

TITLE 5
POLICE REGULATIONS

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CHAPTER 1

POLICE DEPARTMENT

SECTION:

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5-1-1: DEPARTMENT CREATED:

There is hereby created a Police Department for the City which shall consist of the Chief of Police and such other members as may be provided for by the City Council. All sworn officers, excepting the Chief of Police, shall be appointed by the Board of Fire and Police Commissioners.

5-1-2: CHIEF OF POLICE:

- A. Office Created: There is hereby created the office of Chief of Police. He shall be ex officio City Marshall and Superintendent of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council.
- B. Term Of Office: Unless otherwise approved by the City Council, the Police Chief shall be an at-will employee.
- C. Powers And Duties: The Chief of Police shall:
 - 1. Keep such records and make such reports concerning the activities of his Department as may be required by statute or by the Mayor and Council.
 - 2. Be responsible for the performance by the Police Department of all its functions, and all persons who are members of the Department shall serve subject to the orders of the Chief of Police.
 - 3. Carry out administrative duties. (1978 Code §4.02)

4. Be the custodian of all lost and abandoned or stolen property in the City. (1978 Code §4.08)

5-1-3: DUTIES OF DEPARTMENT MEMBERS:

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

5-1-4: CONDUCT OF MEMBERS:

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

5-1-5: RULES AND REGULATIONS:

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

5-1-6: SERVING PROCESS:

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

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

Any member of the Police Department shall appear as witness whenever it is necessary in the prosecution for a violation of an ordinance or of any State or Federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party, and fees paid for such services shall be turned over to the Chief of Police, who shall deposit the same with the Finance Office Manager. (1978 Code §4.06; Ord. 2017-14, 04-18-2017))

5-1-8: PART-TIME POLICE:

- A. Appointment: The Chief of Police is authorized to appoint part-time Patrol Officers. The Chief will interview part-time officer candidates after a complete background investigation has been done. The Chief of Police will keep the Mayor and City Council informed of all part-time police appointments. (Ord 2012-17B, 08-07-2012)
- B. A part-time police officer shall have all the responsibilities of a full time police officer and such specific duties as delineated in the Policies and Procedures of the Genoa Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with Illinois state law, including but not limited to the Illinois Police Training Act (50 ILCS 705/1 et. Seq.) and the rules and requirements of the Illinois Law Enforcement Training and Standards Board (ILETSB). (Ord. 2012-15, 06-05-2012)
- C. Any person employed as a part-time police officer must meet the following standards:
1. Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
 2. Be at least twenty-one (21) years of age.
 3. Pass a medical examination if requested.
 4. Possess a high school diploma or GED certificate.
 5. Possess a valid State of Illinois Driver's License.
 6. Possess a valid Firearms Owners Identification Card (FOID) Card.
 7. Possess no prior felony convictions.
 8. Any individual who served in the U.S. military must have been honorably discharged. (Ord. 2012-15, 06-05-2012)
 9. Pass a background investigation conducted by the Police Department.
- D. Relationship to Police Department; Duties:

1. Part-time policemen shall not be members of the regular Police Department for the purposes of tenure and promotion only.
 2. Part-time policemen shall supplement members of the regular Police Department in the performance of their assigned and normal duties and shall have the powers of a regular police officer when on duty and in the performance of those assigned and normal duties.
 3. Part-time policemen shall, at all times during the course of their duties, be subject to the direction and control of the Chief of Police.
- E. Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time officers shall be at-will employees hired by the Chief of Police , shall not have any property rights in said employment, and may be removed by the City at any time. Part-time police officers shall comply with all applicable Policies and Procedures issued by the Genoa Police Department. (Ord. 2012-15, 06-05-2012)
- F. Firearms: Qualified part-time police officers may carry firearms while off duty if all state and federal law requirements for such carrying have been met, including but not limited to the federal Law Enforcement Officer's Safety Act of 2010.
- G. Compensation: Part-time police officers shall serve with such pay as shall be fixed by the City Council from time to time. (1978 Code §4.12; Ord 2015-16, 9-1-2015)

5-1-9: AUXILIARY POLICE:

- A. Appointment: Auxiliary Officers shall be appointed by the Police Chief after the completion of a thorough background investigation. Auxiliary Officers shall not be considered "Conservators of the Peace" as defined and shall not be utilized to supplement members of the regular police department. Auxiliary Officers are not authorized to carry firearms while on duty.
- B. Any person employed as an Auxiliary Police officer must meet the following standards:
1. Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
 2. Be at least eighteen (18) years of age.
 3. Possess a High School Diploma or GED Certificate.
 4. Possess a valid State of Illinois Driver's License.

5. Possess no prior felony convictions.
6. Pass a background investigation conducted by the Police Department.

C. Duties:

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

D. Auxiliary Police Officers shall be under the disciplinary jurisdiction of the Chief of Police.

E. Uniforms and Firearms:

1. Auxiliary Police Officers shall wear the uniform prescribed by the Chief of Police.
2. Auxiliary Police Officers shall not carry firearms while on duty.

F. Compensation: Auxiliary Police Officers shall served with such pay as shall be fixed by the City Council from time to time. (1978 Code 4.12; Ord. 2017-03, 02-07-2017)

CHAPTER 2 MINORS

SECTION:

5-2-1: Curfew

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

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

5-2-1: CURFEW:

- A. Age and Hours Restrictions: No person less than seventeen (17) years of age shall be present at or upon any public assembly, building, place, street or highway between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. It is a defense to prosecution under this section that the minor was:
- (1) accompanied by the minor's parent or guardian or other person in custody or control of the minor;
 - (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) in a motor vehicle involved in interstate travel;
 - (4) engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
 - (5) involved in an emergency;
 - (6) on the sidewalk abutting the minor's residence or abutting the residence next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes a responsibility for the minor;
 - (8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (9) married or had been married or is an emancipated minor under the Emancipated Minors Act.

- B. Responsibility of Adult: Any parent, legal guardian or other person shall not knowingly permit a person in his custody or control to violate this Section. (1978 Code §42.13; 1993 Code)
- C. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1.(Ord 2008-16, 04-28-08)

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

- A. Purchase Unlawful: It shall be unlawful for any person under twenty-one (21) years of age to attempt to purchase a tobacco product or e-cigarettes or their components, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products or e-cigarettes or their components. (Ord. 2018-05, 03-06-2018)
- B. Unlawful Sales and Distribution: It shall be unlawful for any person to sell, buy, or distribute any tobacco product, electronic cigarette, or alternative nicotine product to a person under twenty-one (21) years of age.
- C. Definition: For purposes of this Section, tobacco product, electronic cigarette, or alternative nicotine product shall be as defined by state law.
- D. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with section 1-4-1.

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

- A. Specific Acts Enumerated: It shall be unlawful for the parent, parents or legal guardian of a minor not emancipated residing with such parent, parents or legal guardian to fail to exercise proper parental responsibility by permitting said minor to commit any violation of a City ordinance or a violation of State statute concerning vandalism, fireworks, obscene conduct, trespass, possession of alcoholic liquor or any willful or malicious acts causing injury to persons or property. (Ord. 2017-14, 04-18-2017)
- B. Notice to Responsible Party(s): The parents or legal guardian of a minor shall be notified in person or by U.S. mail sent by the Police Department and required to appear in court or any administrative adjudication, if applicable, whenever the minor is charged with a violation of an ordinance concerning vandalism, fireworks, obscene conduct, trespass, possession of alcoholic liquor or any willful or malicious act

causing injury to persons or property which requires the minor's appearance in court. Such notice shall be sent to the parents or legal guardian of the minor, and shall state the alleged violation, that the minor must appear in court, and that one of the parents or legal guardians must appear in court (or any administrative adjudication, if applicable) on the date set for the minor's first appearance and at such other times as ordered by the Court. The notice shall also state that failure to appear in court will result in a subpoena being issued by the court to bring such parent or legal guardian into court, and that failure to obey a subpoena can result in contempt of court. (Ord. 2017-14, 04-18-2017)

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

CHAPTER 3

ANIMAL CONTROL

SECTION:

5-3-1: Certain Animals Prohibited

5-3-2: Prohibited Acts and Conditions

5-3-3: Rabies Control

5-3-4: Reserved

5-3-5: Reserved

5-3-6: Dogs

5-3-7: Cats

5-3-8: Violation; Penalty

5-3-1: CERTAIN ANIMALS PROHIBITED:

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

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

5-3-2: PROHIBITED ACTS AND CONDITIONS :

A. Cruel Treatment:

1. No person or owner may beat, cruelly treat, torment , starve, overwork or otherwise abuse an animal.
2. No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

B. Owner's Duties: No person or owner shall fail to provide any animal in their charge or custody as owner or otherwise, with the following :

1. Sufficient quantity of good quality, wholesome, food that is appropriate for the species to maintain good health and fresh, drinkable water (outdoor animals must have a constant supply of fresh water available);

2. Adequate shelter as all animals are to be kept in a clean, sanitary and healthy manner and are not confined so as to be forced to stand, sit or lie in its own excrement; and protection from the weather including quarters that are protected from excessive heat and cold;

3. Regular and sufficient veterinary care to prevent suffering and maintain health; provide the required rabies vaccination, and if diseased or injured, or exhibiting symptoms of disease, provides proper veterinary care; and

4. Humane care and treatment: pens, kennels and runs must be of sufficient size to permit the animal to exercise and move about freely.

C. *Sheltering*: When a person or owner chooses to keep a companion dog confined outside, it must be in accordance with Owner's Duties (as listed in B above). A person or owner shall provide the dog with constant access to fresh, drinkable water and appropriate shelter. The dog shelter shall allow the dog to remain dry and protected from elements. The shelter shall have 4 sides, a solid roof sloped away from the entrance, and a dry floor raised above the ground. The shelter shall be placed to provide shade from the sun and protection from the weather. During bouts of extreme cold the shelter must be just large enough for the dog to stand up and turn around when fully grown and allow retention of body heat, the entrance must be covered by a flexible wind- proof material, self-closing door or other form of wind block, and must contain clean, dry bedding, which must consist of an insulated material that does not retain moisture, such as straw or woodchips, of sufficient depth for the dog to burrow and nest. During bouts of extreme heat, the shelter must be shaded by trees, a tarp, or a tarp-like device to provide protection from weather related injuries.

D. *Extreme Weather Conditions*: No person or owner shall allow a companion dog to remain outdoors, tethered, or penned during a period of extreme weather. At a minimum, all dogs shall be provided access to shelter in accordance with Section C, *Sheltering*, above, during cases of extreme weather as indicated above. In no instance shall a dog remain outdoors, tethered, or penned at or under the age of 6 months or while sick, injured or in distress.

E. *Transporting Animals*: No person or owner driving a motor vehicle shall transport any animal in the back of the vehicle in a space intended for any load unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, or the animal is cross tethered to the vehicle, or is protected by a secured container or cage in a manner which will prevent the animal from falling, jumping or being thrown from the vehicle.

F. *Tethering*: To lawfully tether a dog outdoors, an owner must ensure that the dog:

1. Meets all requirements as laid out in the Illinois Humane Care for Animals Act, (510 ILCS 70/3) Section 3.b. and

2. is not permitted while tethered to bark, whine, howl or make excessive noises so as to cause a nuisance; and

3. is not tethered if an unsupervised dog in estrus;

4. is not tethered at a vacant structure or premises for any purpose or time when it is not monitored by a competent adult who is present at the property for the duration of such tethering.

G. Confinement in Motor Vehicle:

1. No person or owner shall confine any animal in a motor vehicle in such a manner that places it in a life or health-threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation, or other protection from such heat or cold.

2. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Illinois Department of Agriculture licensed humane investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible.

H. Abandonment:

1. No person or owner shall abandon any domestic animal on their own property without daily care, or by abandonment off the owner's premises, where it may suffer injury, hunger, exposure, or become a public charge.

2. No person or owner shall release any domestic rabbit, ferret, prairie dog, hedgehog or other mammal, reptile or bird not native to this area, expecting it to fend for itself for food, shelter and protection.

I. Poisoning:

1. No person or owner shall knowingly set out poison(s) or cause to be poisoned any dog, cat or other domestic animal except by expressed permit from the Illinois Department of Agriculture.

2. This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act.

J. Entertainment, Fighting or Baiting Animals: No person may own, operate, manage, maintain, charge admission to, or be a patron at any place used for the purpose of fighting or baiting any bull, bear, dog, cock or other animal.

K. *Noisy Animals*: It shall be unlawful to keep or harbor any animal which continually and unreasonably alarms or disturbs the public by loud noises. Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance. (1978 Code §14.03)

L. 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. (Ordinance 2019-1, 01-02-2018)

5-3-3: RABIES CONTROL:

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

5-3-4: RESERVED

5-3-5: RESERVED

5-3-6: DOGS:

A. Running at Large Prohibited

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

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

2. Dogs, at all times, shall be kept on a leash or tied, except when confined within or on the premises of the owner or possessor thereof. (1978 Code §14.03)
3. Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-52011)

B. Impoundment and Redemption Procedures:

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

C. Dangerous, Vicious Dogs:

1. Definitions:

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

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

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

c. The owner of the dog can dispute the Vicious Dog finding through the City's Administrative Adjudication process. A request for a hearing must be received by the City within ten days of the owner's receipt of the vicious dog finding.

5. When a dog or animal is apprehended and impounded following a bite report, notice, in writing, shall be given to the owner, if known, within twenty four (24) hours of apprehension or within twenty four (24) hours of discovery of the owners if not known at the time of apprehension.

6. The owner is any person having any right of property in a dog or other animal or who keeps or harbors a dog or who has a dog in his care or acts as its custodian or who knowingly permits a dog to remain on or about any premises occupied by him. (1978 Code §14.04)

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

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. (Ord. 2011-29, 09-20-2011)

5-3-7: CATS:

A. There is hereby created a program within the Police Department of the City of Genoa, which shall be activated/instituted at the discretion of the Chief of Police, to provide for the capture and sterilization of stray and feral cats within the City. Any cat found within the City of Genoa and off the premises of its owners or harborers, and not under the immediate control of its owners or harborers, is hereby declared to be subject to capture and sterilization.

B. The Chief of Police is authorized to enter into a contract with an appropriate entity to provide for the capture, sterilization, and return to its owners stray and feral cats found off the premises of the cat's owners or harborers.

C. In entering into an agreement for the purposes of the program set forth in this ordinance, the agreement shall provide for:

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

5-3-8: VIOLATION, PENALTY:

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

CHAPTER 4 MISCELLANEOUS OFFENSES

SECTION:

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5-4-1: DISORDERLY CONDUCT:

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

- A. Breach of Peace: Making, aiding or assisting in making any improper noise, riot, disturbance, breach of peace or diversion tending to a breach of the peace.
- B. Fighting: Engaging in or aiding or abetting any fight, quarrel or other disturbance.
- C. Disturbing Assemblies: Disturbing any religious service, public or private meeting or assembly of persons.

- D. Creating Crowd: Collecting in crowds for unlawful purposes or for any purpose to the annoyance or disturbance of other persons.
- E. Public Intoxication: Being intoxicated in public spaces, or in any place to the annoyance and disturbance of other persons, which is hereby classified as a misdemeanor.
- F. Obstructing Officer: Resisting or obstructing the performance of one known to be a police officer or any authorized act within the police officer's official capacity, which is hereby classified as a misdemeanor.
- G. Inciting Disturbance: Assembling with two (2) or more persons for the purpose of using force or violence to disturb the public peace.
- H. Failure to Obey Officers: Failing to obey a lawful order of dispersal by a person known to be a peace officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm.
- I. Unauthorized Occupancy: Lodging in or being in outhouses, sheds, barns, stables or unoccupied buildings.
- J. Offensive Language or Gestures: Using any obscene, profane, threatening or inciting language or gestures in any public place.
- K. Throwing Missiles: Throwing stones or missiles in public places or at any person or property or brandishing or threatening to use any missile or dangerous weapon or object.
- L. Noxious Odors: Engaging in any act that emits noxious odors or fumes for the purpose of alarming or disturbing another and to provoke a breach of the peace. (Ord. 784, 5-28-91)
- M. Public Nudity: It shall be unlawful for any person to appear in a public place in a state of nudity or no make any indecent exposure of their person, except breast feeding of infants, as provided for in 720 ILCS 5/11-9, as amended.
- N. Urinating or Defecating in Public: It shall be unlawful for any person to urinate or defecate:
 - i. In or on a public street, alley, sidewalk, yard, park, building, structure, plaza, public or utility right-of-way, or other public place, other than in a restroom; or:
 - ii. In public view
- N. Gang Activity:

1. Temporary Questioning Without Arrest: A police officer, after having identified himself as a police officer, may stop any person in a public place for a reasonable period of time when the person is wearing known gang colors, emblems or other gang insignia, or appears to be engaged in communicating gang-related messages through the use of hand signals or other means of communication, or as otherwise provided by law, and the officer reasonably believes from the circumstances that the person is committing, is about to commit or has committed any offense set forth in the ordinances of the City. Once stopped, the officer may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.
 2. Search Authorized: When a police officer has stopped a person for temporary questioning pursuant to subsection P1 and the officer reasonably suspects that he or another officer is in danger of attack, he may search the person for weapons. If an officer discovers a weapon, he may take it until the completion of the questioning, at which time he shall return the weapon, if lawfully possessed, or arrest the person so questioned. (Ord. 841, 1-11-94)
- O. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2008-16, 04-28-08)

5-4-2: NOISE:

It shall be unlawful for any person to make, or cause to be made, create or maintain, loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, and which affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City, or which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, Signaling Devices, Etc.: The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- B. Radios, Boom Boxes, Personal Music Devices, Etc.:

1. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, personal musical device or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.
2. With the exception of City-sponsored or City-permitted events, the operation of any such set, instrument, machine or device between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. in such a manner as to be plainly audible at a distance of fifty feet (50') from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

C. Loudspeakers, Amplifiers, For Advertising: The using, operating or permitting to be played, used or operated of any radio receiving set, instrument, phonograph, loudspeaker, sound amplifiers, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, except as otherwise provided in section 5-7-2 of this Code.

D. Exhausts: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

E. Defect In Vehicle Or Load: The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

F. Construction, Alteration Or Repair:

1. No activities in connection with construction, alteration, repair or demolition, shall be carried on other than during the following hours, unless included in section 2:

Weekdays	Saturdays , Sundays And Legal Holidays
7:00 A.M. - 10:00 P.M.	8:00 A.M. - 10:00 P.M.

2. Exceptions:

a. These activities may be conducted outside the specified times in the event of emergencies in order to protect the health, safety, or welfare of the public.

b. At the direction of the City Administrator, the hours may be extended when involving City projects when it serves the best interest of the public good provided the effect on the public health, comfort, convenience, peace, safety and welfare are minimized.

G. Schools, Courts, Churches, Hospitals: The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

H. Drums: The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

I. Pile Drivers, Hammers, Etc.: The operation between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electrical hoist or other appliance, the use of which is attended by loud or unusual noise.

J. Blowers: The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

K. Internal Combustion Engines; Penalty: Without the prior written permit of the City Administrator the operation of or the permitting of the operation of internal combustion engines between the hours of six o'clock (6:00) P.M. and seven o'clock (7:00) A.M., in subdivisions under construction, is prohibited. Any person, firm or corporation violating this subsection shall be fined not less than seven hundred fifty dollars (\$750.00) for each offense and be responsible for the City's cost of prosecution, including attorney fees incurred. Each day that a violation continues shall be considered a separate offense.

L. Machinery:

1. Definition: For the purposes of this subsection, "machinery" shall be defined as any equipment that is used for the purpose of excavating, scraping, moving, filling or leveling of earth in connection with construction or land development.

HOURS OF CONSTRUCTION

Weekdays	Weekdays	Saturdays , Sundays Holidays	Weekdays	Saturdays , Sundays Holidays	Sundays And Holidays
7:00 A.M. - 10:00 P.M.	7:00 A.M. - 8:00 P.M.	8:00 A.M.- 10:00 P.M.	7:00 A.M. - 8:00 P.M.	8:00 A.M.- 10:00 P.M.	10:00 P.M. - 8:00 P.M.

2. Exceptions:

- a. The operation of machinery may be conducted outside the specified times in the event of emergencies in order to protect the health, safety or welfare of the public.
- b. The hours may be extended when involving City projects when it serves the best interest of the public good provided the effect on the public health, comfort, convenience, peace, safety and welfare are minimized.
- c. The operation of motorized garden equipment for the purpose of preparing the soil for planting.

5-4-3: OFFENSES INVOLVING PROPERTY:

A. DAMAGE, INJURY TO PROPERTY:

1. Damaging Property: No person shall damage, destroy or deface any public or private property without permission of the owner. This section shall include but is not limited to fences, structures, vehicles, and recreational equipment. (1978 Code §42.07)
2. Injury to Bills or Posters: No person shall destroy, tear or mutilate or otherwise deface or injure any sign, bill or poster posted in such places as may be permitted without the consent of the person on whose behalf the same shall have been posted. (1978 Code §5.23)

B. SIGNAGE ON PUBLIC PROPERTY:

1. Unless otherwise permitted by the City Administrator or designee in the case of City- authorized events scheduled to be held on public property, no signs shall be posted on public property, including any City right of way or parkway, except as provided in this Section.
2. Temporary, non-commercial signs may be posted on City Parkways if they comply with the following provisions:
 - a. Such sign shall not exceed four (4) square feet in size per sign face, may be double sided, shall not exceed three (3) feet in height from ground level; and
 - b. The location of such sign shall be installed no less than three (3) feet from the edge of a road or curb; and
 - c. No such sign may obstruct any sightlines or otherwise create any safety hazard; and

- d. The number of such signs shall not exceed one (1) per zoning lot that abuts a City parkway, and the total number of courtesy signs shall not exceed five (5) in total; and
 - e. Such signs shall be installed in the ground to withstand adverse weather conditions; and
 - f. Such signs may only be posted for a maximum of seventy-two (72) hours; and
 - g. Such signs shall not be installed on any City parkway that abuts private residential property without the consent of the abutting residential property owner; and
 - h. The poster of such sign is liable for any damages to public property that may be caused by the sign becoming unsecured from the ground.
3. The City may remove an illegal sign(s) found to be in violation of this section without notice and shall retain the sign(s) for (3) days. If the owner has not claimed the sign(s) within that time period, the City may dispose of it. (Ord. 2012-18, 08-07-2012)
4. Any person who violates this section and has been issued a citation signed by a City law enforcement officer of this section shall be fined in accordance with Section 1-4-1. (Ord 2012-18, 08-17-2012)

5-4-4: TRESPASSES:

A. TRESPASS TO PARKS:

It shall be unlawful for any person to enter upon or remain upon any portion of a public park within the city from sunset until sunrise, except as otherwise provided in this Code. City authorized or permitted special events shall be excluded from this provision of this section.

B. TRESPASS TO RESIDENCE

- 1. A person commits criminal trespass to a residence when, without authority, he or she knowingly enters or remains within any residence, including a house trailer that is the dwelling place of another.
- 2. A person commits criminal trespass to a residence when, without authority, he or she knowingly enters the residence of another and knows or has reason to know that one or more persons is present or he or she knowingly enters the residence of another and remains in the residence after he or she knows or has reason to

know that one or more persons is present.

C. TRESPASS TO VEHICLES:

Whoever knowingly and without authority enters any vehicle, aircraft or watercraft, or any part thereof, of another without their consent shall be guilty of criminal trespass to vehicles.

D. TRESPASS TO LAND:

Whoever enters upon the land or any part thereof of another, after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart, commits the offense of criminal trespass to land.

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. (Ord 2008-16, 04-28-08)

5-4-5 RESERVED

5-4-6: RESERVED

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

A. Fireworks:

1. Definitions:

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

"Any explosive composition or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any fireworks containing any explosive compound; or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects."

2. No person shall possess, sell, offer for sale, use or explode any fireworks in City, except as provided in Paragraph 3 herein.

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

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

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

5-4-8: RESERVED:

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

5-4-9: POLLUTION:

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

5-4-10: OFFENSES INVOLVING WEAPONS:

A. Discharging Firearms/Rifles; Hunting

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

B. Concealed Weapons:

A person who is not a City police officer shall not carry about his person any concealed pistol, switchblade knife, razor, slingshot, metal knuckles or any other weapon or thing of deadly character, except as authorized by the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1 et seq. (1978 Code §42.03; Ord. 2017-29, 09-19-2017)

C. Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with section 1-4-1. (Ordinance 2019-1, 01-02-2019)

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

A. Obscene Material:

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

B. Any person who violates this section and has been issued a citation signed by a Law Enforcement Officer of this section shall be fined in accordance with section 1-4-1. (Ordinance 2019-1, 01-02-2019)

5-4-12: POSSESSION OF DRUG PARAPHERNALIA:

A. It is unlawful for any person under 21 years of age to knowingly possess an item of drug paraphernalia with any amounts of cannabis or a controlled substance within it.

B. Any person who violates this section, and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with section 1-4-1 (Ord. 2011-47, 12-20-2011; Ord. 2017-8, 03-07-2017; Ord. 2019-40, 12-03-2019; Ordinance 2022-14, 06-01-2022)

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

A. It is unlawful for any person under 21 years of age to knowingly to possess 30 grams or less of cannabis.

B. It shall be unlawful to use cannabis in any public place, which includes streets or parks, school grounds, or near someone under the age of 21 years of age, within the City of Genoa.

C. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1. (Ord. 2011-46, 12-20-2011; Ord. 2019-40, 12-03-2019; Ordinance 2022-14, 06-01-2022)

5-4-14: LITTERING:

A. No person shall dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public or private property in this City, or upon or into any river, lake, pond, or other stream or body of water in this City.

B. Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer, of this section shall be fined in accordance with section 1-4-1. (Ord. 2011-44, 12-20-2011)

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

A. It is unlawful for any person under (21) years of age to have consumed alcoholic liquor. The consumption by a person under 21 years of age of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent or those persons standing in loco parentis of such person under 21 years of age in the privacy of a home, is not prohibited.

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

C. Any minor under the age of eighteen (18) years of age charged under this provision is required to bring a parent or legal guardian to the Administrative Adjudication Hearing. (Ord. 2012-21, 09-04-2012)

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

A. It is unlawful for any person under the age of twenty-one (21) years to knowingly possess alcoholic liquor. The possession of alcohol by a person under 21 years of age and dispensing of alcoholic liquor to a person under 21 years of age do not apply in the case of a student under 21 years of age, but 18 years of age or older, who:

(1) tastes, but does not imbibe, alcoholic liquor only during times of a regularly scheduled course while under the direct supervision of an instructor who is at least 21 years of age and employed by an educational institution described in paragraph (2) herein;

(2) is enrolled as a student in a college, university, or post-secondary educational institution that is accredited or certified by an agency recognized by the United States Department of Education or a nationally recognized accrediting agency or association, or that has a permit of approval issued by the Board of Higher Education pursuant to the Private Business and Vocational Schools Act of 2012;

(3) is participating in a culinary arts, fermentation science, food service, or restaurant management degree program of which a portion of the program includes instruction on responsible alcoholic beverage serving methods modeled after the Beverage Alcohol Sellers and Server Education and Training (BASSET) curriculum; and

(4) tastes, but does not imbibe, alcoholic liquor for instructional purposes up to, but not exceeding, 6 times per class as part of a required course in which the student temporarily possesses alcoholic liquor for tasting, not imbibing, purposes only in a class setting on the campus and, thereafter, the alcoholic liquor is possessed and remains under the control of the instructor.

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

C. Any minor under the age of eighteen (18) years of age charged under this provision is required to bring a parent or legal guardian to the Administrative Adjudication Hearing. (Ord. 2012-22, 09-04-12)

5-4-17: RETAIL THEFT:

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

1. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
2. Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
3. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or

4. Causes the cash register or other sales recording device to reflect less than the full value of the merchandise; or
 5. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
 6. Represents to a merchant that he or another is the lawful owner of property knowing that such representation is false, and transfers or attempts to transfer that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
- B. Presumptions. If any person conceals upon his or her person among his or her belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment and removes that merchandise beyond the last known station for receiving payments for that merchandise in that retail mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant of the merchandise without paying the full retail value of the merchandise.
- C. Any person who violates this section has been issued a citation, signed by a City Law Enforcement Officer, shall be required to make restitution to the retail mercantile establishment for the full retail of the merchandise that is subject to the retail theft and shall also be fined in accordance with section 1-4-1.
- D. Any minor under the age of eighteen (18) years of age who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, is required to attend a mandatory court appearance in accordance with section 1-4-1. (Ord. 2017-20, 06-06-2017)

5-4-18: THEFT:

- A. Offense of Theft: An act of theft is committed when a person knowingly commits one or more of the following acts enumerated herein and the value of the property does not exceed five hundred dollars (\$500.00):
1. Obtains or exerts unauthorized control over property of the owner, or
 2. Obtains by deception control over property of the owner; or

3. Obtains by threat control over property of the owner, or
 4. Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him or her to believe that the property was stolen; or
 5. Obtains or exerts control over property in the custody of any law enforcement agency which a law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and
 6. Intends to deprive the owner permanently of the use of or benefit of the property; or
 7. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
 8. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- B. Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, shall be required to make restitution to the owner and shall also be fined in accordance with section 1-4-1.
- C. Any minor under the age of eighteen (18) years of age who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, is required to attend a mandatory court appearance in accordance with section 1-4-1. (Ord. 2017-26, 09/05/2017)

5-4-19: TAKING MATERIALS FROM PUBLIC PROPERTY:

No person shall move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground, except as is otherwise provided in this Code.

5-4-20: THEFT OF LABOR OR SERVICES:

- A. A person commits theft when he or she knowingly obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services. For the purposes of this subsection, library material is available for hire.

- B. A person commits theft when after (1) renting or leasing a motor vehicle, (2) obtaining a motor vehicle through a "driveaway" service mode of transportation, (3) renting or leasing equipment exceeding \$500 in value including tools, construction or industry equipment, and such items as linens, tableware, tents, tables, chairs and other equipment specially rented for a party or special event, or (4) renting or leasing any other type of personal property exceeding \$500 in value, under an agreement in writing which provides for the return of the vehicle, equipment, or other personal property to a particular place at a particular time, he or she without good cause knowingly fails to return the vehicle, equipment, or other personal property to that place within the time specified, and is thereafter served or sent a written demand mailed to the last known address, made by certified mail return receipt requested, to return the vehicle, equipment, or other personal property within 3 days from the mailing of the written demand, and who without good cause knowingly fails to return the vehicle, equipment, or any other personal property to any place of business of the lessor within the return period. The trier of fact may infer evidence that the person is without good cause if the person signs the agreement with a name or address other than his or her own.

5-4-21: DECEPTIVE PRACTICES:

A person commits a deceptive practice when with intent to obtain control over property or to pay for property, labor or services of another, he issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository. Failure to have sufficient funds or credit with the depository when the check or other order is issued or delivered is prima facie evidence that the offender knows that it will not be paid by the depository.

5-4-22: VANDALISM; PARENTAL RESPONSIBILITY:

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

1. ACTS OF VANDALISM: Include any of the following acts:

a. Recklessly or knowingly damaging or destroying any public or private property of another person without their consent; or

b. Recklessly, or knowingly by means of fire or explosive device, damaging, debasing or destroying any public or private property of another person without their consent; or

c. Recklessly, or knowingly starting a fire on any public or private property of another person without their consent; or

d. Recklessly, or knowingly depositing on the land or in the building of another person, without their consent, any stink bomb, any offensive smelling compound or any other offensive or dangerous compound or item and thereby interfering with the use and occupancy by another person, of the land or building; or

e. Recklessly, or knowingly and without authority entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft, or any part thereof, of another person without their consent.

2. **LEGAL GUARDIAN:** Includes a foster parent, a person appointed guardian of a person or given custody of a minor by a court of competent jurisdiction but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the Illinois Juvenile Court Act.

3. **MINOR:** Includes a person who is above the age of seven (7) years, but not yet seventeen (17) years of age.

4. **PARENTS:** Include the father and mother of a minor child, whether by birth or adoption, and shall include the parent having legal custody of the minor in the event the parents are divorced or separated.

5. **PERSON:** Includes any individual, firm, partnership, association, corporation, company or organization of any kind.

6. **PROPERTY:** Includes any real estate including improvements thereon, and tangible personalty.

7. **RESTITUTION:** Includes paying to a person who owns property damaged or destroyed by an act of vandalism in an amount equal to the damages incurred as a result of the act of vandalism and shall also include undertaking at the direction of the Police Department Juvenile Officer tasks designed to correct damage resulting from acts of vandalism or other work which will provide a benefit to the City and its citizens.

- B. Vandalism Prohibited: It shall be a violation of this Section for any person to commit an Act of Vandalism.
- C. Restitution Required: It shall be a violation of this Section for a person who has been found by a court of law to have committed an Act of Vandalism to fail to make Restitution thereof.
- D. Parents or Legal Guardians Responsible: The parents or legal guardians of a minor who is found by a court of law to have committed an Act of Vandalism shall be jointly and severally responsible for making restitution thereof. The parents or legal guardians shall be made defendants to the hearing at which a determination is made by the court as to whether an Act of Vandalism has taken place.
- E. Enforcement Proceeding: In the event that a person alleged to have engaged in an Act of Vandalism shall refuse to comply with the provisions of this section or shall begin such program and shall not complete it or provide restitution as may be required, then the City may institute an ordinance enforcement proceeding to establish that the person has committed the Act of Vandalism and to enforce compliance with the provisions of this Section against said person, and if a Minor, their Parents or Legal Guardians. In addition to enforcing compliance, the City may seek the penalties provided for in Subsection F hereof.
- F. Penalty: Any person who violates this section and has been issued a citation, signed by a City Law Enforcement Officer, shall be required to make restitution to the owner and shall also be fined in accordance with section 1-4-1.

CHAPTER 5 ADMINISTRATIVE ADJUDICATION

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5-5-1: PURPOSE:

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

5-5-2: CREATION:

There is hereby established, pursuant to the City's adoption of the provisions of Division 2.1 of the Illinois Municipal Code (65 ILCS 5/1-2.1-1 et seq.), an administrative department of the municipal government to be known as the City of Genoa ordinance enforcement department (which may also be referred to as a code hearing department) and to have the power to enforce compliance with all municipal ordinances as from time to time authorized by the City Council and any offense under the Illinois building code, but not any offense under the Illinois vehicle code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under section 6-204 of the Illinois vehicle code. The establishment of the City of Genoa ordinance enforcement department does not preclude the mayor and City Council from using any other method to enforce ordinances of the City.

5-5-3: ADMINISTRATIVE COMPOSITION:

The City of Genoa ordinance enforcement department shall be composed of a hearing officer, an ordinance enforcement administrator, system coordinator/computer operator and such other personnel as may be deemed necessary with the power and authority as hereinafter set forth. The mayor is hereby authorized to appoint the hearing officers of this City with the advice and consent of the City Council

A. Hearing Officer:

1. The hearing officer shall preside over all adjudicatory hearings and shall have the following powers and duties:
 - a. Preside at an administrative hearing called to determine whether or not a code violation exists;
 - b. Hear testimony and accept evidence that is relevant to the existence of the city code violation;
 - c. Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of the parties or their representatives;
 - d. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
 - e. Issue and sign a written finding, decision and order stating whether a city code violation exists; and
 - f. Impose penalties, sanctions or such other relief consistent with applicable city code provisions and assess costs upon finding a party liable for the charged violation, except however, that in no event shall the hearing officer have authority to impose a penalty of incarceration. (Ord. 2017-14, 04-18-2017)
2. Prior to conducting administrative adjudication proceedings under this chapter, the hearing officer shall have successfully completed a formal training program which includes the following:

- a. Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;
 - b. Orientation to each subject area of the code violations that he/she will adjudicate;
 - c. Observation of administrative hearings; and
 - d. Participation in hypothetical cases, including ruling on evidence and issuing final orders.
3. A hearing officer must be an attorney licensed to practice law in the state of Illinois for at least three (3) years.
- B. Ordinance Enforcement Administrator: The Chief of Police or his designee shall serve as the Ordinance Enforcement Administrator. The ordinance enforcement administrator is authorized and directed to:
1. Operate and manage the system of administrative adjudication of City ordinance violations as may be permitted by law and directed by ordinance.
 2. Adopt, distribute, and process all notices as may be required under this chapter or as may be reasonably required to carry out the purpose of this chapter.
 3. Track and monitor monies paid as fines and/or penalties assessed after a final determination of liability. (Ord. 2017-14, 04-18-2017)
 4. Certify copies of final determinations of an ordinance violation adjudicated pursuant to this chapter, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this chapter, the laws of the state of Illinois, including 625 Illinois Compiled Statutes ("ILCS") 5/11-208.3, as from time to time amended.
 5. Certify reports to the secretary of state concerning initiation of suspension of driving privileges in accordance with the provisions of this chapter as hereinafter set forth, and those of 625 Illinois Compiled Statutes 5/6-306.5.
 6. Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.
 7. Collect unpaid fines and penalties through private collection agencies and the State pursuit of all post judgment remedies available by current law. (Ord. 2017-14, 04-18-2017)
- C. System Coordinator/Computer Operator: The Chief of Police shall assign this position to an employee of the Police Department. The system coordinator/computer operator is hereby authorized and directed to operate and maintain the computer

programs for the administrative adjudication system of the City of Genoa ordinance enforcement department hereby created, on a day to day basis, including, but not limited to:

1. Input of ordinance violation citations and information. (Ord. 2017-14, 04-18-2017)
2. Establishing hearing dates and notice dates.
3. Issue subpoenas ordering witnesses and violators to appear at an adjudication hearing as needed or directed by the hearing officer. (Ord. 2017-14, 04-18-2017)
4. Record fine and penalty assessment and payments.
5. May issue payment receipts. (Ord. 2017-14, 04-18-2017)
6. Issue succeeding notice of hearing dates and/or final determination of liability; issue notice of immobilization; issue notice of impending impoundment; issue notice of impending driver's license suspension, issue collection notices and final collection notices as directed by the ordinance enforcement administrator in accordance with the provisions hereinafter set forth. (Ord. 2017-14, 04-18-2017)
7. Keep accurate records of appearances and nonappearances at administrative hearings, pleas entered, judgments entered, sanctions imposed, if any, fines and penalties assessed and paid.

5-5-4: NOTICE OF VIOLATION:

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

- A. Notice of any ordinance violation including, but not limited to, violations of the city motor vehicles and traffic code, and Title 6 of this code, other than any offense under the Illinois vehicle code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under section 6-204 of the Illinois vehicle code (hereinafter the "city motor vehicle code"), shall be issued by the persons authorized under this code and shall contain information and shall be certified and constitute prima facie evidence of the violation cited as hereinafter set forth.
- B. All full time, and part time officers, as well as other specifically authorized individuals of any City department shall have the authority to issue violation notices and ordinance citations.
- C. Any individual authorized hereby to issue ordinance citations and violation notices and who detects an ordinance violation authorized to be adjudicated under this chapter or a violation of any section of any city ordinance, is authorized to issue a

notice of violation or ordinance citation thereof and shall make service thereof as is hereinafter set forth.

- D. The violation notice shall contain, but shall not be limited to, the following information:
1. The name and address of the party violating the ordinance, if known.
 2. The date, time, and place of the violation (date of issuance).
 3. The type and nature of the ordinance violated.
 4. Vehicle make and state registration number (if applicable).
 5. Failure to pay or appear may result in a default judgement being entered and the imposition of the maximum fine provided by law for each alleged offense cited plus costs.
 6. The names and witnesses of the violation.
 7. The signature and identification number of the person issuing the notice.
 8. The docket or citation number, date, and location of the adjudication hearing of ordinance violations, if applicable, the legal authority and jurisdiction under which the hearing is to be held.
- E. The date of the hearing shall not be less than thirty (30) nor more than sixty (60) days after the violation is reported. (Ord. 2017-14, 04-18-2017)

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

- A. Service of any violation notice shall be made by the person issuing such notice:
1. In the case of violation of the City motor vehicle code, service shall be made by:
 - a. Affixing the original or a facsimile of the notice to an unlawfully standing or parked vehicle, unstickered vehicle, or vehicle violating any compliance regulation;
 - b. Handing the notice to the registered owner, operator, or lessee of the vehicle, if present; or
 - c. Mailing the notice by first class mail to the person responsible for the ordinance violation, which may include notice to appear at a hearing date in accordance with 5-5-4 E. (Ord. 2017-14, 04-18-2017)
 2. In the case of a violation of the building code, service shall be made by:

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

5-5-6: ADMINISTRATIVE HEARINGS:

- A. An administrative hearing shall be granted for the following:
1. To adjudicate any alleged ordinance violation on its merits.
 2. To contest the validity of a notice of impending immobilization or impending impoundment, or, the validity of a notice of impending driver's license suspension. The hearing shall be granted to the registered owner or lessee of the "cited vehicle", pursuant to 625 Illinois Compiled Statutes 5/11-208.3 or the lessee of the "cited vehicle", 625 Illinois Compiled Statutes 5/11- 1306, incorporated herein by reference, and at the date, time and place as is set forth by the ordinance enforcement administrator and served upon the registered

owner, operator, or lessee for hearings contesting the validity of notices of impending immobilization or impending impoundment or driver's license suspension.

- B. No continuances shall be authorized by the hearing officer at the hearing except where absolutely necessary to protect the rights of the individual. Lack of preparation does not constitute cause for a continuance. No continuance may be granted for more than sixty (60) days.
- C. At any time prior to the hearing date the hearing officer assigned to hear the case may, at the request of the building inspector or the attorney for the municipality, or the owner or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.
- D. If on the date set for the hearing the person or entity or his or her or its attorney fails to appear, the hearing officer may find the person or entity in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.
- E. All administrative hearings shall be recorded and shall culminate in a determination of liability or nonliability made by the hearing officer, who shall consider facts and/or testimony without the application of the formal or technical rules of evidence. Evidence including hearsay, may be admitted only if it is a type of commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- F. The hearing officer shall, upon a determination of liability, assess fines and penalties in accordance with section 1-4-1 of this chapter. Persons appearing to contest the alleged violation on its merits may be represented by counsel at their own expense. The burden of proof shall be on the alleged offender to refute the prima facie case set forth in the verified citation or notice of violation. (Ord. 2017-14, 04-18-2017)

5-5-7: FINAL DETERMINATION OF LIABILITY:

- A. A final determination of liability shall occur following the failure to pay the fine or penalty and/or upon the hearing officer's determination of liability and the exhaustion of, or the failure to exhaust, any administrative review procedures hereinafter set forth.
- B. Where a person fails to appear at the administrative hearing to contest the alleged violation on the date and at the time and place specified in a prior served or mailed notice pursuant to section 5-5-11 of this chapter, the hearing officer's determination of liability shall become final either upon a denial of a timely petition to set aside that determination or upon the expiration of the period for filing a petition without a filing having been made.

- C. A notice of final determination of liability shall be provided following the conclusion of an administrative hearing or sent by U.S. mail within five (5) days after the final determination of liability is made, as is hereinafter set forth, and shall contain, but not be limited to, the following information and warnings:
1. The hearing officer's findings of fact.
 2. A decision of whether or not a code violation exists based upon the findings of fact.
 3. A statement that the unpaid fine and any penalty assessed is a debt due and owing the City.
 4. A statement of any sanction ordered or costs imposed which costs are debts due and owing the City.
 5. A warning that failure to pay the fine and any penalty due and owing the City within the time specified may result in further court proceedings, additional fees, and the debt being turned over to the State of Illinois or collections.
 6. The signature of the hearing officer and the date of determination. (Ord. 2017-14, 04-18-2017)

5-5-8: JUDICIAL REVIEW:

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

5-5-9: ENFORCEMENT OF JUDGMENT:

- A. Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Illinois administrative review law are a debt due and owing the municipality and may be collected in accordance with applicable law.
- B. After expiration of the period in which judicial review under the Illinois administrative review law may be sought for a final determination of a code violation, the city may commence a proceeding in the circuit court of DeKalb County for the purpose of enforcing the findings, decision, and order in the same manners as a judgment entered by a court of competent jurisdiction.
- C. In any case in which a hearing officer finds that an individual has failed to comply with a judgment ordering an individual to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a

municipality to enforce the judgment including, but not limited to, attorney fees, court costs, and costs related to property demolition or foreclosure after they are fixed by the hearing officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law.

1. A lien shall be imposed on the real estate or personal estate, or both, of the individual in the amount of any debt due and owing the municipality under this chapter. The lien may be recorded and enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction. No lien may be enforced under this chapter until it has been recorded in the manner provided by article XII of the code of civil procedure or by the uniform commercial code.
 2. Unpaid fines which are debts due to the City may be turned over to an outside collection agency and/or to the State of Illinois Debt Recovery program.
- D. A hearing officer may set aside any judgment entered by default and set a new hearing date upon a petition filed within twenty-one (21) days after the issuance of the order of default if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process.

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

Fines and penalties shall be imposed in accordance with this code, or where no fine or penalty is expressed in this code, the hearing officer may impose a fine or penalty according to his judgment. However, in no case may the fines imposed by the hearing officer exceed seven hundred fifty dollars (\$750.00) per violation per day, up to a maximum of \$50,000 dollars (\$50,000.00) for any one violation.

5-5-11: NOTICES AND SUBPOENAS:

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

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

A. City Parking Violation Notices

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

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

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

- Citation/Docket #
 - Date of ruling
 - Total of fine(s) and penalty(s) due to the City
 - Payment received, if any, and the balance of the fines due
 - Statement that is a debt due to the City of Genoa, and
 - Warning that failure to comply with the hearing officer's order and pay the fine(s) immediately may result in further court proceedings, additional fees, the debt being turned over to collections and the State debt recovery program.
1. Collection Notice- Shall be sent to any "respondent" failing to comply with the hearing officer's order and pay said fine(s) within 35 days of the final determination of liability.
 2. Final Collection Notice- Shall be sent 30 days past the collection notice date to any "respondent" failing to comply with the hearing officer's order.

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

1. A default judgement notice along with the ruling containing the determination of liability by the hearing officer will be sent by U.S. mail, or

2. A subpoena commanding the respondent's appearance at a future hearing date and time will be sent via U.S. Mail as directed by the hearing officer. (Ord. 2017-14, 04-18-2017)

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

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

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

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

- A. Any motor vehicle whose registered owner has been determined to be liable for ten (10) or more vehicular standing or parking regulation violation(s), for which the fines or penalties assessed remain unpaid, may be immobilized, booted, or towed and impounded if:
 1. The ordinance enforcement administrator has determined that a person has been determined to be liable for ten (10) or more ordinance violations, for which the fines or penalties remain unpaid.
 2. The person determined to be liable for ten (10) or more violations is the registered owner of a motor vehicle located within the city's geographical boundaries.
 3. A seizure notice has been sent to the registered owner of the motor vehicle located within the geographical boundaries of the city which contains, but shall not be limited to, the following:
 - a. That a final determination has been made on ten (10) or more ordinance violations, for which the fines and penalties remain unpaid.
 - b. A listing of the violations for which the person has been determined to be liable, which shall include for each violation:
 - i The ordinance violation notice number;
 - ii Date of issuance; and

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

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

Upon the receipt of the request for hearing to contest the validity of the immobilization or towing and impoundment, the ordinance enforcement administrator shall schedule an administrative hearing to contest the validity of the immobilization or towing and impoundment on the next scheduled hearing date or if sooner scheduled by the ordinance enforcement administrator for good cause shown, but in no case shall the hearing be scheduled later than forty-five (45) days after the request for hearing is filed and shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid, to the address as is set forth on the request for hearing. Service of the notice shall be complete on the date it is placed in the United States mail.

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

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

et seq. The notice also shall provide the following information specifying that a release of the immobilizing restraint may be had by:

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

5-5-16: TOWING OF IMMOBILIZED VEHICLE:

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

5-5-17: POST IMPOUNDMENT NOTICE:

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

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

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

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

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

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

5-5-20: TOWING SERVICES:

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

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

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

5-5-22: RESERVED

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

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

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

A person who contracts with the federal government or any of its agencies, including, without limitation, the department of housing and urban development, to care for vacant residential real estate shall be responsible for maintaining the property to prevent and correct municipal health and safety code violations. A person who intentionally violates this section is guilty of a business offense and shall be fined not less than five hundred one dollars (\$501.00) and not more than \$750 (\$750.00). (Ord 2011-23, 07-19-11)

CHAPTER 6

CRIMINAL CODE OFFENSES

SECTION:

5-6-1: Assault

5-6-2: Battery

5-6-3: Reckless Conduct

5-6-4: Obstructing Passageways

5-6-5: Unlawful Restraint

5-6-6: Harassment by Telephone

5-6-7: Harassment Through Electronic Communications

5-6-1: ASSAULT:

A person commits an assault, which is a misdemeanor, when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

5-6-2: BATTERY:

A person commits battery if he intentionally or knowingly without legal justification and by any means:

- A. Causes bodily harm to an individual; or
- B. Makes physical contact of an insulting or provoking nature with an individual.

5-6-3: RECKLESS CONDUCT:

A person who causes bodily harm to or endangers the bodily safety of any individual by any means, commits reckless conduct, if he performs, recklessly the acts which cause the harm or endangers safety, whether they otherwise are lawful or unlawful.

5-6-4 OBSTRUCTING PASSAGEWAYS:

No person shall place or erect upon public way or passageway to any building an obstruction of any type; provided, that this section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

5-6-5 UNLAWFUL RESTRAINT:

A person commits the offense of unlawful restraint when he knowingly without legal authority detains another.

5-6-6 HARASSMENT BY TELEPHONE:

Harassment by telephone is use of telephone communication for any of the following purposes:

- (1) Making any comment, request, suggestion or, proposal which is obscene, lewd, lascivious, filthy or indecent with an intent to offend; or
- (2) Making a telephone call, whether or not, conversation ensues, with intent to abuse, threaten or harass any person at the called number; or
- (3) Making or causing the telephone of another, repeatedly to ring, with intent to harass any person at the called number; or
- (4) Making repeated telephone calls, during which, conversation ensues, solely to harass any person at the called number; or
 - (4.1) Making a telephone call or knowingly inducing, a person to make a telephone call for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense; or
- (5) Knowingly permitting any telephone under one's, control to be used for any of the purposes mentioned herein.

5-6-7 HARASSMENT THROUGH ELECTRONIC COMMUNICATIONS:

- - A. Harassment through electronic communications is the use of electronic communication for any of the following purposes:
 1. Making any comment, request, suggestion or, proposal which is obscene with an intent to offend;
 2. Interrupting, with the intent to harass, the, telephone service or the electronic communication service of any person;
 3. Transmitting to any person, with the intent to, harass and regardless of whether the communication is read in its entirety or at all, any file, document,

or other communication which prevents that person from using his or her telephone service or electronic communications device;

i. Transmitting an electronic communication or, knowingly inducing a person to transmit an electronic communication for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense;

4. Threatening injury to the person or to the, property of the person to whom an electronic communication is directed or to any of his or her family or household members; or

5. Knowingly permitting any electronic, communications device to be used for any of the purposes mentioned in this subsection (a).

B. As used in this Section:

1. "Electronic communication" means any transfer of, signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

2. "Family or household member" includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Act, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

3. Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.