

# TITLE 3

## BUSINESS AND LICENSE REGULATIONS

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# **CHAPTER 1**

## **GENERAL LICENSE AND PERMIT PROVISIONS**

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### **3-1-1: LICENSE OR PERMIT REQUIRED:**

No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this Chapter, unless otherwise specifically provided. (1978 Code §31.01)

### **3-1-2: APPLICATION FOR LICENSE OR PERMIT:**

Unless otherwise provided, application for a license or permit shall be made in writing to the Finance Office upon forms provided by the City, and applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such a license or permit. (1978 Code §31.02; Ord 2015-19, 10-6-2015)

### **3-1-3: LICENSE OR PERMIT FEE:**

The fees required for any license or permit shall be paid at the Municipal Building before the granting of the license or permit. No fee paid shall be refunded, unless the license or permit is denied. Where over half the license year has expired, the license fee for the remainder of the license year shall be one-half (1/2) of the annual license fee. (1978 Code §31.03; Ord 2015-19, 10-6-2015)

### **3-1-4: BOND AND INSURANCE:**

All required bonds shall be executed by two (2) sureties or a surety company and be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the City before the license or permit is issued. (1978 Code §31.04)

### **3-1-5: APPROVAL OR DENIAL OF LICENSE OR PERMIT:**

- A. Where the approval of any City officer or State officer is required prior to the issuance of any license or permit, such approval must be presented to the City before any license or permit is issued.
- B. No license or permit shall be approved by any City officer or issued by the City if it appears that the conduct of the activity for which a license or permit is sought will be contrary to the health, safety or welfare of the public or any regulation, law or ordinance applicable to such activity. (1978 Code §31.05)

### **3-1-6: CONTENTS OF LICENSE OR PERMIT; RECORDS KEPT:**

Licenses or permit certificates shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit and shall be signed in the name of the City by the Mayor and City Clerk, and be impressed with the City Seal. The Finance Officer shall keep a record of all licenses and permits issued. (1978 Code §31.06; Ord 2015-19, 10-6-2015)

### **3-1-7: LICENSE AND PERMIT TERM:**

- A. Licenses: Unless otherwise provided, the term of the license year shall end on May 1 of each year. Where the issuance of licenses for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.
- B. Permits: Permits shall be issued for the term set forth in the permit. (1978 Code §31.07)

### **3-1-8: CONDITIONS OF LICENSE OR PERMIT:**

- A. Exhibition of Certificate: Every licensee or permittee shall carry his license or permit certificate upon his person at all times when engaged in the activity for which the license or permit was granted; except, that where such activity is conducted at a fixed place or establishment, the license or permit certificate shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license certificate when applying for a renewal and upon demand of any police officer or person representing the issuing authority. (1978 Code §31.08)

B. Nontransferability: Unless otherwise provided, no license or permit shall be transferable or assignable. (1978 Code §31.09)

### **3-1-9: RENEWALS:**

Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as original licenses or permits. (1978 Code §31.10)

### **3-1-10: INSPECTIONS:**

City officials may enter upon the premises where any licensed or permitted activity is being conducted for the purpose of inspection at any reasonable time. (1978 Code §31.13)

### **3-1-11: SUSPENSION OR REVOCATION OF LICENSE OR PERMIT:**

Any license or permit issued by the City may be suspended or revoked by the Mayor or Council for any of the following causes:

- A. Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.
- B. Conviction of any crime or misdemeanor.
- C. Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public or a disturbance of the peace or comfort of residents of the City upon recommendation of the appropriate City official.
- D. Expiration or cancellation of any required bond or insurance.
- E. Actions unauthorized or beyond the scope of the license or permit granted.
- F. Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted or any regulation or law of the State so applicable.
- G. Failure to continuously comply with all conditions required as precedent to the approval of the license or permit. (1978 Code §31.11)

### **3-1-12: HEARINGS:**

Any person aggrieved by the action of any City official in denying or revoking a license or permit shall have the right to a hearing before the Council on any such action;

provided, a written request therefor is filed with the City Clerk within ten (10) days after receipt of the notice of such suspension or revocation to reinstate any such license or permit. The action taken by the Council after a hearing shall be final. (1978 Code §31.12)

## **CHAPTER 2 OCCUPATION TAXES**

### **SECTION:**

**3-2-1: Municipality Utility Tax**

**3-2-2: Simplified Municipal Telecommunications Tax**

**3-2-3: Municipal Cannabis Retailers' Occupation Tax**

### **3-2-1: MUNICIPAL UTILITY TAX:**

A. Definitions: For the purposes of this Section, the following definitions shall apply:

**GROSS RECEIPTS:** The consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas or electricity, for use or consumption and not for resale as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages, without any deduction on account of the cost of the service, product or commodity supplied, the cost of the materials used, labor or service cost, or any other expenses whatsoever.

"Gross Receipts" shall not include receipts received from the City of Genoa for the sale to said Municipality of any of the following utility products or services mentioned above.

**PERSON:** Any natural individual, firm, trust estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustees, conservator or other representative appointed by order of any court.

**TRANSMITTING MESSAGES:** In addition to the usual and popular meaning of person-to-person communication, includes the furnishing, for consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not in turn receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such person to other persons, for the transmission of messages. (Ord. 687, 7-22-1986)

B. Tax Imposed: A tax is imposed on all persons engaged in the following occupations or privileges:

1. Persons engaged in the business of transmitting messages by means of electricity, at the rate of five percent (5%) of the gross receipts from such business originating within the corporate limits of the City.
2. Persons engaged in the business of distributing, supplying, furnishing or selling natural gas for use or consumption within the corporate limits of the City, and not for resale, at the rate of five percent (5%) of the gross receipts therefrom. (Ord. 785, 5-14-1991)
3. Persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within the corporate limits of the City, and not for resale, at the rate of five percent (5%) of the gross receipts therefrom. The tax imposed under this Section shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the consumption of electricity is subject to the tax imposed under Chapter 11 of this Title. (Ord. 98-40-2, 6-16-1998)

C. Exemptions: No taxes imposed by this Section with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distribution, supplying, furnishing or selling gas or electricity, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by 65 Illinois Compiled Statutes 5/8-11-1, approved May 29, 1961, as amended.

D. Tax, Additional: Such tax shall be in addition to the payment of money, or value products or services furnished to the Municipality by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business. E. Effective Date:

1. This Section shall take effect after publication and the tax provided for herein shall be based on the "gross receipts" as herein defined, actually paid to the taxpayer for services billed on or after October 1, 1986. (Ord. 687, 7-22-1986)
2. Subsection B of this Section, as amended, shall become effective as to gross receipts actually paid to the taxpayer for services billed on or after June 1, 1991; provided, however, that any amounts due or payable for any tax periods ending prior to June 1, 1991, shall nevertheless remain payable pursuant to the tax rate provided for in section 1 of Ordinance 687. (Ord. 785, 5-14-1991)

F. Tax Return Required:

1. On or before November 30, 1986, each taxpayer shall make a return to the Finance Office Manager for the month of October 1986, stating:

- a. His name;
  - b. His principal place of business;
  - c. His gross receipts during the month upon the basis of which the tax is imposed;
  - d. Amount of tax;
  - e. Such other reasonable and related information as the corporate authorities may require.
2. On or before the last day of every month thereafter, each taxpayer shall make a like return to the Finance Office Manager for a corresponding monthly period.
  3. The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Finance Office Manager the amount of the tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts (Ord 2015-19, 10-6-2015).
- G. **Erroneous Payments:** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Section, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Section from the taxpayer who made the erroneous payment; provided, that no amounts erroneously paid more than three (3) years prior to the filing of a claim, therefore, shall be so credited.
- H. **Action To Recover Tax:** No action to recover any amount of tax due under the provisions of this Section shall be commenced more than three (3) years after the due date of such amount.
- I. **Penalty:** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and in addition shall be liable in a civil action for the amount of tax due. (Ord. 687, 7-22-1986)

### **3-2-2: SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX:**

- A. Definitions as used in Title 3, Chapter 7, Section 12, the following terms shall have the following meanings:
1. "Amount paid" means the amount charged to the taxpayer's service address in this municipality regardless of where such amount is billed or paid.
  2. "Department" means the Illinois Department of Revenue.
  3. "Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and



equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as ad when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this municipality, and charges for that portion of the interstate inter-office channel provided within Illinois. However, "gross charge" shall not include:

- a. Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Ordinance, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
- b. Charges for a sent collect telecommunication received outside of such municipality;
- c. Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form of content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or account equipment and also includes the usage of computers under a time-sharing agreement;
- d. Charges for customers equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
- e. Charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs;
- f. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Ordinance has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;

- g. Bad debts (“bad debt” means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludible that has become worthless or uncollectable, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
  - h. Charges paid by inserting coins in coin-operated telecommunication devices; or
  - i. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Act.
4. “Interstate telecommunications” means all telecommunications that either originate and terminate within this State.
  5. “Intrastate telecommunications” means all telecommunications that either originate or terminate within this State.
  6. “Person” means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.
  7. “Purchase at retail” means the acquisition, consumption or use of telecommunications through a sale at retail.
  8. “Retailer” means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintain a place of business within this State. The permit may be revoked by the Department at its discretion.
  9. “Retailer maintaining a place of business in this State”, or any like term, means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.
  10. “Sale at retail” means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State

governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

11. "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.
12. "Taxpayer" means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Ordinance.
13. "Telecommunications", in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunication services, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Ordinance, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Ordinance. For

purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

B. Simplified Municipal Telecommunications Tax Imposed:

A tax hereby imposed upon any and all the following acts or privileges:

1. The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer.
2. The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this State.
3. The tax imposed by this Ordinance is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

C. Collection of Tax By Retailers:

1. The tax authorized by this Ordinance shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Ordinance shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided in the Department.
2. Whenever possible, the tax authorized by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

D. Returns to Department:

On or before the last day of February 2003, and on or before the last day of every month thereafter, the tax imposed under this Ordinance on telecommunications retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 95-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement the Act.

E. Resellers:

1. If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any such purchases and shall furnish such additional information as the Department may reasonably require.
2. Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.
3. Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

F. Resellers:

1. To the extent that the municipality's territory includes part of another unit of local government or a school district, the municipality may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by the other unit of local government or school district. Any such rebate shall be paid by the municipality directly to the other unit of local government or school district qualifying for the rebate as determined by the municipality's ordinance, which shall not be filed with the Department.
2. The municipality may, by separate Ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by persons 65 years of age or older. Any tax related to such rebate shall be rebated from the municipality directly to persons qualified for the rebate as determined by the municipality's ordinance, which shall not be filed with the Department.

G. Severability:

If any provisions of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable unless otherwise provided by this Ordinance.

H. Effective Date:

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that (1) Section 2 and Section 3 shall take effect for all bills issued on or after January 1, 2003, (2) the tax provided for herein shall take effect for all bills issued on or after the first day of January 1, 2003 and (3) any amounts due or payable to the municipality for any tax periods ending prior to the first day of January, 2003, shall nevertheless remain payable as if this Ordinance had not be adopted. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to October 1, 2002. (Ordinance 2002-11, 08-20-2002; Ord. 2017-8, 03-07-2017; Ordinance 2019-29, 11-19-19)

**3-2-2: SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX:**

A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Program Act, at retail in the City at the rate or 2% of the gross receipts from these sales made in the course of that business. The imposition of this tax is in accordance with the provisions of Section 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

B. Collection off Tax by Retailers:

1. The tax imposed by this Section shall be remitted by such retailer to the Illinois Department of Revenue. Any tax required to be collected pursuant to or as authorized by this Section and any such ta collected by such retailer and required to be remitted to the Illinois Department of Revenue shall constitute a debt owed by the retailer to the State. A retailer may reimburse itself for its sellers tax liability hereunder by separately stating that tax as an additional charge, which may be stated in combination, in a single amount, with any State tax that a seller is required to collect.

2. The taxes hereby imposed and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Section.
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- C. Severability: If any provisions of this section, or the application of any provision of this Section, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Section, or their application, that can be given effect without the unconstitutional or invalid provision of such provision, is severable, unless otherwise provided by this Section.
  - D. Effective Date: This Section shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided herein shall take effect for all sales on or after the first day of January 2020. (Ordinance 2019-29, 11-19-2019)

## **CHAPTER 3 LIQUOR CONTROL**

### **SECTION:**

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### **3-3-1: DEFINITIONS:**

Unless the context otherwise requires, the following items as used in this Chapter shall be construed according to the definitions below:

**ALCOHOLIC LIQUOR:** Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent (0.5%) of alcohol by volume which is fit for beverage purposes.

**BANQUET FACILITY-** Any public place kept, used, maintained, advertised and held out to the public as a place where by prearrangement, events such as receptions, meetings, symposiums, parties and similar events, which involve the service of food which may be



catered. Attendance at Banquet events is not generally open to the public, but rather is limited to invited guests, employees, members or sponsors of the event. Alcoholic liquors, if available, shall be sold for consumption on the premises only, and only to bona fide attendees of a Banquet event. No attendee shall be permitted to consume alcohol without a corresponding purchase of food and approved liquor license. (Ordinance 2018- 7, 3-20-2018)

**BAR:** an establishment where the principal use is the retail sale and consumption of beer, wine, and/or alcoholic liquor on the premises. The incidental sale of packaged liquor may be provided during hours of operation.

**BEER:** A beverage obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, salt and hops in water, and includes among other things, beer, ale, lager and the like.

**BREW PUB:** shall mean an establishment where the primary use of the establishment is the sale and production of beer, which may only occur to the extent permitted under a Federal license for a microbrewery.

**CLUB:** A corporation organized under the laws of the State of Illinois, as a not-for-profit corporation as defined by the Illinois State statutes, solely for the promotion of some common object, other than the sale or consumption of alcoholic liquors; kept, used and maintained by its members, through the payment of annual dues; and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the Mayor at the time of its application for a license under this Chapter, and thereafter annually, two (2) copies of a list of names and residences of its members; and provided further, that its affairs and management are conducted by the members at their annual meeting, and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by the Board of Directors or other governing body out of the general revenue of the club.

**CONSUMPTION SALES:** The sale or offering for sale at retail of any alcoholic liquor for consumption on the premises where sold.

**GAS STATION:** an establishment where the principal use is the retail sale of gasoline and other motor fuels.

**GROCERY STORE:** an establishment where the principal use is the retail sale of food, including meats, produce, and bakery and dry goods.

**HOTEL:** Every building or other structure kept, used, maintained, advertised and held out to the public to be a place 1) where food is actually served and consumed and 2) where sleeping accommodations are offered in exchange for adequate pay to travelers and guests, whether transient, permanent or residential and 3) in which twenty five (25) or more rooms are used for the sleeping accommodations of such guests and 4) having one or more public dining rooms where meals are served to such guests. Such sleeping accommodations and dining rooms being conducted in the same building structure or structures being provided with adequate and sanitary dining room and kitchen space and equipment.

**LICENSEE:** Any person, firm, corporation, partnership or the club holding a license under the provisions of this Chapter.

**LIQUOR STORE:** a place of business selling alcoholic liquors as a retail store to the general public in sealed bottles or containers for consumption or use away from the premises where said establishment is located (with the exception of an A Liquor License which would permit consumption on premises).

**ORIGINAL PACKAGE:** Any bottle, flask, jug, can, barrel, keg or other receptacle or container whatsoever, used, sealed in any manner, and labeled by the manufacturer of alcoholic liquor, to contain or convey any alcoholic liquor.

**OUTDOOR SEATING:** an add on to a B, C, R, or W license that allows seating in an open unroofed area immediately contiguous to the building or structure in which the B, C, R, or W license is issued for, but may not include public sidewalk and must comply with the regulations set forth in Section 3-3-15 of this Chapter.

**PACKAGE SALES:** The sale or offering for sale at retail of any alcoholic liquor, in the original package, and not to be consumed or in fact consumed, in whole or in part, on the premises where sold.

**RESTAURANT:** A public place with full-time employment of kitchen help, and enough equipment and staff to prepare and serve up to six (6) course dinner meals to patrons. There shall be a designated area for eating with a minimum seating capacity of twenty five (25) persons, in booths or at tables. The primary function of a restaurant shall be the serving of food. The receipts from the sale of alcoholic liquor shall not total more than fifty percent (50%) of the gross dollar sales of the restaurant. (1978 Code §37.01)

**TASTING ROOM:** an establishment which provides tasting of alcoholic liquor samples which are consumed on-premises in a dedicated sampling area.

**TAVERN:** an establishment for the retail sale of beer, wine, and other alcoholic beverages for consumption on the premises and providing a menu of food items prepared during all hours of operation. The incidental sale of packaged liquor may be

provided during the hours of operation. Dancing may be permitted on the premises. (Ord. 2019-24, 10-14-2019)

VIDEO GAMING CAFÉ: an establishment with a State video gaming license where video gaming is the principal use of the business and the sale of alcoholic liquor and/or food is incidental to video gaming.

WINERY: an establishment where the principal use is the sale of wine. (Ordinance 2021-5, 03-02-2021)

### **3-3-2: LIQUOR COMMISSIONER AND LIQUOR BOARD:**

A. The Mayor, as Liquor Commissioner, may, with the advice of the City Council, appoint two (2) Council members to serve as the Liquor Commission. The purpose of the Liquor Commission shall be as follows:

1. To review each application for a liquor license each year.
2. To inspect the prospective license holder's establishment prior to the granting of a license or the renewal of a license.
3. To attend all public hearings conducted for the purpose of determining if a liquor licensee has violated any provision of the Municipal Ordinances of the City of Genoa, the Illinois Liquor Control Act of 1934, as now or hereafter amended, any rule or regulation established by the Liquor Commissioner for the City of Genoa, or the State of Illinois Liquor Control Commission, and to advise the Liquor Control Commissioner, either individually or as the Liquor Control Commission, as to the determination of a violation and upon the Liquor Commissioner's finding of a violation, as to the sanctions to be imposed (Ord. 2014-23, 08-19-2014)

B. In the absence of the Mayor, one of the members of the Liquor Commission shall be designated by the Mayor as acting Liquor Commissioner and shall obtain the responsibilities of such office. (1978 Code §37.06; Ord 2014-41, 12-16-2014)

### **3-3-3: LICENSE AND COMPLIANCE REQUIRED:**

It shall be unlawful to sell or offer for sale in the City any alcoholic liquor without first having a license or in violation of the terms of such license. (1978 Code §37.02)

### **3-3-4: APPLICATION FOR LICENSE:**

Application or reapplication for such licenses shall be made to the Liquor Commissioner, on forms prepared by the City, signed by the applicant (if an individual) or by a duly authorized agent thereof (if a club or corporation), stating:

- A. The objects for which organized, the names and addresses of the officers and directors and if a majority interest of the stock of such corporation is owned by one person or his nominees, the name and address of each such person.
- B. The character of business of the applicant, and in case of a corporation, the objects for which it was formed.
- C. The length of time that said applicant has been in such business, or in the case of a corporation, the state in which its charter was issued.
- D. The amount of goods, wares and merchandise on hand at the time application was made.
- E. The location and description of suitable premises or place of business which is to be operated under said license, which premises or place of business is to be completely constructed in accordance with State and local building codes within six (6) months from the date said license is issued.
- F. Whether applicant has made similar application for a similar license on premises other than described in this application and the disposition of such application.
- G. That applicant has never been convicted of a felony, has never been convicted of being the keeper of (or is keeping) a house of ill fame and has never been convicted of pandering or other crimes or misdemeanors opposed to decency or morality. (1978 Code §37.03)
- H. That the applicant does beneficially own the premises for which a license is sought or does have a lease thereon for the full period for which the license is to be issued.
- I. That the applicant is not a law-enforcing public official, Mayor or member of the City Council, and that no such official has any interest in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.
- J. Whether a previous license has been revoked by any state or subdivision thereof or by a federal government and the reason therefor. (1978 Code §37.03)
- K. That if a copartnership, all members of the copartnership shall be qualified to obtain a license, and if a corporation, any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, is eligible to receive a license hereunder. All officers, managers, directors or any stockholder or stockholders owning in aggregate more than five percent (5%) of the stock of such corporation shall be listed. (1978 Code §37.03; amd. Ord. 1995-12, 4-25-1995)
- L. That if the business is conducted by a manager or agent, said manager or agent possesses the same qualification required of the licensee.

M. That applicant is not disqualified to receive a license by reason of any matter or thing contained in this Chapter, laws of the State or ordinance of the City. (1978 Code §37.03)

N. For all pour license applications after the date of this regulation, unless the liquor license is for a full-service restaurant or tavern business, demonstrate that the primary business is not video gaming by meeting the conditions below. If these conditions are not met, a G License should be applied for.

- i. A maximum of 10% of floor space is devoted to video gaming and it is substantially separated physically and audibly from the rest of the services provided as determined by the City Council.
- ii. That a maximum of 40% of revenues comes from video gaming machines.
- iii. The City Administrator may request that the applicant provide a business plan (or business forecast for an existing business) deemed complete and realistic by the Waubensee Community College Small Business Development Center which indicates to the City Council's satisfaction that the business has a reasonable chance of success and that video gaming is a minor portion of the business. (Ordinance 2019-23 09-03-2019; Ordinance 2021-05, 03-02-2021)

O. INITIAL APPLICATION FEE: A non-refundable application fee in the amount of \$1,500 shall be payable upon the initial application for a liquor license. This fee is in addition to the liquor license fees established in Section 3-3-7. Those renewing liquor licenses shall not be subject to this application fee. (Ordinance 2021-05, 03-02-2021)

### **3-3-5: RESTRICTIONS ON APPLICANT:**

No such license shall be issued to:

- A. Any person who is not of good character and reputation in the community in which he resides.
- B. Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license under a first application.
- C. Any person, association or corporation not eligible for a State retail liquor dealer's license.
- D. Any person who does not qualify under Illinois State Law. (1978 Code §37.04)

### **3-3-6: INVESTIGATION OF APPLICANT:**

Application for a liquor license shall be forwarded to the Chief of Police. It shall be the duty of the Chief of Police to cause an investigation of such applicant and to report, in writing, within thirty (30) days, to the Liquor Commissioner as to the applicant's character. No license shall be issued until such report has been completed and filed with the Liquor Commissioner. (1978 Code §37.05)

### **3-3-7: LICENSE CLASSIFICATION AND FEES:**

The sale of liquor is not permitted unless a liquor license is received from the City. Licenses required by this Chapter shall be divided into the classes below:

CLASS B LICENSES shall authorize the sale of alcoholic liquors by a Bar, Tasting Room, and Brew Pub for consumption in the interior portion of the premises where sold. Class B licenses shall not be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The annual fee(s) for such license shall be as follows:

B License:	\$900
Add on Packaged Liquor	\$250
Add on Outdoor Seating	\$250
Add on On-Site Beer Production as a Brew Pub	\$250

CLASS C LICENSES shall authorize the sale of alcoholic liquors by a Club for consumption in the interior portion of the premises. In addition, alcoholic liquors may be served with meals to the public. Class C licenses shall be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The annual fee(s) for such license shall be as follows:

C License:	\$900
Add on Packaged Liquor and Add on Outdoor Seating	\$250

CLASS E LICENSES shall authorize the Mayor of the City, as Liquor Commissioner, to issue a license for the sale of alcoholic liquors for a period of one day. A Class E shall be issued only to a not-for-profit corporation chartered in the State. Class E Licenses shall not be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The fee(s) for such license shall be as follows:

E License:	\$25/day
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CLASS G LICENSES shall authorize the sale of alcoholic liquors by a Video Gaming Café for consumption in the interior portion of the premises only. Class G licenses shall be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The fee(s) for such license shall be as follows:

G License:	\$1,200
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CLASS R LICENSES shall authorize the sale of beer, wine, and ale by a Restaurant or Banquet Facility for consumption in the interior portion of the premises. Class R licenses shall be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The annual fee(s) for such license shall be as follows:

R License:	\$1,000
Add on Alcoholic Liquor	\$250
Add on Outdoor Seating	\$250

CLASS S LICENSES shall authorize the retail package sales of beer, wine, and ale by a Gas Station, Liquor Store, or Grocery Store for consumption off the premises where sold. Class S licenses shall also authorize the distribution in containers not to exceed 1 ounce of beer and wine for consumption on the premises. Said distribution shall be for the purposes of sampling only and shall be without remuneration. Class S licenses shall be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The fee(s) for such license shall be as follows:

S License:	\$800
Add on Alcoholic Liquor	\$250

CLASS W LICENSES shall authorize the sale of wine for consumption on or off premises, except that on premises shall be limited to dispensing no more than twenty (20) ounces of wine to any one person per day. The Class W licenses shall be restricted to the liquor districts as limited by Section 3-3-14 of this Chapter. The annual fee(s) for such license shall be as follows:

W License:	\$800
Add on Outdoor Seating	\$250
Distilled Wine Products for On-Site and Off-Site Consumption	\$250

(Ordinance 2021-05, 03-02-2021; Ordinance 2022-02, 01-12-2022)

### **3-3-8: NUMBER OF LICENSES:**

- A. Class B Licenses. There shall be in force at any time no more than three (3) Class B licenses.
- B. Class C Licenses. There shall be in force at any time no more than one (1) Class C license.
- C. Class E Licenses. There shall be no limit to the number of Class E licenses in force at any time.
- D. Class G Licenses. There shall be in force at any time no more than two (2) Class G licenses.

E. Class R Licenses. There shall be in force at any time no more than six (6) Class R licenses.

F. Class S Licenses. There shall be in force at any time no more than three (3) Class S licenses.

G. Class W Licenses. There shall be in force at any time no more than one (1) Class W license. (Ordinance 2021-05, 03-02-2021)

### **3-3-9: INSURANCE REQUIRED:**

No license or permit shall be issued hereunder unless the applicant files with the application an insurance certificate, issued by an insurance company that is authorized to do business in the State, certifying that the applicant, and the owner of the premises housing the establishment from where the liquor will be sold, has in force and effect liquor liability insurance of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate and general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. "Host" insurance shall not satisfy the terms of this Section. (Ordinance 2021-29, 09-22-2021)

### **3-3-10: LICENSE TERM; PAYMENT AND PRORATING OF FEE:**

Each such license shall terminate on April 30 next following its issuance. The license fee shall be paid in advance, and there shall be no refund of any portion of the same; except, where over half the license year has expired, the license fee for the remainder of the license year shall be one-half (1/2) of the annual license fee. (1978 Code §37.07; Ord. 1995-11, 4-25-1995)

### **3-3-11: RENEWAL OF LICENSES:**

All liquor license holders seeking to renew their license must make complete reapplications to the City for the class of liquor license desired. All reapplications for liquor licenses must be completed between the dates of April 15 to 20 preceding the annual renewal date of May 1 in any year hereafter. Fees for reapplication for liquor licenses are due at the time of filing. (1978 Code §37.03; Ord 2005-01, 02-01-05)

### **3-3-12: TRANSFER OF LICENSE:**

A license shall be a purely personal privilege, good for one year after issuance, unless sooner revoked as is in this Chapter provided, and shall not constitute property; nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such licenses shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee, provided that executors or



administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue

the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privilege of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license. A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operation under such license in accordance with the provision of this Section. Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose. (1978 Code §37.17)

### **3-3-13: CLOSING HOURS:**

It shall be unlawful to permit the sale of alcohol on or in any premises where liquor is sold except during the hours stated in this Chapter. No patron or employee shall be permitted to consume alcoholic liquor later than thirty (30) minutes past the closing hours listed in this Chapter. No patron shall remain, or be permitted to remain, on any premises licensed for the sale of alcoholic liquor later than thirty (30) minutes past the closing hours listed in this Chapter. The doors of such premises shall be locked promptly within thirty (30) minutes past the closing hours listed in this Chapter and remain locked during the closed period.

A. Hours Established: Liquor license for all licenses, except E licenses whose hours shall be determined by the Chief of Police, shall be as follows:

1. Monday through Thursday: 6:00 AM to 12 AM
2. Friday: 6:00 AM to 1:00 AM on Saturday
3. Saturday: 6:00 AM to 1:00 AM on Sunday
4. Sundays: 10:00 AM to 10:00 PM

B. Special Event and Holiday Hours:

1. New Year's Eve and New Year's Day: It shall be lawful for any licensee, subject to this license restriction other than closing hours, to sell or offer for sale at retail alcoholic liquor until midnight on December 31<sup>st</sup> and continuing through until 2:00 AM on January 1<sup>st</sup> of any year.
2. Sunday before Memorial Day: It shall be lawful for B, R, and C liquor license holders to remain open until 12 AM midnight on the Sunday before Memorial Day.

3. Sunday before Labor Day: It shall be lawful for B, R, and C liquor License holders to remain open until 12 AM midnight on the Sunday before Labor Day.
  4. Super Bowl Sunday: It shall be lawful for B, R, and C liquor license holders to remain open until 12 AM midnight on Super Bowl Sunday, in which the professional football "Super Bowl" game is played.
- C. Emergency Closing: In all cases where the public peace or safety is likely to be endangered, in the option of the Genoa Police Officer on duty, by allowing the premises licensed hereunder to remain open, it shall be lawful for the Mayor to issue his proclamation, under the Seal of the City, commanding the enjoining persons licensed by said City under this Chapter, their employees and agents, to close their places of business for such time as the Mayor shall deem necessary; and neither to sell, give away, nor suffer to be drawn, any of said liquor in or about their premises during the time mentioned in said proclamation. (Ordinance 2021-05, 03-02-2021)

### **3-3-14: LOCATION RESTRICTIONS:**

- A. Liquor District: For the purpose of establishing and describing the liquor district, any district zoned other than CBC, HC, or SC be deemed the restricted area. (1978 Code §37.22; Ord 2015-15, 9-1-2015)
- B. Property Owner Consent: It shall be unlawful to sell or offer for sale at retail any alcoholic liquor within the restricted area described in subsection A of this Section unless the owner or owners of at least two-thirds (2/3) of the frontage feet along the street or streets adjacent to such proposed place of business for which a license is sought, but within a distance of two hundred feet (200') in each direction of such proposed place of business, shall file with the Mayor their written consent to the use of such place for the sale of alcoholic liquor. (1978 Code §37.23)
- C. Proximity To Specific Uses: No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet (100') of any church, school, hospital, home for the aged or indigent persons, or for veterans, their wives or children, any military or naval station. (This restriction shall not apply to those holding Class F licenses.) (1978 Code §37.24)
- D. Change Of Location: A liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. The business or occupation licensed under the provisions of this Chapter, or any permitted act hereunder, may be changed provided that ten (10) days' notice thereof is given to the Liquor Commissioner in the absence of any provision to the contrary; and provided further that the building, zoning and frontage consent requirements and all other provisions of this Chapter pertaining to the new location are complied with. (1978 Code §37.18; Ord 2015-19, 10-6-2015)

E. Zoning Requirements. The holder of a liquor license shall abide by all requirements and restrictions stated in the Municipal Code of the City of Genoa, including the Zoning Ordinance, and all restrictions of the Illinois State Statutes. (Ordinance 2021-05, 03-02-2021)

### **3-3-15: BUILDING AND PREMISES REQUIREMENTS:**

- A. Seating Capacity: All establishments with a liquor license must comply with the Building Code Standards adopted by the City in regards to maximum capacity. This capacity must be clearly posted near the entrance of each establishment. Compliance will be the responsibility of the license holder. (1978 Code §37.12; amd. Ord. 97-83-3, 2-4-1997; Ord 2005-16, 05-03-05; Ordinance 2021-05, 03-02-2021)
- B. Emergency Exits: All exits shall be so marked with a lighted sign, which shall be visible from all points within the establishment. Two (2) exits shall be equipped with power packs. (1978 Code §37.13)
- C. View From Street: Where the sale of alcoholic liquor for consumption upon the premises is licensed (other than in restaurants, hotels or clubs), no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such premises, nor inside such premises, which shall serve to prevent a clear view into the interior of the premises from the street, road or sidewalk at all times. No booth, screen, partition or other obstruction, nor any arrangement of lights or lighting, shall be permitted in or about the interior of such premises which shall prevent a full view of the entire interior of the premises. The entire space used by the public must be so located that there shall be a full view of the same from the street, road or sidewalk. All rooms where alcoholic liquor is sold for consumption on the premises shall be continually lighted during business hours by natural light or by artificial light so that all parts of the interior of the premises shall be clearly visible. If the view into any such licensed premises shall be wilfully obscured by the licensee, or suffered to be obscured or obstructed in any manner, such license shall be subject to revocation in the manner herein provided. In order to enforce the provisions of this Section, the Mayor shall have the right to require the filing of plans, drawings and photographs showing the clearance of view as above required with the Liquor Commissioner. (1978 Code §37.26)
- D. Sanitary Conditions: All premises used for the sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in a clean and sanitary condition; and shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption. The premises will be inspected by the City Health Officer, or his designee, and each liquor establishment must meet all State health, fire and safety regulations. (1978 Code §37.20)

E. **OUTDOOR SEATING REGULATIONS:** Any liquor license applicant which requests to be permitted to have outdoor seating in any open unroofed area in which alcoholic beverages are served or consumed pursuant to a B,C,R, or W license shall conform to the following:

1. Must have a Special Use Permit that allows outdoor dining.
2. The open unroofed area shall be particularly described and adjacent to and operated as a part of the premises licensed to sell alcoholic liquor on the premises and shall have obtained all permits or approvals required by the ordinances of the City Code, City or other governmental authority.
3. The open unroofed area shall be no greater than 1/2 the other floor space of the licensed premises.
4. The open unroofed area shall have a maximum capacity as defined by the Building Commissioner which shall be separately posted at the entrance to the open unroofed area.
5. With the exception of the W License, any part of the open unroofed area not blocked by a building shall be surrounded by a fence or other barrier approved by the Liquor Commissioner which shall contain the required number of fire exits. All fences or other barriers shall comply with the ordinances of the City regarding vision, clearance and required distances from corners.
6. All electrical wiring shall comply with the codes of the City.
7. All combustible rubbish shall be stored in a noncombustible container, and the license holder shall be responsible for keeping the area in a clean and sightly condition.
8. The noise emanating from any open unroofed area where alcoholic beverages are served pursuant to this license shall not violate any of the provisions of the City Code of Ordinances pertaining to noise.
9. The license holder shall be responsible for preventing violations of this chapter.
10. No open unroofed area where alcoholic beverages are served pursuant to this license shall be permitted within 100 feet of land zoned for residential purposes. (Ordinance 2021-05, 03-02-2021)

### **3-3-16: CONDITIONS OF LICENSE:**

#### **A. GAMBLING**

1. Except as otherwise provided in this section, no person shall gamble, or permit another to gamble, on any premises licensed to sell alcoholic liquor.
2. A person may gamble, or allow another to gamble, on any premises licensed to sell alcoholic liquor when such gambling takes place in accordance with the

Illinois Video Gaming Act, 230 ILCS 40/1 *et.seq.*, as now or hereafter amended. (Ord. 2012-17, 07-17-12)

- B. Pool Or Billiard Tables: Each location licensed under this Chapter will be permitted to have or keep for use on the premises two (2) only of either billiard or pool tables, or combination thereof. There shall be an annual license as required in Section of this Code, to be obtained from the Finance Office Manager. (1978 Code §37.34; Ord 2015-19, 10-6-2015)

### **3-3-17: DANCING; LIVE ENTERTAINMENT:**

- A. It shall be unlawful for a holder of a liquor license to allow dancing or live entertainment on the premises set forth in the liquor license without having been issued a Live Entertainment Permit therefor.
- B. A holder of a liquor license may be granted a Live Entertainment Permit, allowing 1) entertainment by personal appearance of amateur or professional entertainers such as a band, disc jockey, karaoke entertainer or persons providing similar entertainment; and 2) dancing. The Liquor Commissioner may issue a Live Entertainment Permit after considering the recommendation of the Chief of Police and the effect of the activity at the location upon the public safety, health and welfare, and after a determination that the applicant has met the requirements of this section. The Liquor Commissioner may issue a Live Entertainment Permit upon such conditions as are reasonably necessary for the safety and well-being of persons in or near the premises.
- C. The two classifications of Live Entertainment Permits, and requirements for each, are:
  - 1. Single day permit. An applicant for a single day Live Entertainment Permit must pay a \$5.00 fee, and file with the Finance Office Manager at least 3 business days before the scheduled event a completed Live Application Permit in the form approved by the Liquor Commissioner. The Liquor Commissioner shall issue or deny the permit within three business days of filing.
  - 2. Annual Permit. An applicant for an annual permit must pay a \$250.00 fee, and file with the Finance Office Manager, at the time of application for a Liquor License, a completed Live Entertainment Permit application in the form approved by the Liquor Commissioner. The Liquor Commissioner shall issue or deny the permit within 10 business days of the issuance of a Liquor Licenses to the applicant. (Ord. 2004-22, 05-05-2004; Ord 2015-19, 10-6-2015; Ordinance 2021-05, 03-02-2021)

### **3-3-18: BARTENDER'S REGISTRATION; SELLERS AND SERVERS TRAINING:**

- A. It is unlawful for a person to serve in the capacity of bartender at an establishment licensed by the City to sell or offer for sale alcoholic beverages without having been registered to do so under the provisions of this Section.
- B. To be eligible to be registered as a bartender or server, a person must: at least 21 years of age; provide documented completion of a Beverage Alcohol Sellers and Servers Educational Training (BASSET) program, as required by 235 ILCS 5/6-27.
- C. The liquor license holder shall be responsible for ensuring that any server has completed BASSET training as required by this Ordinance and is registered with the City (Ord 2015-15, 9-1-2015)
- D. Beverage Alcohol Sellers and Servers Educational Training (BASSET) and Licensing Requirements:
  - 1. It shall be unlawful for the holder of a liquor license to employ or have act as agent any person who sells or serves alcoholic beverages, all management personnel working on the premises, and anyone whose job description entails the checking of identification for the purchase of alcoholic beverages pursuant to that license, unless said person shall have completed a state certified Beverage Alcohol Sellers and Servers Educational Training program.
  - 2. A State certified BASSET program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission as required by 235 Illinois Compiled Statutes 5/6-27 and regulated under title 77 of the Illinois Administrative Code, chapter X, section 2056, subpart F. Providers of BASSET shall be required to have on file with the County Clerk licenses and certificates to prove current qualifications.
  - 3. Any new employee, manager or agent requiring BASSET shall within 90 days from the start of such employment, complete a BASSET program and shall, until completion, work under the supervision of a person who has completed BASSET. (Ord 2004-47, 11-16-04)

### **3-3-19: MINORS:**

The City will abide by the laws of the State with regard to the legal age required for the purpose of purchasing and obtaining alcoholic liquor.

- A. Age Limit For Procuring Liquor: It shall be unlawful for any person under the age as set by the State to obtain any alcoholic liquor in any establishment licensed by the City to sell alcoholic liquors.
- B. False Identification: It shall be unlawful for any person under the age as set by the State to obtain any alcoholic liquor in any establishment licensed by the City or to misrepresent his or her age for the purpose of purchasing or otherwise trafficking in alcoholic liquor.
- C. Posting Signs: In every tavern or other place in the City where alcoholic liquor is sold, there shall be displayed at all times in a prominent place a printed card which shall read as follows:

*WARNING TO MINORS*

*You are subject to a fine up to \$750.00 under the ordinances of the City of Genoa if you purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor. (Ord 2015-19, 10-06-2015)*

- D. Presence Of Minors Prohibited: It shall be unlawful for any holder of a retail liquor dealer's license, his agent or employee, to suffer or permit any person under the age of twenty one (21) to remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises are located; provided, that this subsection shall not apply to any minor who is accompanied by his or her parents or guardian, or to any licensed premises which derives its principal business from the sale or service of commodities other than alcoholic liquor. (1978 Code §37.27; 1993 Code)
- E. Employment: It shall be unlawful for any licensee to engage, employ, or permit any person, with or without compensation, under the age of twenty one (21) years to sell, give, serve or deliver alcoholic liquors. No licensee, his agent or employee shall permit any person under the age of twenty one (21) years to work behind the bar or pour or mix any alcoholic liquor as an employee of such licensee. No licensee, his agent or employee shall permit any person under the age of twenty one (21) to tend bar, to serve or dispense or in any other way, to handle alcoholic liquor upon his licensed premises; provided, that persons of the age eighteen (18) years and older may serve alcoholic liquor in Class E-1 and E-2 establishments as waiters and waitresses only. (Ord. 96-11-27, 2-13-1996; amd. Ord. 97-83-3, 2-4-1997)
- F. Allowing Liquor To Minors: It shall be unlawful to sell, give or deliver alcoholic liquor to any minor.
- G. Employment Of Underage Persons: It shall be unlawful for any person under the age of twenty one (21) to tend any bar, or to draw, pour, mix or sell any alcoholic liquor in any licensed retail premises.

H. Revocation Of License: In addition to all other fines and penalties, the Mayor may revoke the retail liquor dealer's license for any violation of this Section. (1978 Code §37.27)

### **3-3-20: SALES TO CERTAIN PERSONS PROHIBITED:**

It shall be unlawful for any holder of an alcoholic liquor dealer's license to sell, deliver or give any alcoholic liquor to any intoxicated person or to any person known to him to be an habitual drunkard, spendthrift, insane, feeble-minded, or distracted person. Sale to a person creating a public disturbance shall be prohibited. (1978 Code §37.28)

### **3-3-21: PROHIBITED ACTS AND CONDITIONS:**

A. Peddling Of Liquor Prohibited: It shall be unlawful to peddle alcoholic liquor in the City. Peddling is defined as selling and/or offering for sale alcoholic liquor outside of designated licensed establishments, on any sidewalk, street, alley or City right of way within the City. (1978 Code §37.19)

B. Open Container: It is unlawful for any person to consume alcoholic liquor or to possess alcoholic liquor, other than in the original package and with the seal unbroken, in the public parks, streets, Municipal buildings, alleys or highways, or other places of public assembly in the City. (1978 Code §37.29)

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)

### **3-3-22: LIST OF LICENSES KEPT:**

The Mayor, as Liquor Commissioner, shall keep, or cause to be kept, a complete record of all such licenses issued by him. This record of licenses may be reviewed semiannually by the Liquor Board. (1978 Code §37.16)

### **3-3-23: ENTRY POWERS:**

The Mayor shall authorize the Police Department or any authorized law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act or this Chapter or any rules and regulations adopted by the State Liquor Commission or the Genoa Liquor Commission have been violated. (1978 Code §37.14)

### **3-3-24: REVOCATION OR SUSPENSION OF LICENSE:**

The Mayor may revoke or suspend any liquor license for any of the following:



- A. The licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance enacted by the Council of the City including this Chapter, or any applicable rules and regulations adopted by the Mayor or by the State Liquor Commissioner;
- B. The willful making of false statement as to a material fact in the application for such license;
- C. The permitting of an unlawful, disorderly or immoral practice upon the licensed premises;
- D. The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the Mayor; and
- E. The State Liquor Commissioner has suspended or revoked the license of the licensee. (1978 Code §37.35)

**3-3-25: PENALTY:**

Any person who violates this chapter and has been issued a citation signed by a City Law Enforcement Officer of this chapter shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-2011; Ord. 2021-05, 03-02-2021)

**3-3-26: EFFECT OF PROVISIONS:**

All of the provisions of this Chapter that relate directly to the liquor license holder, except the fee schedule as related to in Section 3-3-7 of this Chapter shall be complied with by the liquor license holder within forty five (45) days from the effective date hereof. The annual fee schedule as covered in Section 3-3-7 of this Chapter shall become effective upon the next date for renewal of the liquor license. Upon the effective date hereof, each and every other provision of this Chapter shall be in effect. (1978 Code §37.38)

## **CHAPTER 4 AMUSEMENTS**

### **SECTION:**

**3-4-1: Theatricals; Exhibitions**

**3-4-2: Money/Credit Operated Video Gaming Machines**

**3-4-3: Music Devices**

**3-4-4: Bowling Alleys**

**3-4-5: Carnival Permit**

**3-4-6: Adult-Use Cannabis Business Establishments**

### **3-4-1: THEATRICALS; EXHIBITIONS:**

- A. License Required: It shall be unlawful to hold any public theatrical or other exhibition, show or amusement in the City without a license therefor.
- B. License Fee: The license fee for any amusement licensed under this Section is three dollars (\$3.00) for the first performance and one dollar (\$1.00) for each succeeding performance.
- C. Prohibited Entertainments: It shall be unlawful to exhibit or permit any immoral or indecent theatrical or other exhibition, show or amusement in the City.
- D. Amusement Hall or Theater: The owner or lessee of any hall or theater may take out a license to hold therein any public theatrical or other exhibition, show or amusement, and when such license is issued then, during the time the license is in force, no other license shall be required. The license fee for such hall or theater is five dollars (\$5.00) per year. (1978 Code §32.01)

### **3-4-2: MONEY/CREDIT OPERATED AND VIDEO GAMING MACHINES:**

#### **A. DEFINITIONS:**

**MONEY/CREDIT OPERATED MACHINE:** Any machine which, upon the insertion of credit card, money, slug, token, plate, or disk, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. This includes, but is not limited to, such machines as coin-operated pool tables, shuffleboards, dart boards, marble machines, pin-ball machines, electronic video games, skee ball, mechanical grab machines, and all games which are electronic or electronically operated, with the exception of music devices, video gaming machines and cigarette machines.

VIDEO GAMING TERMINAL: As defined in 230 ILCS 40/5 *et. seq.* as now or hereafter amended.

- B. License Required: It shall be unlawful for any person to have or keep for use or to permit to be used in any place frequented by the public in the City any money/credit operated machine or video gaming terminal without a license therefor.
- C. Application for License: Application for license hereunder shall set forth the name, address, and phone number of the applicant, the type of machine, the description of the machine and the address of its location of which the machine may be operated. The license issued shall be affixed in a conspicuous place.
- D. License Fees: the fee for any annual license shall be pursuant to Section 1-4-1 of this Code. If a machine owner wishes to switch out a machine following approval of a license for said machine, the owner must notify the City of Genoa.
- E. Conditions of License:
  - 1. Operator to be licensee: it shall be unlawful for any person other than the licensee to operate under any such license. No person so licensed or his employees shall be directly or indirectly interested or operate or work under any other license issued hereunder.
  - 2. Gambling Prohibited: No person licensed hereunder shall allow or permit any gambling in or about the premises so licensed unless such gambling takes place in accordance with the Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, as now or hereafter amended. (Ord 2012-7, 7-17-2012)
  - 3. Closing Hours: Closing hours shall be the same as those set out in the establishment's liquor license, pursuant to Section 3-3-13 of this Code. (Ordinance 2018-4, 2-20-2018)

### **3-4-3: MUSIC DEVICES:**

- A. License Required: No person shall place any juke box or any similar amusement device, from which music may be obtained by the deposit of money or other token, in any place for the amusement of the public without a license for each such machine.
- B. Application for License: Application for license hereunder shall give the name, address and phone number of the applicant, the description of the machine, including the factory, model or other distinguishing number or identification, the denomination of the money required for its operation or the value of the token used in lieu thereof and the address of which its machine may be operated. The license issued shall be affixed in a conspicuous place on the machine licensed.

- C. License Fee: The license fee for any such amusement device is pursuant to Section 1-4-1 of this Code. (Ordinance 2018-04, 02-20-2018)

### **3-4-4: BOWLING ALLEYS:**

- A. License Required: It shall be unlawful for any person to have or keep for use or to permit to be used in any place frequented by the public in the City any bowling alley without a license therefor.
- B. Application for License: Application for license hereunder shall give the name of the applicant, address, phone number and its address of its bowling alley. The license issued shall be displayed in a conspicuous place where the bowling alley is operated.
- C. License Fee: The license fee for any such amusement device is pursuant to Section 1-4-1 of this Code. (Ordinance 2018-04, 02-20-2018)

### **3-4-5: CARNIVAL PERMIT:**

For the purposes of this chapter, the following terms shall have the meanings indicated:

Carnival: An enterprise which offers amusements or entertainment to the public by means of one or more amusement attractions or amusement rides.

#### **A. Permit required**

1. Council approval required.
2. No person, firm, corporation or association shall set up, conduct or operate any carnival in the City of Genoa without first securing a permit therefor from the Finance Office Manager or such person as he/she may designate. The permit shall be granted upon the condition that there shall not be set up or operated any gambling device, lottery, number or paddle wheel, number board, punch board or other game of chance, or any lewd, lascivious or indecent show or attraction making an indecent exposure of the person or suggesting lewdness or immorality.
3. All carnival permit requests require the approval of the Genoa City Council.

#### **B. Application**

1. Application for a permit pursuant to the provisions of this chapter shall be made on a form provided by Finance Office Manager or such person as he/she may designate.
2. The applicant shall truthfully state in full the information requested on the application, as follows:

- a. If the carnival is to be conducted by a person, the name and address of present place of residence and business address if other than present residence address.
  - b. If the carnival is to be conducted by a firm, corporation or association, name and business address of such firm, corporation or association.
  - c. Location at which the carnival is to be conducted.
  - d. Number of rides and booths to be operated.
  - e. Date or dates upon which the carnival is to be held, not to exceed seven consecutive days.
  - f. Names of two municipalities in which the applicant or any firm, corporation or association represented by the applicant has most recently conducted carnivals.
  - g. Whether the applicant or any firm, corporation or association which he/she is employed by or represents has ever been convicted of a violation of this chapter or any ordinance of any other municipality regulating carnivals and, if so, the location of such violation.
  - h. Whether the firm, corporation or association applying for the permit has in the past five years had any accidents which resulted in bodily injury to a person, or resulting in damage to property exceeding \$500.00 in value.
  - i. A statement by the applicant that the carnival will be conducted in compliance with all applicable statutes of the State of Illinois and ordinances of the City of Genoa relating to the public health, safety and fire protection.
  - j. Proof of valid amusement ride permit issued by the Illinois Department of Labor.
  - k. A statement that the carnival operator does not employ any child sex offenders or violent offenders against youth.
  - l. A statement that none of the carnival operator's employees are fugitives from Illinois or any other state's law enforcement agencies.
  - m. Whether the operator has in the last five (5) years had any accidents which resulted in bodily injury to a person, or resulting in damage to property exceeding \$500.00 in value.
1. All statements made by the applicant upon the application or in connection therewith shall be under oath.
  2. A site plan showing the layout of the event must be presented with the application.

C. Insurance; indemnification of City

1. The applicant must provide a certificate of insurance for a minimum of \$2,000,000 general liability coverage, including bodily injury, property damage, workers' compensation and motor vehicle liability, naming the City as an additional insured; and a letter from the insurer stating there are no outstanding claims against the policy.

2. An applicant must agree to hold harmless and indemnify the City, its officials, employees and successors and assigns for any and all liability, damages, suits, claims and demands for damages at law or in equity it incurs as a result and arising either directly or indirectly out of the carnival, including but not limited to damages and attorney's fees.

#### D. Employees

1. The City shall ascertain the following information from a carnival operating regarding its carnival workers:
  - a. An accurate and comprehensive list of carnival workers present on site, including, for example, driver's license information, social security number, etc. This list must be available for inspection on site.
  - b. Whether the operator conducts pre-employment or random drug screening of its employees.
  - c. Whether the operator maintains a mobile drug testing unit in order to test for controlled substances immediately prior to the day's operations.
  - d. Whether the operator conducts a criminal background check of potential employees.
  - e. Whether the operator checks the Illinois Sex Offender Registry website prior to hiring an employee.
2. All carnival employees must keep government-issued photo identification (such as a state-issued i.d. or driver's license) on their person at all times during the public event. The government-issued identification must be presented at any time to an officer of the City upon request.
3. No employee, agent or other representative of the carnival may live, sleep, or otherwise remain overnight on the premises of the carnival. Persons providing security on the site may receive an exemption from this requirement from the Police Department.
4. Proof of compliance with the Illinois Carnival and Amusement Rides Safety Act.

#### E. Denial of Permit

No Such permit shall be issued to:

1. Any person, firm, corporation or association which has been convicted of a violation of any provision of this chapter, or any ordinance of any other municipality regulating carnivals; or
2. Any person, firm, corporation or association having a poor reputation among municipalities in which such person, firm, corporation or association has previously conducted a carnival.

#### F. Issuance of permit; revocation

1. If the applicant is found by the City Council to be fully qualified as provided herein, the Finance Office Manager or such person as he/she may designate shall issue a permit pursuant to the provisions of this chapter, upon the payment of the fee therefor. The City Council may place conditions on the public event as deemed appropriate to protect the health, safety, and welfare of the public.
2. The City Mayor or such person as he/she may designate shall revoke any permit issued hereunder if the holder thereof is found liable for or convicted of a violation of this chapter, or of the statutes of the State of Illinois or ordinances of the City of Genoa relating to the public health, safety or fire protection. Such permit shall also be revoked if the holder thereof has made a false material statement in the application, or otherwise become disqualified for the issuance of a permit under the terms of this chapter.

#### G. Fee

1. The fee for a carnival permit shall be \$50; provided, however, that no fee shall be charged for any carnival where the same is sponsored by or given for the benefit of any religious, educational, charitable, social or fraternal nor for profit organization.

#### H. Regulations

Each person, firm, corporation or association conducting a carnival in the City of Genoa shall comply with the following regulations:

1. The carnival must be operated or sponsored by a not-for-profit group based in Genoa.
2. The operator and sponsor of the carnival shall each be wholly responsible for maintaining order and for keeping the site clean, free of trash, papers and other debris.
3. Trash containers in adequate number shall be placed in convenient locations for the use of the public.
4. The carnival operator must have a valid amusement ride permit issued by the Illinois Department of Labor for each amusement ride in use at this site. This permit must be displayed on the operator's equipment.
5. The carnival operator must provide proof of insurances and the amount of general liability insurance maintained.

6. Amusement ride maintenance and repair records for the past 18 months must be available for inspection on site.
7. Each ride must have the appropriate technical manuals and user's guides on site and available for inspection.
8. Any procedures must be in compliance with the Outdoor Amusement Business Organization standards.
9. Any procedures must be in compliance with the United States Consumer Product Safety Commission standards relating to amusement rides.
10. The carnival operator must comply with the Illinois Carnival Amusement Rides Safety Act.
11. On duty police officers and all other City officials acting in their official capacity shall have free access to the grounds and all booths, shows, and concessions on such grounds at all times to ensure that the event is in compliance with this section.

#### I. Availability of Copy of Permit

One copy of the permit, as provided for in this chapter, shall be kept in the possession of the manager of the carnival and shall be produced and shown to any sheriff, police officer or member of the public upon request. (Ord 2013-17, 11-5-2013)

### **3-4-6: ADULT-USE CANNABIS BUSINESS ESTABLISHMENTS:**

#### A. Definitions:

**ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:** An adult-use cannabis business establishment means an adult-use cannabis cultivation center, craft grower, processing organization or processor, infuser organization or infuser, dispensing organization or transporting organization or transporter.

**ADULT-USE CANNABIS CRAFT GROWER:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization or processor, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS CULTIVATION CENTER:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the



Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS DISPENSING ORGANIZATION:** A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:** An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

- B. **Permit Required:** It shall be unlawful to operate an adult-use cannabis business establishment in the City without first registering the business with the City. The number of registrations for adult-use craft growers, adult-use cannabis cultivation centers, adult-use cannabis dispensing organizations, adult-use infuser organizations or infusers, adult-use cannabis processing organizations or processors, or adult-use cannabis transporting organizations or transporters shall be limited to one within the City. An adult-use cannabis business establishment registration required by this chapter shall be posted in a conspicuous place in the premises. It shall also be a prerequisite to any such adult-use cannabis business establishment that such establishment also post in plain view in a conspicuous place on the premises a valid license from the State of Illinois.

- C. Application for Permit: Any person desiring to register an adult-use cannabis business establishment shall complete the application in accordance with Title 3, Chapter 1, General License and Permit Provisions. The registration for an adult-use cannabis business establishment shall include a copy of the license issued by the Illinois Department of Financial and Professional Regulation or the Illinois Department of Agriculture.
- D. Permit Fee: There shall be no permit fee for registration of an adult-use cannabis business establishment.
- E. Conditions of Permit:
  - 1. No Transfer of Registration: The transfer of any registration issued hereunder is expressly prohibited.
  - 2. Security Systems: The security system for adult-use cannabis business establishments shall be in compliance with the requirements of Chapter 11, Unified Development Ordinance, the Illinois Department of Agriculture and/or the Illinois Department of Financial and Professional Regulation.
  - 3. Fine, Suspension or Revocation of State License: No adult-use cannabis business establishment that has had its license from the Illinois Department of Agriculture or the Illinois Department of Financial and Professional Regulation, cancelled, suspended or revoked shall operate within the City. (Ordinance 2019-38, 12-17-2019)

## **CHAPTER 5 RAFFLES**

### **SECTION:**

- 3-5-1: Statute Adopted**
- 3-5-2: License Required**
- 3-5-3: Application for License; Fee**
- 3-5-4: Raffle Manager**
- 3-5-5: Information on chances**
- 3-5-6: Conduct of Raffles**
- 3-5-7: Records and Reprints**
- 3-5-8: Appeal from Denial of License**
- 3-5-9: Penalties**

### **3-5-1: STATUTE ADOPTED:**

Public Act 81-1365 is hereby adopted and made a part hereof by this reference. Any section, paragraph, sentence, clause or provision of this Chapter which is held to be in conflict with any section, paragraph, sentence, clause or provision of Public Act 81-1365 shall be considered null and void. (1978 Code §43.01)

### **3-5-2: LICENSE REQUIRED:**

No person shall conduct raffles or chances without having first obtained a license therefor pursuant to this Chapter. (1978 Code §43.02)

### **3-5-3: APPLICATION FOR LICENSE; FEE:**

- A. Individual raffles may be licensed upon proper application to the Finance Office by the use of application forms available at said office.
- B. All applications shall be presented not less than sixty (60) days prior to the issuance or sale of raffle chances, and such application shall be acted upon within thirty (30) days from the date of application.
- C. A fee of five dollars (\$5.00) shall be assessed for each application processed under this Chapter. (1978 Code §43.03)

### **3-5-4: RAFFLE MANAGER:**

The issuance of a license under this Chapter shall be conditioned upon the applicant designating a single raffle manager who shall supervise the conduct of the raffle. Such manager shall give a fidelity bond in an amount not less than treble the aggregate retail value of all prizes or merchandise awarded by licensee in a single raffle and further conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice be given, in writing, to the licensing authority not less than thirty (30) days prior to its cancellation. Any waiver of this bond requirement must be clearly indicated on the face of the license; however, no such waiver shall be granted unless the issuer of the license is provided with satisfactory evidence that such waiver is approved by the unanimous vote of the members of the licensed organization. (1978 Code §43.02)

### **3-5-5: INFORMATION ON CHANCES:**

Raffle chances (tickets) shall, 1) bear a number, 2) the name of the organization sponsoring the raffle, 3) the time and location at which the winning chances (tickets) will be determined, 4) the price of each chance (ticket), which is not to exceed two hundred fifty dollars (\$250.00), 5) whether it is necessary to be present to win, 6) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, which shall not exceed two hundred fifty thousand dollars (\$250,000.00) and 6) the maximum retail value of each prize awarded by a licensee in a single raffle, should there be more than one prize. (1978 Code §43.03) (amd. Ord. 2007-04,02-20-2007)

### **3-5-6: CONDUCT OF RAFFLES:**

The conducting of raffles is subject to the following restrictions:

- A. Raffle chances (tickets) may be issued or sold for a period not to exceed one hundred twenty (120) days.
- B. The entire net proceeds of any raffle must be devoted to the lawful purposes of the organization permitted to conduct that game.
- C. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.
- D. No person may receive any remuneration or profit for participating in the management or operation of the raffle.

- E. A licensee may rent premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under the Act <sup>5</sup>.
- F. Raffle chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license.
- G. No person under the age of eighteen (18) years may participate in the conducting of raffles or chances. A person under the age of eighteen (18) years may be within the area where winning chances are being determined only when accompanied by a parent or guardian. (1978 Code §43.03)

### **3-5-7: RECORDS AND REPRINTS:**

#### **A. Records Kept:**

1. Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.
2. Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license heretofore issued by the Department of Revenue of the State and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.
3. Records required by this Section shall be preserved for three (3) years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

- #### **B. Monthly Reports:** Each organization licensed to conduct raffles shall report monthly to its membership and to the licensing local unit of government its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required in this Chapter. (1978 Code §43.03)

### **3-5-8: APPEAL FROM DENIAL OF LICENSE:**

Any organization aggrieved by the denial of a license may appeal to the City Council by filing a letter of appeal with the City Clerk within ten (10) days of denial by the issuing authority, and such appeal will be heard at the next regular or special meeting of the City Council as the case may be. (1978 Code §43.04)

### **3-5-9: PENALTIES:**

Any violation of the provisions of this Chapter shall result in the revocation of any license issued pursuant to this Chapter in addition to the penalty provided in Section 14-1 of this Code. (1978 Code §43.05; 1993 Code)

## **CHAPTER 6**

### **SOLICITORS, PEDDLERS AND ITINERANT MERCHANTS**

#### **SECTION:**

- 3-6-1: Definitions**
- 3-6-2: License Required**
- 3-6-3: Application for License; Fee**
- 3-6-4: Investigation Procedure; Identification Card**
- 3-6-5: Issuance or Denial of License**
- 3-6-6: Contents of License**
- 3-6-7: Expiration of License; Extensions**
- 3-6-8: Restrictions on Licensee**
- 3-6-9: Revocation of License**
- 3-6-10: Appeal from Denial or Revocation of License**
- 3-6-11: Constitutional Guarantees**
- 3-6-12: Penalty**
- 3-6-13: Second Hand Resellers and Pawn Shops**

#### **3-6-1: DEFINITIONS:**

The following terms, as used in this Chapter, shall have the meanings ascribed to them below:

**ITINERANT MERCHANT:** A person engaged in business who conducts a temporary or transient business in the City of selling commodities, articles or services with the intention of continuing such business in the City for not more than one hundred twenty (120) days and who, in such business, uses, leases or occupies any part of the City for the display of such commodities, articles or in connection with the offering of such services.

**PEDDLER:** A person engaged in business who sells or offers for sale any commodity or article or service while traveling from place to place in the City or who sells or offers for sale and delivery from any vehicle or service and who carries such commodity or article with him for delivery at the time of sale or provides a service or offers or arranges for a service to be provided at the time of sale.

**PLACE TO PLACE:** Shall include residential, industrial and business establishments but shall not apply to the wholesale selling of commodities, articles for the further resale or use in industrial and business establishments.

**SOLICITOR:** A person engaged in business going from place to place in the City seeking orders or subscriptions for services or for commodities not carried with him at the time he is seeking orders or at the time of sale. (1978 Code §35.02)

### **3-6-2: LICENSE REQUIRED:**

It shall be unlawful for a peddler, itinerant merchant or solicitor, as defined in Section [36-1](#) of this Chapter to engage in such business within the City without first obtaining a license therefor in compliance with the provisions of this Chapter. (1978 Code §35.01)

### **3-6-3: APPLICATION FOR LICENSE; FEE:**

A. Information Required: Every peddler, solicitor and itinerant merchant shall, prior to the engaging in such activity, register with the Police Department and furnish, in writing, the following information:

1. Name and description of applicant.
2. Address, permanent and local.
3. A brief description of the nature of the business and the goods to be sold.
4. The name and address of the person by whom the applicant is employed or with whom he is associated.
5. The length of time the applicant wishes to be engaged in such activity.

B. License Fee: At the same time of filing the application, a fee of seventy-five dollars (\$75.00) shall be paid to the Finance Office to cover the costs of investigation.

C. License Nontransferable: Licenses shall not be assignable or transferable and shall be identified as a solicitor's license with identifying number and date of purchase. (1978 Code §35.03) (Ordinance 2018-35, 12-18-2018)

### **3-6-4: INVESTIGATION PROCEDURE; IDENTIFICATION CARD:**

A. Verification of Information Submitted: It shall be the duty of the Chief of Police or a person assigned by him to promptly make such verification of the information stated as the circumstances require and complete such investigation in not more than twenty (20) days after the filing of an application.

B. Waiting Period: It shall be unlawful for any person to engage as a peddler, solicitor or itinerant merchant within the City until such time has elapsed from the date on which he has submitted an application and furnished the information required by this Chapter, unless prior to the expiration of that twenty (20) day period, the Chief of Police advises that registrant that the facts stated by him in compliance with the registration requirement have been sufficiently verified.



C. Every peddler, solicitor, and itinerant merchant shall, prior to the engaging in such activity, register with the Police Department and furnish, in writing, the names of at least two (2) municipalities within a 50 mile radius of the City of Genoa who will certify as to the applicant's good character and business responsibility.

D. Identification Card:

1. Card Required: Every peddler, solicitor and itinerant merchant shall, prior to engaging in such activity in the City, receive from the Police Department an identification card bearing the words *Genoa Solicitor's License*<sup>7</sup> together with a serial number.
2. Lost or Stolen Card: In case any such card is lost or stolen or mutilated, it is the duty of the peddler, solicitor or itinerant merchant to whom it was issued to report such fact to the Police Department, and upon his statement of the circumstances and such investigations as the Police Department considers necessary, a duplicate card shall be issued to him.
3. Issuance of Card; Records Kept: It shall be the duty of the Chief of Police or his representative, not more than twenty-one (21) days after any peddler, solicitor or itinerant merchant has furnished the information required of him in this Chapter, if investigations are satisfactorily completed as provided in this subsection, to issue to such peddler, solicitor or itinerant merchant a card as described herein and to keep a record of the serial number of each card issued and the name of the person to whom it has been issued.

E. False Information Prohibited: It shall be unlawful for any person to engage as a peddler, solicitor or itinerant merchant within the City if any of the information furnished by him, as required by this Chapter, which is material to his character and responsibility or to the activity he proposed to engage in, has been falsely stated or is adverse to his character.

F. Display of License: It shall be the duty of any person engaging as a peddler, solicitor or itinerant merchant within the City to show the license issued to him by the City as provided in this Section to the person to be solicited at the time of introduction upon request. (1978 Code §35.04) (Ordinance 2018-35, 12-18-2018)

### **3-6-5: ISSUANCE OR DENIAL OF LICENSE:**

A. All such applications, upon being processed by the Police Department, shall be submitted to the Finance Office Manager with a determination as to whether or not all requirements of this Chapter have been met. If the applicant does not meet the above requirements, the Police Chief shall advise the Finance Office Manager that no license will be issued. If the above requirements are satisfactorily met, then a license will be issued (1978 Code §35.05; Ord 2015-19, 10-6-2015)

- B. If the application for license is desired, such applicant may request and shall be granted a hearing on the matter before the City Council, as provided in Section [3-610](#) of this Chapter. (1993 Code)

### **3-6-6: CONTENTS OF LICENSE:**

The license herein required shall express the time it is to operate and continue, the name of the person and the article, thing or merchandise licensed, identification of a vehicle, if any, and whether said licensee will pass from place to place or remain at a fixed point or place in said City. (1978 Code §35.05)

### **3-6-7: EXPIRATION OF LICENSE; EXTENSIONS:**

- A. Term of License: Licenses shall be granted for the period requested, provided no license shall be granted for a period in excess of one year from the date of issuance; provided further, if such licensee does not actively engage in business within the City during a ninety (90) day period, such person will inform the Police Department when he is ready to resume business activities.
- B. Continuance Requests: Persons requesting continuance of licensing after the expiration period may do so upon payment of twenty-five dollars (\$25.00) to cover cost of issuance of a new license and upon signing a form which specifies that no change has been made from the original application. (Ordinance 2018-35, 12-18-2018)
- C. Further Investigations: Should change of such a nature be made as to warrant further investigation, such application will be handled in the method as specified for original licensing. (1978 Code §35.08)

### **3-6-8: RESTRICTIONS ON LICENSEE:**

- A. Invitation by Occupant: No peddler, solicitor or itinerant merchant or canvasser shall enter upon any private residence in the City without having been requested or invited to do so by the owner or occupant of said residence for the purpose of pursuing his business of peddling or soliciting, if there is posted at a place that can readily be seen by one approaching said residence a sign bearing the legend No Peddlers, No Solicitors or words of similar import.

- B. Prohibited Hours: No peddler, solicitor or itinerant merchant shall go upon any private residence in the City for the purpose of pursuing his business of peddling or soliciting without having been requested or invited to do so by the owner or occupant of said residence before the time of ten o'clock (10:00) A.M. and after the time of four o'clock (4:00) P.M.
- C. Noise Prohibited: No peddler, solicitor or itinerant merchant shall carry on his trade by means of loud outcries or other noises that unreasonably alarm residents of the City. (1978 Code §35.07)

### **3-6-9: REVOCATION OF LICENSE:**

The licenses issued pursuant to this Chapter may be revoked by the Mayor after notice for any of the following causes. Notice of revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint:

- A. Any fraud, misrepresentation or false statement contained in the application for license.
- B. Conviction of any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, services or merchandise. C. Any violation of this Chapter.
- D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude. (1978 Code §35.05)

### **3-6-10: APPEAL FROM DENIAL OR REVOCATION OF LICENSE:**

Any person aggrieved by the decision of the City in regard to the denial of application for license as provided in Sections 3-6-5 and 3-6-6 of this Chapter or in connection with the revocation of a license as provided for in Section 3-6-9 of this Chapter shall have the right to appeal to the City Council. Such appeal shall be taken by filing a written statement setting forth the grounds for the appeal with the City Clerk within fourteen (14) days after notice of the decision to deny or revoke has been mailed to such person's last known address. The City Council shall then schedule a hearing on such appeals at the next regular Council meeting. Notice of such hearing shall be given to such persons in the same manner as provided in Section 3-6-9 of this Chapter for notice of hearing on revocation. (1978 Code §35.06)

### **3-6-11: CONSTITUTIONAL GUARANTEES:**

No provision of this Chapter shall be construed so as to deprive any person of his right of freedom of religion or freedom of speech as guaranteed by the Constitution of the State of Illinois or the Constitution of the United States or as any infringement upon businesses engaged in interstate commerce. (1978 Code §35.09)

### **3-6-12: 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)

### **3-6-13: Pawn shop and second hand resellers:**

- A. Every pawnbroker or scrap and precious metals dealers shall report and document the below listed information for each and every transaction conducted during each day they are open for business by the end of that business day. All information shall be recorded in the English language.
- B. A transaction shall consist of all articles brought in to a pawnbroker or scrap and precious metals dealers for sale, barter, trade, pledge or pawn by an individual (pawner/seller) at the same time and date, and includes the sale of non-junk/scrap articles by a pawnbroker or scrap and precious metals dealers to another person. Articles brought in to a pawnbroker or scrap and precious metals dealers by an individual (pawner/seller) for sale, barter, trade, pledge or pawn at different times on the same date by the same person shall be considered as separate transactions, regardless of how short the difference in time is between those transactions. Separate transactions, either from the same person or different persons, shall not be combined and reported collectively.
- C. A photographic image of a photo ID card of the seller, sufficiently clear to allow the information on the ID to be read, must be obtained for each sale. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States, and must include the pawner/seller's first and last name, current address, date of birth, physical descriptors, and a valid phone number. In the event the card is valid but does not contain the seller's current address, the licensee must separately record and report the current address.
- D. Any jewelry or precious metals that are purchased by a scrap or precious metals dealer shall stay in its original state and not be melted or molded for a period of 10 working days.
- E. 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, with a mandatory court appearance. (Ord. 2012-1, 1-3-2012)

# **CHAPTER 7**

## **MOBILE FOOD VENDORS**

### **SECTION:**

**3-7-1: Definitions**

**3-7-2: Permit Required**

**3-7-3: Application for Permit; Fee**

**3-7-4: Requirements**

**3-7-5: Investigation of Applicant**

**3-7-6: Issuance or Denial of Permit**

**3-7-7: Expiration of Permit; Renewal**

**3-7-8: Revocation of Permit**

**3-7-9: Appeals**

### **3-7-1: DEFINITIONS:**

For the purpose of this chapter, the following words and terms are hereby defined:

**ANNUAL PERMIT:** An annual permit is required which is valid for the duration of the City of Genoa's Fiscal Year which is May 1 to April 30. The fee will be pro-rated for a partial year.

**MOBILE FOOD VENDOR:** A food vending business that prepares/serves food from a permitted vehicle, trailer, or cart.

**SPECIAL/ SINGLE EVENT:** For the purposes of mobile food vending, a special/single event shall mean a temporary operation and location, as part of an event or gathering such as fundraisers, company picnics, block parties, weddings, etc.

### **3-7-2: LICENSE REQUIRED:**

It shall be unlawful for a mobile food vendor as defined in section 3-7-1 of this chapter to engage in such business within the City without first obtaining a permit in compliance with the provisions of this chapter. Mobile Food Vendors operating as non-profits or during community events do not require a permit. Permits allow year-round operation.

### **3-7-3: APPLICATION FOR LICENSE; FEE:**

- A. Application: Every mobile food vendor shall, prior to engaging in such activity, make application to the City for a mobile food vendor permit with the information below. If the vendor wishes to operate multiple mobile food vendor vehicles, trailers, or carts, a permit is required for each vehicle, trailer, or cart.

1. Name, address, phone number, email address, and Federal employer identification number of the business;
  2. Name, address, phone number and email address of applicant and the applicant's relationship to the mobile food vendor owner;
  3. A brief description of the nature of the business;
  4. The length of time and the hours of operation the applicant wishes to be engaged in such activity;
  5. A picture of the vehicle, trailer, or cart including any license plate number or other means of identification;
  6. A map depicting the location of the vehicle, trailer, or cart and identifying any additional requirements as required in section 3-7-4 of this chapter. Minor amendments to this permit application may be submitted in writing and require approval of City Staff. Alternative locations require Staff approval within a reasonable time frame. New locations will be added as an addendum to the permit with no additional fee.
  7. A copy of the Mobile Vending Unit Permit from the County Health Department, unless the event is a private residential event. A letter from the DeKalb County Health Department certifying that a permit is not necessary, may be substituted.
- B. Fee: At the same time of filing the application, a fee intended to cover the cost of the evaluation, investigation, and miscellaneous administrative costs shall be delivered to and payable to the City.

The following fees shall be paid to the City by the applicant:

1. Special/single event mobile food vendor permit \$50.
  2. Reoccurring mobile food vendor permit: \$75 per month or \$150 annually.  
(Ordinance 2021-10, 04-05-2021)
- C. Felony Conviction or False Information: It shall be unlawful for any person to engage as a mobile food vendor within the City if any of the information furnished by the applicant, as required by this chapter, which is material to his or her character and responsibility or to the activity he or she proposed to engage in, has been falsely stated or adverse to his or her character, or if he or she has been convicted of a felony in the past five (5) years.

### **3-7-4: REQUIREMENTS:**

- A. Safety Considerations: Permits for the operation of mobile food vending will be reviewed on a case-by-case basis with an emphasis on public safety. Zoning, location, hours of operation, parking requirements, lighting, etc., are among the issues which may be considered. A special/single event mobile food vendor is required to obtain a single event mobile food vendor permit.
  
- B. Mobile Food Vendors: Mobile food vendors are only permitted to operate in the City of Genoa's Commercial, Business and Civic, Industrial Districts, and institutional uses, provided the location meets the following:
  - 1. Each vendor must receive written authorization from the property owner or City if public land or right of way on the form provided by the City. The form must be submitted to the City prior to permit approval.
  
  - 2. The vehicle, trailer, or cart, cannot be parked:
    - a. In front of the front or side facades of a restaurant.
  
    - b. Directly across the street from restaurant facades.
  
    - c. 25' on either side of either (a) or (b).
  
    - d. Within the site-triangle or in a space that will limit a driver's visibility.
  
  - 3. The provisions set forth in 3-7-4 B.2 may be waived if permission is received by the City in writing from the impacted business owners.
  
  - 4. Mobile food vendors shall not operate before 6:00 AM or after 10:00 P.M.
  
- C. General Requirements:
  - 1. Signs:
    - a. Only one free-standing menu sign and one message board sign are permitted within 5 feet of the mobile food vendor vehicle.
  
    - b. Only one temporary/portable location sign is permitted, however, it must:
      - i. Only be displayed during the mobile food vendor's operating business hours.
  
      - ii. Be within 400 feet from the edge of the property in which the mobile food vendor vehicle is located.

- iii. Only be placed on public right-of-way.
  - iv. Not be placed at any major intersection, because it could cause a dangerous distraction for drivers and adds to visual clutter of the community.
2. **Public Health Safety:** All mobile food vendors shall meet health and sanitation requirements. Food may only be dispensed from a properly sanitized conveyance licensed by the DeKalb County Public Health Department. Applicants shall demonstrate proof of valid safety permit from the DeKalb County Health Department and comply with all required regulations during the duration of the City's permit. Failure to maintain a food safety permit from the DeKalb County Health Department will result in an immediate termination of the City's mobile food vendor permit.
  3. **Fire and Life Safety:** All mobile food vendors must have their trucks, trailer, or cart inspected by the City to insure that fire and life safety requirements are met. Mobile Food vendors preparing food on-site shall conform with NFPA standards for "Mobile and Temporary Cooking Operations" (NFPA 1: Fire Code, Ch 50.7 and annex "B") and standards for "Ventilation Control and Fire Protection of Commercial Cooking Operations" (NFPA 96) and ensure gas or fuels are separated from the cooking/serving area and smoke and carbon monoxide detectors are installed. A mobile food vendor may instead present the City with an inspection report from the Cities of Sycamore or DeKalb that was completed within the last 12 months to insure that fire and life safety requirements are met.
  4. **Safety Inspections:** Any vehicle over eight thousand (8,000) pounds and trailers with a gross weight over five thousand (5,000) pounds shall obtain an Illinois Department of Transportation Certificate of Safety. Safety inspections are required every six (6) months. Garages or service stations licensed by the Illinois Department of Transportation (IDOT) may conduct safety inspections.
  5. **Advertisement by Sound and Light:** No mobile food vendor shall carry on his or her trade by means of loud outcries, electronic amplifications, music, or other noises, bright lights, blinking, or moving lights.
  6. **Sanitization:** Mobile food vendors shall have access to a toilet with hand sanitization, in accordance with the DeKalb County Health Department regulations, at all hours that the facility is open for business
  7. **Waste:** Mobile food vendors shall provide a stable waste receptacle for public use that is emptied and maintained on a regular basis.



8. Electricity: If any power is required, it shall be protected with ground fault circuit interrupters and be provided through a properly sized, UL approved and City inspected connection.
9. Post Permit Inspection: The City will conduct inspections to ensure compliance with the provisions of this chapter as deemed necessary on a complaint or concern basis. Similar to Health Department inspections, notice is not required. A Mobile Food Vendor may not unreasonably withhold permission for inspection. A re-inspection fee of twenty-five (\$25.00) may be charged for failed inspections.
10. Traffic: The Chief of Police must approve the location which may not impede traffic or threaten public safety.
11. Lighting: Operations taking place at dusk and in the evening require sufficient, as determined by the City inspector, interior and exterior lighting for the safety of operators, customers, and nearby traffic.
12. Winter parking locations and times may be subject to additional requirements as prescribed by the Director of Public Works and/or Police Chief.
13. Sales Tax Reporting: Mobile Food Vendors shall report and pay sales taxes, with such sales taxes being reported as originating within the City, where required. If it is found that sales tax from those sales occurring in the City by a Mobile Food Vendor, the City may revoke or refuse to renew the Mobile Food Vendor's permit. (Ordinance 2021-10, 04-05-2021)

### **3-7-5: IDENTIFICATION OF APPLICANT:**

- A. Verification of Information: The City shall promptly submit the complete application to the Police Department for verification. The Police Department shall complete the verification and investigation in no more than fourteen (14) days.

### **3-7-6: ISSUANCE OR DENIAL OF PERMIT:**

- A. Submittal to the City:
  1. All such applications, upon being processed by the Police Department, shall be submitted to the City with a determination as to whether or not all requirements of this chapter have been met.
  2. If the applicant does not satisfactorily meet any of the above requirements or background verification, no permit should be issued. If the above requirements are satisfactorily met, then a permit shall be issued.
- B. Contents of Permit Transferability:

1. The permit herein required shall expire on the expiration date.
2. Permits shall not be assignable or transferable and shall be identified with an identifying number, date of purchase, and expiration date.
3. Each registrant shall affix his signature to the “mobile food vendor permit”.

### **3-7-7: EXPIRATION OF PERMIT; EXTENSIONS:**

- A. Mobile food vendor permit extensions may be granted for time periods within and prorated for each fiscal year of May 1 to April 30.

### **3-7-8: REVOCATION OF PERMIT:**

- A. Cause for Revocation: The permits issued pursuant to this Chapter may be revoked, after notice, for any of the following causes:
  1. Any fraud, misrepresentation, or false statement contained in the application for permit.
  2. Any violation of this Chapter.
  3. Conviction of the permittee of any felony or of a misdemeanor involving moral turpitude.
  4. If it is found that sales tax for those sales occurring in the City has not been reported to the City. (Ordinance 2021-10, 04-05-2021)
- B. Notice of Revocation: Notice of revocation of a permit may be issued verbally by a Police Officer and/or shall be given in writing and set forth specifically the ground for revocation.

### **3-7-9: APPEALS:**

- A. Any person aggrieved by the decision of the City regarding the denial of an application for a permit as provided in section 3-7-6 of this chapter or in connection with the revocation of a permit as provided for in section 3-7-8 of this chapter shall have the right to appeal to the City Council.
- B. Such appeal shall be taken by filing a written statement setting forth the grounds for the appeal with the City within fourteen (14) days after notice of the decision by the City has been mailed or emailed to the applicant’s last known address or issued verbally by a Police Officer.

- C. The City Council shall schedule a hearing on such appeal at the next regular City Council meeting provided there is at least ten (10) days before the Council meeting. Written and emailed notice of hearing shall be given to such person in the same manner within seven (7) days of its receipt.

## **CHAPTER 8 JUNK YARDS AND JUNK DEALERS**

### **SECTION:**

- 3-8-1: Definitions**
- 3-8-2: Board of Investigators**
- 3-8-3: Licenses Required**
- 3-8-4: Applications for Licenses**
- 3-8-5: License Fees**
- 3-8-6: Investigation; Approval and Issuance of Licenses**
- 3-8-7: City Council Approval Required**
- 3-8-8: License Term; Renewals**
- 3-8-9: License Nontransferable**
- 3-8-10: General Operating Requirements**
- 3-8-11: Inspections**
- 3-8-12: Revocation or Suspension of License**
- 3-8-13: Compliance by Existing Junk Dealers**

### **3-8-1: DEFINITIONS:**

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Chapter:

**BUSINESS PREMISES or PREMISES:** The area of a junk yard as described in a junk dealer's license or application for license, as provided for in this Chapter.

**ITINERANT JUNK DEALER:** An individual (natural person) who buys, sells, collects or delivers junk within the City as a business or employment within the City but who is not an operator of a junk yard within the City or an employee of such an operator.

**JUNK:** Old iron, steel, brass, copper, tin, lead or other base metals, old cordage, ropes, rags, fibers or fabrics, old rubber, old bottles or other glass, bones, wastepaper and other waste or discarded material which might be prepared to be used again in some form and any or all of the foregoing and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts, but "junk" shall not include materials or objects accumulated by a person as by-products, waste or scraps from the operation of his own business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.

**JUNK DEALER:** A person who operates a junk yard, as defined herein, within the City.

**JUNK YARD:** A yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk, as defined herein, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

**PERSON:** Any person, firm, partnership, association, corporation, company or organization of any kind. (1978 Code §34.01)

### **3-8-2: BOARD OF INVESTIGATORS:**

- A. **Board Established:** A Board of Investigators consisting of the City Health Officer, the Fire Chief, the Chief of Police and the building inspector for the City is hereby created with the Chief of Police as chairman.
- B. **Organization:** Except where otherwise provided, a majority of the members of the Board shall constitute a quorum. The Board shall appoint a secretary for itself from among its membership or from the employees of the City, adopt its own procedural rules and keep a record of its proceedings and transactions.
- C. **Powers and Duties:** It is hereby made the duty of said Board to aid in the enforcement of all provisions of this Chapter, and for this purpose, any of the members of the Board or their duly authorized representatives shall have the right and are hereby empowered to enter upon any premises on which any business subject to the provisions of this Chapter is located, or about to be located, and inspect the same at any reasonable time. The Board shall then file its written report setting forth its findings and recommendations with the City Clerk for referral to the City Council for appropriate action at its next regularly scheduled meeting, at which time, the City Council may grant, renew, suspend or revoke any license provided for in accordance with the provisions of this Chapter. (1978 Code §34.03)

### **3-8-3: LICENSES REQUIRED:**

- A. **Resident Junk Dealer:** It shall be unlawful for any person to act as a junk dealer in the City, whether personally, by agents or employees, singly or along with some other business or enterprise, without first having obtained a license therefor from the City Council in accordance with the provisions of this Chapter. A junk dealer who operates more than one junk yard within the City shall be required to have in effect a separate license for each yard.
- B. **Itinerant Junk Dealer:** It shall be unlawful for any individual to act as an itinerant junk dealer in the City without first having obtained a license therefor from the City Council in accordance with the provisions of this Chapter. (1978 Code §34.02)

### **3-8-4: APPLICATIONS FOR LICENSES:**

An applicant for license under this Chapter shall file with the City Clerk a written application signed by himself if an individual, by all partners if a partnership and by the president or chief officer if a corporation or other organization, upon forms provided by the City Clerk, together with five (5) copies of such application and a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or materials:

#### **A. Resident Junk Dealers:**

1. Name, residence address and telephone number of each individual owner, partner or, if a corporation or other organization, each officer and director.
2. Trade names used during the previous five (5) years by the applicant and each person signing the application, along with the location of prior establishments.
3. Names and addresses of employees of each person signing the application during the previous five (5) years.
4. The trade name and address of the business on behalf of which application is made and its telephone number, if assigned.
5. The name, residence address and telephone number of each person employed or intended to be employed in the business as of the time the application is filed.
6. Exact address of location of the place where the business is or is proposed to be carried on, plus a sketch of the actual premises to be used in connection with the business, giving distance in feet and showing adjoining roads, property lines, buildings and uses.
7. A description of the materials with which any buildings to be used in connection with the licensed business are, or are to be made, a sketch giving distances, showing the location of such buildings on the business premises and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators and walls.
8. Such other information as the City Council shall find reasonably necessary to effectuate the purposes of this Chapter and to arrive at a fair determination of whether the terms of this Chapter have been complied with.

#### **B. Itinerant Junk Dealers:**

1. Name, residence address and telephone number.
2. Trade names and exact locations and descriptions of any businesses operated by applicant presently and during the past five (5) years.

3. Names and addresses of employers of applicant presently and during the past five (5) years.
4. Names and addresses of two (2) persons, other than employers or relatives (preferably local residents), who know applicant personally.
5. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any Municipal ordinance, the nature of the offense, the date of its commission and the punishment or penalty assessed therefor.
6. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which shall be two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishing manner.
7. Trade name, business address and telephone number (if assigned) of applicant or any employer of applicant in connection with his activities as an itinerant junk dealer and a description of such activities.
8. Such other information as the City Council shall find reasonably necessary to effectuate the purpose of this Chapter and to arrive at a fair determination of whether the terms of this Chapter have been complied with.

The City Clerk shall, as soon as practicable, but in any case not less than ten (10) days after receipt of such application, refer four (4) copies thereof to the Chief of Police for appropriate action to be taken by the Board of Investigators as herein provided. (1978 code §34.04)

### **3-8-5: LICENSE FEES:**

The annual fee to be paid for any license or renewal license issued hereunder shall be two hundred fifty dollars (\$250.00) in the case of junk dealers and twenty five dollars (\$25.00) in the case of itinerant junk dealers, due and payable upon, and to be computed as of May 1 of each year; except, that no fee shall be required of a nonprofit, charitable enterprise. (1978 Code §34.09)

### **3-8-6: INVESTIGATION; APPROVAL AND ISSUANCE OF LICENSES:**

#### **A. Resident Junk Dealers:**

1. Investigation of Applicant and Premises: Upon receipt of an application for a junk dealer's license as provided for herein, the chairman of the Board of Investigators

shall furnish copies of same to other members of the Board <sup>14</sup> . The Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. The proposed or existing premises and equipment with which the junk yard is being or is to be operated shall be examined by the other members of the Board or their duly appointed representatives.

- a. The Chief of Police shall endeavor to determine whether the applicant's business responsibility and moral character are satisfactory and that all agents or officers of applicant, if any, who will take part in the operation of such business are of good character and reputation and capable of operating the business in a manner consistent with the public health, safety and good morals.
- b. The building inspector for the City shall endeavor to determine whether any proposed or existing buildings or equipment with which the junk yard is being or is to be operated conform with the requirements of the Building Code <sup>15</sup> and the requirements of this Chapter.
- c. The City Health Officer shall endeavor to determine whether the proposed or existing premises and equipment conform to the requirements of this Chapter and all applicable health laws.
- d. The Fire Chief shall endeavor to determine whether the proposed or existing premises and equipment conform to the requirements of this Chapter and all applicable fire prevention laws.

## 2. Applicant Notified of Action Taken:

- a. Approval of License: The findings provided for in subsections A1a through A1d of this Section are to be included in the Board's written report filed with the City Clerk within thirty (30) days after the filing of the application. The applicant may attend and be heard at any City Council meeting at which action is taken on such application, but in any case, the applicant shall be notified, in writing, by the City Clerk what action was taken within ten (10) days of such Council action. If the City Council's action is favorable to the applicant, the City Clerk shall, within thirty (30) days after the filing of the application, issue a junk dealer's license to the applicant if it is found:
  - i. That the applicant has obtained from the official charged with administration under the zoning regulations a certificate to the effect that the junk yard will not be a violation of existing City zoning regulations <sup>17</sup> .
  - ii. That the applicant has paid the fee prescribed by this Chapter. (1978 Code §34.05)
- b. Denial of License: If the application for license is denied, such applicant may request and shall be granted a hearing on the matter before the City Council, as provided in Section 3-6-10 of this Title. (1993 Code)



3. Contents of License: The license, as issued, shall bear the following language on its face:

*IMPORTANT This license applies only to the premises indicated herein and authorizes the licensee to operate a junk yard in a lawful place and manner only; it is not a substitute for any certificate of occupancy, building permit or other certificate or permit that might be required by law of the licensee, and it does not relieve the licensee of the responsibility to have all such required permits or certificates at all times and comply with all laws affecting the abovedescribed business.*

4. Record of Licenses Kept: The City Clerk shall keep a permanent record of all applications filed and all licenses issued in accordance with this Chapter. (1978 Code §34.05)

#### B. Itinerant Junk Dealers:

1. Investigation of Applicant: Upon receipt of an application for an itinerant junk dealer's license as provided for herein, the chairman of the Board of Investigators shall furnish copies of same to other members of the Board, and the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. Upon completion of such investigation, a written report setting forth his findings and recommendations shall be filed with the City Clerk for referral to the City Council for appropriate action in such manner as herein prescribed for the processing of junk dealer applications.
2. Record of Licenses Kept: The City Clerk shall keep a permanent record of all applications filed and all licenses issued in accordance with this subsection. (1978 Code §34.06)

### **3-8-7: CITY COUNCIL APPROVAL REQUIRED:**

The written reports to be provided by the Board of Investigators under the provisions of this Chapter are advisory only. If no such written report is submitted for the City Council's consideration within the time provided, the Council shall take whatever further action may be indicated, but in such case, the approval of any application must be by a vote of two-thirds (2/3) of the members of the City Council. In no case may a license issue, be renewed, suspended or revoked without Council approval. (1978 Code §34.07)

### **3-8-8: LICENSE TERM; RENEWALS:**

- A. Unless otherwise provided by the City Council, any license or renewal license issued hereunder shall be effective as of the date of its issuance and shall expire December 31 of each year(Ord 2007-34, 12-04-2007).

B. An applicant for a renewal license shall file with the City Clerk a written application upon forms provided by the City Clerk, signed and sworn to in the same manner required in the case of an original application, together with four (4) copies of the application and a fee as herein prescribed. The application shall contain such information about the applicant's demeanor and the conduct and operation of the licensed business during the preceding license period as is reasonably necessary to enable the City Council to determine the applicant's eligibility for a renewal license. (1978 Code §34.08)

### **3-8-9: LICENSE NONTRANSFERABLE:**

No license issued under this Chapter shall be transferred or assigned or used by any person other than the one to whom it was issued, and no junk dealer's license shall be used at any location other than the one described in the application upon which it was issued. (1978 Code §34.10)

### **3-8-10: GENERAL OPERATING REQUIREMENTS:**

A. Resident Junk Dealers: The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:

1. License to be Posted: The license issued pursuant to this Chapter shall be plainly displayed on the business premises.
2. Sanitary Conditions: The junk yard, together with things kept therein, shall at all times be maintained in a sanitary condition.
3. Area of Use Restricted: No space not covered by the license shall be used in the licensed business.
4. Standing Water Prohibited: No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
5. Height of Vegetation: Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four inches (4").
6. Garbage and Refuse: No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises nor shall any refuse of any kind be kept on the premises, unless such refuse is junk, as defined herein, and is in use in the licensed business.
7. Junk to be Contained: No junk shall be allowed to rest upon or protrude over any public street, walkway or curbs or become scattered or blown off the business premise.

8. Height of Junk Piles; Access for Firefighting: Junk shall be stored in piles not exceeding ten feet (10') in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes.
9. Fire Prevention:
  - a. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises nor shall the premises be allowed to become a fire hazard.
  - b. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
  - c. No junk or other material shall be burned on the premises.
10. Noise Restrictions: No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on Sunday, Christmas, Thanksgiving, or any time between the hours of six o'clock (6:00) P.M. and seven o'clock (7:00) A.M.
11. Fence Required; Entrances and Exits: The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid, vertical wall or fence of a minimum height of eight feet (8') measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business.
12. Nuisances: Dangerous Conditions Prohibited: No junk yard shall be allowed to become a nuisance nor shall any junk yard be operated in such manner as to become injurious to the health, safety or welfare of the community or of any residents close by.
13. Admit Inspectors: The licensee shall permit inspection of the business premises by any member or representative of a member of the Board of Investigators at any reasonable time.
14. Receiving Junk from Minors: No junk dealer licensed hereunder, or his agent or employee, shall purchase or receive any junk for use in the licensed business from any person under the age of sixteen (16) years without the written consent of a parent or guardian of such person. Such writing shall be held available for inspection by any member or representative of a member of the Board of Investigators for a period of at least three (3) years.
15. Record Keeping: Each acquisition of junk shall be recorded in English in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a

description of the junk acquired and the date of the transaction. Such data shall be held available for inspection by any member or representative of a member of the Board of Investigators for a period of at least three (3) years.

B. Itinerant Junk Dealers: The following general operating requirements shall apply to all itinerant junk dealers licensed in accordance with this Chapter:

1. Possession of License: The licensee shall have the license issued to him under this Chapter in his immediate possession at all times when he is acting as an itinerant junk dealer in the City and shall exhibit it to any person upon request.
2. Receiving Junk from Minors: The licensee shall not purchase or receive any junk from any person under the age of sixteen (16) years without the written consent of a parent or guardian of such person. The licensee shall retain such writing for a period of at least three (3) years and shall produce it within a reasonable time upon the request of any member or representative of a member of the Board of Investigators.
3. Record Keeping: The licensee shall record in English in a permanent type register each acquisition of junk within the City, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired and the date of the transaction. The licensee shall retain such data for a period of at least three (3) years and shall produce said data within a reasonable time upon the request of any member or representative of a member of the Board of Investigators. (1978 Code §34.11)

### **3-8-11: INSPECTIONS:**

The Board of Investigators or its duly authorized representatives shall inspect the junk yards of all junk dealers licensed under this Chapter at least once a year to determine whether such yards are being operated in accordance with the provisions of this Chapter and other applicable provisions of law. (1978 Code §34.12)

### **3-8-12: REVOCATION OR SUSPENSION OF LICENSE:**

When the City Council determines that the public interest so requires, it shall revoke or suspend the license of any junk dealer or itinerant junk dealer, giving notice and allowing for a hearing in the manner set forth in subsection [9-2-3F](#) of this Code, when it finds, after due consideration, that:

- A. The junk dealer or any agent or officer of such dealer who takes part in the operation of the licensed business or the itinerant junk dealer is not of good character or reputation or is not capable of operating the licensed business or carrying on the licensed activity in a manner consistent with public health, safety and good morals; or

- B. The junk dealer has failed to comply with the provisions of this Chapter or any provision of law applicable to the premises, equipment or operation of the licensed business, or the itinerant junk dealer has failed to comply with this Chapter or any provision of law applicable to the equipment or licensed operations; or
- C. The licensee has obtained his license through any fraud or misstatement; or
- D. The licensed business or activity is being conducted in a manner detrimental to the health, safety or general welfare of the public or is a nuisance or is being operated or carried on in any unlawful manner; or
- E. The licensed business or activity is no longer being operated or carried on. (1978 Code §34.13)

### **3-8-13: COMPLIANCE BY EXISTING JUNK DEALERS:**

Any person acting as a junk dealer or itinerant junk dealer within the City on the effective date hereof shall have a period of ninety (90) days after such effective date to comply with the provisions of this Chapter. (1978 Code §34.14)

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## **CHAPTER 9**

# **AUTOMATIC DRY CLEANING MACHINES**

### **SECTION:**

- 3-9-1: Definition**
- 3-9-2: License and Permit Requirements**
- 3-9-3: Installation of Machines**
- 3-9-4: Operating Regulations**
- 3-9-5: Inspections**
- 3-9-6: Compliance with Provisions**

### **3-9-1: DEFINITION:**

An "automatic dry cleaning machine", as the term is used herein, shall be construed to include and mean any device or apparatus for the cleaning of clothes or fabrics and designed to be used or operated by any but the owner or an employee of the owner thereof, which machine or device makes use of or contains perchlorethylene or any other chemical solvent or substance which may cause harm to human beings by reason of inhalation or contact. (1978 Code §33.02)

### **3-9-2: LICENSE AND PERMIT REQUIREMENTS:**

- A. Machine Permit: It shall be unlawful to install any automatic dry cleaning machine without first having secured a permit therefor. Application for such permit shall contain full information as to the mechanical equipment of such machine and provisions for ventilation for both the machine and the room in which the machine will be located. The fee for such permit shall be twenty five dollars (\$25.00) for each unit or machine.
- B. Business License: It shall be unlawful to engage in the business of maintaining any such machine for use by the public upon payment of a fee without having first secured a license therefor. The annual fee for such license shall be twenty five dollars (\$25.00) plus five dollars (\$5.00) for each unit in addition to five (5), maintained in any one establishment. (1978 Code §33.03)

### **3-9-3: INSTALLATION OF MACHINES:**

- A. Machines Enclosed: Each automatic dry cleaning machine shall be completely enclosed by a cabinet and shall be vented with intake at the top and the outlet at or near the bottom of such machine. Groups of machines may be entirely enclosed or supported on all open sides by an enclosure topped with a hood vented as provided for each individual machine.
- B. Exhaust System: The exhaust system must maintain a minimum flow of one hundred (100) cubic feet per minute face velocity through the loading door whenever the door is open.
- C. Discharge Stack: The discharge stack for the machines and for the room in which the machines are located shall extend at least two feet (2') above the level of any window, which can be opened, located within fifty feet (50') of the outlet of the stack and shall be at least fifty feet (50') away from any fresh air intake leading to any premises.
- D. Safety Features Required: The machines must be so constructed as to prevent the loading door from being opened during the normal cycle of operation. Each machine shall be equipped with a transparent door or port to allow visual examination of the status of the cleaning cycle.
- E. Water Supply Connection; Wastewater Discharge: Any connection of such machine with the water supply system must be equipped with an air gap or vacuum breaker in the line upstream from the condenser, with no control valves downstream from such gap or breaker. Wastewater shall be discharged through an air gap.
- F. Ventilation of Premises: The room in which such machine is installed shall be ventilated so that there shall be a minimum flow of air per machine from the area to which the public is admitted of at least five hundred (500) cubic feet per minute in a room where there are no more than three (3) machines installed, four hundred (400) cubic feet per minute where there are no more than eight (8) machines installed, three hundred seventy five (375) cubic feet per minute where there are no more than sixteen (16) machines installed and three hundred sixty (360) cubic feet per minute where there are more than seventeen (17) machines installed, For this purpose, each cleaning cell shall be considered as one machine.
- G. Liquidtight and Gastight: Each machine must be so designed and constructed as to prevent the leakage of liquids, gas or vapors. (1978 Code §33.04)

### **3-9-4: OPERATING REGULATIONS:**

- A. Condition of Machinery: No such automatic dry cleaning machine shall be operated unless all the equipment is properly installed and in good operating condition.
- B. Manager to be on Duty: No establishment for which a license is required under this Chapter shall be open for business, and it shall be unlawful to admit the public or



customers into the room where such machines are located, unless there is on duty in the establishment at all times a competent person in charge of the establishment and in charge of the operation of such machines.

C. Signs:

1. There shall be warning signs posted in places of easy observation warning of the dangers in the event leakage of liquids, gas or vapor occurs.
2. At least one legible sign shall be maintained in a place available to customers giving the name, address and phone number of the owner of the establishment and of the service department or agency responsible for the proper maintenance of the machines.

D. Protection of City Sewer Systems: It shall be unlawful to permit any residue containing solvent to flow into the sewer system of the City.

E. Temporary Storage of Waste: Tightly covered metal containers may be used for temporary storage of such waste outside the building. Such containers shall bear labels indicating the contents and dangers involved in handling and shall be locked if in an unenclosed place. (1978 Code §33.05)

**3-9-5: INSPECTIONS:**

The Mayor shall cause such inspections to be made as are necessary to enforce this Chapter. (1978 Code §33.06)

**3-9-6: COMPLIANCE WITH PROVISIONS:**

It shall be unlawful to install, operate or maintain any automatic dry cleaning machine except in compliance with the provisions of this Chapter or in violation of any laws, rules or regulations of the Illinois Department of Public Health relating thereto. (1978 Code §33.01)

## **CHAPTER 10**

### **ADVERTISING ON PUBLIC WAYS AND PROPERTY**

#### **SECTION:**

**3-10-1: License Required; Exemptions**

**3-10-2: Bond and License Fee**

**3-10-3: Revocation of License; Refund of Fee**

**3-10-4: Penalty**

#### **3-10-1: LICENSE REQUIRED; EXEMPTIONS:**

It shall be unlawful for any person to post or to distribute along or upon the streets, sidewalks or public grounds or thoroughfares of the City advertisements or handbills, unless such person shall first obtain a license to do so. No license is required for the posting of any notice required by law in any legal proceeding or for the distribution of any advertisement of literature pertaining to any religious, political or civic events <sup>19</sup>. (1978 Code §5.23)

#### **3-10-2: BOND AND LICENSE FEE:**

Any person desiring such license shall execute a bond to the City, conditioned upon the faithful observance of the ordinances of the City, in the penal sum of two hundred dollars (\$200.00) with security to be approved by the City Council and shall pay a license fee of fifty dollars (\$50.00) per year or a proportionate sum for a part of a year; provided, however, that no license shall be issued for less than ten dollars (\$10.00). (1978 Code §5.23)

#### **3-10-3: REVOCATION OF LICENSE; REFUND OF FEE:**

Such license may be revoked by the Mayor or the City Council at any time, but unless such revocation shall be made on account of the failure of the holder thereof to observe the ordinances of the City, a proratable portion of the fee paid therefor shall be refunded to such holder. (1978 Code §5.23)

### **3-10-4: 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 11 ELECTRICITY TAX**

### **SECTION:**

**3-11-1: Tax Imposed**

**3-11-2: Exceptions**

**3-11-3: Additional Taxes**

**3-11-4: Collection**

**3-11-5: Reports to Municipality**

**3-11-6: Credit for Overpayment**

**3-11-7: Penalty**

### **3-11-1: TAX IMPOSED:**

A. A tax is imposed on all persons engaged in the following occupations or privileges:

The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Municipality at the following rates, calculated on a monthly basis for each purchaser:

1. For the first 2,000 kilowatt-hours used or consumed in a month: 0.562 cents per kilowatt-hour;
2. For the next 48,000 kilowatt-hours used or consumed in a month: 0.369 cents per kilowatt-hour;
3. For the next 50,000 kilowatt-hours used or consumed in a month: 0.332 cents per kilowatt-hour;
4. For the next 400,000 kilowatt-hours used or consumed in a month: 0.323 cents per kilowatt-hour;
5. For the next 500,000 kilowatt-hours used or consumed in a month: 0.313 cents per kilowatt-hour;

6. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.295 cents per kilowatt-hour;
7. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.290 cents per kilowatt-hour;
8. For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.286 cents per kilowatt-hour;
9. For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.281 cents per kilowatt-hour; and
10. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month: 0.277 cents per kilowatt-hour.

The tax rates set forth in the preceding table will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 Illinois Compiled Statutes 5/8-11-2, and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in 65 Illinois Compiled Statutes 5/8-11-2. (Ord. 98-40-2, 6-16-1998)

- B. Pursuant to 65 Illinois Compiled Statutes 5/8-11-2, the rates set forth in subsection A of this Section shall be effective: 1) on August 1, 1998, for residential customers; and 2) on the earlier of a) the first bill issued on or after January 1, 2001; or b) the date of the first bill issued pursuant to 220 Illinois Compiled Statutes 5/16-104, for nonresidential customers. (Ord. 98-40-2, 6-16-1998; amd. Ord. 98-40-2R, 9-1-1998)
- C. The provisions of this Section shall not be effective until August 1, 1998. (Ord. 98-40-2, 6-16-1998)

### **3-11-2: EXCEPTIONS:**

None of the taxes authorized by this Chapter may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Chapter for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act authorized by section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Chapter be imposed upon any person engaged in a business or on

any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality, whether privately or Municipally owned or operated, or exercising the same privilege within the Municipality. (Ord. 98-40-2, 6-16-1998; amd. Ord. 2000, 1-4-2000; Ord 2013-10, 5-7-2013)

### **3-11-3: ADDITIONAL TAXES:**

Such tax shall be in addition to other taxes levied upon the taxpayer or its business. (Ord. 98-40-2, 6-16-1998)

### **3-11-4: COLLECTION:**

The tax authorized by this Chapter shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Chapter and any such tax collected by a person delivering electricity shall constitute a debt owed to the Municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible; and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Municipality in the manner prescribed by the Municipality. Persons delivering electricity who file returns pursuant to this Chapter shall, at the time of filing such return, pay the Municipality the amount of tax collected pursuant to this Chapter. (Ord. 98-40-2, 6-16-1998; amd. Ord. 98-40-2R, 9-1-1998)

### **3-11-5: REPORTS TO MUNICIPALITY:**

On or before the last day of each month, each taxpayer shall make a return to the City for the preceding month stating:

- A. His name.
- B. His principal place of business.
- C. His gross receipts and/or kilowatt-hour usage during the month upon the basis of which tax is imposed.
- D. Amount of tax.
- E. Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and taxable gross receipts. (Ord. 98-40-2, 6-16-1998)

### **3-11-6: CREDIT FOR OVERPAYMENT:**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this Chapter, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Chapter from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Chapter shall be commenced more than three (3) years after the due date of such amount. (Ord. 98-402, 6-16-1998)

### **3-11-7: 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 12 TOBACCO LICENSING**

### **SECTION:**

**3-12-1: Definitions**

**3-12-2: License Required**

**3-12-3: Application for License; Fee**

**3-12-4: Location Restrictions**

**3-12-5: Vending Machines; Locking Devices**

**3-12-6: Provisions**

### **3-12-1: DEFINITIONS:**

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

**TOBACCO PRODUCTS:** Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

### **3-12-2: LICENSE REQUIRED:**

It shall be unlawful to sell or offer for sale, at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products within the City without having first obtained a tobacco dealer's license therefore pursuant to this Chapter. Such license shall be in addition to any other license required by this Code.

### **3-12-3: APPLICATION FOR LICENSE; FEE:**

A. Application for a license hereunder shall be made, in writing, to the Finance Office Manager and shall be processed in accordance with the provisions of Section 1 of this Title (Ord 2015-19, 10-6-2015).

B. The annual license fee for a tobacco dealer's license shall be twenty five dollars (\$25.00).

### **3-12-4: LOCATION RESTRICTIONS:**

It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within one hundred feet (100') of any school, child care facility or other building used for education or recreational programs for persons under the age of eighteen (18) years. The distance of one hundred feet (100') shall be measured to the nearest part of any building used for educational or recreational programs and not to property boundaries.

### **3-12-5: VENDING MACHINES; LOCKING DEVICES:**

It shall be unlawful for any licensee to sell, offer for sale or deliver tobacco products by use of a vending machine unless such vending machine is located in:

1. Places not open to the general public.
2. Places to which minors under 18 years of age are not permitted access.
3. Places where alcoholic beverages are sold and consumed on the premises.
4. Places where the vending machine is under the direct supervision of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person. As used in this subdivision, "direct supervision" means that the owner or employee has an unimpeded line of sight to the vending machine.
5. Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

### **3-12-6: PROVISIONS:**

The provisions of Title 3, Section 1 of this Code shall apply to the administration and enforcement of the license provided for this chapter. (2007-36, 12-04-2007; Ord. 2017-8, 03-07-2017)



## **CHAPTER 13**

### **NO SMOKING REGULATIONS**

#### **SECTION:**

**3-13-1: Definitions; In this Chapter:**

**3-13-2: Smoking Prohibited**

**3-13-3: Posting of Signs; Removal of Ashtrays**

**3-13-4: Designation of other Nonsmoking areas**

**3-13-5: Exemptions**

**3-13-6: Enforcement; Complaints**

**3-13-7: Violations**

**3-13-8: Injunctions**

**3-13-9: Discrimination Prohibited**

**3-13-10: Severability**

#### **3-13-1: DEFINITIONS: IN THIS CHAPTER:**

**BAR:** means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derive no more than 10% of its gross revenue from the sale of food consumed on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

**CITY:** means the City of Genoa, Illinois.

**EMPLOYEE:** means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her service for a non-profit entity.

**EMPLOYER:** means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity, that employs the services of one or more individual persons.

**ENCLOSED AREA:** means all space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitations, lobbies and corridors.

**ENCLOSED OR PARTIALLY ENCLOSED SPORTS ARENA:** means any sports pavilion, stadium, gymnasium, health spa, swimming pool, roller rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

**GAMING FACILITY:** means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

**HEALTHCARE FACILITY:** means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. "Healthcare facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms and wards within healthcare facilities.

**PLACE OF EMPLOYMENT:** means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances, exits, window that open, and ventilation intakes that serve as areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed childcare, foster care, adult care, or other similar social service care on the premises, is not a "place of employment".

**PRIVATE CLUB:** means a not-for profit association that:

1. Has been in active and continuous existence for at least 3 years prior to January 1, 2008, whether incorporated or not,
2. Is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times,
3. Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and
4. Only sells alcoholic beverages incidental to its operation. For purposes of this definition, "private club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

**PUBLIC PLACE:** means that portion of any building or vehicle within the City used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the City of Genoa, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in Chapter 13-2 of this Title, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

A “public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A “public place” includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, building and vehicles owned, leased, or operated by the City of Genoa, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

RESTAURANT: means

1. An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that serves or offers for sale food to the public, guests, or employees, and
2. A kitchen or catering facility in which food is prepared on the premises for serving elsewhere. “Restaurant” includes a bar area within the restaurant.

RETAIL TOBACCO STORE: means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. “Retail tobacco store” does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

SMOKE OR SMOKING: means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

### **3-13-2: SMOKING PROHIBITED:**

A. Smoking in public places of employment, and City of Genoa vehicles prohibited. No person shall smoke within the city in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the City of Genoa.

Smoking is prohibited in indoor public places and workplaces unless specifically exempted by Section 5 of this chapter.

- B. Smoking is prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this Ordinance so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

### **3-13-3: POSTING OF SIGNS, REMOVAL OF ASHTRAYS:**

- A. "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Ordinance by the owner, operator, manager, or other person in control of that place.
- B. Each public place and place of employment where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays shall be removed from any area where smoking is prohibited by this Chapter by the owner, operator, manager, or other person having control of the area.

### **3-13-4: DESIGNATION OF OTHER NONSMOKING AREAS:**

Notwithstanding any other provision of this Act, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of designate a nonenclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibition smoking in the manner described in subsections (a) and (b) of Section 3 of this Chapter.

### **3-13-5: EXEMPTIONS:**

Notwithstanding any other provision of this Chapter, smoking is allowed in the following areas:

- A. Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.

- B. Retail tobacco stores as defined in Section 1 of this Chapter in operation prior to January 1, 2008. Any retail tobacco store that begins operation after January 1, 2008 may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
- C. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
- D. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

### **3-13-6: ENFORCEMENT, COMPLAINTS:**

- A. The City Police Department shall enforce the provisions of this Ordinance and may assess fines pursuant to Section 7 of this Chapter.
- B. Any person may register a complaint with the City Police Department for a violation of this Chapter of Title 3 of the City Code.

### **3-13-7: VIOLATIONS:**

- A. A person, corporation, partnership, association or other entity who violates Section 3 of this Chapter shall be fined pursuant to this Section. Each day that a violation occurs is a separate violation.
- B. Any person who violates this section and has been issued a citations signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1.

### **3-13-8: INJUNCTIONS:**

The City Police Department or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this ordinance.

**3-13-9: DISCRIMINATION PROHIBITED:**

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Act.

**3-13-10: SEVERABILITY:**

If any provision, clause or paragraph of this Ordinance shall be held invalid by a court of competent jurisdiction, such validity shall not affect the other provisions of this Ordinance. (2007-36, 12-04-2007)

## **CHAPTER 14 TATTOOING**

### **SECTION:**

- 3-14-1: Definitions**
- 3-14-2: Restrictions**
- 3-14-3: Penalty**

### **3-14-1: DEFINITIONS:**

The following terms, as used in this Chapter, shall have the meanings ascribed to them below:

**TATTOO AND/OR TATTOOING:** To insert pigment under the surface of the skin of a human being by pricking with a needle or otherwise so to produce an indelible mark or figure visible through the skin.

### **3-14-2: RESTRICTIONS:**

- A. It shall be unlawful for any person to tattoo a human being, except that tattooing may be performed while in the presence of a person licensed to practice medicine or osteopathy in the State of Illinois. (Ord 2002-17, 11-19-02)

### **3-14-3: 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 15**

### **LOCALLY IMPOSED AND ADMINISTERED TAXES**

**SECTION:**

- 3-15-1: Scope; Application of Provisions**
- 3-15-2: Definitions**
- 3-15-3: Notice Requirements**
- 3-15-4: Delinquent Notices, Payments, Remittances or Other Filings**
- 3-15-5: Application of Tax Payments**
- 3-15-6: Certain Credits and Refunds**
- 3-15-7: Audit Procedure**
- 3-15-8: Appeals**
- 3-15-9: Payment Required; Interest and Penalties**
- 3-15-10: Installment Contacts**
- 3-15-11: Statute of Limitations**
- 3-15-12: Voluntary Disclosure**
- 3-15-13: Publication of Tax Ordinances; Copies**
- 3-15-14: Review of Liens**

#### **3-15-1: SCOPE; APPLICATION OF PROVISIONS:**

- A. Scope: The provisions of this Chapter shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.
- B. Application of Provisions; Conflicting Provisions: This chapter shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Chapter, this Chapter shall be controlling.

#### **3-15-2: DEFINITIONS:**

Certain words or terms herein shall have the meanings ascribed to them as follows:

**ACT:** The Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1, *et seq.*

**CORPORATE AUTHORITIES:** The Mayor and City Council of the City of Genoa.

**LOCAL TAX ADMINISTRATOR:** The City Treasurer is charged with the administration and collection of the locally imposed and administered taxes including staff, employees or agents to the extent that they are authorized by the "Local Tax Administrator" to act in the "Local Tax Administrator's" stead. The "Local Tax Administrator" shall have the authority to implement the terms of this ordinance to give full effect to this Chapter. The



exercise of such authority by the “Local Tax Administrator” shall not be inconsistent with this Chapter and the Act.

**LOCALLY IMPOSED AND ADMINISTERED TAX OR TAX:** Each tax imposed by the City that is collected or administered by the City and not an agency or department of the State, including the taxes authorized by Section 8-11-2 of the Illinois Municipal Code, 65 ILCS 5/8/-11-2, or any successor law. It does not include any taxes imposed upon real property under the property tax code or fees collected by the City.

**NOTICE:** Each audit notice, collection notice or other similar notice or communication in connection with each of the City’s locally imposed and administered taxes.

**TAXPAYER:** Any person required to pay any Locally Imposed and Administered Tax and generally includes the person upon whom the legal incidence of such tax is placed, and with respect to utility taxes, includes the business or entity required to collect and pay the Locally Imposed and Administered Tax to the City.

**THIRD PARTY PROVIDER:** Any person engaged and authorized by the City to conduct an audit, assist with the conduct of an audit, or perform any statistical analysis of a Taxpayer’s books and records, for the purposes described in this Chapter. A Third Party Provider may operate independently or in cooperation with City staff.

**CITY:** The City of Genoa, Illinois.

### **3-15-3: NOTICE OF REQUIREMENTS:**

Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing and mailed not less than seven (7) calendar days prior to the day fixed for any applicable hearing, audit, statute of limitations or other scheduled act of the Local Tax Administrator. The notice shall be sent by U.S. registered or certified mail.

### **3-15-4: DELINQUENT NOTICES, PAYMENTS, REMITANCES OR OTHER FILINGS:**

Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is: a) physically received by the City on or before the due date; or b) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

### **3-15-5: APPLICATION OF TAX PAYMENTS:**

Any payment or remittance received for a tax period shall be applied in the following order: a) first, the interest due for the applicable period; b) second, to the tax due for the applicable period and c) to the penalty for the applicable period.

### **3-15-6: CERTAIN CREDITS AND REFUNDS:**

- A. Written Protest Required: The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a Locally Imposed and Administered Tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a Taxpayer shall not be deemed to have paid the tax voluntarily if the Taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the Taxpayer paid the taxes under duress.
- B. Statute of Limitations: The statute of limitations on a claim for credit or refund shall be four (4) or less years after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of Locally Imposed and Administered Taxes, interest or penalties to a person who has not paid the amounts directly to the City.
- C. Procedure: The procedure for claiming a credit or refund of Locally Imposed and Administered Taxes, interest or penalties paid in error shall be as follows:
1. The Taxpayer shall submit to the Local Tax Administrator in writing a claim for credit or refund, together with a statement specifying:
    - a. The name of the Locally Imposed and Administered Tax subject to the claim;
    - b. The tax period for the Locally Imposed and Administered Tax subject to the claim;
    - c. The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
    - d. The Taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
    - e. A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest, and penalties overpaid, and as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the Taxpayer owes or shall owe any monies to the City.

2. Within ten (10) days of receipt by the Local Tax Administrator of any claim for a refund or credit, the Local Tax administrator shall either:
  - a. Grant the claim; or
  - b. Deny the claim, in the whole or in part, together with a statement as to the reason for denial or in the partial grant and denial.
3. In the event the Local Tax Administrator grants, in whole or in part, a claim for a refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of one percent (1%) per annum, based on a year of three hundred sixty (360) days and the number of days elapsed, from the date of the overpayment to the date of mailing a refund check or the grant of a credit.

**3-15-7: AUDIT PROCEDURE:** Not more than once every two (2) years, the City may conduct an audit of a Taxpayer's books and records. Any request for a proposed audit pursuant to any Locally Imposed and Administered Tax shall comply with the notice requirements of this ordinance.

A. Information Required: Each notice shall contain the following information:

1. The tax;
2. The Time period of the audit; and
3. A brief description of the books and records to be made available for the auditor, in the format maintained by the Taxpayer in the ordinary course of its business. The information that may be requested by the Local Tax Administrator, or third party provider, includes:
  - a. In an electronic format used by the Taxpayer in the ordinary course of its business, the database used by the Taxpayer to determine the amount of tax due to the City; provided, however, that, if the City requests customer-specific billing, usage, and load shape data from a Taxpayer that is an electric utility and has not provided the electric utility with the customers' verifiable authorization required by Section 16-122 of the Public Utilities Act, then the electric utility shall remove from the database all customer-specific billing, usage, and load shape data before providing it to the City; and
  - b. In a format used by the taxpayer in the ordinary course of its business, summary data, as needed by the City, to determine

the unit consumption of utility services by providing the gross therms, kilowatts, minutes, or other units of measurement being taxed within the City's jurisdiction and the gross revenues collected and the associated taxes assessed.

4. The identity of the City representative, or third party provider, who will be conducting the audit, together with the written authorization, if applicable.
5. For audits to be conducted by third party providers, no contact may be made by the third party provider until the Local Tax Administrator's authorization is received by the Taxpayer.

**B. Time for Conducting Audit:**

1. The audit shall be conducted at a time selected by the Local Tax Administrator, but in no event sooner than sixty (60) days after the date of the notice described in Paragraph A above; provided that if the Taxpayer notifies the Local Tax Administrator within thirty (30) days of receiving the notice that it is cooperating with audits for three (3) or more municipalities, or municipalities with cumulatively more than 100,000 customers, the audit shall be conducted no sooner than ninety (90) days.
2. Any audit shall be conducted during the normal business hours, and if the date and time selected by the Local Tax Administrator is not agreeable to the Taxpayer, another date and time may be requested by the tax payer within thirty (30) days after the originally designated audit and during normal business hours.
3. The Taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days nor more than thirty (30) days from the date the notice is given, unless the Taxpayer and the Local Tax Administrator agree to some other convenient time. In the event the Taxpayer is unable to comply with the audit on the date in question, the Taxpayer may request another date within the thirty (30) days, approved in writing that is convenient to the Taxpayer and the Local Tax Administrator.

**C. Taxpayer's Books and Records:**

1. Every Taxpayer shall keep accurate books and records of the Taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in

the English language and shall be subject to and available for inspection by the City.

2. It is the duty and responsibility of every Taxpayer to make available his books and records for inspection by the City. If the Taxpayer (or tax collector) fails to provide the documents necessary for audit within the time provided, the Local Tax Administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the Taxpayer's liability.
3. The auditor or Third Party Provider must sign a commercially reasonable confidentiality agreement upon request by the Taxpayer.

D. **Audit Closure Report:** Upon the completion of the audit, the Local Tax Administrator must issue an audit closure report to the Taxpayer with the results of the audit. If an underpayment is determined by the audit, the Taxpayer must submit a written response within sixty (60) days after the date the audit closure report was postmarked stating that it has corrected the error or stating the reason that the error is inapplicable or inaccurate. The City then has sixty (60) days after the receipt of the Taxpayer's response to review and contest the conclusion of the Taxpayer. If the parties are unable to agree on the disposition of the audit findings within 120 days after the notification of the underpayment to the Taxpayer, then either party may submit the matter for appeal as outlined in Section 8 of this Chapter.

E. **Overpayments:** If an audit determines there has been an overpayment of a Locally Imposed and Administered Tax, written notice of the amount of overpayment shall be given to the Taxpayer by the Local Tax Administrator, and the auditor, if different, within thirty (30) days of the City's determination of the amount of overpayment. The Audit Closure Report may satisfy this requirement if it is timely delivered.

F. **Payment To Improper Entity:** In the event a tax payment was submitted to the incorrect local governmental entity, the Local Tax Administrator shall notify the local governmental entity imposing such tax.

### **3-15-8: APPEALS:**

A. **Contents of Notice Regarding Taxes Due:** The Local Tax Administrator shall send a written notice to a Taxpayer upon the Local Tax Administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

1. The reason for assessment;
2. The amount of the tax liability proposed;
3. The procedure for appealing the assessment; and
4. The obligations of the City during the audit, appeal, refund and collection process.

B. Request for Hearing: The Taxpayer who receives written notice from the Local Tax Administrator of a determination of tax due or assessment, or the City, may file with the Local Tax Administrator a written protest and petition for hearing, setting forth the basis of the appellants request for a hearing. The written protest and petition for hearing must be filed with the Local Tax Administrator within forty five (45) days of receipt of the written notice of the tax determination and assessment or in the time otherwise required herein.

C. Hearing Scheduled; Notice: If a timely written notice and petition for hearing is filed, the Local Tax Administrator shall fix the time and place for hearing and shall give written notice to the City and Taxpayer. The hearing shall be scheduled for a date within fourteen (14) days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

D. Time Limit For Filing Hearing Request: If a written protest and petition for hearing is not filed within the forty five (45) day period, the tax determination, audit or assessment shall become a final bill, due and owing, without further notice.

E. Reopening, Extension Of Hearing Request: Upon the showing of reasonable cause by the Taxpayer and the full payment of the contested tax liability along with interest accrued as of the date of the tax, the Local Tax Administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty five (45) day period.

F. Conduct of hearing; Decision:

1. Whenever a Taxpayer (or a tax collector) has filed a timely written protest and petition for hearing under this section, the Local Tax Administrator shall conduct a hearing regarding any appeal.
2. No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the

Taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuances granted shall not exceed fourteen (14) days.

3. At the hearing, the Local Tax Administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.
4. At the conclusion of the hearing, the Local Tax Administrator shall make a written determination on the basis of the evidence presented at the hearing. The Taxpayer (or tax collector) shall be provided with a copy of the written decision.

G. Administrative Review: If the appeals process does not produce a satisfactory result, then either party may pursue the alleged error in a court of competent jurisdiction.

### **3-15-9: PAYMENT REQUIRED; INTEREST AND PENALTIES:**

- A. Time For Payment: In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.
- B. Interest: The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be five percent (5%) per annum, based on a year of three hundred sixty (360) days and the number of days elapsed.
- C. Late Filing And Payment Penalties: If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty five (25%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.
- D. Abatement of Penalties: The Local Tax Administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file

penalty if the Local Tax Administrator shall determine reasonable cause exists for delay or failure to make a filing.

- E. Notwithstanding anything herein to the contrary, no Taxpayer is liable for any error in past collections and payments that was unknown by it prior to the audit process unless (i) the error was due to negligence by the Taxpayer in the collection or processing of required data and (ii) the City had not failed to respond in writing on an accurate and timely basis to any written request of the Taxpayer to review and correct information used by the Taxpayer to collect the City's Locally Imposed and Administered Tax if a diligent review of such information by the City reasonably could have been expected to discover such error. If, however, an error in past collections of payments resulted in a customer, who should not have owed a Locally Imposed and Administered Tax to the City, having paid a tax to the City, then the customer may, to the extent allowed by Section 9-252 of the Public Utilities Act, recover the tax from the Taxpayer, and any amount so paid by the Taxpayer may be deducted by that Taxpayer from any taxes then or thereafter owed by the Taxpayer to the City.

**3-15-10: INSTALLMENT CONTRACTS:** The City may enter into an installment contract with the Taxpayer for the payment of taxes under the controlling tax ordinance. The Local Tax Administrator may not cancel any installment contract so entered unless the Taxpayer fails to pay any amount due and owing. Upon written notice by the Local Tax Administrator that the payment is thirty (30) days delinquent, the Taxpayer shall have fourteen (14) working days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) working day period or fails to demonstrate good faith in restructuring the installment contract with the Local Tax Administrator, the installment contract shall be canceled without further notice to the Taxpayer.

**3-15-11: STATUTE OF LIMITATIONS:**

A. The City through the Local Tax Administrator, shall review all tax returns in a prompt and timely manner and inform Taxpayers of any amounts due and owing. The Taxpayer shall have forty five (45) days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

B. No determination of tax due and owing may be issued more than four (4) years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.



C. If any tax return is not filed or if, during any four (4) year period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than seventy five percent (75%) of the tax due, the statute of limitations shall be six (6) years maximum after the end of the calendar year in which the return for the applicable period was due, or end of the calendar year in which the return for the applicable period was filed, whichever occurs later.

D. No statute of limitations shall apply if a fraudulent tax return was filed by the Taxpayer.

**3-15-12: VOLUNTARY DISCLOSURE:** For any Locally Imposed and Administered Tax for which a Taxpayer has not received a written notice of an audit, investigation, or assessment from the Local Tax Administrator, a Taxpayer is entitled to file an application with the Local Tax Administrator for a voluntary disclosure of the tax due. A Taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent (1%) per month for all periods prior to the filing of the application, but not more than four (4) years before the date of filing the application. Except for the amount of tax and interest due under this section, a Taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax interest, or penalty for any period before the date the application was filed. However, if the Taxpayer incorrectly determined and underpaid the amount of tax due, the Taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the Taxpayer, in which case, the application shall be deemed invalid and void. The payment of tax and interest must be made no later than ninety (90) days after filing of the voluntary disclosure application or the date agreed to by the Local Tax Administrator, whichever is longer. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid within ninety (90) days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the Local Tax Administrator, whichever is longer.

**3-15-13: PUBLICATION OF TAX ORDINANCES; COPIES:** Any Locally Imposed and Administered Tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the internet will satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Finance Office.

**3-15-14: REVIEW OF LIENS:**

The Local Tax Administrator shall establish an internal review procedure regarding any liens filed against any Taxpayer for unpaid taxes. Upon a determination by the Local

Tax Administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the Local Tax Administrator shall:

- A. Timely remove the lien at the City's expense;
- B. Correct the Taxpayer's credit record; and
- C. Correct any public disclosure of the improperly imposed lien. (Ord 2015-01, 1-20-2015; Ord. 2017-8, 03-07-2017)