### **5-4-11: OFFENSES INVOLVING MORALS AND DECENCY:**

A: Disorderly Houses:

No person shall, within the City or within three (3) miles of the outer limits of the City, keep, maintain, frequent or be an inmate of or connected therewith or contribute to the support of any disorderly house or house of ill fame or assignation or any place used for the practice of fornication or adultery or knowingly suffer or permit any house or other premises owned or occupied by him or under his control to be used for any such purposes. (1978 Code §42.11)

B: Obscene Material:

No person shall exhibit, sell or offer to sell any obscene or immoral publication, print, pictures or illustrations. (1978 Code §42.12)

#### **5-4-12: POSSESSION OF DRUG PARAPHERNALIA:**

A. A person, who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a municipal code violation. This does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.

B. Any person who violates this section, and has been issued a citation signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1. (Ord. 2011-47, 12-20-2011; Ord. 2017-8, 03-07-2017)

#### **5-4-13: POSSESSION OF 30 GRAMS OR LESS OF CANNABIS:**

A. It is unlawful for any person knowingly to possess 30 grams or less of cannabis.

B. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1. (Ord. 2011-46, 12-20-2011)

#### **5-4-14: LITTERING:**

- A. No person shall dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public or private property in this City, or upon or into any river, lake, pond, or other stream or body of water in this City.
- B. Any person who violates this section, and has been issued a citation signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1. (Ord. 2011-44, 12-20-2011)

#### **5-4-15: CONSUMPTION OF ALCOHOL BY A MINOR:**

- A. It is unlawful for any person under (21) years of age to have consumed alcoholic liquor.
- B. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1.
- C. Any minor under the age of eighteen (18) years of age charged under this provision is required to bring a parent or legal guardian to the Administrative Adjudication Hearing. (Ord. 2012-21, 09-04-2012)

#### **5-4-16: POSSESSION OF ALCOHOL BY A MINOR:**

- A. It is unlawful for any person under the age of twenty-one (21) years to knowingly possess alcoholic liquor.
- B. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1.
- C. Any minor under the age of eighteen (18) years of age charged under this provision is required to bring a parent or legal guardian to the Administrative Adjudication Hearing. (Ord. 2012-22, 09-04-12)

#### **5-4-17: RETAIL THEFT:**

A. Offense of Retail Theft: An act of retail theft is committed when a person knowingly commits one or more of the following acts enumerated herein and the value of the property does not exceed three hundred dollars (\$300.00) and one hundred and fifty dollars (\$150.00) for motor fuel:

1. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
2. Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
3. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
4. Causes the cash register or other sales recording device to reflect less than the full value of the merchandise; or
5. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
6. Represents to a merchant that he or another is the lawful owner of property knowing that such representation is false, and transfers or attempts to transfer that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or

B. Presumptions. If any person conceals upon his or her person among his or her belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment and removes that merchandise beyond the last known station for receiving payments for that merchandise in that retail

mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant of the merchandise without paying the full retail value of the merchandise.

- C. Any person who violates this section has been issued a citation, signed by a City Law Enforcement Officer, shall be required to make restitution to the retail mercantile establishment for the full retail of the merchandise that is subject to the retail theft and shall also be fined in accordance with section 1-4-1.
- D. Any minor under the age of eighteen (18) years of age who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, is required to attend a mandatory court appearance with section 1-4-1. (Ord. 2017-20, 06-06-2017)

#### **5-4-18: THEFT:**

- A. Offense of Theft: An act of theft is committed when a person knowingly commits one or more of the following acts enumerated herein and the value of the property does not exceed five hundred dollars (\$500.00):
  - 1. Obtains or exerts unauthorized control over property of the owner, or
  - 2. Obtains by deception control over property of the owner; or
  - 3. Obtains by threat control over property of the owner, or
  - 4. Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him or her to believe that the property was stolen; or
  - 5. Obtains or exerts control over property in the custody of any law enforcement agency which a law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and
  - 6. Intends to deprive the owner permanently of the use of the use or benefit of the property; or

7. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
  8. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- B. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, shall be required to make restitution to the owner and shall also be fined in accordance with section 1-4-1.
- C. Any minor under the age of eighteen (18) years of age who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, is required to attend a mandatory court appearance in accordance with section 1-4-1. (Ord. 2017-26, 09/05/2017)

## **CHAPTER 5 ADMINISTRATIVE ADJUDICATION**

- 5-5-1: Purpose**
- 5-5-2: Creation**
- 5-5-3: Administrative Composition**
- 5-5-4: Notice of Violation**
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- 5-5-15: Notice Affixed to Vehicle in Cases of Immobilization**
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**5-5-21: Eviction Rights of Occupants**

**5-5-22: Defenses to Building Code Violations**

**5-5-23: Sanctions Applicable to the Building Owner**

**5-5-24: Federal Government Contracts Under the Building Code**

**5-5-1: PURPOSE:**

The stated purpose of this chapter is to provide for fair and efficient enforcement of City ordinances as may be allowed by law and directed by ordinance, through an administrative adjudication of violations of such city ordinances and establishing a schedule of fines and penalties, and authority and procedures for collection of unpaid fines and penalties.

**5-5-2: CREATION:**

There is hereby established an administrative department of the municipal government to be known as the City of Genoa ordinance enforcement department and to have the power to enforce compliance with all municipal ordinances as from time to time authorized by the City Council and any offense under the Illinois building code, but not any offense under the Illinois vehicle code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under section 6-204 of the Illinois vehicle code. The establishment of the City of Genoa ordinance enforcement department does not preclude the mayor and City Council from using any other method to enforce ordinances of the City.

**5-5-3: ADMINISTRATIVE COMPOSITION:**

The City of Genoa ordinance enforcement department shall be composed of a hearing officer, an ordinance enforcement administrator, system coordinator/computer operator and such other personnel hereinafter appointed, with the power and authority as hereinafter set forth.

The mayor is hereby authorized to appoint all hearing officers of this City with the advice and consent of the City Council. The mayor is hereby authorized to appoint all other persons to hold the positions hereinafter set forth below, and such other personnel as needed. Other than the hearing officer, one person may hold and fulfill the requirements of one or more of the above stated positions, and compensation for each of the hereinafter stated positions shall be as approved by the mayor and City Council.

**A. Hearing Officer:**

1. The hearing officer shall preside over all adjudicatory hearings and shall have the following powers and duties:

- a. Preside at an administrative hearing called to determine whether or not a code violation exists;
  - b. Hear testimony and accept evidence that is relevant to the existence of the city code violation;
  - c. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
  - d. Issue and sign a written finding, decision and order stating whether a city code violation exists; and
  - e. Impose penalties, sanctions or such other relief consistent with applicable city code provisions and assess costs upon finding a party liable for the charged violation, except however, that in no event shall the hearing officer have authority to impose a penalty of incarceration. (Ord. 2017-14, 04-18-2017)
2. Prior to conducting administrative adjudication proceedings under this chapter, the hearing officer shall have successfully completed a formal training program which includes the following:
    - a. Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;
    - b. Orientation to each subject area of the code violations that he/she will adjudicate;
    - c. Observation of administrative hearings; and
    - d. Participation in hypothetical cases, including ruling on evidence and issuing final orders.
  3. A hearing officer must be an attorney licensed to practice law in the state of Illinois for at least three (3) years.
- B. Ordinance Enforcement Administrator: the ordinance enforcement administrator is authorized and directed to:
1. Operate and manage the system of administrative adjudication of City ordinance violations as may be permitted by law and directed by ordinance.
  2. Adopt, distribute, and process all notices as may be required under this chapter or as may be reasonably required to carry out the purpose of this chapter.
  3. Track and monitor monies paid as fines and/or penalties assessed after a final determination of liability. (Ord. 2017-14, 04-18-2017)



4. Certify copies of final determinations of an ordinance violation adjudicated pursuant to this chapter, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this chapter, the laws of the state of Illinois, including 625 Illinois Compiled Statutes ("ILCS") 5/11-208.3, as from time to time amended.
  5. Certify reports to the secretary of state concerning initiation of suspension of driving privileges in accordance with the provisions of this chapter as hereinafter set forth, and those of 625 Illinois Compiled Statutes 5/6-306.5.
  6. Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.
  7. Collect unpaid fines and penalties through private collection agencies and the State pursuant of all post judgment remedies available by current law. (Ord. 2017-14, 04-18-2017)
- C. System Coordinator/Computer Operator: The system coordinator/computer operator is hereby authorized and directed to operate and maintain the computer programs for the administrative adjudication system of the City of Genoa ordinance enforcement department hereby created, on a day to day basis, including, but not limited to:
1. Input of ordinance violation citations and information. (Ord. 2017-14, 04-18-2017)
  2. Establishing court dates and notice dates.
  3. Issue subpoenas ordering witnesses and violators to appear in adjudication court as needed or directed by the hearing officer. (Ord. 2017-14, 04-18-2017)
  4. Record fine and penalty assessment and payments.
  5. May issue payment receipts. (Ord. 2017-14, 04-18-2017)
  6. Issue succeeding notice of hearing dates and/or final determination of liability; issue notice of immobilization; issue notice of impending impoundment; issue notice of impending driver's license suspension, issue collection notices and final collection notices as directed by the ordinance enforcement administrator in accordance with the provisions hereinafter set forth. (Ord. 2017-14, 04-18-2017)
  7. Keep accurate records of appearances and nonappearances at administrative hearings, pleas entered, judgments entered, sanctions imposed, if any, fines and penalties assessed and paid.

#### **5-5-4: NOTICE OF VIOLATION:**

The system of administrative adjudication of any city ordinance violation authorized to be adjudicated hereunder, shall be in accordance with the following procedures:

- A. Notice of any ordinance violation including violations of the city motor vehicles and traffic code, Title 6 of this code, other than any offense under the Illinois vehicle code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under section 6-204 of the Illinois vehicle code (hereinafter the "city motor vehicle code"), shall be issued by the persons authorized under this code and shall contain information and shall be certified and constitute prima facie evidence of the violation cited as hereinafter set forth.
- B. All full time, and part time officers, as well as other specifically authorized individuals of any City department shall have the authority to issue violation notices and ordinance citations.
- C. Any individual authorized hereby to issue ordinance citations and violation notices and who detects an ordinance violation authorized to be adjudicated under this chapter or a violation of any section of any city ordinance, is authorized to issue a notice of violation or ordinance citation thereof and shall make service thereof as is hereinafter set forth.
- D. The violation notice shall contain, but shall not be limited to, the following information:
  - 1. The name and address of the party violating the ordinance, if known.
  - 2. The date, time, and place of the violation (date of issuance).
  - 3. The type and nature of the ordinance violated.
  - 4. Vehicle make and state registration number (if applicable).
  - 5. Failure to pay or appear may result in a default judgement being entered and the imposition of the maximum fine provided by law for each alleged offense cited plus court costs.
  - 6. The names and witnesses of the violation.
  - 7. The signature and identification number of the person issuing the notice.
  - 8. The docket or citation number, date, and location of the adjudication hearing of ordinance violations, if applicable, the legal authority and jurisdiction under which the hearing is to be held.
- E. The date of the hearing shall not be less than thirty (30) nor more than sixty (60) days after the violation is reported. (Ord. 2017-14, 04-18-2017)

**5-5-5: SERVICE AND NOTICE OF HEARING:**

- A. Service of any violation notice shall be made by the person issuing such notice:
1. In the case of violation of the City motor vehicle code, service shall be made by:
    - a. Affixing the original or a facsimile of the notice to an unlawfully standing or parked vehicle, unstickered vehicle, or vehicle violating any compliance regulation;
    - b. Handing the notice to the registered owner, operator, or lessee of the vehicle, if present; or
    - c. Mailing the notice by first class mail to the person responsible for the ordinance violation, which may include notice to appear in court date in accordance with 5-5-4 E. (Ord. 2017-14, 04-18-2017)
  2. In the case of a violation of the building code, service shall be made by:
    - a. First class mail on the owner of the structure, along with a summons commanding the owner to appear at the hearing;
    - b. If the name of the owner of the structure cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or attaching a copy of the notice on the front door of the structure where the violation is found, not less than twenty (20) days before the hearing is scheduled. (Ord. 2017-14, 04-18-2017)
  3. In the case of any ordinance violation other than a violation of the city motor vehicle code or building code, service shall be made by mailing the notice by hand delivery or by first class mail to the person responsible for the ordinance violation, which may include a summons commanding the individual to appear at the hearing. (Ord. 2017-14, 04-18-2017)
- B. The correctness of facts contained in any ordinance violation citation shall be verified by the person issuing said notice by:
1. Signing his/her name to the notice at the time of issuance; or
  2. In the case of a notice produced by a computer device, by signing a single certificate, to be kept by the ordinance enforcement administrator, attesting to the correctness of all notices produced by the device while under his/her control.
- C. The original or a facsimile of the violation citation shall be retained by the ordinance enforcement administrator and kept as a record in the ordinary course of business.
- D. Any violation citation issued, signed, and served in accordance herewith, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the citation. (Ord. 2017-14, 04-18-2017)

## **5-5-6: ADMINISTRATIVE HEARINGS:**

- A. An administrative hearing shall be granted for the following:
1. To adjudicate any alleged ordinance violation on its merits.
  2. To contest the validity of a notice of impending immobilization or impending impoundment, or, the validity of a notice of impending driver's license suspension. The hearing shall be granted to the registered owner or operator of the "cited vehicle", pursuant to 625 Illinois Compiled Statutes 5/11-208.3 or the lessee of the "cited vehicle", 625 Illinois Compiled Statutes 5/11- 1306, incorporated herein by reference, and at the date, time and place as is set forth by the ordinance enforcement administrator and served upon the registered owner, operator, or lessee for hearings contesting the validity of notices of impending immobilization or impending impoundment or driver's license suspension.
- B. No continuances shall be authorized by the hearing officer at the hearing except where absolutely necessary to protect the rights of the individual. Lack of preparation does not constitute cause for a continuance. No continuance may be granted for more than sixty (60) days.
- C. At any time prior to the hearing date the hearing officer assigned to hear the case may, at the request of the building inspector of the attorney for the municipality, or the owner or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.
- D. If on the date set for the hearing the person or entity or his or her or its attorney fails to appear, the hearing officer may find the person or entity in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.
- E. All administrative hearings shall be recorded and shall culminated in a determination of liability or nonliability made by the hearing officer, who shall consider facts and/or testimony without the application of the formal or technical rules of evidence. Evidence including hearsay, may be admitted only if it is a type of commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- F. The hearing officer shall, upon a determination of liability, assess fines and penalties in accordance with section 1-4-1 of this chapter. Persons appearing to contest the alleged violation on its merits may be represented by counsel at their own expense. The burden of proof shall be on the alleged offender to refute the prima facie case set forth in the verified citation or notice of violation. (Ord. 2017-14, 04-18-2017)

### **5-5-7: FINAL DETERMINATION OF LIABILITY:**

- A. A final determination of liability shall occur following the failure to pay the fine or penalty and/or upon the hearing officer's determination of liability and the exhaustion of, or the failure to exhaust, any administrative review procedures hereinafter set forth.
  
- B. Where a person fails to appear at the administrative hearing to contest the alleged violation on the date and at the time and place specified in a prior served or mailed notice pursuant to section 5-5-11 of this chapter, the hearing officer's determination of liability shall become final either upon a denial of a timely petition to set aside that determination or upon the expiration of the period for filing a petition without a filing having been made.
  
- C. A notice of final determination of liability shall be provided following the conclusion of an administrative hearing or sent by U.S. mail within five (5) days after the final determination of liability is made, as is hereinafter set forth, and shall contain, but not be limited to, the following information and warnings:
  - 1. The hearing officer's findings of fact.
  - 2. A decision of whether or not a code violation exists based upon the findings of fact.
  - 3. A statement that the unpaid fine and any penalty assessed is a debt due and owing the City.
  - 4. A statement of any sanction ordered or costs imposed which costs are debts due and owing the City.
  - 5. A warning that failure to pay the fine and any penalty due and owing the City within the time specified may result in further court proceedings, additional fees, and the debt being turned over to the State of Illinois or collections.
  - 6. The signature of the hearing officer and the date of determination. (Ord. 2017-14, 04-18-2017)

### **5-5-8: JUDICIAL REVIEW:**

Any final decision by a hearing officer that a code violation does or does not exist shall constitute a final determination for purposes of judicial review under the Illinois administrative review law, 65 Illinois Compiled Statutes 5/1-2.1-1 et seq. and 5/1- 2.2-1 et seq.

### **5-5-9: ENFORCEMENT OF JUDGMENT:**

- A. Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust,

judicial review procedures under the Illinois administrative review law are a debt due and owing the municipality and may be collected in accordance with applicable law.

- B. After expiration of the period in which judicial review under the Illinois administrative review law may be sought for a final determination of a code violation, the city may commence a proceeding in the circuit court of DeKalb County for the purpose of obtaining a judgment on the findings, decision, and order.
- C. In any case in which a hearing officer finds that an individual has failed to comply with a judgment ordering an individual to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a municipality to enforce the judgment including, but not limited to, attorney fees, court costs, and costs related to property demolition or foreclosure after they are fixed by the hearing officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law.
  - 1. A lien shall be imposed on the real estate or personal estate, or both, of the individual in the amount of any debt due and owing the municipality under this chapter. The lien may be recorded and enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction. No lien may be enforced under this chapter until it has been recorded in the manner provided by article XII of the code of civil procedure or by the uniform commercial code.
  - 2. Unpaid fines which are debts due to the City may be turned over to an outside collection agency and/or to the State of Illinois Debt Recovery program.
- D. A hearing officer may set aside any judgment entered by default and set a new hearing date upon a petition filed within twenty-one (21) days after the issuance of the order of default if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process.

#### **5-5-10: SCHEDULE OF FINES/PENALTIES:**

Fines and penalties shall be imposed in accordance with this code, or where no fine or penalty is expressed in this code, the hearing officer may impose a fine or penalty according to his judgment. However, in no case may the fines imposed by the hearing officer exceed seven hundred fifty dollars (\$750.00) per violation per day, or a maximum of two thousand five hundred dollars (\$2,500.00) for all building code violations.

#### **5-5-11: NOTICES AND SUBPOENAS:**

Upon failure of the person receiving an ordinance citation notice of a violation of a City ordinance, other than a city motor vehicle code violation, to appear at the time and date designated for a hearing, or, in the case of a violation of the city motor vehicle code, the registered owner, operator, or lessee of the cited vehicle to pay the fine in full as stated on said citation, the ordinance enforcement administrator shall send or cause to be sent notices by first class mail, postage prepaid to the person who received the citation or notice of an ordinance violation; at the address as is recorded with the secretary of state. Service of notices sent in accordance herewith shall be complete as of the date of deposit in the United States mail. In the case of a violation of the City motor vehicle code, the registered owner, operator, or lessee of the cited vehicle will be sent the notice at the address as is recorded with the secretary of state, and shall be sent to the lessee of the cited vehicle at the address last known to the lessor of the cited vehicle at the time of the lease.

The notices sent in accordance herewith shall be in the following sequence and contain, but not be limited to, the following information:

#### A. City Parking Violation Notices

Upon failure of the person receiving a City parking violation, the registered owner, operator, or lessee ("respondent") of the cited vehicle to pay the fine in full stated on said citation, the following notices shall be sent as stated below and shall contain, but not be limited to, the following information:

- Date of parking violation cited on the ordinance citation.
  - Fine cited on the ordinance citation.
  - Statement that failure to pay the fine(s) immediately may result in court proceedings and additional fees.
1. Collection Notice- Shall be sent to any "respondent" failing to pay said parking fine(s) in full by the date stated on the citation and/or adhere to the agreed upon payment plan.
  2. Final Collection Notice- Shall be sent to any "respondent" for fine(s) remaining unpaid for thirty (30) days past the date of the collection notice.

B. Ordinance Violation Notices: Upon failure of the person receiving an ordinance violation to pay the fine and/or penalties, as determined by the hearing officer, in full as mandated at the adjudication hearing, the following notices shall be sent as stated below and shall contain, but not limited to, the following information:

- Citation/Docket #
- Date of ruling
- Total of fine(s) and penalty(s) due to the City
- Payment received, if any, and the balance of the fines due
- Statement that is a debt due to the City of Genoa, and
- Warning that failure to comply with the court order and pay the fine(s) immediately may result in further court proceedings, additional fees, the debt being turned over to collections and the State debt recovery program.

1. Collection Notice- Shall be sent to any “respondent” failing to comply with the court order and pay said fine(s) within 35 days of the final determination of liability.
2. Final Collection Notice- Shall be sent 30 days past the collection notice date to any “respondent” failing to comply with the court order.

C. Failure to Appear Default Judgements and Subpoenas- Upon failure to the person receiving a citation for a violation of a City ordinance, to appear at the time and date designated for a hearing or to pay the fine in full as stated on the citation:

1. A default judgement notice along with the ruling containing the determination of liability by the hearing officer will be sent by U.S. mail, or
2. A subpoena commanding the respondent’s appearance at a future court date and time will be sent via U.S. Mail as directed by the hearing officer. (Ord. 2017-14, 04-18-2017)

#### **5-5-12: IMPENDING SUSPENSION OF DRIVER'S LICENSE; NOTICE:**

A notice of impending suspension of a person's driver's license shall be sent to any person determined to be liable for the payment of any fine or penalty that remains due and owing on ten (10) or more vehicular standing or parking regulation violations:

- A. The notice shall state that the failure to pay the fine or penalty owing within forty five (45) days of the date of the notice will result in the city notifying the secretary of state that the person is eligible for initiation of suspension proceedings under 625 Illinois Compiled Statutes 5/6-306.5, incorporated herein by reference.
- B. The notice of impending driver's license suspension shall be sent by first class mail, postage prepaid, to the address recorded with the secretary of state.

#### **5-5-13: IMMOBILIZATION/TOWING AND IMPOUNDMENT OF MOTOR VEHICLES:**

- A. Any motor vehicle whose registered owner has been determined to be liable for ten (10) or more vehicular standing or parking regulation violation(s), for which the fines or penalties assessed remain unpaid, may be immobilized, booted, or towed and impounded if:
  1. The ordinance enforcement administrator has determined that a person has been determined to be liable for ten (10) or more ordinance violations, for which the fines or penalties remain unpaid.
  2. The person determined to be liable for ten (10) or more violations is the registered owner of a motor vehicle located within the city's geographical boundaries.



3. A seizure notice has been sent to the registered owner of the motor vehicle located within the geographical boundaries of the city which contains, but shall not be limited to, the following:
  - a. That a final determination has been made on ten (10) or more ordinance violations, for which the fines and penalties remain unpaid.
  - b. A listing of the violations for which the person has been determined to be liable, which shall include for each violation:
    - i The ordinance violation notice number;
    - ii Date of issuance; and
    - iii Total amount of fines and penalties assessed.
  - c. That the motor vehicle owned by the person and located within the city is subject to immobilization and/or towing and impoundment if the fines and penalties are not paid within fifteen (15) days of the date of the notice.
  - d. Date of immobilization.
  - e. Date of impending towing and impoundment.
  - f. That the registered owner may contest the validity of the notice by appearing in person before the ordinance administrator within fifteen (30) days of the date of the notice and submitting evidence which would conclusively disprove liability, such as the following:
    - i That the registered owner was not the owner or lessee of the vehicle on the date or dates the notices of violation were issued; or
    - ii That the fines or penalties for the violations cited in the notice were paid in full; or
    - iii That the registered owner has not accumulated ten (10) or more ordinance violation notices which are unpaid, not adjudicated or for which no appearance was made.
4. The motor vehicle of the registered owner to whom notice is sent has failed to make payment of the fines or penalties as specified in the notice and has failed to appear with evidence to conclusively disprove liability before the ordinance enforcement administrator to contest the validity of the notice.

#### **5-5-14: REQUEST FOR HEARING IN THE CASE OF TOWING AND IMPOUNDMENT OF MOTOR VEHICLES:**

Upon the receipt of the request for hearing to contest the validity of the immobilization or towing and impoundment, the ordinance enforcement administrator shall schedule an administrative hearing to contest the validity of the immobilization or towing and impoundment on the next scheduled hearing date or if sooner scheduled by the ordinance enforcement administrator for good cause shown, but in no case shall the hearing be scheduled later than forty-five (45) days after the request for hearing is

filed and shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid, to the address as is set forth on the request for hearing. Service of the notice shall be complete on the date it is placed in the United States mail.

**5-5-15: NOTICE AFFIXED TO VEHICLE IN CASES OF IMMOBILIZATION:**

Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous place. Such notice shall warn that the vehicle is immobilized and that any attempt to move the vehicle may result in its damage. The notice shall also state that the unauthorized removal of or damage to the immobilizing restraint is a violation of sections 16-1 and 21-1 of the Illinois criminal code, 720 Illinois Compiled Statutes 5/1-1 et seq. The notice also shall provide the following information specifying that a release of the immobilizing restraint may be had by:

- A. Paying all the fines and penalties, if any, on the outstanding complaints for which notice has been sent prior to the date of the immobilization; or
- B. Completing appearance forms on all outstanding parking violation complaints for which notice had been sent prior to the date of the immobilization and depositing collateral in the amount of fifty percent (50%) of the total fines for these outstanding parking violation complaints, or five hundred dollars (\$500.00), whichever is less.

**5-5-16: TOWING OF IMMOBILIZED VEHICLE:**

Except where the vehicle is otherwise subject to towing, if the immobilizing restraint has not been released as hereinabove provided, within seventy-two (72) hours of its placement, the vehicle shall be towed and impounded.

**5-5-17: POST IMPOUNDMENT NOTICE:**

Within ten (10) days after a vehicle has been impounded, notice of impoundment shall be sent by certified mail, return receipt requested, to the registered owner of the vehicle. The notice shall state that the owner has the right to a post immobilization and post towing hearing as provided in section 5-5-18 of this chapter and that if the vehicle is not claimed within thirty (30) days from the date of the notice, the vehicle may be sold or otherwise disposed of in accordance with the Illinois vehicle code.

**5-5-18: HEARING IN CASE OF VEHICLE IMMOBILIZATION:**

The owner of an immobilized vehicle or other interested person shall have the right to a hearing to determine whether the immobilization or any subsequent towing was erroneous or whether the vehicle was properly included on an immobilization list, if the owner files a written demand for a hearing before the ordinance enforcement administrator within thirty (30) days after issuance of the notice specified in section 5-5-17 of this chapter or within thirty (30) days of immobilization, whichever is later.

The hearing shall be conducted on the regularly scheduled monthly hearing date within thirty (30) days of receipt but not more than sixty (60) of a written demand for hearing, unless otherwise mutually agreed by the parties. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of such failure, any amount deposited pursuant to section 5-5-15 of this chapter shall be forfeited. A hearing provided by this section shall not determine the validity of or otherwise adjudicate any citation or notice of ordinance violation issued relative to the immobilized vehicle, but shall only relate to whether the vehicle was properly immobilized or towed by determining whether the owner previously submitted evidence required by this chapter. (Ord. 2017-14, 04-18-2017)

#### **5-5-19: FINES AND FEES FOR IMMOBILIZATION:**

The fine for immobilization shall be sixty dollars (\$60.00) and the fine for impoundment and towing shall be an amount not to exceed five hundred dollars (\$500.00). The owner of the vehicle shall also be charged reasonable storage and towing fees should the vehicle be removed to a private storage facility, provided that no fees shall be assessed for any immobilization or tow which has been determined to be erroneous.

#### **5-5-20: TOWING SERVICES:**

The ordinance enforcement administrator shall appoint or retain the services of an individual, agency, or company to tow and impound vehicles in accordance herewith, provided that that individual, agency, or company is fully insured and licensed according to local or state law and has available a secured impound area within which to retain vehicles impounded hereunder. For the purpose of this section a "secured area" shall mean an area bounded by a fence, chain link or otherwise, of a sufficient height and with locking gates so as to minimize or prevent unauthorized entry into the impounded vehicles.

#### **5-5-21: EVICTION, RIGHTS OF OCCUPANTS:**

In the case of a building code violation, no action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a code violation hearing.

#### **5-5-22: DEFENSES TO BUILDING CODE VIOLATIONS:**

It shall be a defense to a building code violation if the owner, his attorney, or any other agent or representative proves to the hearing officers' satisfaction that:

- A. The code violation alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;

B. The code violation has been caused by the current property occupants and that in spite of reasonable attempts by the owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations:

C. An occupant or resident of the dwelling has refused entry to the owner or his agent to all or a part of the dwelling for the purpose of correcting the code violation.

**5-5-23: SANCTIONS APPLICABLE TO THE BUILDING OWNER:**

The order to correct a building code violation and the sanctions imposed by a municipality as the result of a finding of a code violation shall attach to the property as well as to the owner of the property, so that a finding of a code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision, and order of a hearing officer.

**5-5-24: FEDERAL GOVERNMENT CONTRACTS UNDER THE BUILDING CODE:**

A person who contracts with the federal government or any of its agencies, including, without limitation, the department of housing and urban development, to care for vacant residential real estate shall be responsible for maintaining the property to prevent and correct municipal health and safety code violations. A person who intentionally violates this section is guilty of a business offense and shall be fined not less than five hundred one dollars (\$501.00) and not more than one thousand dollars (\$1,000.00). (Ord 2011-23, 07-19-11)