

# ARTICLE 12

## BUSINESSES AND OCCUPATIONS

### Chapter

- 1 Transient Businesses (*Ord. 2012-89, 12/03/2012*) (*Ord. 2013-53, 12/02/2013*) (*Ord. 2015-30, 5/18/15*)
- 2 Commercial Buildings (*Ord. 2012-89, 12/03/2012*)
- 3 Emergency Alarm Systems (*Ord. 2015-06, 2/02/2015; Ord. 2015-61, 11/16/15*)
- 4 Sales and Advertising (*Ord. 2012-89, 12/03/2012*)
- 5 Coin-Operated Machines (*Ord. 2012-89, 12/03/2012*)
- 6 Alcoholic Liquors (*Ord. 2014-51, 10/21/2013*) (*Ord. 2015-24, 4/21/15 Entire rewrite*)  
(*Ord. 2016-17; 3/21/16*) (*Ord. 2016-28 & 29; 4/18/16*) (*2016-33; 5/2/16*) (*2016-45; 6/6/16*)
- 7 Farmers Market
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(*SUPP. 20 2000*); (*Ord. 2008-82, 11/17/2008*)

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 1 TRANSIENT BUSINESSES

*(Ord. 2006-83, Entire Re-write, 10/9/06, S24)  
(Ord. 2012-89, Entire Re-write 12/03/2012)*

#### SECTION

12-1-1	Definitions	<i>(2015-30, 5/18/15)</i>
12-1-2	Amount of Fee	
12-1-3	Homeowner Acting as Building Contractor	
12-1-4	Electrical Contractor	
12-1-5	Contractor Insurance	
12-1-6	Mobile Food Vending	<i>(2015-30, 5/18/15)</i>

#### 12-1-1 Definitions

The following words and terms wherever they occur in this Chapter shall be construed as follows:

- A. **FOOD TRUCK FIRM:** A commercial vehicle that sells commercially manufactured pre-packaged frozen desserts.
  
- B. **MEDIA:** any and all still, live, or motion picture production and related activities whether made on or by film, electronic tape, or any other electronic device used to produce theatrical motion pictures, television entertainment motion pictures, industrial motion pictures, television commercials, or still photography for use in any print or electronic Media. Film Production shall include the erection, dismantling, and transportation of the Production Equipment and the use of Production vehicles. For purposes of this Article 12, Media shall not include Film Production by a bona fide student or students of an elementary school, secondary school, or college program; for class credit and not for a commercial purpose.

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- C. MOBILE FOOD CART: A non-motorized food service cart in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution that exceeds the temporary use time period.
- D. MOBILE FOOD VEHICLE: A commercially manufactured, mobile food unit or vehicle-mounted food service establishment designed to be driven on public streets in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution that exceeds the temporary use time period.
- E. OWNER: any individual, firm, association, partnership, corporation, trust, or any other legal entity having proprietary interest in a transient business.
- F. PERSON: an individual, firm, association, partnership, corporation, trust, or any other legal entity.
- G. TRANSIENT BUSINESS: any of the following activities of commerce or commercial activity conducted within the City:
  - 1. Estate Sales (the selling of goods, chattels or real estate on behalf of an estate or personal representative of an estate);
  - 2. Building Contracting (engaging in one or more of the several building trades and other types of activities involving manual labor including, but not limited to, the trades and activities of excavators, plumbers, sewer construction and maintenance, concrete or mason work, carpenters, metal working activities, roofing trades, glazing activities, heating or air conditioning, electricians, plastering and lathing activities, tiling activities, painters and decorators, catch basin cleaners, sprinkler (lawn or fire), drywall activities, landscaping, forestry or tree services, or alarm system installation);
  - 3. Transient Food Sales (the collection, delivery, carrying, or transportation of food, foodstuff, food products, beverages or drink or ice for sale or incident to sale to persons within the City from the public right of way or from private property not owned, controlled, or leased by the owner or operator of the property from which sales are made);
  - 4. Transient Merchandise Sales (the collection, delivery, carrying, or transportation of merchandise, material goods, chattels, wares, or printed material for sale or incident to sale to persons within the City from the public right of way or from private property not owned, controlled, or leased by the owner or operator of the vehicle from which sales are made);

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- 5. Residential Services (the providing of any service or use of any profession or occupation licensed by the State of Illinois at a residential property within the City);
- 6. Scavenger/Junk Hauler: the collection, hauling, delivery, carrying and removal of residential or commercial garbage, refuse, junk, trash, rubbish, debris, wood, oil, grease, paper, metal, bricks, clothes, furniture, bottles or glassware for disposal, sale or otherwise by a motorized vehicle.

**12-1-2 AMOUNT OF FEE**

Yearly License fees shall be as follows:

<u>Classification</u>	<u>License Unit</u>	<u>Yearly Fee</u>
Building Contractor	Per firm	\$ 50.00
Food Truck Firm	Per truck	\$ 50.00
Scavenger/Junk Hauler	Per firm	\$ 50.00
Estate Salesperson	Per person	\$ 50.00
Merchandise Truck Firm	Per truck	\$ 50.00
Residential Services Firm	Per firm	\$ 50.00

*(Ord. 2013-53, 12/02/2013)*

**12-1-3 HOMEOWNER ACTING AS BUILDING CONTRACTOR**

Homeowners are not required to obtain a building contractor license. A homeowner, upon obtaining a building permit from the Building Official, may in his or her own home install, alter, or repair any building or structure, equipment, plumbing system, and/or electrical system, provided the homeowner shall reside in the residence being altered or repaired for a period of at least six (6) months following the final inspection for the building permit. If, during any scheduled inspections, it is found that the homeowner is not complying with the Building Code, the Building Official may require that a licensed building contractor be retained to complete the construction specified in the building permit.

**12-1-4 ELECTRICAL CONTRACTOR**

It shall be unlawful for any person to engage in the business of electrical contracting without being licensed as an electrician or an electrical contractor for the current year in another city or village within the State of Illinois approved by the Building Official. The electrician or electrical contractor license must be obtained from a city or village that administers a competency exam based upon the National Electrical Code or City of Chicago Electrical Code. Such electrician or electrical contractor shall be required to

show proof of such license before a building contractor license will be issued to engage in the business of electrical contracting in the City of Park Ridge.

### **12-1-5 CONTRACTOR INSURANCE**

Any person or firm engaged in the business as a building contractor shall obtain and maintain in full force and effect during the operation of the business liability and property damage insurance in the amount of \$1,000,000 for general liability per occurrence, \$1,000,000 for bodily injury, and \$2,000,000 for general aggregate from an insurance company licensed to do business in the State of Illinois and with a minimum insurance rating of B++, as found in the current edition of A.M. Best's Key Rating Guide.

### **12-1-6 MOBILE FOOD VENDING**

#### **A. LICENSE REQUIRED; APPLICATION; FEES.**

1. It shall be unlawful for any person to operate a mobile food vehicle or mobile food cart, as defined in this Chapter, within the City without first having obtained a license for that purpose.
2. The provisions of this Section are not exclusive. This Section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.
3. Any person desiring to operate a mobile food vehicle or mobile food cart shall make a written application for such license to the Community Preservation and Development Department, Health Division in accordance with Section 12-17-1. The application for such license shall be on forms provided by the Health Division and shall include the items listed in Section 12-17-1(b) and the following:
  - a. Name, signature and address of the owner.
  - b. Name and address of the approved commercial food source.
  - c. A description of the preparation methods and food product offered for sale, including the intended menu, display, distribution containers, and utensils.
  - d. Equipment list including equipment type, manufacturer and model number.

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- e. Plans and specifications for the mobile food vehicle or cart, including the proposed layout, photographs, mechanical schematics, and construction materials.
- f. The proposed location(s) and dates and times of operation.
- g. A description of plumbing facilities including type of water supply, public sewer provided, provisions for utensil washing and sanitizing, provisions for hand washing and the size of clear water tank.
  - Minimum size of water tank shall be five (5) gallons for mobile food carts and twenty (20) gallons for mobile food vehicle.
  - Minimum size of waste water tanks shall be one and one half (1.5) the size of the clear water tank.
- h. A signed statement that the owner shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license. Owner shall furnish to the City and maintain such public liability, food products liability, and property damage insurance as will protect owner, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence and with a minimum insurance rating of B++, as found in the current edition of A.M. Best's Key Rating Guide. The policy shall further provide that it may not be cancelled except upon thirty (30) days' written notice served upon the City.
- i. The vehicle identification number of each mobile food vehicle.
- j. A waiver signed by the owner and driver(s) authorizing the City to conduct a background check on each driver who will operate the mobile food vehicle or mobile food cart. The owner shall furnish a list of the persons who will be operating the mobile food vehicle or mobile food cart including their names and addresses and a statement that each such person has not been convicted of a felony within the past ten (10) years and that each such person is not required by law to register as a sex offender as required.
- k. Other items deemed necessary by the City of Park Ridge, Health Division.

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Owner shall notify the Health Division within thirty (30) days of any changes to application information.

4. All mobile food carts and mobile food vehicles licensed under this Chapter shall pay an annual license fee as a food establishment based on the Risk type as identified in Section 12-2-2.

### **B. FORM AND CONDITIONS OF LICENSE.**

1. In addition to naming the owner, the approved operating location site diagram, and other information deemed appropriate by the Health Division, the mobile food vehicle or mobile food cart license shall contain the following conditions:

- a. Each mobile food vehicle vending license shall expire on December 31 of each year or as set by the City Council.
  - b. Business shall only be conducted at those locations listed on the license and during the hours listed on the license.
  - c. The license shall not be transferrable from person to person, vehicle to vehicle, or cart to cart.
  - d. Each license is valid for one (1) vehicle or cart only.
2. A mobile food vehicle owner who has a current valid license under this Chapter shall not be required to obtain a temporary food establishment permit in order to conduct business at a private event, but it must notify the Health Division in writing of the private event at least 10 days prior to the event. If the owner alters its current and approved menu for an event it shall be required to obtain a temporary food establishment permit in order to operate at a private event.

### **C. SANITATION; INSPECTIONS; RESTRICTIONS ON USE.**

1. All mobile food vehicles and carts shall be kept in a clean and sanitary condition. The Health Division shall have the authority to make or cause to be made such inspections as may be necessary to ensure all mobile food vehicles and carts are kept in a clean and sanitary condition. A Health Inspector bearing proper identification shall be permitted access to any mobile food vehicle or cart at any reasonable time for the purpose of inspecting to determine whether the owner has complied with the terms

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of this chapter. Additionally, the owner shall, on request, provide the Health Inspector with the records of the mobile food vehicle or cart to obtain information pertaining to food and supplies purchased, received, or used. Denial of access or to said records shall be deemed an interference with the Health Inspector in the performance of his/her duties.

2. All food storage, preparation and distribution of food, and vehicle equipment must meet applicable Illinois Department of Public Health standards and requirements.
3. All food, beverages, ice and other materials sold or used in preparation of goods to be sold must be obtained from an approved commercial source.
4. All off-site food preparation and food storage must be done at a licensed food establishment. Food cannot be prepared in a home.
5. All waste liquids, garbage, litter and refuse shall be kept in leak-proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the affiliated licensed restaurant. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place except the affiliated licensed restaurant. A garbage receptacle shall be easily accessible for customer use. Owner shall be responsible for all litter and garbage left by customers.
6. No mobile food vehicle shall be operated unless it bears a valid state license and no such vehicle shall be operated unless it is equipped with proper brakes, tires, lights, horn, muffler, rear vision mirror and windshield wipers. All such equipment shall be in good working condition. The owner shall be required to furnish the City with an inspection certificate indicating that the mobile food vehicle is in safe mechanical condition. No mobile food vehicle shall be operated upon the streets of the City if an inspection indicates that the vehicle is not in a safe mechanical condition and may not be put back in operation until it has been repaired, submitted for retesting and a certificate issued indicating that it has no mechanical defects.
7. All mobile food carts and mobile food vehicles must prominently display the name and address of the owner.
8. Any power required for the mobile food cart or mobile food vehicle located on a public right-of-way shall be self-contained and shall not use utilities drawn

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from the public right-of-way. Mobile food carts and mobile food vehicles on private property may use electrical power from an adjacent property only when the property owner provides written consent. All other power sources must be self-contained. No power cable or equipment shall be extended at grade across any City street, alley or sidewalk.

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#### CHAPTER 2 COMMERCIAL BUILDINGS

*(Ord. 2006-83, Entire Re-write, 10/9/06, S24)  
(Ord. 2012-89, Entire Re-write 12/03/2012)*

#### SECTION

12-2-1	Definitions
12-2-2	Amount of Fee
12-2-3	Computation
12-2-4	Site Covered
12-2-5	Multiple Classifications
12-2-6	Exclusions
12-2-7	Re-Inspection Fee

#### 12-2-1 DEFINITIONS

Words and terms used in this Chapter that are defined in the Zoning Code shall have the definitions ascribed in the Zoning Code. Other words and terms shall be defined as follows:

- A. COMMERCIAL BUSINESS ESTABLISHMENTS: any property or portion of property used for the exchange or buying and selling of a commodity or service, including but not limited to the following:
1. Food Establishment is a premises which is used for the sale, dispensing, distribution, or serving of food, foodstuffs, or drink for consumption on or off the premises.
  2. Service Establishment is a premises which is used for the business of rendering personal services including, but not limited to:
    - a. the cutting, styling, setting or washing of human hair or wig;
    - b. the wholesale distribution or storage of material goods or chattels;
    - c. the sale, servicing or storage of motor equipment or motor vehicles;
    - d. the washing, cleaning, dyeing, or repair of fabrics, wearing apparel, or footwear;

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- e. the storage, assembly, distribution, servicing, or repair of building materials or electrical equipment or mechanical equipment;
  - f. the storage or distribution of fuels or other petroleum products;
  - g. printing, blueprinting, photocopying, multi-lithing, publishing, duplicating, or similar reproduction services;
  - h. the provision of facilities for a hotel, motel or apartment hotel, rooming house, nursing home, or similar housing facilities for transient or permanent guests;
  - i. the provision of facilities for education, instruction, training, participation in or presentation of the following, including, but not limited to, the fine arts; athletic skills; physical skills; entertainment or recreation; computer or business skills, excluding any schools operated under the authority of the State School Code;
  - j. funeral homes;
  - k. childcare facilities;
  - l. contractor's shops and material storage yards;
  - m. any swimming pool except those operated for family use at a single family detached dwelling unit.
- B. RETAIL GOODS ESTABLISHMENT: a mercantile establishment for the sale of goods and products to the general public, as opposed to a wholesale of goods or an establishment that sells services.
- C. PROFESSIONAL ESTABLISHMENT: (a premises which is used for the business of rendering professional services, including, but not limited to, health, medical or dental care, banking or financial affairs, travel, insurance, legal affairs, real estate, clerical or data processing affairs, advertising, brokering, construction, architecture, engineering, planning, or accounting).
- D. TEMPORARY FOOD SERVICE: (events where food is served to the public on a temporary basis).
- E. OWNER: Any individual, firm, association, partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in a commercial establishment to maintain and manage its operation.
- F. SERVICE: Work that does not produce a tangible commodity.

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**12-2-2 AMOUNT OF FEE**

Yearly fees for registration of commercial establishments shall be as follows:

<u>Classification</u>	<u>Step</u>	<u>Floor Area in Square Feet</u>	<u>Annual Fee</u>
A-Food Establishment			
Risk 1			\$700.00
Risk 2			450.00
Risk 3			250.00
B-Service Establishment	1	0 - 1,000	\$150.00
B-Service Establishment	2	1,000 - 5,000	200.00
B-Service Establishment	3	5,000 - 10,000	300.00
B-Service Establishment	4	10,000 - 20,000	400.00
B-Service Establishment	5	20,000 - and over	550.00
C-Retail Sales Establishment	1	0 - 1,000	\$100.00
C-Retail Sales Establishment	2	1,000 - 5,000	150.00
C-Retail Sales Establishment	3	5,000 - 10,000	200.00
C-Retail Sales Establishment	4	10,000 - 20,000	250.00
C-Retail Sales Establishment	5	20,000 - and over	350.00
D-Professional and Other	1	0 – 1,000	\$ 50.00
D-Professional and Other	2	1,000 – 5,000	90.00
D-Professional and Other	3	5,000 – 10,000	130.00
D-Professional and Other	4	10,000 – 20,000	170.00
D-Professional and Other	5	20,000 – and over	210.00
E-Home Occupations			\$ 35.00
F-Temporary Food Service			
Risk 1			\$ 75.00
Risk 2			50.00
Risk 3			25.00
G-Pool			\$100.00

**12-2-3 COMPUTATION**

Total floor area for the determination of the yearly fee shall be calculated in accordance with the definition of “floor area” in Section 12-2-1. All measured area expressed in square feet shall be to the nearest square foot (if a fraction is one-half (1/2) square foot or

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more the square foot next above shall be taken). Food establishment and temporary food event fees shall be determined based on the risk type as set forth in the Illinois Department of Public Health publication "Food Service Sanitation Code" and any future revisions or updates.

### **12-2-4 SITE COVERED**

A separate license shall be required for each location of a commercial establishment. All buildings containing the principal or accessory uses (a) on the same lot or parcel; and (b) operated and managed by the same person or owner; and (c) having the same license classification shall require only one license. However, if two (2) or more buildings are separated by one or more dedicated public rights-of-way or by one or more buildings or vacant lots or parcels, or if any of (a), (b) or (c) above is not true, then a separate license shall be required.

### **12-2-5 MULTIPLE CLASSIFICATIONS**

Should the operation or management of a commercial establishment in one location by the same owner or person involve the operation of two (2) or more commercial business establishment classifications as defined in this Chapter, then, and in that event, the yearly license fee shall be determined as follows:

- A. If the multiple classifications include a food establishment, then the food establishment fees shall apply for the total floor area of all classifications.
- B. If the multiple classifications include a food establishment that sells, distributes, or serves only non-perishable and non-potentially hazardous prepackaged food and the amount of the food display area occupies less than thirty (30) square feet of floor space, such area shall not be considered a food establishment classification and the other classification shall be used to determine the annual license fee.
- C. If the multiple classifications include a service establishment, but not a food establishment, then the service establishment fee shall apply for the total floor area of all classifications.
- D. If the multiple classifications include a retail goods establishment but not a service establishment or food establishment, then the retail goods establishment fee shall apply for the total floor area.

### **12-2-6 EXCLUSIONS**

The terms and provisions of this Chapter shall not be made applicable to an outdoor café, a massage therapy establishment, or a Children's Hospital, which are licensed as

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prescribed in Article 5 Chapter 3.1, Article 5 Chapter 15, and Article 5 Chapter 14, respectively, in the Park Ridge Municipal Code.

### **12-2-7 Re-inspection Fee**

Any re-inspection deemed necessary by the City of Park Ridge shall be charged a fee consistent with section 20-4-3 of the Municipal Code of the City of Park Ridge.

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### CHAPTER 3 EMERGENCY ALARM SYSTEMS

2015-05, 2/02/2015

#### SECTION

- 12-3-1 Definitions
- 12-3-2 Registration Required; Fee; Application *(Ord.2015-62 11/16/15)*
- 12-3-3 Direct Alarms and Digital Dialer Systems
- 12-3-4 Central Station Alarm Systems
- 12-3-5 Local Alarms
- 12-3-6 Permit Revocation or Suspension; Fines for Excessive False Alarms
- 12-3-7 Penalty

#### 12-3-1 DEFINITIONS

- A. Alarms: An "alarm" shall be construed to include and mean any device known as a fire, burglar, holdup or medical alerting alarm.
- B. False Alarm: The transmission of any alarm signal caused by human error or mechanical malfunction, whether or not the exact cause of the error or malfunction is identified, or any other activation of the signal when no actual emergency exists, other than for testing purposes.
- C. Subscriber: A person, firm, or corporation utilizing a direct alarm, digital dialer system or central station alarm for which the person pays a fee.
- D. Type of Alarm Systems:
  - 1. Direct Alarms: A system connected directly to the Fire Department Communications Center from the source of the alarms by permanent, dedicated lines, which constantly scans its customers' alarms.
  - 2. Digital Dialer System: A system employing automatic telephone dialing devices.

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3. Local Alarm: Those alarms that create an audible sound on a premises when triggered and do not send a signal to any off-site location.
4. Central Station Alarm System: Any alarm system company which is privately owned or that owns, leases or sells alarm systems, whose facility is staffed by employees who receive, record and validate alarm signals and relay the information of such signals to Police or Fire Department by any means.

### **12-3-2 REGISTRATION REQUIRED; FEE; APPLICATION**

- A. Every alarm system installed in any structure in the City shall be registered with the City, except those alarms which do not transmit a signal outside the structure in which they are installed.
- B. Application for registration shall be on forms provided by the Finance Department. The application shall be signed by the user of the alarm system and shall provide that the applicant agrees that the City shall not be liable for any failure of service nor for any damage that might result from the installation or operation of the alarm system; and that the applicant shall hold the City harmless from all claims, demands, judgments, liability and costs arising from the operation of the alarm system. The applicant shall certify that he has provided for the maintenance service on the alarm system at any time. The applicant shall also provide the names of not less than two (2) persons having access to the alarm system at all times to reset it after activation. The applicant shall notify the Finance Director of any change in such person.
- C. There shall be a one-time fee of fifty dollars (\$50.00) for registration of each alarm system, except those systems required to pay a monthly fee under Section 12-3-3(C).
- D. Registration of any alarm system installed by a contractor required to be licensed by Chapter 225 ILCS 445/1 of the Illinois Compiled Statutes shall require evidence of such license.
- E. No registration shall be accepted for any alarm service contractor not licensed by the State of Illinois.  
*(Ord.2015-62 11/16/15)*
- F. An alarm system requiring a voltage exceeding sixty (60) volts to operate shall be installed only by a registered electrician with an approved building permit. Inspection and approval of the City Electrical Inspector will be required.  
*(Ord.2015-62 11/16/15)*

### **12-3-3 DIRECT ALARMS AND DIGITAL DIALER SYSTEMS**

- A. All direct alarm systems and digital dialer systems shall meet the following minimum standards:

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1. The system shall conform to all applicable standards of the Underwriters Laboratories or the National Fire Protection Association.
  2. Alarm systems shall be maintained by the owner or lessee in optimal physical condition. False alarms shall be conclusive proof that such optional condition is not being maintained.
- B. Every alarm service company which has installed a direct alarm system or digital dialer system in the City shall provide a current list of such installations to the Fire Chief, or his representative. Such list shall include:
1. The name, home address and telephone number of the device's owner or lessee;
  2. The address of the location where the device is installed and the telephone number at that location;
  3. Other information as may be deemed necessary by the Fire Chief for the proper maintenance of system records.
- C. The subscriber installing a direct connection or digital dialer connection to the City's alarm system shall pay to the City a fee of ten dollars (\$10.00) per month for each fire alarm.
- D. Applicants making connection to the fire panels shall be required to furnish a suitable signal to the communications center.
- E. No person shall operate or maintain a digital dialer system which dials any telephone number within the Fire Department except such number designated by the Fire Chief.
- F. Digital dialers shall not be used for signaling fire or medical alert alarms.

### **12-3-4        CENTRAL STATION ALARM SYSTEM**

- A. All central station alarm systems shall meet the following minimum standards:
1. The system shall conform to all applicable standards of the Underwriters Laboratories or the National Fire Protection Association.
  2. Alarm systems shall be maintained by the owner or lessee in optimal physical condition. False alarms shall be conclusive proof that such optional condition is not being maintained.
- B. Any owner of a protected premises, or other person or entity to contract for, arrange, or otherwise cause or allow, a central station company to receive or retransmit alarm signals from a protected premises, must ensure that such central station alarm company possesses a valid certificate of operation.

**12-3-5 LOCAL ALARMS**

A. It shall be unlawful for any person to permit any local alarm system to sound continuously for more than fifteen (15) minutes or repeatedly for more than twenty (20) minutes. The sounding of such alarm is hereby declared to be a public nuisance.

**12-3-6 PERMIT REVOCATION OR SUSPENSION; FEES FOR EXCESSIVE FALSE ALARMS**

- A. The Finance Director shall have the authority to revoke or suspend the operation of alarm systems, including local alarms, if any inspection or other evidence reveals noncompliance with the provisions of this Chapter.
- B. If the Police Department or Fire Department responds to more than two (2) false alarms at any residential premises or more than four (4) false alarms at any commercial or institutional premise, having a fire, burglar, holdup, or medical alert alarm in a calendar year, the user of such alarm system shall pay the City the following amounts within thirty (30) days after the response for which the charge is made:

Residential Alarms		Commercial or Institutional Alarms	
3rd response	\$ 50	5th response	\$ 50
4th response	60	6th response	60
5th response	70	7th response	100
6th response	80	8th response	150
7th response	90	9th response	200
8th response	100	10th response	300
9th response	150	11th response	400
10th response	200	12th response	500
After 10	200	After 12	500

1. Within fifteen (15) working days after the respective Department responds to a false alarm, the Finance Director shall mail a notice to the alarm user of the charge.
2. Within fifteen (15) working days after receiving notice of a false alarm charge, the alarm system user may file a written request with the City Manager to reconsider whether a fee must be paid, stating the reasons for the request.
3. After the receipt of a request for reconsideration from a user, the City Manager shall notify the user of his decision. The City Manager's decision shall be final.

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4. Whenever a new alarm system is installed, the user shall be given fifteen (15) days from the date of the installation of such alarm system within which no alarm from the premises shall be deemed to be a false alarm.
- C. If the Police or Fire Departments respond to more than ten (10) false alarms at the same premise in a calendar year, or the user fails to pay the fees assessed for false alarms, the City Manager may revoke or suspend permission of the user to operate the alarm system.

### **12-3-7 PENALTY**

Except as otherwise set forth, any person violating any of the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 4 SALES AND ADVERTISING

##### SECTION

12-4-1	Definitions
12-4-2	License Required
12-4-3	Application for License, Contents, Inventory
12-4-4	Issuance of License; Restrictions
12-4-5	Duration of Sale, License Fee
12-4-6	License Fee
12-4-7	Copy of Application, Inventory of License Posted
12-4-8	Substitution, Addition and Commingling of Goods; License Void
12-4-9	Fraudulent Advertising; Application of Provisions
12-4-10	Pump Price Advertising
12-4-11	Penalty

#### 12-4-1 DEFINITIONS

The following words and terms wherever they occur in this Chapter shall be defined as follows:

- A. GOING OUT OF BUSINESS SALE: any sale, whether described by such name or by another name (such as, but not limited to, "closing out sale", "liquidation sale", "lost our lease sale", "forced to vacate sale"), held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted.
- B. GOODS: all goods, wares, merchandise and other personal property.
- C. PERSON: includes a person, firm, corporation, partnership, or association of two (2) or more persons having a joint or common interest.
- D. REMOVAL SALE: any sale advertised or held in such a manner as to induce a belief that, upon disposal of the stock of goods on hand, the business will cease and be

discontinued at the premises where the sale is conducted and thereafter moved to another location.

**12-4-2 LICENSE REQUIRED**

No person shall directly or indirectly advertise or cause to be advertised, represent or cause to be represented, or hold out to the public in any manner that any sale of goods is an insurance, salvage, removal, going out of business, insolvents, assignees or creditor sale of goods, or that it is a sale of goods which has been damaged by fire, smoke, water or otherwise, unless such person shall first have obtained a license to conduct such sale from the Director of Finance, provided, however, that this Chapter shall not apply to any sales directly ordered by any court or referee in bankruptcy, or to any person acting under the direction or supervision of State or Federal courts in the course of their office duties.

**12-4-3 APPLICATION FOR LICENSE, CONTENTS, INVENTORY**

Any applicant for a license under this Chapter shall file an application in writing and under oath with the Director of Finance setting out the following facts:

- A. The name and address of the applicant for the sale (must be the owner of the goods to be sold). In addition, if the applicant is a partnership, corporation, firm or association, the name and position of the individual filing such application.
- B. The address where such sale is to be conducted.
- C. The dates and period of time of the sale.
- D. The name, address, email address, and telephone number of the person or persons who will be in charge of and responsible for the conduct of such sale.
- E. A full explanation with regard to the condition of necessity which is the occasion for such sale. This shall include a statement of the descriptive name of the sale and the reasons why such name is truthfully descriptive of the sale. If it is a damaged goods sale, a statement shall include the time, location and cause of such damage.
- F. If the application is for a license to conduct a going out of business sale, it shall contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale.
- G. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale and the location of the premises to which the business is to be removed.

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- H. A full, detailed and complete inventory of the goods that are to be sold, which shall:
4. itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it;
  5. list separately any goods which were purchased during a sixty (60) day period immediately prior to the date of making application for the license; and
  6. show the cost price of each item in the inventory together with the name and address of the seller of the item to the applicant, the date of the purchase, the date of the delivery of each item to the applicant, and the total value of the inventory at cost.
- B. That no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.
- C. That the applicant has in the past maintained a place of business within the City where the goods so listed in his inventories have been sold or offered for sale for not less than four (4) months prior to the time of making application for such license. However, the subsection shall not apply to any applicant who has acquired a right, title or interest in the goods as:
1. an heir, devisee, legatee or surviving joint tenant; or
  2. an executor, administrator, trustee, guardian or conservator; or
  3. pursuant to an order or process of a court of competent jurisdiction.

### **12-4-4 ISSUANCE OF LICENSE; RESTRICTIONS**

The license shall be issued in duplicate and shall bear a number and a date of its expiration. A license issued under this Act shall be granted and valid only for the sale of the inventoried goods which are the property of the licensee. The license shall be good only for the premises specified in the application, and it may not be transferred or assigned.

### **12-4-5 DURATION OF SALE; LICENSE FEE**

A license to conduct a sale pursuant to this Chapter shall not be issued or valid for a period of more than sixty (60) days from the start of such sale. Such license may be renewed once for a period not to exceed thirty (30) days upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory. The application for the license shall be made not more than fourteen (14) days prior to the time of the expiration of the license and shall contain a new inventory of the goods remaining on hand at the time the application for

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renewal is made. The new inventory shall be prepared and furnished in the same manner and form as the original inventory.

### **12-4-6 LICENSE FEE**

A fee of one hundred dollars (\$100.00) shall accompany an application for a license and for the renewal of a license.

### **12-4-7 COPY OF APPLICATION, INVENTORY AND LICENSE POSTED**

A copy of the application for a license to conduct a sale under this Chapter, including the inventory, shall be posted in a conspicuous place in the sales rooms or place where the inventoried goods are to be sold. Such copy need not show the purchase price of the goods. The duplicate copy of a license issued hereunder shall be attached to the front door of the premises where the sale is conducted in such a manner that it be clearly visible from the street.

### **12-4-8 SUBSTITUTION, ADDITION AND COMMINGLING OF GOODS; LICENSE VOID**

Any substitution for or addition to goods described in an inventory filed pursuant to this Chapter, or any change in the time or place for a sale conducted pursuant to this Chapter, shall be unlawful and shall void any license issued to conduct a sale pursuant to this Chapter, and such license shall cease to apply to such sale.

### **12-4-9 FRAUDULENT ADVERTISING; APPLICATION OF PROVISIONS**

It shall be unlawful for any person to advertise for the sale or disposition of any goods or service where such advertisement contains any assertion, representation, or statement which is untrue, misleading, or deceptive. This Section shall not apply to any agent of the seller for printing, publishing or advertising where such printing, publishing or advertising is made in good faith and without knowledge of its deceptive character.

### **12-4-10 PUMP PRICE ADVERTISING**

It shall be unlawful for any person to exhibit or permit the exhibition of a sign or other form of advertising display that communicates the purchase price of gasoline unless such sign contains in one set of identically sized digits the exact price shown on the pump, including all taxes and other charges.

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### **12-4-11 PENALTY**

Any person violating any of the provisions of this Chapter shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day shall constitute a separate offense.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 5 COIN-OPERATED MACHINES

##### SECTION

12-5-1	Definitions
12-5-2	License Required
12-5-3	Applications
12-5-4	Limitation on Number of License
12-5-5	Revocation of License
12-5-6	Term of License
12-5-7	Fee Required
12-5-8	Amount of Fee
12-5-9	License Tag or Insignia
12-5-10	Penalty

#### 12-5-1 DEFINITIONS

The following words and terms shall be defined as follows:

- A. **COIN-OPERATED AMUSEMENT DEVICE:** Any amusement machine or device operated by means of insertion of a coin, token, or similar object, for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines, children's rides or musical devices.
- B. **INSPECTOR:** That person designated by the City staff to inspect vending machines or coin-operated amusement devices and enforce the provisions of this Chapter.
- C. **MAINTAIN:** The placing or exhibiting of, or allowing the placing or exhibiting of, or otherwise keeping a coin-operated amusement device or vending machine for the purpose of use or play.
- D. **MALFUNCTION:** Malfunction occurs whenever a member of the general public does not receive the item sought in the vending machine or does not receive the game or amusement provided by the coin-operated amusement device after depositing money in the machine or device.

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- E. OPERATOR: Any person who, by contract, agreement or ownership, furnishes, installs, services, operates or maintains one or more vending machines or coin-operated amusement devices.
- F. PERSON: Any individual, partnership, corporation, company, firm, institution, trustee, association or any other public or private entity except a governmental institution.
- G. PROPRIETOR: Any person, firm, partnership, corporation or association that, as owner, lessee, proprietor or otherwise controls any establishment, place or premises in or at which a coin-operated amusement device or vending machine is maintained.
- H. VENDING MACHINE: Any self-service mechanical container or device used for the sale or dispensing of any item or children's ride; the operation of which is governed or controlled by the deposit of a coin or token. Vending machine shall also mean any contrivance or device which, upon insertion of a coin, slug, token, plate, disc or key into any slot or other opening, produces, plays or emits songs, music or other prerecorded entertainment, movie or television entertainment.

### **12-5-2 LICENSE REQUIRED**

It shall be unlawful for any operator or proprietor to maintain a coin-operated amusement device or vending machine without having first obtained a license as required by this Chapter. Vending machines dispensing tobacco products shall also be subject to the regulations of Chapter 9.

### **12-5-3 APPLICATIONS**

Any person desiring to operate one or more vending machines or coin-operated amusement devices in the City shall make application in writing to the Director of Finance on a form provided by the City and shall specify:

- A. The name and address of the applicant and, if a firm, partnership, corporation or association, its principal officers and their addresses.
- B. The address of the premises where the licensed device is to be operated, together with the character of the business as carried on at such place, and the square footage of floor space open to the general public.
- C. The trade name and general description of the device to be licensed, the name of the manufacturer, and the serial number.

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The proper license fee shall accompany such application. If the license is denied, the fee shall be returned to the applicant. Such license shall be non-assignable and nontransferable, and shall apply only to the premises for which such license is issued.

### **12-5-4 LIMITATION OF NUMBER OF LICENSES**

It shall be unlawful for any proprietor to have more than one coin-operated amusement device for the first two thousand (2,000) square feet of floor space open to the general public and one additional license for each one thousand (1,000) additional square feet, provided that additional devices may be licensed as an accessory use to a restaurant when authorized by a special use permit issued pursuant to the Zoning Code of the City. In addition to the provisions of this Chapter, any license issued pursuant to a special use permit may be revoked for violation of any of the conditions of that permit.

### **12-5-5 REVOCATION OF LICENSE**

The City shall have the right to revoke any license for any malfunction or for the violation of any other regulation of the City.

### **12-5-6 TERM OF LICENSE**

Each vending machine or coin-operated amusement device license shall be for a period of one license year, which shall begin on January 1 and shall terminate on December 31 of the year of issuance. Each license shall be issued at the full yearly rate; provided, however, that where such permit is issued on or after July 1, the license shall be one-half (1/2) of the yearly fee.

### **12-5-7 FEE REQUIRED**

The required fee for each permit issued shall be collected in full at the time of the issuance. In no event shall any rebate or refund be made of any license fee by reason of the death of the permittee or by any reason of nonuse of a license or discontinuance of the operation of the vending machine or coin-operated amusement device.

### **12-5-8 AMOUNT OF FEE**

Yearly fees for licenses to permit the operation of vending machines and coin-operated amusement devices located within the territorial limits of the City shall be as follows:

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Vending Machines requiring a deposit of (in coins)	
0.01 through 0.49	\$ 30.00
0.50 or more	\$ 50.00
Coin-operated amusement device	\$150.00

(Ord. 2014-67, 12/15/14)

**12-5-9 LICENSE TAG OR INSIGNIA**

The operator's permit number, of a size and style approved by the City, shall be conspicuously displayed on each vending machine and coin-operated amusement device. The proprietor of any vending machine shall, in a conspicuous location on the vending machine, place the following notice:

"In the event of machine malfunction or unsanitary conditions, contact the Health Inspector of the City of Park Ridge."

The notice shall also contain the name, address and phone number of the operator.

**12-5-10 PENALTY**

Any person, operator, proprietor or owner of any vending machine or coin-operated amusement device located within the City violating any of the terms and provisions of this Chapter shall be fined in an amount not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed for each day such violation is committed or permitted to continue.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 6 ALCOHOLIC LIQUORS

*(Ord. 2014-51, 10/21/2013) (Ord. 2015-24, 4/21/15 Entire rewrite)(Ord. 2016-17; 3/21/16) (Ord. 2016-28 & 29; 4/18/16) (2016-33; 5/2/16) (2016-45; 6/6/16)*

#### SECTION

- 12-6-1 License Required
- 12-6-2 Exceptions
- 12-6-3 Application for a Local Liquor License
- 12-6-4 Application Process Completion
- 12-6-5 Restrictions on Issuance of Licenses
- 12-6-6 Classifications and Fees
- 12-6-7 Descriptions and Restrictions
- 12-6-8 Number of Licenses
- 12-6-9 License Term
- 12-6-10 Renewal of License
- 12-6-11 Nature of License; Transfer Prohibited
- 12-6-12 Local Liquor Control Commissioner
- 12-6-13 Powers and Duties of Local Liquor Control Commissioner
- 12-6-14 Local License Review Board
- 12-6-15 Violation; Enforcement
- 12-6-16 Insurance
- 12-6-17 Location of Service
- 12-6-18 Hours of Sale
- 12-6-19 Prohibited Acts
- 12-6-20 Conduct of Employees and Agents; Supervision on Premises
- 12-6-21 Compliance with Other Regulations of this Code
- 12-6-22 Sealing and Removal of Open Wine Bottles
- 12-6-23 Signs
- 12-6-24 Improper Influence
- 12-6-25 Fines, Suspension or Revocation of License
- 12-6-26 Violations and Penalties
- 12-6-27 Definitions

#### **12-6-1: LICENSE REQUIRED**

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A. It shall be unlawful to engage in Regulated Service of any alcoholic beverage without first having obtained a City liquor license. Every person engaged in Regulated Service of alcoholic beverages in the City shall obtain the appropriate liquor license authorizing the service of the specific type and character of alcoholic beverages and the specific type of business or activity at which it may be provided. The fee to be paid for such licenses shall be as set forth in section 12-6-6 of this code.

B. Except for certain temporary City permits, there shall be no service of alcoholic beverage by the Licensee until the Licensee has obtained a liquor license required by the state. If the state suspends or revokes the state license for any reason, it shall be deemed a violation of the Park Ridge license if any service is made during the period of the state suspension or revocation.

C. All licenses and permits issued pursuant to this chapter shall be displayed in a prominent place that is visible to patrons.

### **12-6-2: EXCEPTIONS**

The provisions of this Chapter do not apply to:

A. Alcohol used in the manufacture of denatured alcohol produced in accordance with act of Congress and regulations promulgated thereunder;

B. Flavoring extracts and syrups and food products;

C. Patent and proprietary medicines or medicinal, antiseptic, culinary and toilet preparations;

D. Scientific, industrial and chemical products not made for human consumption;

E. Any liquid or solid containing one-half of one percent (.5%) or less of alcohol by volume.

Nothing contained in this chapter shall prohibit any of the following from using or possessing alcoholic liquor in a strictly professional practice:

A. A duly licensed practicing physician or dentist.

B. Hospitals or like institutions in the treatment of bona fide patients of that institution.

C. Drugstores employing a licensed pharmacist in the lawful filling of prescriptions.

D. The authorized representative of any house of worship dispensing wine for the purpose of conducting any bona fide rite or religious ceremony typically

conducted by that house of worship.

**12-6-3: APPLICATION FOR A LOCAL LIQUOR LICENSE**

A. Application for a local liquor license shall be made to the Commissioner. The application shall be on forms provided by the Commissioner. Only completed forms may be considered. Each application shall be accompanied by a nonrefundable application fee of \$250.00 and the applicable license fee(s) as set forth in section 12-6-6 of this code. If a new application is made after January first, the license fee(s) shall be prorated according to the number of months left in the year; provided that no fee(s) shall be reduced by more than 50%. The month in which the application is made shall count as a whole month.

B. The Licensee shall provide written notice to the Commissioner of any change in any information set forth in the application within thirty (30) days of the change.

C. Before a license may be issued to any applicant, background checks (which shall include the submission of fingerprints to appropriate agencies) shall be performed with respect to the key individuals owning and/or operating the licensed business. At a minimum, the local manager or managers and the persons functioning as the chief operating officer and chief financial officer shall be subject to such background checks. An investigation will be performed to enable the Commissioner to ascertain whether the issuance of a license will comply with all applicable regulations of the City. The Commissioner may accept the fingerprints from another jurisdiction for persons not residing or working within fifty (50) miles of the City. A reasonable fee may be charged by the police department for each person required to be fingerprinted. For purposes of this subsection, the Commissioner may require such documentation as he or she deems appropriate to determine who must be fingerprinted. The Commissioner's decision as to fingerprinting shall be final. (Background checks are not required for temporary permits.)

D. By accepting a City liquor license, the Licensee consents to the service of process and the acceptance of any other document by or on any employee or agent of the Licensee or the posting of the process or document on any entrance to the licensed premises.

**12-6-4: APPLICATION PROCESS COMPLETION**

No license may be issued by the Commissioner until all information and documentation required in the application has been provided, all of the reports from the various departments and agencies with respect to background checks have been completed and all fees have been paid. The foregoing notwithstanding, the Commissioner may, in the Commissioner's sole discretion, issue a limited license prior to the completion of a background check under the following circumstances:

A. The limited license shall not exceed ninety (90) days.

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B. No information is currently known which would cause the applicant to be ineligible for a license.

C. The Licensee has demonstrated, in writing, that the business will most likely not survive if the license is not granted immediately.

D. The Commissioner retains the absolute right to revoke the license, without a hearing, if subsequently discovered information would, in the sole discretion of the Commissioner, have made the Licensee originally ineligible for the license.

E. The Licensee executes a release and hold harmless statement that is satisfactory to the City Attorney and absolutely releases and absolves the City, its officers and employees from any liability for the refusal of the Commissioner to subsequently issue a regular license.

### **12-6-5: RESTRICTIONS ON ISSUANCE OF LICENSES**

A. No liquor license may be issued to any of the following: 1) a partnership; 2) a sole proprietorship; 3) a corporation that is neither incorporated in Illinois nor qualified and registered under the Illinois Business Corporation Act to transact business in Illinois; 4) a limited liability company that is neither organized in Illinois nor qualified under Illinois law to transact business in Illinois. These limitations shall not necessarily apply to a temporary permit.

B. No liquor license may be issued to any entity:

1. Which does not legally or beneficially own the premises for which a license is sought, or does not have a lease for the full period for which the license is to be issued.

2. Which is a limited liability corporation whose members are corporations and not natural persons.

3. Which is not an owner of at least fifty percent (50%) of the business to be operated by the licensee. The Commissioner shall have sole discretion in making such determination.

4. At the time of application for renewal of any Park Ridge license, would not have been eligible for such a license upon first application.

5. Which does not hold a valid Park Ridge class II business license for the premises.

6. To which a federal gaming device stamp or a federal wagering stamp has been issued for the current tax period.

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7. Not eligible for a state retail liquor dealer's license.
8. Which does not designate a manager for the premises.
9. If a manager, officer, director or five percent (5%) or greater shareholder or Limited Liability Company member:
  - a. At the time of application for renewal of a liquor license would not have been eligible for a license upon a first application.
  - b. Is an employee or elected official of the City.
10. Which, upon review of the application taken as a whole by the Commissioner, is deemed by prior actions as indicated from the application or background check, to be a substantial risk of not abiding by the regulations of the City.
11. Whose alcohol service operation is run by an independent contractor unless the independent contractor is also eligible for and obtains a license in the same category.
12. Owes any fees, fines or taxes to the City.

C. Unless upon due investigation, the Commissioner determines that such individual has not been sufficiently rehabilitated to warrant the public trust, no liquor license shall be issued to any entity when a manager, officer, director or five percent (5%) or greater member or shareholder:

1. Has been found guilty of any offense with regard to the sale or possession of alcoholic liquor or any felony.
2. Has been found guilty of any other crime opposed to decency or morality.
3. Has previously had a liquor license revoked in any other jurisdiction.
4. Has been found guilty of a violation of any Federal or State law concerning the manufacture of alcoholic liquor.
5. Has been found guilty of a gambling offense as set forth in the Illinois Criminal Code in effect at the time of application or renewal.

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**12-6-6: CLASSIFICATIONS AND FEES**

A. Licenses: Liquor licenses in the City shall be divided into the following classifications:

1. Package license:

Class P	General Package	\$2,500.00
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2. Restaurant License:

Class R	Restaurant	\$2,500.00
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3. Specialty licenses:

Class S-1	Home Delivery	\$1,000.00
Class S-2	Bring Your Own Bottle (BYOB)	\$1,000.00
Class S-3	Off-Site Dispensing	\$ 750.00
Class S-4	Complementary Service License with Special Conditions	\$ 500.00
Class S-5	License with Special Conditions	As set by City Council

*(Ord 2016-17 3/21/2016)*

- B. Temporary Permits:

Class T-1	Park Ridge Civic Permit	\$25.00/day
Class T-2	Non-Park Ridge Provider	\$75.00/day

- C. License Endorsement Menu:

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1.	Banquet	\$ 250.00
2.	Catering	\$ 250.00
3.	Corkage	\$ 250.00
4.	Growler	\$ 250.00
5.	Outdoor Seating	\$ 250.00
6.	Sampling	\$ 250.00
7.	Bar/Lounge	\$ 500.00
8.	Golf Cart	\$ 500.00
9.	Gourmet Beverage	\$ 500.00
10.	Live Entertainment	\$ 500.00
11.	Private Club	\$ 500.00
12.	Gasoline Sales	\$1,500.00
13.	Grocery Café	\$1,500.00

### **12-6-7: DESCRIPTIONS AND RESTRICTIONS**

The restrictions on a particular license, permit, certification or endorsement shall be binding on the Licensee. No premises or activity may be operated in violation of such restrictions and regulations. No license, permit or endorsement may be issued unless the applicant's business is specific to one of the following:

#### **I. Class P License (Package):**

##### **A. Prohibitions.**

1. Consumption on the premises (except pursuant to the appropriate Endorsement).
2. Delivery or offer of delivery of single containers of refrigerated or chilled alcoholic beverages; except for bottles of wine containing at least 750 ml.  
*(Ord 2015-53, 09/21/2015)*
3. Delivery of alcoholic beverages in any container other than its original sealed and unopened package (except pursuant to the appropriate Endorsement).

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4. Gasoline sales (except pursuant to the appropriate Endorsement).

5. Delivery at any place other than retail food stores and drug stores with not less than ten thousand (10,000) square feet of retail sales area (except pursuant to the appropriate Endorsement).

### B. Area Requirements.

Unopened packages of alcoholic beverages may be displayed for sale throughout the store, but no more than a total of 20% of retail floor space may be devoted to the display of alcoholic beverages. The 20% calculation shall include all retail floor space, the two (2) locations within the store and the one (1) outdoor patio used for on premise consumption.

### C. Proof of Age.

An electronic scanning device shall be installed for the purpose of reading the birthdates embedded in identification cards issued by the Illinois Secretary of State.

*(2016-16; 3/21/2016)*

## II. **Class R License (Restaurant):**

### A. Qualifications:

1. The premises shall be primarily devoted to the preparation, cooking and serving of meals.

2. The premises must have a kitchen and dining room and staff and equipment as deemed adequate by the City health authority.

3. The sale of alcoholic beverages may only be made if incidental and complementary to the service of complete meals, which are served and eaten at tables or booths; unless the licensed premises has a Bar/Lounge Endorsement. The sale of alcoholic beverages may be deemed incidental and complementary to the ordering and service of complete meals only if such sale:

a. is made to a patron who orders a complete meal with the intent of consuming same; or

b. is made to a patron waiting to be seated or to a seated patron prior to ordering, provided the person making such sale reasonably believes such patron intends to order and consume a complete meal.

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4. The following restrictions shall apply to the delivery of alcoholic beverages when the sale is not incidental and complementary to the ordering and service of complete meals:

a. Such sales may be made only in a Bar/Lounge Space and consumption of alcoholic beverages without a meal shall be restricted to the Bar/Lounge Space; except that after 9:00 p.m., sales of alcoholic beverages may be made throughout the licensed premises with or without the ordering of food.

b. No separate outside entrance to the Bar/Lounge Space shall be permitted.

c. Live entertainment may be permitted only if the Licensee has applied for and received a Live Entertainment Endorsement.

d. The floor area of the combined Bar/Lounge Space and Live Entertainment area shall not exceed either of the following:

i. 25% of the Total Interior Space of the Licensed Premises;

ii. 40% of the Public Space of the Licensed Premises.

iii. Each Licensee shall submit an accurate drawing showing actual dimensions of the Total Interior Space of the premises. The Licensee shall accurately indicate on the drawing the precise area that is dedicated as Bar/Lounge Space and Live Entertainment space. Such area depicted on the drawing shall be the only space in which Bar/Lounge or Live Entertainment activities may take place. The Licensee shall not increase the space actually used for a Bar/Lounge and Live Entertainment unless a new floor area drawing is submitted to and approved by the City.

5. No alcoholic beverages shall be sold or consumed at any time that the kitchen is not fully staffed and operational.

6. All unfinished drinks shall be cleared from the premises within one half hour after the closing time. It shall be a violation of this section if after the passage of such one half hour there are alcoholic beverages in any container other than an unopened or corked or otherwise properly reclosed original container that has been returned to the appropriate place of display or storage.

7. Subject to the above, the premises may be kept open during hours when service is prohibited, but no alcoholic beverages may be delivered, consumed or remain on tables or a bar during such hours. Nothing contained in

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this section shall be deemed to authorize any licensed premises to remain open for business or to admit the public to the premises at or during any hour when that premises is required to be closed by virtue of any other City regulation or restriction.

8. Jukeboxes, video and arcade games are permitted in accordance with article 14, chapter 2 and article 12, chapter 5, of the Municipal Code. It shall be unlawful for any person under the age of twenty-one (21) to play a video or arcade game located in an R licensed establishment unless the minor is accompanied by a person who is at least twenty-one (21) years of age.

9. Infused beverages may be delivered but only in accordance with state regulations.

*(2015-53, 09/21/2015)*

### III. Class S Licenses (Specialty):

A. Home Delivery License; Class S-1 for the delivery of alcoholic beverages in original containers to a specific address. Regulations specific to the Class S-1 license:

1. If the delivery originates in Park Ridge but is delivered outside the City, such delivery shall be in accordance with the laws of the jurisdiction where delivery is made.

2. There shall be no display or advertising of alcoholic beverages on any residential premises.

3. Only beer and wine may be delivered within the City pursuant to a Class S-2 license.

4. Delivery within the City must be made directly into the hands of an actual individual and may not be "dropped off" at an address.

B. Bring Your Own Wine or Beer License. Class S-2 shall allow patrons to bring beer and wine into a restaurant establishment for the purpose of consumption in that establishment. Regulations specific to the Class S-2 license:

1. A corkage fee may be assessed to the participating patrons.

2. Consumption of corkage beer and wine shall be limited to those patrons dining in the restaurant and seated at a table. Corkage service shall not be available in a Lounge.

C. Off-Site Dispensing License. Class S-3 shall authorize the sale at retail of alcoholic liquor at special events. Regulations specific to the Class S-3 license:

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1. Sales may be made in individual servings only for immediate consumption at special events.

2. The Licensee must be hired to serve the alcoholic beverages at a specific event at which food shall be served and only to those persons attending the event.

*(2015-53, 09/21/2015)*

D. Complementary Service: Class S-4 shall authorize a business engaged in providing non-food goods or services to the public to allow the consumption of beer and wine by its patrons that: (1) is brought to the premises of the business by the patron (BYOB) and/or (2) is served by the business; as a complement to the patron's purchase of goods or services offered by the business (complementary service). A class S-4 license shall be subject to the following regulations:

1. The licensee may provide patrons of the business with individual servings of wine or beer in glasses at no charge, or may provide glasses and ice for patrons who bring their own beer or wine to the premises.

2. No wine or beer may be served to or consumed by persons on the business premises except as a complement to the patron's contemporaneous purchase or consumption of goods and services made available to the public by the licensee.

3. The complementary service or consumption of beer or wine at the licensed premises is limited to not more than three servings of alcoholic beverages by a patron during any single calendar day, regardless of whether the beverage is provided by the licensee or brought to the licensed premises by the patron. No alcoholic beverages other than beer or wine are permitted.

4. It shall be unlawful for the licensee, its agents, and employees to permit any patron to leave the licensed premises with an open container of wine or beer regardless of whether the container is provided by the licensee or brought to the licensed premises by the patron.

5. The licensee must maintain general liability insurance coverage as required by section 12-6-16.

6. In no case shall the sale or consumption of alcoholic liquor take place outside of the normal business hours of the business.

7. An S-4 license shall not be issued to any business which operates primarily as a packaged liquor store or restaurant.

E. License With Special Conditions: Class S-5, the corporate authorities may, from time to time, create conditional licenses which are based on the license

## Park Ridge Municipal Code

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classifications set forth above, but which contain additional conditions and restrictions. These licenses with special conditions, while created by the City Council, shall remain subject to issuance by the Commissioner.

*(Ord 2016-17 3/21/2016)*

### IV. Permits; Temporary

#### A. Regulations Applicable to All Temporary Permits:

1. The Commissioner may attach such conditions as are appropriate for that specific temporary permit.

2. For temporary permits, the Commissioner, in his or her sole discretion, may accept host or general liability coverage as a substitute for dramshop insurance.

3. The term of the permit shall be within the sole discretion of the Commissioner, but in no event may permits be issued for more than five (5) days.

4. No more than twelve (12) such permit days shall be available to any one organization during a license term.

5. The applicant is responsible for securing any applicable state permit. If the State Liquor Commission requires a permit and it is not obtained, then the City temporary permit shall be deemed void ab initio. It is the responsibility of the applicant to determine whether or not a state permit is needed and issuance of a City permit has no bearing on the issue of whether a state permit is required.

*(2015-53, 09/21/2015)*

6. All other regulations of this chapter shall apply to the permit.

B. Specific Temporary Permits: Temporary permits are divided into the classifications set forth below:

1. Class T-1 Permit. A Class T-1 permit shall authorize the delivery or sale of alcoholic liquor by a bona fide Park Ridge entity or business not generally engaged in the business of selling alcoholic beverages, at a designated location where such sale is not otherwise prohibited, in conjunction with social, recreational, fund-raising or special commercial event.

*(2015-53, 09/21/2015)*

a. A Class T-1 permit shall be valid only during the hours set forth on the permit. A Class T-1 license may not be renewed or extended.

b. A Class T-1 license shall authorize the delivery or sale of alcoholic beverages by the glass; it is not necessary that the sale be in connection with or complementary to the sale of food. *(2015-53, 09/21/2015)*

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c. A Class T-1 license shall authorize the delivery or sale of alcoholic beverages only in (i) an enclosed building or structure, including a tent, and (ii) at open-air counters or stands located within a controlled space. Consumption of alcoholic beverages may take place only within such enclosed building or structure or controlled space. No person under the age of twenty-one (21) years may prepare, sell or deliver alcoholic beverages pursuant to a Class T-1 license.

*(2016-29'4/18/16)*

d. Applications for a Class T-1 license shall be made to the Commissioner on a form provided by the Commissioner, not less than thirty (30) working days prior to the date for which the license is to be issued. The Commissioner may waive any other provisions of this chapter 6, which are determined to be inapplicable to a Class T-1 license. In addition to all information required by the Commissioner, applicants for Class T-1 license shall provide, at the time of application, a certificate of insurance, which names the City of Park Ridge as an additional insured, verifying that the applicant has obtained dram shop/liquor liability insurance in the minimum amount of one million dollars (\$1,000,000.00). The certificate of insurance shall be subject to the approval of the Commissioner. The applicant shall also provide evidence of having obtained any other permits and licenses required for the event at the designated location. No bond shall be required for a Class T license.

e. After review of the license application, the Commissioner may issue a Class T-1 license and shall advise the Police Department, the Liquor License Review Board and the City Council of such issuance.

f. Each person who prepares, sells, delivers or serves any alcoholic beverages pursuant to a Class T-1 license is required to sign a letter of understanding, on a form approved by the Commissioner, that states that the person has been advised of the rules and regulations regarding the preparation, sale, delivery and service of alcoholic beverages by the Class T-1 liquor license holder.

g. Persons who prepare, sell, deliver or serve any alcoholic liquor pursuant to a Class T-1 license are not required to complete a certified alcohol servers' training.

h. The fee for each Class T-1 license shall be twenty-five dollars (\$25.00).

### 2. Class T-2 Permit

A Class T-2 permit shall authorize the delivery or sale of alcoholic liquor by a business or other entity that has a valid liquor license in the

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jurisdiction where the business or other entity is located, in conjunction with social, recreational or fund-raising events. *(2015-53, 09/21/2015)*

- a. Unless otherwise specified, all the requirements, restrictions and obligations for a T-1 permit shall be applicable to a T-2 permit.
- b. Persons who prepare, sell, deliver or serve any alcoholic beverages pursuant to a Class T-2 permit are required to complete a certified alcohol servers' training.
- c. The fee for each Class T-2 permit shall be seventy-five dollars (\$75.00). *(2015-53, 09/21/2015)*

### 3. Civic Organization Events

The following shall apply to civic organizations and the regulations of this chapter:

- a. A civic organization may hold a fundraising event at a Licensed Premises without obtaining a permit under the following conditions:
  - i. The Commission is notified, in writing, at least seven (7) days in advance of the event.
  - ii. All food and alcoholic beverage service is conducted by the Licensee with the Licensee's employees and at Licensee's prices, as in the normal course of business for that license.
- b. If the Licensee intends to provide food or alcoholic beverage service other than from its regular menu and at menu prices or if the cost of the service of alcoholic beverages is part of a donation or ticket price, then the civic organization must obtain a T-1 permit.
- c. As to either subsection (a) or (b) of this section, the civic organization, but not the liquor Licensee, may advertise for the event in any manner permitted by law.

## V. Endorsements

A. Any Endorsement shall be subject to such conditions as the Commissioner shall deem appropriate.

1. Banquet Facility Endorsement. This shall allow for the service of alcoholic beverages at private events for an R Licensee. Regulations specific to this Endorsement:

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a. Consumption of alcoholic beverages shall be on the premises only and in conjunction with food service pursuant to a contractual agreement for use of the establishment's facilities.

b. Consumption of alcoholic beverages at or over a bar shall be permitted, but all consumption shall be limited to those patrons who are guests invited specifically to the private event.

2. Park Ridge Caterer's Endorsement. This shall allow the service of alcoholic beverages, at an otherwise unlicensed premises, by a Park Ridge Licensee. The caterer may serve alcoholic beverages only at events to which specific persons (not the general public) have been previously invited or at a City sponsored event.

3. Corkage or Bring Your Own Bottle for an R Licensee to allow BYOB service subject to the regulations set forth in Section 12-6-7(III)B.

4. Growler Endorsement. This shall allow the delivery of beer, for off-premise consumption, by an R Licensee who is a craft brewer or a brew pub as these terms are defined in the Illinois Liquor Control Act. Regulations specific to this Endorsement:

a. The container must be supplied by the Licensee and not exceed 64 ounces.

b. The container must have a screw-on cap and be sealed in such a manner that if the seal is broken, it may not be resealed and the break will be obvious to the casual observer.

c. The container may only be sold in conjunction with the purchase of food from the R Licensee.

5. Outdoor Seating Endorsement. This shall allow the delivery of alcoholic beverages in the open or in a place adjacent to the licensed premises. Regulations specific to this Endorsement:

a. Subject to all other applicable license restrictions, the holder of a Class R license or Gourmet Beverage Endorsement may serve alcoholic beverages to a customer seated at a table located outside the licensed establishment, in strict accordance with article 5, chapter 3.1 of this code.

b. Outdoor tables may not be used as part of the Bar/Lounge Area. With respect to Class R Licensees, only customers ordering meals may be seated at outdoor tables. Outdoor seating capacity shall not be included in area calculations regarding license eligibility.

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### 6. Sampling.

a. On Premise Sampling. This shall allow a Licensee to serve wine or beer in small and limited amounts, for sampling purposes only and in conjunction with sales promotional efforts occurring on the licensed premises. Regulations specific to on premise sampling:

i. The sampling shall be attended and supervised by a full time adult employee and may occur only in a designated area on the licensed premises;

ii. The actual amount of beer or wine sampled by an individual may not exceed two ounces;

iii. Signs or other materials advertising the availability of "sampling" may not be visible from the exterior of the licensed premises.

iv. Quantities may not exceed a total of ten (10) ounces per customer per day.

b. Off Premise Sampling. This shall allow a Licensee to conduct wine tasting and/or beer tasting at a Park Ridge licensed business. Regulations specific to off premise sampling:

i. The tasting may take place at a promotional event inside a business premises only;

ii. The tasting at any single business may not be made at more than two (2) such events in any license term;

iii. The Licensee shall notify the Commissioner, in writing, not less than fourteen (14) days before any off-premises tasting event.

iv. The tasting may only occur in a designated area on the premises of the Park Ridge licensed business;

v. Each individual sample may not exceed one ounce;

vi. The Licensee shall not charge for any of the samples.

7. Bar, Lounge Space Endorsement. This shall allow a Class R License to take advantage of the Bar/Lounge amenities set forth in Section 12-6-7(II)A(4).

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8. Golf Cart Endorsement. This shall allow the delivery of alcoholic beverages to all locations on a golf course by a Class R Licensee who is the owner of both the golf course and the golf cart.

9. Gourmet Beverage Endorsement. This shall allow a Class P Licensee to offer wine or beer for on premise consumption. Regulations specific to a Gourmet Beverage Endorsement:

a. A Gourmet Beverage Shop license shall be available only in B-1 and B-4 zoning districts.

b. No "spirits" as defined by this chapter, may be delivered.

c. Glasses or flights of wine or beer may be delivered on the licensed premises under the following conditions:

i. Hors d'oeuvres must be available for consumption with the wine.

ii. No more than twelve (12) ounces of wine or twenty-four (24) ounces of beer may be served to any individual during any day.

iii. A glass or flight of wine may contain no more than six (6) ounces; and a glass or flight of beer may contain no more than twelve (12) ounces.

d. The area restrictions set forth in 12-6-7(i)B shall not apply to a gourmet beverage shop whose primary business is the sale of beer and wine.

e. Infused beverages may be delivered, but only in accordance with state regulations.

*(2015-53, 09/21/2015)*

10. Live Entertainment Endorsement. This shall allow the presentation of Live Entertainment. Regulations specific to a Live Entertainment Endorsement:

a. The application for this Endorsement shall include the nature and frequency of the Live Entertainment, the time of day at which it will be provided, the location of the live entertainment within the premises, the seating arrangement, whether a cover charge will be applicable and any other information the Commissioner may require.

b. All live entertainment shall be performed indoors and cannot be performed in any outdoor or sidewalk café.

c. No Live Entertainment shall be permitted on any licensed

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premises if that entertainment is audible at any point beyond the boundaries of the licensed premises.

11. Private Club Endorsement. This shall allow for delivery of alcoholic beverages at a private club. No Class R license or Endorsement shall be issued to any club established after August 1, 2003 that is located in a residential zoning district.

12. Gasoline Sales Endorsement. This shall allow for the sale of gasoline for motor vehicles by a Class P Licensee. Regulations specific to this Endorsement:

a. The sale of gasoline must take place at a building or structure that is physically separated from the licensed premises.

b. Wine and beer may be displayed and sold only from dispensers, the doors of which lock automatically and remain locked until the specific customer has been properly identified as being of legal age to purchase age-restricted products. Only an employee of the Licensee may open the electric locks on the dispenser doors.

c. Sales shall be monitored by live video and recording devices both inside and outside of the store.

13. Grocery Café Endorsement shall authorize the delivery of wine and beer for consumption on the licensed premises. Regulations specific to such Endorsement:

a. The sale of alcoholic liquor is authorized only at a grocery store of at least 35,000 square feet of above grade floor space.

b. The sale of wine and beer for consumption on the premises shall be limited to no more than three (3) locations within the store and one outdoor patio. The indoor locations, whose site plan shall be subject to approval by the City, must include a barrier from the general shopping area.

c. On premise consumption of alcoholic beverages is permitted throughout the entire retail floor area of the premises and a designated outdoor patio, provided the alcoholic beverages are purchased from one of the designated indoor sales areas referenced in paragraph b. Alcoholic liquor sold in original packages and intended for off-premises consumption shall not be opened or consumed on the premises.

d. An outdoor patio may be operated as an adjunct to this Endorsement if:

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- i. The patio, whose site plan shall be subject to approval by the City, must include a barrier from vehicular and pedestrian travel.
- ii. No live or recorded entertainment may be conducted on the outdoor patio.
- iii. The outdoor patio shall not be included in the 35,000 square foot requirement under (1) above.
- iv. All outdoor seating shall be in strict accordance with article 5, chapter 3.1 of this code (including but not limited to handicapped accessibility).
- v. The total space for on-premise consumption (indoor and outdoor) shall consist of no more than 3,000 square feet. Such 3,000 square feet shall be measured as the space inside the barriers which are required in paragraphs b and c.i. above.

*(2016-28; 4/18/16)*

- e. If, in any calendar year, the sale of wine and beer for on premise consumption exceeds 5% of the gross sales of the Licensee; the City shall have the absolute right to limit such sales in any way it deems appropriate. No later than January 31st of each year, the Licensee shall submit evidence of the percentage of such on-premise sales for the prior calendar year.
- f. Hours shall be 11:00 A.M. to 10:00 P.M. for sales of wine and beer for on-premise consumption.
- g. No open wine or beer may be taken from the premises, except to be consumed at the Licensee's outdoor patio.

*(Ord 2016-33; 5/2/16)*

### **12-6-8: NUMBER OF LICENSES**

A. The corporate authorities shall determine, by ordinance, the number of licenses that are available in each classification. (This limitation shall not apply to Temporary Permits or Endorsements, which shall be solely within the discretion of the Commissioner.) Neither the Commissioner nor any other person or entity may issue liquor licenses in a number that is in excess of the number authorized by the Corporate Authorities. A schedule of the currently authorized number of licenses available in each classification shall be maintained by the City Manager for the Commissioner.

B. The Corporate Authorities may decrease the number of licenses available in any or all classifications within the City. If the number of licenses in any or all classifications is decreased, the licenses shall be eliminated on the basis of seniority, so

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that the premises holding a license the least amount of time shall be eliminated first. However, the Commissioner may, with an accompanying written statement, eliminate licenses on the basis of quality of operation of the premises, considering such matters as previous violations brought before the Commissioner, the State Liquor Commission or other law enforcement issues and/or on the basis of articulable benefit or lack of benefit to the City.

C. Upon any license becoming forfeited, void or revoked for any reason, the number of available licenses in that classification shall automatically and simultaneously be reduced by one.

### **12-6-9: LICENSE TERM**

Each new license shall commence on the date specified on the license. Each renewal license shall commence on January 1. Every license shall terminate on the December 31 following the date of issuance. (This limitation shall not be applicable to permits and certifications.) If an application for a new license is received after October 31 of any year, the Commissioner shall have the authority to issue a license that runs through December 31 of the next year (a license period of up to 15 months); provided the applicant pays a license fee that is prorated to include the additional time for which the license is valid.

### **12-6-10: RENEWAL OF LICENSE**

Any Licensee may apply to renew a license. This renewal privilege shall not be construed as a vested right, but shall be completely subject to the Commissioner's right of review of the Licensee's background and history of operation in the State of Illinois. No license shall be renewed unless the State license number appears on the face of the application. Any Licensee that submits its renewal application to the City after the deadline set forth in the renewal notice will be assessed a late fee penalty of \$100.00.

*(2016-17; 3/21/2016)*

### **12-6-11: NATURE OF LICENSE; TRANSFER PROHIBITED**

A. A license shall be a privilege that may be claimed only by the person set forth on the license. The license shall not constitute property, nor shall it be subject to attachment, garnishment or execution. The license shall not be alienable, voluntarily or involuntarily, or subject to lien or other encumbrance. The license is not transferable either for consideration or not for consideration. Although regulations in subsections A1, A2 and A3 of this section shall be generally applicable, the Commissioner shall have the sole discretion to determine whether the transfer of a business has occurred such that the transferee must secure a new license. Unless a new application has been filed and approved by the Commissioner, an illegal transfer will be deemed to have been attempted and the license shall become null and void in the following circumstances:

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1. As to a closely held corporation, if any person owning twenty percent (20%) or more of the stock transfers the stock to another person who previously held less than fifty percent (50%) of the stock. Upon the death of any person owning twenty percent (20%) or more of the shares in a closely held corporation, the Commissioner shall be notified.

2. As to a public corporation, an illegal transfer will be deemed to have been attempted and the license shall become null and void if there has been a buyout, a takeover or any other transaction involving the sale or transfer of more than fifty percent (50%) of the stock or assets of the corporation.

3. As to a limited liability company, if there has been a change in the managing partner or change in or replacement of any member of the limited liability company of whom fingerprinting had previously been required.

B. If a Licensee is ordered into receivership or files for bankruptcy, the receiver or trustee may continue the operation of the business under the existing license pursuant to a written order of the appropriate court until the expiration of the license or until the passage of six (6) months from the date of appointment of a receiver or trustee whichever comes first.

C. Upon the alienation, sale, transfer, assignment or donation of the business for which the license is issued to any other than the Licensee, the liquor license shall automatically become void.

D. Any licensed establishment that has discontinued the sale or service of alcoholic beverages or that has not been open for business at least four (4) days per week for a period of thirty (30) days or more shall automatically forfeit its license. This forfeiture shall not apply in instances where the Licensee has previously notified the City Manager, in writing, of an intent to close the premises for a portion of a license term for remodeling or other similar purpose.

### **12-6-12: LOCAL LIQUOR CONTROL COMMISSIONER**

The Mayor shall be the Local Liquor Control Commissioner ("Commissioner") and shall have the authority to administer the appropriate provisions of this chapter. The Commissioner may designate one or more persons to assist in the exercise of such powers and the performance of such duties, as he or she may deem necessary.

### **12-6-13: POWERS AND DUTIES OF LOCAL LIQUOR CONTROL COMMISSIONER**

The Commissioner shall have the following powers, functions and duties:

A. All of the powers, functions and duties delegated to that office by this chapter and other ordinances of the City. This shall include, but in no way shall be limited to, the

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power to require any Licensee, at any time, to produce any and all records, that directly or indirectly relate to the operation of the Licensee's premises.

B. In addition to any other powers set forth in this chapter, the Commissioner may immediately suspend, pending the exercise of the right to a hearing, the privilege of service of alcoholic beverages of any Licensee who does not display a currently valid state or local liquor license or who in the judgment of the Commissioner is operating the business in such a manner as to endanger the community as set forth in section 12-6-15 below.

C. Accept and review original and renewal applications for liquor licenses and to approve or disapprove them. Applications may be approved only in strict accordance with this chapter 6 and only if the City Council has created a sufficient number of licenses in a particular classification.

D. Receive license fees and forward the same to the Director of Finance.

E. Make or cause to be made, by the various City departments or the Liquor License Review Board, such investigations as may aid the Commissioner in the performance of his or her duties.

F. Recommend to the City Council the approval or rejection of any request to create an additional liquor license in any licensing classification.

G. Enter or authorize any law enforcement officer or other City employee to enter and inspect a licensed premises at any time to determine whether any laws or City regulations have been or are being violated.

H. Receive complaints from any citizen that any applicable rules or regulations have been or are being violated and to act upon such complaints.

I. Examine or cause to be examined, under oath, any original or renewal license applicant or any Licensee. For such purposes the Commissioner may issue subpoenas, which shall be effective in any part of this State. For the purpose of obtaining any information pursuant to this Section, the Commissioner may authorize an agent to act on his or her behalf.

J. Keep or cause to be kept a complete record of all licenses issued under this chapter.

K. Make and publish such other rules, regulations and forms as may be advisable to carry out the intent of this chapter 6.

L. Suspend for not more than thirty (30) days or revoke any liquor license, permit or endorsement. These penalties may be imposed only after a hearing before the Commissioner or, in his or her sole discretion, the Liquor License Review Board.

### **12-6-14: LIQUOR LICENSE REVIEW BOARD**

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The Mayor, as Commissioner, may in his or her sole discretion, appoint a Liquor License Review Board ("Board"), consisting of the Commissioner and such members as the Commissioner may deem appropriate. The members of the Board shall be residents of the City. The Commissioner shall be the Chairman of the Board. The Board, at the direction of the Commissioner, shall have the authority to investigate and review all applications, renewals and complaints and to investigate the operation of all licensed establishments, conduct hearings, receive evidence and sworn testimony and make recommendations to the Commissioner. The Commissioner and the members of the Board shall receive no compensation for the performance of their duties.

Each member appointed shall serve a term of four years.

### **12-6-15: VIOLATIONS; ENFORCEMENT**

The Commissioner may fine and/or suspend and/or revoke the liquor license, permit or endorsement of any Licensee that the Commissioner determines has violated any City regulation or other law of any kind or nature if the violation is related to the operation of the licensed premises. In addition, the Commissioner may fine any individual that the Commissioner determines has violated any provision of this chapter even if that individual is not a Licensee. The procedure for declaring and enforcing such fine, suspension or revocation shall be as follows:

A. The City Manager, the Chief of Police or the City Attorney may file a written charge of a violation with the Commissioner.

B. The charges shall be served on the Licensee. The charges shall set a hearing date and time informing the Licensee of the right to such hearing for the purpose of presenting evidence to dispute the charges. The matter shall be set for a hearing to take place not less than seven (7) nor more than twenty one (21) days after service of the charges on the Licensee.

C. The Commissioner may, in writing, delegate to the City Manager the authority to confer with the Licensee with respect to any charges ("Disposition Conference"). However, the penalty to be assessed and any waiver of a hearing shall be subject to the Commissioner's final approval.

D. If the Licensee fails to respond to the charges, the Commissioner may enter a default order against the Licensee.

E. If the Commissioner sustains the charge or any portion of it either after default, hearing or Disposition Conference, the Commissioner may, by written order, suspend or revoke the liquor license and/or may fine the Licensee. The fine may be in addition to a revocation or suspension. If the Commissioner decides to suspend the license, the term of the suspension shall be within the discretion of the Commissioner.

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F. If, after the conclusion of the hearing, the Commissioner finds the Licensee to be guilty of any charges, the Licensee will be responsible for all costs incurred for the hearing, including, but not limited to, court reporter fees, witness fees and attorney fees. This shall be in addition to any other penalties assessed against the Licensee.

G. All proceedings before the Commissioner shall be recorded and placed in a certified official record of such proceedings taken and prepared by a certified court reporter.

H. Any appeal to the State Liquor Commission shall be as set forth in this section, including:

1. In the event of any appeal from an order or action of the Commissioner, the appeal to the State Liquor Commission shall be limited to a review of the official record of the proceedings before the Commissioner. The only evidence which shall be considered in the review by the State Commission shall be the evidence found in the certified official record of the proceedings of the Commissioner.

2. At such time as the Commissioner receives notice of an appeal, the Commissioner shall file with the State Liquor Commission the certified official record of the proceedings. The State Commission shall review the propriety of the order or action of the Commissioner on the certified official record as provided by law.

I. Upon a finding of endangerment to the health, safety and welfare of citizens or property, the Commissioner may fine, suspend or revoke any license, permit or endorsement pursuant to this section, even if such endangerment is caused by persons other than the Licensee or the Licensee's agents or employees.

1. Such endangerment may include, but not be limited to, excessive noise by patrons while visiting the licensed premises, consumption of alcoholic beverages in areas immediately adjacent to the licensed premises, littering or destruction of neighboring property by patrons, traffic violations by patrons of the licensed premises, use of any illegal or controlled substance on or adjacent to the licensed premises, the necessity of police or other City services at the licensed premises or the necessity of police services caused by patrons after being served alcoholic beverages at the licensed premises.

2. No action may be taken against a Licensee by the Commissioner in circumstances described by this subsection unless it is shown that the Commissioner or the City, by any of its various departments, has given the Licensee written notice of the endangerment activities on at least two (2) occasions, and, in the opinion of the Commissioner, after a reasonable time period, such endangerment has not been sufficiently cured or remedied.

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3. The power of the Commissioner to act in those situations is a recognition of the principle that the holding of a liquor license is a special privilege and not a right and that such a privilege, irrespective of the good intentions of the Licensee, remains absolutely subordinate to the welfare of the community.

### **12-6-16: INSURANCE**

A. Every Licensee shall be required to obtain and maintain Dram Shop insurance coverage as required by statute or not less than \$1,000,000 in host liability insurance.

B. If the person who owns the building or premises where alcoholic beverages are served and/or consumed is not the Licensee, then that person shall be required to carry host liability insurance coverage or its equivalent for such premises in the amount of not less than \$1,000,000.

### **12-6-17: LOCATION OF SERVICE**

A. Location Specified on License: No liquor shall be served, offered for sale, kept for sale, displayed or advertised for sale or delivered to any person except at the exact location described in the liquor license. (See section 12-6-7(V) for specific Endorsements)

B. Specific Location Prohibition: No liquor license, other than an R License, may be issued for any premises that is within one hundred feet (100') of any place of worship, school or hospital.

C. Off Site Catering Privileges: No off site catering shall be permitted except pursuant to an Off Site Catering Endorsement as set forth in section 12-6-7.

D. Outdoor Service: Notwithstanding any other provisions of this code, it shall be unlawful for any Licensee to serve or permit the consumption of alcoholic beverages in any outdoor area unless an outdoor Endorsement has been granted by the Commissioner pursuant to Section 12-6-7.

E. Change of Location: A liquor license shall allow the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon written permission to make such change, issued by the Commissioner after a report to the City Council. No change of location shall be permitted unless the proposed new location is a proper one for the sale of alcoholic beverages under the laws of this State and the regulations of the City.

### **12-6-18: HOURS OF SALE**

A. P Licenses: It shall be unlawful for a Class P Licensee to sell alcoholic beverages between the hours of 11:00 p.m. and 7:00 a.m. A Class P Licensee may ring

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up the sale of an alcoholic beverage until fifteen minutes after closing time; provided that the customer was in line prior to closing time.

B. All Other Licenses: It shall be unlawful to sell or offer for sale any alcoholic beverages for consumption on the premises in the City between the hours of 2:00 a.m. and 10:00 a.m.

### 12-6-19: PROHIBITED ACTS

A. Every liquor Licensee is prohibited from engaging in the following acts:

1. Service to any person of an unlimited number of alcoholic beverages during any set period of time for a fixed price except as part of a meal package or party package.

i. Meal Package.

- (1) Food service must be included.
- (2) Meal package privileges are available only to holders of a R licensee.
- (3) All other liquor code regulations shall apply including, but not limited to, over service of alcoholic beverages.

ii. Party Package.

- (1) A Party Package:
  - (a) must be arranged by invitation or ticket sales.
  - (b) must be open to a defined number of guests and not open to the general public.
  - (c) must include food service.
  - (d) may not last for more than three hours.
  - (e) guests have identifiers such as wristbands, lanyards or tee shirts.
  - (f) Non-fixed price ticket holders must dine in a portion of the establishment that is discreet from the portion where the event is held.
  - (g) is available only to holders of an R license.
  - (h) requires application of all other liquor code regulations including, but not limited to, over

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service of alcoholic beverages.

*(2015-53; 09/21/2015)*

2. Conducting or allowing drink promotion periods or happy hours; except pursuant to the following rules:

- (1) Licensee must give notice of any drink promotion period (a) by signs on its premises or (b) on its website; at least seven days prior to the drink promotion period.
- (2) Drink promotion periods are prohibited between 10:00 p.m. and closing time.
- (3) The aggregate of all drink promotion periods for a licensed premises may not exceed 15 hours in any 7 day period.
- (4) A single drink promotion period may not exceed 4 hours.
- (5) All other regulations with respect to the delivery of alcoholic beverages shall apply.

*(2015-53; 09/21/2015)*

3. Increasing the volume of spirits content in a drink on a given day without increasing proportionately the price otherwise charged for such a drink during the calendar week.

4. Encouraging or permitting any game or contest which involves drinking or the awarding of drinks as prizes.

5. Delivery of alcoholic beverages to any intoxicated person or in such quantity as to result in the person becoming intoxicated.

*(2015-53; 09/21/2015)*

6. Allowing Bottle Clubs, as defined in this chapter.

7. To allow any person under the age of twenty one (21) years to:

a. Be seated at a Bar; or

b. Remain in or be seated in the Bar/Lounge Area. This subsection 7b shall not apply to seating at tables in the Bar/Lounge Area when the establishment's full food menu is available in that Bar/Lounge Area and the minor is accompanied by a parent.

8. Delivery of an alcoholic beverage to an Underage Person.

## **Park Ridge Municipal Code**

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B. The prohibitions contained in (A) above shall not prevent a liquor Licensee from:

1. Offering free food.
2. Free tasting as allowed by a sampling Endorsement.
3. Offering room service to registered guests in hotels licensed for such services.
4. Offering of wine, by the open bottle.

C. No alcoholic beverages shall be sold, offered for sale, kept for sale, displayed or advertised for sale or delivered to any person except at the location, place or premises described in the liquor license, permit or endorsement application.

### **12-6-20: CONDUCT OF EMPLOYEES AND AGENTS; SUPERVISOR ON PREMISES**

A. Any act or failure to act of an employee or agent of the Licensee with respect to the licensed business shall be deemed to be the act of the Licensee. Any duty set forth in this chapter as a duty of the Licensee shall also be the duty of any agent or employee of the Licensee.

B. No employee or other server of alcoholic beverages may consume or be permitted to consume any alcoholic beverages on the licensed premises while on duty or while performing any duties of employment.

C. No person, including any employee, manager, owner or agent of the Licensee may consume alcoholic beverages on the licensed premises before or after the permitted hours of operation.

D. A person must be at least eighteen (18) years of age to deliver alcoholic beverages. Additionally, no person under twenty one (21) years of age may work as a bartender or deliver alcoholic beverages from behind a Bar.

E. A "Manager", as defined by this chapter, shall be on the premises at all times that the licensed premises is open for business.

### **12-6-21: COMPLIANCE WITH OTHER REGULATIONS OF THIS CODE**

All licensed premises shall be maintained in full compliance with all other regulations of the City, including, but not limited to, those relating to the storage or sale of food, sanitary conditions, building and safety conditions.

### **12-6-22: SEALING AND REMOVAL OF OPEN WINE BOTTLES**

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Notwithstanding any other provision of this chapter, any Class R, S Licensee or Gourmet Beverage Shop endorsee may permit a patron to remove one unsealed and partially consumed bottle of wine for off premises consumption so long as there is compliance with the following conditions: a) the patron has purchased a meal or hors d'oeuvres and consumed a portion of the bottle of wine with the meal on the licensed premises; and b) the partially consumed bottle of wine that is to be removed from the premises pursuant to this section is securely sealed by the Licensee prior to removal from the premises; and c) the bottle is placed in a transparent onetime use tamperproof bag; and d) the Licensee has provided a dated and time stamped receipt for the specific bottle of wine to the patron. It shall be the absolute duty of the Licensee to assure that the type of "tamperproof" bag that is used is such that any removal or attempted removal of the bottle from the bag will be obvious to any law enforcement officer.

The wine that is resealed in accordance with the provisions of this section and not tampered with shall not be deemed an unsealed container for the purposes of section 11-502 of the Illinois Vehicle Code.

### **12-6-23: SIGNS**

Any signs on premises indicating the sale of alcoholic liquor shall be subordinate to the sign indicating the principal business of the licensed premises and shall conform to the description in the license application and all applicable sign regulations of the City.

### **12-6-24: IMPROPER INFLUENCE**

No applicant or Licensee or agent or employee of a Licensee shall offer anything of value to any City official or employee, directly or indirectly, to influence the issuance of a license or the enforcement of any provision of this chapter.

### **12-6-25: FINES, SUSPENSION OR REVOCATION OF LICENSE**

The Commissioner may revoke or suspend any license issued pursuant to this chapter and/or may impose a fine of up to Five Thousand Dollars (\$5,000.00) if it is determined that the Licensee has violated any of the provisions of this chapter or any other applicable rules or regulations. The Commissioner may revoke or suspend any live entertainment permit issued pursuant to this chapter and/or may impose a fine of up to Five Thousand Dollars (\$5,000.00) if it is determined that the Licensee has violated any of the provisions of this chapter or any other applicable rules or regulations regarding live entertainment. However, no such license shall be revoked or suspended, or a fine imposed, except after a public hearing by the Commissioner or the Liquor License Review Board if the Commissioner shall so designate. No hearing shall be commenced until ten (10) days' after written notice to the Licensee affording the Licensee an opportunity to appear and defend. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the health, safety or welfare of the community, the Commissioner may, upon

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the issuance of written order stating the reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than ten (10) days, giving the Licensee an opportunity to be heard not later than the end of that period. If the Licensee shall also be engaged in the conduct of another business or businesses on the licensed premises, such orders shall not be applicable to such other business or businesses. All hearings before the Commissioner shall be on the record as set forth under Illinois law so that any appeal to the State Liquor Commission shall be on this record only and not de novo. Appeals shall be taken to the Illinois Liquor Control Commission and the Circuit Court in the manner provided by law.

### **12-6-26: VIOLATIONS AND PENALTIES**

Fines assessed by the court against any offender may be in addition to any penalty assessed against a Licensee in any administrative proceeding.

A. General. Unless another penalty is set forth in this chapter, every person found guilty of a violation of any of the provisions of this chapter shall be subject to a fine of One Thousand Dollars (\$1,000.00) for the first offense and One Thousand Five Hundred Dollars (\$1,500.00) for each subsequent offense. A separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues. Any fines set forth in this chapter shall be assessed regardless of whether the violator is convicted or placed on supervision by the court.

B. Substance Abuse. If the offense is related to alcohol or substance abuse and the offender is under twenty-one (21) years of age and not enrolled as a student as Maine Township High School District 207 (or another equivalent secondary school), the court or administrative adjudication hearing officer may assign the offender to a drug and alcohol education and abuse counseling program that is licensed by the Illinois Department of Alcohol and Substance Abuse and requires a certified evaluation program and not less than four (4) hours of counseling. If the violator agrees to attend such a program, the violator shall pay for the cost of the program and a fine of One Hundred Dollars (\$100.00) for a first offense. For a second offense, the offender shall attend a drug and alcohol education and counseling program of at least ten (10) hours in duration as determined by the licensed program and shall pay for the cost of the program and a fine of not less than Two Hundred Fifty Dollars (\$250.00). If the offense is related to alcohol or substance abuse and the offender is under twenty-one (21) years of age, is a first-time offender and is enrolled as a student as Maine Township High School District 207 (or another equivalent secondary school), the court or administrative adjudication hearing officer may assign the offender to a drug and alcohol education program that is approved by the Board of Education of Maine Township High School District 207. If the offense is related to alcohol or substance abuse and the offender is under twenty-one (21) years of age and is either found guilty or pleads no contest and agrees to pay the applicable fine, the City will report the person to the

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Secretary of State's Office and his/her driver's license will be suspended in accordance with State law.

(6/6/2016; 2016-45)

### **12-6-27: DEFINITIONS**

Unless the context otherwise requires, the following terms shall be construed according to the definitions set forth below:

**ACTING IN THE COURSE OF BUSINESS:** Any action taken by a person at a business premises in the City, or in furtherance of a business purpose in the City.

**ADULT:** Any person who has attained his or her twenty first birthday.

**ALCOHOLIC BEVERAGES OR LIQUOR:**

A. Any spirits, wine, beer, ale or other liquid intended as a beverage and containing more than one-half of one percent (0.5%) of alcohol by volume.

B. Any beverage containing any scientifically detectable trace of alcohol and commonly known as "near beer", "nonalcoholic beer", or "nonalcoholic wine", whose taste, color, odor and consistency are similar to the alcoholic beverages known as beer and wine and, except for the reduced alcohol content, is marketed as being similar to beer or wine.

**BANQUET FACILITY:** A food service facility whose primary business is the hosting of parties, celebrations and events which are attended by specific invitees of a specific host as opposed to "drop in" or reservation dining by the general public.

**BAR:** A barrier or counter, at and over which alcoholic beverages are opened, poured, prepared or served. (See also definitions of Customer Bar and Service Bar.)

**BAR/LOUNGE SPACE:** That area of a Class R licensed establishment that is depicted on the required drawing described in section 12-6-7 of this chapter. Bar/Lounge Space shall include both those areas used for activities defined in "BAR" above and those defined in "LOUNGE" below.

**BEER:** A beverage obtained by alcoholic fermentation or infusion in a brew or concoction of barley or other grain, malt or hops, in water. This includes beer, light beer, ale, stout, lager beer, porter and other similar brews.

**BOTTLE CLUB:** A type of service of spirits in which the spirits are purchased by the customer and then kept at a licensed premises for use or consumption by the customer on subsequent visits.

**CATERER:** A person who, for compensation, provides food and service for a banquet, dinner or other special occasion where the recipients of the food or service are specifically invited to each particular event. (See section 12-6-7 of this chapter.)

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**CITY:** The City of Park Ridge, Cook County, Illinois.

**CONTROL OF PREMISES:** The legal or beneficial ownership, rental, lease or licensure shall constitute control of property. Control may also exist where none of the aforesaid legal relationships apply, but where an adult occupies or is otherwise in charge of or charged with the supervision of a particular premises.

**CORKAGE:** The bringing of an alcoholic beverage, by a patron, into a place of business for the purpose of consuming the alcoholic beverage on the premises.

**CUSTOMER BAR:** A bar at a licensed premises that is open for actual visiting by, seating for or service to the customer.

**DELIVERY OF ALCOHOLIC BEVERAGES:** The sale, giving or exchange of an alcoholic liquor from one person to another. Delivery is meant to include the provision of any alcoholic liquor by whatever means to one person from another.

**DRAMSHOP INSURANCE:** That insurance required of every Licensee, the purpose of which is to insure the Licensee against the statutory liability imposed by the Illinois Liquor Control Act.

**DRINK PROMOTION PERIOD:** Any period of the business day when an alcoholic beverage is offered to the public or segment of the public at a reduced price.

*(2015-53; 09/21/15)*

**ENTERTAINMENT:** Any playing of prerecorded music or voices or any live act or performance whether or not using sound amplification.

**FLIGHT OF WINE and CRAFT BEVERAGES:** A single serving of a variety of alcoholic beverages in small portions.

**GENERAL PUBLIC:** The whole body politic including the people of the neighborhood, the City, the State of Illinois, the United States of America, and/or persons at large traveling through the City, as distinct from the designation of a particular person or group of persons.

**GROWLER:** A sealed and refillable container of approximately one half gallon in size used for the retail sale of beer by microbreweries or brew pubs for off-premise consumption.

**HAPPY HOUR:** Any period of the business day when an alcoholic beverage is offered to the public or segment of the public at a reduced price.

*(2015-53; 09/21/15)*

**HOST LIABILITY INSURANCE:** A typical business insurance coverage that protects an owner against claims that his or her business or premises caused damage or injury or

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caused liability to accrue to a business invitee.

**HOTEL:** Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where a restaurant is located and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which fifty (50) or more rooms are used for the sleeping accommodations for guests.

**IMPAIRMENT:** Any diminution or compromise of a person's physical, mental or perceptual abilities due to the consumption of an alcoholic beverage. Impairment does not require that the blood alcohol content be in excess of any particular gram of alcohol to milliliters of blood or breath ratio.

**INFUSED BEVERAGE:** An alcoholic beverage to which a fruit or vegetable has been added to impart the flavor of that fruit or vegetable. Infusion usually involves soaking or marinating for a period of days.

*(2015-53; 09/21/15)*

**LICENSE OR LIQUOR LICENSE:** That specific grant of the privilege and authority, pursuant to the exact requirements of this chapter, to a person to deliver alcoholic beverages in the manner set forth in the text of a designated classification. License, as used in this chapter shall, in applicable circumstances, include any permit or endorsement pursuant to section 12-6-6 of this chapter.

**LICENSE TERM:** The time between the issuance of a license and its expiration date.

**LICENSED PREMISES:** The building and land at the address for which the license is issued. For purposes of determining parameters of the location where an act is prohibited by this chapter, licensed premises shall include all off street parking, any public property immediately adjacent to the private address and the entirety of the contiguous property owned by the same entity owning the licensed premises. For purposes of determining the parameters of the location where an act is permitted by this chapter, licensed premises shall mean only the interior of the building at the licensed address unless an outdoor or other permit or certification specifically allows for activity on the exterior of the premises.

**LICENSEE:** That person who has been issued a liquor license, permit or endorsement by the Commissioner. For purposes of actions required of or prohibited to a Licensee, this shall include the holder of a Park Ridge liquor license and any officer, principal, employee or agent of the license holder.

**LICENSE REVIEW BOARD:** A body of residents appointed by the Mayor to perform certain duties as set forth in Section 12-6-15.

**LIVE ENTERTAINMENT:** A musical, theatrical, dance, cabaret or comedy act performed live by one (1) or more persons.

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**LOCAL LIQUOR CONTROL COMMISSIONER:** The office of the Mayor of the City, including appropriate legal counsel. This may include such other persons as the mayor may appoint, either by written policy or practice, to aid in the exercise of the powers and the performance of the duties of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner will be referred to as the "Commissioner" in this chapter.

**LOUNGE:** That portion of a licensed restaurant or club that is not part of the main dining area, where a customer bar and other seating is located, and that is kept, used, maintained, advertised and held out to the public as a place where alcoholic beverages may be consumed.

**MANAGER:** That sole natural person, on the licensed premises, who is charged with the supervision, oversight and management of the entire business and physical premises.

**MEAL PACKAGE:** A special menu package where food and alcoholic beverages are included in a single price. *(2015-53; 09/21/15)*

**ORIGINAL PACKAGE:** Any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container that is used, corked or capped, sealed and labeled by the manufacturer of alcoholic beverages to contain and to convey any alcoholic beverages. Original package means that the container must not be or have been opened or unsealed.

**PARENT:** A natural or adoptive parent or a court designated guardian.

**PARTY PACKAGE:** An offering by a licensee for private party functions or events for specific social or business occasion. *(2015-53; 09/21/15)*

**PERMIT:** That specific grant of the privilege and authority, pursuant to the exact requirements of this chapter, to a person to serve alcoholic beverages in the manner set forth in the text of a designated permit classification.

**PERSON:** Any natural person or any legal entity of any kind or nature.

**PRIVATE CLUB:** A not for profit organization maintaining a physical site in the city supported by the dues of its members.

**PUBLIC SPACE:** Includes all of the interior space except those spaces used for cooking, food preparation, food storage, and restrooms.

**RESTAURANT:** Any public place maintained, and held out to the public as a place primarily devoted to being a full service dining establishment at which the service of alcoholic beverages is incidental and complementary to the service of such meals. Limited food service, as typically provided by drive-in restaurants, luncheonettes, diners, coffee shops, fast food operations and similar uses, are not included in this definition.

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**SALE, SELL:** Transfer, exchange or barter in any manner, or by any other means for consideration. This shall include and mean all sales, soliciting or receiving an order for keeping or exposing for sale and keeping with intent to sell. It shall also include the exchange, transfer or trade for a ticket or token obtained for consideration.

**SERVER ONLY BAR:** A bar on a licensed premises that is not open for actual visiting by or seating for the customer, but is used solely as a drink preparation area for servers.

**SERVICE OF ALCOHOLIC BEVERAGES (OR SERVICE):** The sale, delivery, giving, service, providing or exchange of an alcoholic beverage from one person to another. Service of alcoholic beverages is meant to include the provision of any alcoholic beverage by whatever means by one person to another. This definition includes being an employee who actually serves alcoholic beverages or who is a cashier at a licensed premises. Service of alcoholic beverages by a Class P Licensee shall generally be referred to as "delivery of alcoholic beverages".

**SERVICE OF ALCOHOLIC BEVERAGES (REGULATED):** This is the type of service of alcoholic beverages that is regulated by this chapter. Regulated Service generally includes the following: Service at any location within the City: a) for value; or b) to the public from a business venue; or c) in the course of business; or d) at a civic event; or e) through a paid bartender at any location other than a private home. Also referred to as "Regulated Service".

**SERVICE OF ALCOHOLIC BEVERAGES FOR VALUE:** The service of alcoholic beverages for any consideration of any nature. This shall include, without limitation, the inclusion of alcoholic beverages in a single price of admission and/or in the price of a ticket and/or the price of a meal, even if for charitable purposes.

**SPIRITS:** Any beverage which contains alcohol obtained by distillation, mixed with water or other solution and includes brandy, rum, whiskey, gin or other spirituous beverages and such beverages when rectified, blended or otherwise mixed with alcohol or other substances.

**TOTAL INTERIOR SPACE:** All of the area inside the perimeter walls of the licensed premises and shall include all areas for cooking, service, food storage, food preparation, restrooms, public dining, and Bar/Lounge Space.

**UNDERAGE PERSON:** Any person who has not attained his or her twenty first birthday.

**WINE:** Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or "spirits", as defined herein.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 7 FARMERS MARKET

##### SECTION

12-7-1	Farmers Market
12-7-2	Time and Place
12-7-3	Permit Required
12-7-4	Permit Fee
12-7-5	Permit Application
12-7-6	General Regulations
12-7-7	Market Master
12-7-8	Penalty for Violation

#### 12-7-1 FARMERS MARKET

There is hereby established in the City of Park Ridge a marketplace to be known as the Farmers Market for the sale of produce, and processed, packaged, or prepared food, subject to the procedures and regulations hereinafter set forth.

*(Ord. 2006-38, 5/1/06, S24)*

#### 12-7-2 TIME AND PLACE

The Farmers Market shall be located in an area designated by resolution of the City Council and shall be conducted on such days and during such hours as the Council may prescribe.

#### 12-7-3 PERMIT REQUIRED

The market shall be divided into spaces designated by the market master. No person may occupy any space within the market unless he has received an occupancy permit issued by the master and has paid the applicable fee therefor. The fee shall not be a tax or license but shall be used to defray the cost of administration and promotion of the Farmers Market and enforcement of this ordinance.

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### **12-7-4 PERMIT FEE**

- A. Farmers Market permit may be issued either for an entire season or for one day. No person may receive more than three (3) daily permits in any season.
- B. The fee for a Farmers Market permit shall be established by the market master.  
*(Ord. 2001-11, 3/5/2001, S21), (Ord. 2006-38, 5/1/06, S24)*

### **12-7-5 PERMIT APPLICATION**

Applications for a Farmer Market permit shall be made on forms prescribed by the market master. Such applications shall contain and include the following information:

- A. Name, address and telephone of the applicant and, if a business name, the name of the individual owner of the business.
- B. Description of product to be sold.
- C. Identification of the state and county in which the produce to be sold is grown or gathered.
- D. Name and address of any person other than family members and employees of the applicant involved in preparing, packaging, transporting, or otherwise processing the product.
- E. Name and address of persons to be actually in charge of applicants' sales.
- F. A warranty that the produce to be sold will be grown, gathered, or produced by the applicant personally, his family, or employees, and not purchased for resale.
- G. Such other information as the market master may require.
- H. A certificate of insurance naming the City of Park Ridge and the Farmers Market Committee as additional insured that will be in full force and effect during the operation of the Farmers Market in the amount of \$1,000,000 for general liability per occurrence from an insurance company licensed to do business in the State of Illinois and with a minimum insurance rating acceptable to the City.

*(Ord. 2006-56, 7/17/06, S24)*

### **12-7-6 GENERAL REGULATIONS**

- A. Scales for products sold by weight shall conform to established standards of the State of Illinois.
- B. Prices shall be prominently displayed.

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- C. Hawking and crying out is prohibited.
- D. Any animals or pets brought to the market shall be kept at least 10 feet away from any booth selling food that is regulated by the Illinois Department of Public Health Retail Food Store Sanitation Code or Food Service Sanitation Code including processed, prepared or packaged food products. Any person who brings an animal or pet to the market shall comply with all applicable provisions of Article 5 Chapter 8 of the Municipal Code entitled, "Animals".
- E. Sale of the following is prohibited:
  - 1. Any unwholesome, adulterated, spoiled, or contaminated food product.
  - 2. Any dairy product except hard cheese, unless approved by the Health Authority.
  - 3. Any meat, fish, or poultry product, unless approved by the Health Authority.
  - 4. Home canned, heat processed, hermetically sealed non-acid or low-acid foods.
  - 5. Eggs.
  - 6. Any food item to which preservatives or coloring has been added, unless approved by the Health Authority.
  - 7. Baked goods which require refrigeration.
  - 8. Any food processed, packed or prepared at a home or other source not approved by federal, state or municipal health authorities or inspected by federal, state or municipal health authorities.
  - 9. Any live animals.
  - 10. Any alcoholic beverages.
- F. No waste, garbage, or refuse shall be permitted to accumulate or remain in the market area.
- G. All food items, all persons handling food items, and all equipment for transportation, storage and display of food items shall comply with the sanitary regulations promulgated by the Health Authority.
- H. The label for any pre-packaged or wrapped food items shall comply with the Illinois Department of Public Health Retail Food Store Sanitation Code and the Illinois Food Service Sanitation Code.

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- I. When food that is regulated by the Illinois Department of Public Health Retail Food Store Sanitation Code or Food Service Sanitation Code such as processed, prepared or packaged food products is provided regardless of whether there is a charge for the food, an application for a temporary food establishment Health Permit shall be submitted to the Health Authority. No person may sell or give away any food for which a temporary food establishment Health Permit is required until the Health Authority has approved such permit.
  
- J. No person may sell any processed, prepared or packaged food or prepare any food on site in the Farmers Market unless the food and any ingredients that would be used on site comes from a facility that is either licensed by a local health department or a state or federal food agency, or is inspected by the Illinois Department of Public Health as a food processor, warehouse or packer.

*(Ord. 2006-38, 5/1/06, S24)*

### **12-7-7 MARKET MASTER**

There shall be a market master who shall have general responsibility for the administration of the market and promulgation and enforcement of rules and regulations for the operation of the market. The market master shall have the authority to approve Farmers Market permits, to revoke Farmers Market permits for any violation of this ordinance or any law or regulation or conduct detrimental to the public health, safety, or welfare, to designate assigned spaces in the market, and to do all other things necessary to the operation of the operation of the market.

*(Ord. 2006-38, 5/1/06, S24)*

### **12-7-8 PENALTY FOR VIOLATION**

Any person, firm, or corporation violating any of the terms or provisions of this Chapter or failing to comply with an order of the Health Authority, shall be fined not less than fifty dollars (\$50.00) for the first violation, not less than one hundred dollars (\$100.00) for any subsequent violation and not more than two thousand five hundred dollars (\$2500.00) for any violation. Each day such violation is committed or permitted to continue or exist shall constitute a separate offense and shall be punishable as such hereunder.

*(Ord. 2006-38, 5/1/06, S24)*

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 8 ROOMING HOUSES

##### SECTION

12-8-1	Definitions
12-8-2	License Required
12-8-3	Rooming House Regulations
12-8-4	Penalty

#### 12-8-1 DEFINITIONS

**ROOMING HOUSE:** Includes "boarding house" and "lodging house" and means an establishment as defined in 65 ILCS 5/11-30-3 except that the term includes those establishments open to the public where accommodations are provided to any number of persons on a transient basis and whether or not any meals are provided to guests. Rooming house also includes "bed-and-breakfast" establishments as defined in 50 ILCS 820/1 et seq. except that such establishments include those with more than five (5) guest rooms and those in operation for less than ten (10) nights in any twelve (12) month period. "Rooming house" shall not include community residences as defined in the Park Ridge Zoning Ordinance.

#### 12-8-2 LICENSE REQUIRED

- A. It shall be unlawful for any person to operate in the City of Park Ridge a rooming house without a license issued by the City.
- B. A rooming house license shall be valid for a period of six (6) months from the date of issue and may be renewed for additional periods of six (6) months provided that it complies with this Code.
- C. The fee for a rooming house license shall be fifty dollars (\$50.00).

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- D. Application for a rooming house license shall be made to the Director of Community Preservation and Development on forms provided.

### **12-8-3 ROOMING HOUSE REGULATIONS**

Any rooming house required to be licensed by this Code shall as a condition of receiving and continuing to enjoy the privilege granted by the license comply with 50 ILCS 820/1 et seq. and the following regulations:

- A. The premises shall be occupied by the owner as a principal residence.
- B. The license certificate shall be posted in a conspicuous place within ten (10) feet of the main entrance to the premises.
- C. The premises shall be open to inspection by any authorized City police official, fire building, and health inspector.
- D. Off-street parking facilities shall be provided for all motor vehicles used by any guests.
- E. The establishment shall meet the fire safety requirements set forth in 50 ILCS 820/6. Additionally, the establishment shall:
1. provide a hard-wired smoke detector in each guest room and in all common areas in accordance with requirements of the City fire inspector of a type which upon activation transmits a signal to a central receiving station;
  2. comply with Sections 817.0 and 822.0 of the BOCA National Building Code, 1990, as amended by Article 15-1-3 of this Code regulating stairways, exit signs, and lights;
  3. comply with Section 20-2 and 20-3 NFPA101-1985 regarding means of escape and fire protection;
- F. The liability insurance required by 50 ILCS 820/7 shall be in an amount not less than five hundred thousand dollars (\$500,000.00).
- G. Bathroom facilities shall be provided as follows:
1. at least one (1) flush water closet, lavatory basin, and bathtub or shower properly connected to a water and sewer system approved by the housing inspector and in good working condition for each six (6) persons or fraction thereof who may be accommodated within a rooming house including members of the operator's family where they share the use of said facilities;
  2. all such facilities shall be located within the dwelling so as to be reasonably accessible to all persons sharing such facilities and from a common hall or

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- passageway and provided that such facilities shall not be located more than one (1) floor above or below the rooming unit or units served;
3. every lavatory basin and bathtub or shower shall be supplied with heated and unheated water under pressure at all times;
  4. if the rooming house has only one (1) bathroom for use by the occupants of the rooming units, said bathroom shall not be located in a basement except by written approval of the housing inspector.
- H. Food service, if provided for any meal, shall be in accordance with the provisions of 50 ILCS 820/4. Rooming house guests shall not be permitted access to kitchen facilities to prepare their own food, and no cooking shall be permitted in guest rooms.
- I. Linen and soap service shall be provided in accordance with 50 ILCS 820/5.
- J. No bedroom may be occupied by more than two (2) adults. Every such room shall contain not less than eighty (80) square feet of floor space for one (1) person and not less than one hundred thirty (130) square feet of floor space for two (2) people.
- K. Access to and from each bedroom shall be accomplished without passing through any other bedroom. Bedroom doors shall have locks to insure privacy.
- L. The premises shall meet applicable requirements of the "American with Disabilities Act."
- M. The premises shall comply with the Park Ridge Zoning Ordinance regarding home occupations and signs.

### **12-8-4 PENALTY**

Any person violating any provision of this Chapter shall be fined not less than one hundred dollars (\$100.00) for each violation. Each day such violation occurs shall constitute a separate violation.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

*(Ord. 2012-89, 12/03/2012, Entire Rewrite)*

#### CHAPTER 9 TOBACCO PRODUCTS

##### SECTION

12-9-1	Definitions
12-9-2	License Required
12-9-3	License Application
12-9-4	License Fee
12-9-5	Prohibited Sales, Delivery - Signs
12-9-6	Purchases by Minors Prohibited
12-9-7	Possession by Minors Prohibited
12-9-8	Free Distributions Prohibited
12-9-9	Vending Machines - Locking Devices
12-9-10	Responsibility for Agents and Employees
12-9-11	Suspension; Revocation of License; Hearing; Fines, Appeals

#### **12-9-1 DEFINITIONS**

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

- A. TOBACCO PRODUCTS means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- B. VENDING MACHINE means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

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### **12-9-2 LICENSE REQUIRED**

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

### **12-9-3 LICENSE APPLICATION**

Application for a license shall be made on forms provided by the Health Officer.

### **12-9-4 LICENSE FEE**

The license fee for a tobacco dealer's license shall be two hundred fifty dollars (\$250.00).

### **12-9-5 PROHIBITED SALES, DELIVERY - SIGNS**

- A. It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen (18) years.
- B. Signs informing the public of this age restriction shall be posted by every licensee at or near every display of tobacco products on or upon every vending machine which offers tobacco products for sale. Each such sign shall be plainly visible and shall state:

PURCHASE AND POSSESSION OF TOBACCO PRODUCTS  
BY PERSONS UNDER EIGHTEEN YEARS OF AGE ARE  
PROHIBITED BY LAW.

The text of such signs shall be in red letters on a white background. The letters shall be at least one inch (1") high.

- C. It shall be unlawful to sell, offer for sale, give away or display tobacco products for sale at any location where the consumer can acquire those products through self-service. All tobacco products may only be displayed from behind a sales/service counter so that no consumer can access tobacco products without assistance by an employee of the licensee. This restriction shall not apply to customer self-service from vending machines as described in the section of this article titled "Vending Machines - Locking Devices".

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### **12-9-6 PURCHASE BY MINORS PROHIBITED**

- A. It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products, or to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.
- B. Any person found guilty of violating this Section shall be fined one hundred dollars (\$100.00).

### **12-9-7 POSSESSION BY MINORS PROHIBITED**

- A. It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products. However, the possession by a person under the age of eighteen (18) years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home is not prohibited.
- B. Any person found guilty of violating this Section shall be fined one hundred dollars (\$100.00).

### **12-9-8 FREE DISTRIBUTIONS PROHIBITED**

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, or any employee or agent of such licensee or person, in the course of such licensee's or person's business, to distribute, give away, or deliver tobacco products free of charge to any person on any right-of-way, park, playground or other property owned by the City, any school district or any park district.

### **12-9-9 VENDING MACHINES - LOCKING DEVICES**

- A. It shall be unlawful for any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products by use of a vending machine, unless such vending machine is equipped with a device controlled by the licensee so as to prevent its operation by persons under the age of eighteen (18) years.
- B. Paragraph A above shall not apply to any premises where access by persons under the age of eighteen (18) years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of the business located at such premises.

**12-9-10 RESPONSIBILITY FOR AGENTS AND EMPLOYEES**

Every act of omission of whatsoever nature, constituting a violation of any of the provisions of this Chapter by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act of omission had been done or omitted by the licensee personally.

**12-9-11 SUSPENSION; REVOCATION OF LICENSE; HEARING; FINES; APPEALS**

- A. The Mayor or his/her designee is charged with the administration of this Chapter. The Mayor may suspend or revoke any license issued under the provisions of this Chapter if it is determined that the licensee has violated any of the provisions of this Chapter. In lieu of or in addition to the suspension or revocation of a license, the Mayor may levy a fine on the licensee. The fine imposed shall not exceed five hundred (\$500) for each violation. Each day on which a violation continues shall constitute a separate violation.
- B. The licensee shall be notified of a determination to revoke or suspend a license or of the imposition of a fine by the Mayor. The notice shall inform the licensee of the right to request a hearing before the Administrative Adjudication Division's Hearing Officer regarding the proposed action. The notice shall contain the reasons for the revocation, suspension, or imposition of a fine. The notice shall be personally served or mailed, postage prepaid, to the licensee at his/her last known address and shall provide the licensee with the right to request a hearing before Administrative Adjudication Division's Hearing Officer within twenty-one (21) calendar days following the date such notice was personally delivered or placed in the mail. Any request for a hearing must be made in writing and submitted to the Mayor via personal delivery or mail, postage prepaid. If no such request for a hearing is received, the Mayor's determination shall become final.
- C. The Administrative Adjudication Division shall set a place, date, and time for the hearing and shall notify the licensee of that information. The initial hearing date shall not be more than thirty (30) days after the Mayor receives the written request for a hearing.
- D. The licensee shall have the right to be represented at such a hearing by legal counsel. At the conclusion of the hearing, the Administrative Adjudication Hearing Officer shall issue a written decision and findings of fact. Such decision and findings of fact shall be mailed to the licensee within five (5) business days following the conclusion of the hearing or the receipt of any transcript, whichever is later.
- E. Twenty-four (24) hours prior to the commencement of any suspension or revocation, the City of Park Ridge Police Department shall post on all entrances to the licensee's

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premises a notice entitled "Notice of Revocation/Suspension." Such notice shall be substantially similar to the following:

### NOTICE OF REVOCATION/SUSPENSION

The license for this establishment, \_\_\_\_\_, which is held by \_\_\_\_\_ is:

\_\_\_\_\_ suspended for the following dates: (insert dates)

\_\_\_\_\_ revoked beginning on \_\_\_\_\_ (date) at \_\_\_\_\_ a.m./p.m.

pursuant to Section 12-9-11 of the Park Ridge Municipal Code for violations of Section(s) \_\_\_\_\_ of the Park Ridge Municipal Code. For additional information, please contact the Mayor at the City of Park Ridge at \_\_\_\_\_.

Anyone who removes a Notice of Revocation/Suspension before the suspension period is completed or less than seven (7) days after posting of a Notice of Revocation/Suspension shall be subject to a fine of \$\_\_\_\_\_.

- F. Any licensee whose license is suspended or revoked or who has been fined by the Administrative Adjudication Hearing Officer shall have the right to seek judicial review of the decision pursuant to the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.* Any applicant or license holder who files such an action for judicial review shall pay the costs of preparing and certifying the record of proceedings pursuant to Section 5/3-109 of the Administrative Review Law, 735 ILCS 5/3-109.

### **12-9-12 SALES BY MINORS PROHIBITED**

- A. It shall be unlawful for any person, including any licensee or licensee's agent or employee to engage, employ, or permit any person less than eighteen (18) years of age to sell tobacco products.
- B. Any person found guilty of violating this Section shall be fined one hundred dollars (\$100.00) for the first violation and a minimum of two hundred fifty dollars (\$250.00) for each subsequent violation.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

*(Ord. 2012-89, 12/03/2012, Entire Rewrite)*

#### CHAPTER 10 SEXUALLY-ORIENTED BUSINESSES

##### SECTION

12-10-1	License Required
12-10-2	Eligibility for License
12-10-3	Term of License; Fee
12-10-4	Hours of Operation
12-10-5	Minimum Age
12-10-6	Other Sales Prohibited
12-10-7	Inspections
12-10-8	Visibility; Lighting
12-10-9	Suspension, Revocation, Hearing, Fines, and Cost
12-10-10	Transfer of License
12-10-11	Bond Required
12-10-12	Penalty

#### 12-10-1 LICENSE REQUIRED

- A. It shall be unlawful for any person directly or indirectly to own or operate a sexually-oriented business without a license.
- B. A sexually-oriented business is one in which the dominant commercial activity is sale, rental, or exhibition of material depicting:
  1. human genitals in a state of sexual stimulation or arousal;
  2. aspects of human masturbation, sexual intercourse, or sodomy; or
  3. fondling or other erotic touching of human genitals, pubic region, buttock or female breast, or any performance of such sexual activities.

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### **12-10-2 ELIGIBILITY FOR LICENSE**

- A. A license to own and operate a sexually-oriented business may be issued only to a natural person who is
1. not less than twenty-five (25) years of age; and
  2. a resident of the City of Park Ridge or who agrees to become such within thirty (30) days of issuance of a license.
- B. No such license may be issued to any corporation. Further, no license shall be issued to any natural person who
1. has failed to provide information reasonably necessary for determination of eligibility to receive a license or has given false or deceptive information; or
  2. has been convicted in any jurisdiction of any felony or of any offense involving sexual conduct or obscenity or has owned directly or indirectly any sexually-oriented business as to which a license has been revoked or suspended in any jurisdiction.

### **12-10-3 TERM OF LICENSE; FEE**

A license shall be valid for a period of one (1) year unless sooner terminated or revoked. The fee for each license shall be one thousand five hundred dollars (\$1,500.00).

### **12-10-4 HOURS OF OPERATION**

No business licensed under this Chapter shall be open to the public before 9 a.m. or after 9 p.m. or at any time on Sunday.

### **12-10-5 MINIMUM AGE**

No person shall be employed in any licensed sexually-oriented business who is not at least twenty-one (21) years of age. No person shall be allowed to enter such business premises who is not at least eighteen (18) years of age.

### **12-10-6 OTHER SALES PROHIBITED**

No licensed sexually-oriented business shall be permitted to sell any food, beverage, or tobacco product.

**12-10-7 INSPECTIONS**

Any premises licensed under this Chapter shall comply with all reasonable rules and regulations of the City Health Department, Fire Department, and Police Department and shall be subject to inspection by any authorized City officer at any reasonable time.

**12-10-8 VISIBILITY; LIGHTING**

Any premises licensed under this Chapter shall have a front window or windows and an interior arrangement such that there is a clear and unobstructed view from outside the premises, through the front window(s) into all parts of the premises accessible to customers. Lighting in all parts of the premises accessible to customers shall be not less than 150-foot candles at all times that the building is open for business.

**12-10-9 SUSPENSION, REVOCATION, HEARING, FINES, AND COST**

- A. The Mayor shall be charged with the administration of this Chapter. The Mayor may suspend or revoke any license issued under the provisions of this Chapter if he determines that the licensee has violated any of the provisions of the Chapter, and may levy a fine on the licensee. The fine imposed by the Mayor shall not exceed five hundred dollars (\$500.00) for each violation. Each day on which a violation continues shall constitute a separate violation.
- B. No such license shall be suspended or revoked and no licensee shall be fined except after a public hearing before the Liquor License Review Board with not less than ten (10) days written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The hearing shall be conducted as in the case of hearings regarding liquor license violations, and the Liquor License Review Board shall have the power to recommend to the Mayor findings and policies for violations of this Chapter. The Mayor shall serve a written order setting forth his findings and any penalty to be imposed.
- C. Any licensee determined by the Mayor to have violated any of the provisions of this Chapter shall, in addition to any fine imposed, pay to the City the costs of the hearing before the Mayor on such violation. The Mayor shall determine the costs incurred by the City for said hearing including, but not limited to, court reporters' fees, the cost of transcripts or records, attorneys' fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the City or such lesser sum as the Mayor may allow. The licensee shall pay said costs to the City within thirty (30) days of notification of the costs by the Mayor. Failure to pay said costs within thirty (30) days of notification is a violation of this Chapter and may be cause for license suspension or revocation or the levy of a fine.

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### **12-10-10 TRANSFER OF LICENSE**

The license shall be purely a personal privilege and shall not constitute property nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable voluntarily or involuntarily or subject to being encumbered or hypothecated. The license shall permit the licensed activity only on the premises described in the application and license.

### **12-10-11 BOND REQUIRED**

No license shall be issued unless the licensee shall first deposit with the City a bond with a corporate surety, such corporate surety to be a "AA"-rated surety company regularly authorized to act as surety and approved by the Commissioner of Insurance with respect to its rating as a surety company. Such bond shall provide against any violation by the principal, his agents, or employees of any of the terms of this Chapter or any rules and regulations now in force or which may hereafter be enforced in the City affecting the operation of such business. The penalty of such bond shall be three thousand dollars (\$3,000.00), and the purpose of such bond shall be to cover the costs of enforcement, prosecution, as well as the cost of hearing by the Mayor on the question of suspension or revocation of the license.

### **12-10-12 PENALTY**

In addition to, or in lieu of, any administrative sanction imposed pursuant to Section 12-10-9 above, any violation of this Chapter shall, upon conviction thereof by a court of law, be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day on which a violation continues shall constitute a separate offense.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 11 TELECOMMUNICATIONS

##### SECTION

12-11-1	Registration	
12-11-2	License	
12-11-3	Franchise	
12-11-4	Penalties	
12-11-5	Other Remedies	
12-11-6	Severability	
12-11-7	Telecommunications Carriers and Providers Registration	
12-11-8	Telecommunications License	
12-11-9	Telecommunications Franchise	
12-11-10	Cable Franchise	
12-11-11	Fees and Compensation	
12-11-12	Conditions of Grant	
12-11-13	Construction Standards	
12-11-14	Definitions	
12-11-15	Reserved	<i>(Ord. 2003-37, 5/19/2003)</i>

##### 12-11-1 REGISTRATION

Except as otherwise provided herein, all telecommunications carriers and providers, including holders of a State-issued authorization pursuant to Section 21-401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-401), engaged in the business of transmitting, supplying or furnishing of telecommunications originating or terminating in the City shall register with the City, as provided in Section 12-11-7.

*(Ord. 2008-12, 2/25/2008)*

##### 12-11-2 LICENSE

Except as otherwise provided herein, any telecommunications carrier which desires to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any public way of the City for the sole purpose of providing telecommunications service to persons and areas outside the City shall first obtain from the City a license granting the use of such public ways, as provided in Section 12-11-8.

**12-11-3 FRANCHISE**

- A. TELECOMMUNICATIONS FRANCHISE. Except as otherwise provided herein, any telecommunications carrier which desires to construct, install, operate, maintain or otherwise locate telecommunications facilities in, under, over or across any public way of the City, and to also provide telecommunications service to persons or areas in the City, shall first obtain from the City a franchise granting the use of such public ways as provided in Section 12-11-9.
- B. CABLE TELEVISION FRANCHISE. Except as otherwise provided herein, any telecommunications carrier which desires to construct, install, operate, maintain or locate telecommunications facilities in any public way of the City for the purpose of providing cable television service to persons in the City shall first obtain a cable franchise from the City as provided in Section 12-11-10.
- C. APPLICATION TO EXISTING FRANCHISE ORDINANCES AND AGREEMENTS. This Chapter shall have no effect on any existing franchise ordinance or franchise agreement until:
1. the expiration of said franchise ordinance or agreement;
  2. an amendment to an unexpired franchise ordinance or franchise agreement, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.
- D. APPLICATION TO HOLDERS OF STATE-ISSUED AUTHORIZATIONS. Sections 12-11-2, 12-11-3, 12-11-8, 12-11-9 and 12-11-10 of this Chapter 12 shall not apply to any holder of a State-issued authorization pursuant to Section 21-401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-401).

*(Ord. 2008-12, 2/25/2008)*

**12-11-4 PENALTIES**

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

**12-11-5 OTHER REMEDIES**

Nothing in this ordinance shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.

*Supp. 17 (January 1998)*

**12-11-6 SEVERABILITY**

If any Section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

**12-11-7 TELECOMMUNICATIONS CARRIERS AND PROVIDERS  
REGISTRATION**

A. REGISTRATION REQUIRED. All telecommunications carriers and providers, including holders of a State' issued authorization pursuant to Section 21-401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-401), that offer or provide any telecommunications service for a fee directly to the public, either within the City, or outside the corporate limits from telecommunications facilities within the City, shall register with the City pursuant to this Chapter on forms to be provided by the City Clerk, which shall include the following:

1. The identity and legal status of the registrant, including any affiliates;
2. The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement;
3. A description of registrant's existing or proposed telecommunications facilities within the City;
4. A description of the telecommunications service that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the City;
5. Information sufficient to determine whether the registrant is subject to public way licensing or franchising under this Chapter;
6. Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided or to be provided by the registrant constitutes an occupation or privilege subject to any municipal telecommunications tax, utility message tax or other occupation tax imposed by the City;
7. Information sufficient to determine that the applicant has applied for and received any certificate of authority required by the Illinois Commerce Commission to provide telecommunications services or facilities within the City;
8. Information sufficient to determine that the applicant has applied for and received any construction permit, operating license or other approvals required by the Federal Communications Commission to provide telecommunications services or facilities within the City; and

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9. Such other information as the City Clerk may reasonably require.

*(Ord. 2008-12, 2/25/2008)*

B. REGISTRATION FEE. Each application for registration as a telecommunications carrier or provider shall be accompanied by a fee of twenty-five dollars (\$25.00).

C. PURPOSE OF REGISTRATION. The purpose of registration is to:

1. provide the City with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the City, or that own or operate telecommunication facilities within the City;
2. assist the City in enforcement of this Chapter;
3. assist the City in the collection and enforcement of any municipal taxes, franchise fees, license fees or charges that may be due the City; and
4. assist the City in monitoring compliance with local, State and Federal laws.

### 12-11-8 TELECOMMUNICATIONS LICENSE

A telecommunications license shall be required of any telecommunications carrier who desires to occupy specific public ways of the City for the sole purpose of providing telecommunications services to persons or areas outside the City.

A. LICENSE APPLICATION. Any person that desires a telecommunications license pursuant to this Chapter shall file an application with the City which shall include the following information:

1. the identity of the license applicant, including all affiliates of the applicant;
2. a description of the telecommunications services that are or will be offered or provided by licensee over its telecommunications facilities;
3. a description of the transmission medium that will be used by the licensee to offer or provide such telecommunications services;
4. preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:
  - a. the location and route requested for applicant's proposed telecommunications facilities;
  - b. the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route;

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- c. the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers; and
  - d. the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate;
5. if applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route;
6. if applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:
  - a. the excess capacity currently available in such ducts or conduits before installation of applicant's telecommunications facilities; and
  - b. the excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's telecommunications facilities;
7. if applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:
  - a. the location proposed for the new ducts or conduits; and
  - b. the excess capacity that will exist in such ducts or conduits after installation of applicant's telecommunications facilities;
8. a preliminary construction schedule and completion date;
9. a preliminary traffic control plan in accordance with the IDOT Manual on Uniform Traffic Control Devices;
10. financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities;
11. information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application;
12. information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services;
13. all required fees, deposits or charges; and
14. such other and further information as may be required by the City.

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- B. DETERMINATION BY THE CITY. The City Council may enact an ordinance granting a license. In determining whether to grant a license the Council shall consider the following factors, in addition to any others it may deem relevant:
1. the financial and technical ability of the applicant;
  2. the legal ability of the applicant;
  3. the capacity of the public ways to accommodate the applicant's proposed facilities;
  4. the capacity of the public ways to accommodate additional utility and telecommunications facilities if the license is granted;
  5. the damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the license is granted;
  6. the public interest in minimizing the cost and disruption of construction within the public ways;
  7. the service that applicant will provide to the community and region;
  8. the effect, if any, on public health, safety and welfare if the license is granted;
  9. the availability of alternate routes and/or locations for the proposed facilities;
  10. applicable federal and state telecommunications laws, regulations and policies;  
and
  11. such other factors as may demonstrate that the grant to use the public ways will serve the community interest.
- C. AGREEMENT. No license granted hereunder shall be effective until the applicant and the City have executed a written agreement setting forth the particular terms and provisions of the license.
- D. NON-EXCLUSIVE GRANT. No license shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the City for delivery of telecommunications services or any other purposes.
- E. RIGHTS GRANTED. No license shall convey any right, title or interest in the public ways, but shall be deemed a license only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no license shall be construed as any warranty of title.
- F. TERM OF GRANT. Unless otherwise specified in a license agreement, a telecommunications license granted hereunder shall be in effect for a term of five (5) years.

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- G. LICENSE ROUTE. A telecommunications license shall be limited to a grant of specific public ways and defined portions thereof.
- H. LOCATION OF FACILITIES. Unless otherwise specified in a license agreement, all facilities shall be constructed, installed and located in accordance with Article 9, Section 2 of the Code and with the following terms and conditions:
1. Telecommunications facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility;
  2. A licensee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available;
  3. Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the City, a licensee with permission to occupy the same public way must also locate its telecommunications facilities underground;
  4. Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a licensee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the license term. Absent extraordinary circumstances or undue hardship as determined by the City Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways; and
  5. Whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the licensee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future telecommunications carriers.
- I. CONSTRUCTION PERMITS. All licensees are required to obtain construction permits for telecommunications facilities as required in this Chapter provided, however, that nothing in this Chapter shall prohibit the City and a licensee from agreeing to alternative plan review, permit and construction procedures in a license agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices. In addition, licenses must comply with the permit requirements of Section 9-2-4. *(Ord. 2008-12, 2/25/2008)*
- J. COMPENSATION TO CITY. Each license granted under this Chapter is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the property rights granted to the licensee; provided, nothing in this Chapter shall prohibit the City and a licensee from agreeing to the compensation to be paid.

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- K. AMENDMENT OF GRANT. A new license application and grant shall be required of any telecommunications carrier that desires to extend or locate its telecommunications facilities in public ways of the City which are not included in a license previously granted under this Chapter. If ordered by the City to locate or relocate its telecommunications facilities in public ways not included in a previously granted license, the City shall grant a license amendment without further application.
- L. RENEWAL APPLICATIONS. A grantee that desires to renew its license shall, not more than 180 days nor less than 90 days before expiration of the current license, file an application with the City for renewal of its license which shall include the following information:
1. the information required pursuant to Section 12-11-8A; and
  2. any information required pursuant to the license agreement between the City and the licensee.
- M. RENEWAL DETERMINATIONS: The City Council may renew a license in the same manner as provided for original issuance.
- N. OBLIGATION TO CURE AS A CONDITION OF RENEWAL: No license shall be renewed until any ongoing violations or defaults in the licensee's performance of the license agreement, or of the requirements of this Chapter have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City.

### **12-11-9 TELECOMMUNICATIONS FRANCHISE**

A telecommunications franchise shall be required of any telecommunications carrier which desires to occupy public ways of the City and to provide telecommunications services to any person or area in the City.

- A. FRANCHISE APPLICATION. Any person that desires a telecommunications franchise pursuant to this Chapter shall file an application with the City which shall include the following information:
1. the identity of the franchise applicant, including all affiliates of the applicant;
  2. a description of the telecommunications services that are or will be offered or provided by the franchise applicant over its existing or proposed facilities;
  3. a description of the transmission medium that will be used by the franchisee to offer or provide such telecommunications services;
  4. preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:

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- a. the location and route requested for applicant's proposed telecommunications facilities;
  - b. the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route;
  - c. the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers; and
  - d. the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate;
5. if applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route;
  6. if applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:
    - a. the excess capacity currently available in such ducts or conduits before installation of applicant's telecommunications facilities; and
    - b. the excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's telecommunications facilities;
  7. if applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:
    - a. the location proposed for the new ducts or conduits; and
    - b. the excess capacity that will exist in such ducts or conduits after installation of applicant's telecommunications facilities.
  8. a preliminary construction schedule and completion dates;
  9. a preliminary traffic control plan in accordance with the IDOT Manual on Uniform Traffic Control Devices;
  10. financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities;
  11. information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application;

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12. information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services;
  13. whether the applicant intends to provide cable service, video dial tone service or other video programming service, and sufficient information to determine whether such service is subject to cable franchising;
  14. an accurate map showing the location of any existing telecommunications facilities in the City that applicant intends to use or lease;
  15. a description of the services or facilities that the applicant will offer or make available to the City and other public, educational and governmental institutions;
  16. a description of applicant's access and line extension policies;
  17. the area or areas of the City the applicant desires to serve and a schedule for build-out to the entire franchise area;
  18. all required fees, deposits or charges; and
  19. such other and further information as may be requested by the City Manager.
- B. DETERMINATION BY THE CITY. The City Council may enact an ordinance granting a franchise. In determining whether to grant a franchise the Council shall consider the following factors, in addition to any others it may deem relevant:
1. the financial and technical ability of the applicant;
  2. the legal ability of the applicant;
  3. the capacity of the public ways to accommodate the applicant's proposed facilities;
  4. the capacity of the public ways to accommodate additional utility and telecommunications facilities if the franchise is granted;
  5. the damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the franchise is granted;
  6. the public interest in minimizing the cost and disruption of construction within the public ways;
  7. the service that applicant will provide to the community and region;
  8. the effect, if any, on public health, safety and welfare if the franchise requested is granted;
  9. the availability of alternate routes and/or locations for the proposed facilities;

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10. applicable federal and state telecommunications laws, regulations and policies;  
and

11. such other factors as may demonstrate that the grant to use the public ways will serve the community interest.

C. AGREEMENT. No franchise shall be granted hereunder unless the applicant and the City have executed a written agreement setting forth the particular terms and provisions of the franchise.

D. NON-EXCLUSIVE GRANT. No franchise granted under this Chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the City for delivery of telecommunications services or any other purposes.

E. TERM OF GRANT. Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be valid for a term of ten (10) years.

F. RIGHTS GRANTED. No franchise granted under this Chapter shall convey any right, title or interest in the public ways, but shall be deemed a franchise only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no franchise shall be construed as any warranty of title.

G. FRANCHISE TERRITORY. A telecommunications franchise granted under this Chapter shall be limited to the specific geographic area of the City to be served by the franchisee, and the specific public ways necessary to serve such areas.

H. LOCATION OF FACILITIES. Unless otherwise specified in a franchise agreement, all facilities shall be constructed, installed and located in accordance with Article 9, Section 2 of the Code and with the following terms and conditions:

1. telecommunications facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility;

2. a franchisee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available;

3. whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the City, a franchisee with permission to occupy the same public way must also locate its telecommunications facilities underground;

4. whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a franchisee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or

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undue hardship as determined by the City Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways;

5. whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the grantee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future carriers; and

- I. CONSTRUCTION PERMITS. All franchisees are required to obtain construction permits for telecommunications facilities as required in this Chapter provided, however, that nothing in this Chapter shall prohibit the City and a franchisee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices. In addition, licenses must comply with the permit requirements of Section 9-2-4.

*(Ord. 2008-12, 2/25/2008)*

- J. COMPENSATION TO CITY. Each franchise granted under this Chapter is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the property rights granted to the franchisee; provided, nothing in this Chapter shall prohibit the City and a franchisee from agreeing to the compensation to be paid.

- K. NONDISCRIMINATION. A franchisee shall make its telecommunications services available to any customer within its franchise area who shall request such service, without discrimination as to the terms, conditions, rates or charges for grantee's services; provided, however, that nothing in this Chapter shall prohibit a franchisee from making any reasonable classifications among differently situated customers.

- L. SERVICE TO THE CITY. A franchisee shall make its telecommunications services available to the City at its most favorable rate for similarly situated users, unless otherwise provided in a license or franchise agreement.

- M. AMENDMENT OF GRANT. A new franchise application and grant shall be required of any telecommunications carrier that desires to extend its franchise territory or to locate its telecommunications facilities in public ways of the City which are not included in a franchise previously granted under this Chapter. If ordered by the City to locate or relocate its telecommunications facilities in public ways not included in a previously granted franchise, the City shall grant a franchise amendment without further application.

- N. RENEWAL APPLICATIONS. A franchisee that desires to renew its franchise under this Chapter shall, not more than 240 days nor less than 150 days before expiration of the current franchise, file an application with the City for renewal of its franchise which shall include the following information:

1. the information required pursuant to Section 12-11-9A; and

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2. any information required pursuant to the franchise agreement between the City and the franchisee;
- O. RENEWAL DETERMINATIONS. The City Council may renew a franchise in the same manner as provided for original issuance.
- P. OBLIGATION TO CURE AS A CONDITION OF RENEWAL. No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the franchise agreement, or of the requirements of this Chapter, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City.

### 12-11-10 CABLE FRANCHISE

- A. GENERAL. In addition to the provisions outlined in Section 12-11-9 regarding franchise application, grant and authority, Cable Operators other than holders of a State-issued authorization pursuant to Section 21-401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-401) are subject to the provisions and the requirements outlined in this Section.
1. Cable Operators are subject to this Chapter in its entirety and the Cable Act.
  2. If a conflict arises between the language in Section 12-11-10 and the rest of this Chapter, Section 12-11-10 shall prevail.
- B. DESCRIPTION OF SYSTEM. The minimum capacity for a cable system shall be 450 MHz with at least 50 downstream channels. The Cable Operator shall, as a condition of the granting of a franchise, provide the City with a written description of the cable system within the City, including technical characteristics, channel capacity, channel carriage, and a strand map. The Cable Operator shall provide the City with an updated description, upon request or whenever substantial changes in the system are made.
- C. CHANNEL ALLOCATION. The Cable Operator shall, to the maximum extent possible, assign as dial locations for local broadcast stations carried on the system, numbers available by either a cable-ready television or a converter, which correspond to their respective FCC-assigned TV station call numbers, unless the station has negotiated a more favorable position in the channel line-up.
- D. ACCESS CHANNELS. The Cable Operator shall provide access channels on the subscriber network for the exclusive use of designated institutions.
1. The number and use of said channels will be prescribed in the franchise agreements.
  2. The City shall determine the channel allocations for such designated institutions.

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3. Such channels shall be available on the lowest tier of basic service.
  4. The Cable Operator shall make every reasonable effort to assign P.E.G. (Public, Educational, Government) channels to the same channels assigned by other providers within each municipality, and in contiguous municipalities.
  5. The Cable Operator shall list the specific assigned user on each channel in every channel line-up. A new channel chart shall be issued to subscribers by bill stuffer in the billing to be received prior to any changes.
  6. P.E.G. channels may not be reassigned without forty-five (45) days' notice to the City. The franchise shall notify subscribers of any P.E.G. channel reassignments by bill messages or bill stuffer in the billing to be received prior to the change. P.E.G. channels may not be reassigned more than once in any twelve (12) month period.
  7. The Cable Operator shall be responsible for any established costs incurred by the City due to a change in channel assignment for any P.E.G. channel which was not requested by the user. These costs may include stationery, business cards, and public notices. The Cable Operator will incur these costs for no more than a one-month period. The Cable Operator shall discuss reimbursement of special promotional items, such as T-shirts or other special items, with the affected user on a case-by-case basis.
- E. EXTENSION OF SERVICE. Following the initial construction of the Cable Operator's telecommunications system, the Cable Operator shall extend its system and make service available as follows:
1. Unless otherwise specified in a license or franchise agreement, within forty-five (45) days after notification by the City of an annexation having a minimum density of twenty-five (25) units per street mile, begin construction of its telecommunications system within such annexed area to provide service to each person requesting such service. Weather permitting, construction and activation to the annexed area shall be completed within forty-five (45) days.
  2. The City shall notify the Cable Operator of the construction of any new development within the City by delivering to the Cable Operator a final plat of survey, to include final design for all utilities for that development. For developments having a minimum density of twenty-five (25) units per street mile, the Cable Operator shall deliver to the City its construction design plan and have applied for all necessary permits and licenses within thirty (30) days of said notification. Weather permitting, construction shall begin within thirty (30) days after the receipt of all necessary permits and licenses. Construction, including restoration, shall be completed within forty-five (45) days.
  3. Within thirty (30) days after signing a contract and approved design with any multiple dwelling unit for the provision of service, the Cable Operator shall begin

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construction and installation of its system in such multiple dwelling unit. Construction and installation shall be completed within thirty (30) days.

4. Cable Operator shall provide service to areas not meeting the minimum density of twenty-five (25) units per street mile within six (6) months after notification by the City. If the Cable Operator determines that a line extension is not economically feasible, it may request relief from this provision. Approval of such request shall not be unreasonably withheld.
5. Cable Operator further agrees that any litigation instituted by a third party shall not suspend Cable Operator's obligation to construct and install the cable communications system in accordance with the construction time schedule unless otherwise ordered by a court of competent jurisdiction.

F. TECHNICAL STANDARDS. The distribution of all signals throughout the system, including the combined degradation effects of both upstream and downstream carriage, no matter where the signals originate or are terminated, shall meet the applicable industry standards set for the delivery method being used.

1. All applicable regulatory standards shall be observed as if each and every one were stated herein. In the event that enforcement of said regulatory standards is discontinued or the regulatory agency charged with enforcement is dissolved, the standards shall remain in full force and effect until the City exercises its right hereunder to amend this agreement to require such standards as it shall deem necessary.
2. In the areas where standards have not been developed, the system shall operate at the equipment manufacturers' specifications until measurable standards have been developed. The Cable Operator shall be obligated to ensure that the signal quality is of the highest practicable level achievable for the components in question. For the first year that newer equipment for which no standards have been developed is in use, the Cable Operator will report monthly on the reliability and performance of said equipment. Thereafter, if the equipment is functioning within the levels anticipated, the Cable Operator may test and report on the same schedule as the rest of the communications system.

G. TESTING. The Cable Operator shall conduct appropriate monitoring and measurements utilizing appropriate measuring devices, including devices capable of measuring signal leakage in microvolts/meter, to ensure that the system is performing within the applicable standards. When such monitoring or measurements indicate that performance has fallen below these standards, corrective action shall be taken to restore proper performance. All channels on the system shall be monitored daily by a visual inspection of the picture and listening to the audio for general performance and audio level balance.

1. At a minimum, measurements shall be made monthly at the head end, and quarterly at two randomly selected, longest cascades in each community to ensure

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that all channels on the system are operating properly. Measurement of all operational parameters shall be made semi-annually at the head end and four geographically divided locations, at the ends of the longest cascades in each community, on all channels.

2. If the City suspects an area is not performing in accordance with the applicable standards, it may order the Cable Operator to test in that location within forty-eight (48) hours' notice from the City.
3. Newly constructed sections shall be tested within one week of activation, and results reported to the City.
4. The Cable Operator shall submit copies of its federally required proof-of-performance testing within thirty (30) days of its completion.

H. RELIABILITY. The Cable Operator shall employ a professional engineer or equivalent, and a service and repair force of competent technicians, capable of maintaining the system in accordance with the technical performance service requirements in this agreement.

1. The Cable Operator shall install and maintain a standby power system that provides a minimum of three (3) hours duration throughout the distribution networks.
2. System head ends and distribution system as well as standby power will have remote status monitoring.

I. MAINTENANCE. The Cable Operator shall perform routine maintenance within the following parameters:

1. The Cable Operator shall interrupt system service after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and, except in emergency situations, only after cable-casting notice of service interruptions at least twenty-four (24) hours in advance.
2. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair with notification to the City, on any day except Saturday, Sunday, or legal holidays.
3. Routine maintenance may be performed during the daylight hours of 7:00 a.m. to 5:00 p.m. on any day except Saturday, Sunday, or legal holidays, up to twice a year upon notification to the City.

J. PERFORMANCE EVALUATION. The City and the Cable Operator shall hold performance evaluation meetings in the month of February of each calendar year to discuss the performance of the Cable Operator during the previous year.

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1. The City may periodically do a more extensive evaluation of the Cable Operator's performance, which may include a financial or technical audit. The Cable Operator shall fully cooperate with the City during all reviews and evaluations.
  2. If, at any time, the City determines that reasonable evidence exists of inadequate performance, it may require the Cable Operator to perform tests directed toward the suspected inadequacies. The Cable Operator shall prepare results and a report within thirty (30) days after notice.
  3. Within thirty (30) to thirty-six (36) months prior to the expiration of the franchise agreement, the City shall begin an evaluation of the Cable Operator's performance over the life of the franchise.
  4. All evaluation meetings shall be open to the public and announced by the City in a newspaper of general circulation ten (10) days prior to such meeting. Cable Operator shall place an announcement of the highest use origination channel on the system no less than three (3) times during the hours of 7:00 p.m. for five (5) consecutive days preceding the meetings.
- K. RENEWAL. To the extent applicable, renewal shall be governed by the Cable Act.
- L. SERVICE TO THE CITY. Applications for franchises shall include proposals for the provision of public, educational and governmental access to the telecommunications system.
- M. EMERGENCY OVERRIDE. The Cable Operator shall provide the equipment required to automatically interrupt programming on all channels of the subscriber network by means of an audio message to present emergency information by public and law enforcement officials of the City. Such equipment shall be accessible through any City facility at no charge for the equipment, installation or maintenance.
- N. BOOKS AND RECORDS. The Cable Operator shall maintain books and records of its operation within the City to show total revenues by service category in sufficient detail, consistent with generally accepted accounting principles.
1. Cable Operator shall maintain all books and records required for regulation of rate by the appropriate governmental authority.
  2. Cable Operator shall maintain such books and records for the City separate from any other operation, provided, however, that any expenses, expenditures or revenues, which apply to both the system in the City and any other operation, shall be reasonably allocated between all such operations.
  3. Cable Operator shall keep appropriate records of all requests for installation of service, service calls, and outages, showing the date completed and any corrective action taken. A summary of the above-listed information shall be submitted to the City prior to the annual performance evaluation meeting.

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4. The required books and records shall be made available in the Cable Operator's local office during normal business hours, for inspection and audit by the City within thirty (30) days after such request has been made.
- O. DUTY TO PROVIDE INFORMATION. The Cable Operator shall submit to the City copies of all decisions, correspondence and actions by any federal, state and local courts, regulatory agencies and other governmental bodies relating to its telecommunications operations within the City.
1. Copies of the Cable Operator's schedule of charges, contract or application forms, subscriber user services, policies regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Cable Operator's policy in connection with subscriber or user services shall be filed with the City and updated as necessary, and shall be made available for public inspection by Cable Operator's local office.
  2. Copies of all correspondence, petitions, reports, applications and other documents filed by the Cable Operator with federal or state agencies having jurisdiction over telecommunications, or the same received from said agencies, shall be furnished simultaneously to the City by the Cable Operator.
  3. Within ten (10) days of a written request from the City, each Cable Operator shall furnish the City with information sufficient to demonstrate:
    - a. That the Cable Operator has complied with all requirements of this Chapter.
    - b. That all City sales, message and/or telecommunications taxes or applicable franchise fees due the City in connection with the telecommunications services and facilities provided by the Cable Operator have been properly collected and paid by the Cable Operator.
    - c. In addition to the annual filing required in this Chapter, all books, records, maps and other documents, maintained by the Cable Operator with respect to its facilities within the public ways shall be made available for inspection by the City at reasonable times and intervals.

### 12-11-11 FEES AND COMPENSATION

- A. PURPOSE. It is the purpose of this Section to provide for the payment and recovery of all direct and indirect costs and expenses of the City related to the enforcement and administration of this Chapter.
- B. APPLICATION AND REVIEW FEE
1. Any applicant for a license or franchise pursuant to Sections 12-11-8 and 12-11-9 shall pay a fee of five hundred dollars (\$500.00) or one percent (1%) of the

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estimated cost of applicant's proposed telecommunications facilities, as certified by the applicant's professional engineer, whichever is greater.

2. The application and review fee shall be deposited with the City as part of the application filed pursuant to Sections 12-11-8 or 12-11-9.
  3. An applicant whose license or franchise application has been withdrawn, abandoned or denied shall be refunded the balance of its deposit under this section, less:
    - a. five hundred dollars (\$500.00); and
    - b. all ascertainable costs and expenses incurred by the City in connection with the application.
- C. OTHER CITY COSTS. All license or franchise grantees shall, within thirty (30) days after written demand therefor, reimburse the City for all direct and indirect costs and expenses incurred by the City in connection with any modification, amendment, renewal or transfer of the license or franchise or any license or franchise agreement.
- D. RESERVED COMPENSATION FOR PUBLIC WAYS. The City reserves its right to annually fix a fair and reasonable compensation to be paid for the property rights granted to a telecommunications license or franchise grantee. Nothing in this Chapter shall prohibit the City and a grantee from agreeing to the compensation to be paid for the granted property rights.
- E. COMPENSATION FOR CITY PROPERTY. If the right is granted, by lease, license, franchise or other manner, to use and occupy City Property for the installation of telecommunications facilities, the compensation to be paid shall be fixed by the City.
- F. CONSTRUCTION PERMIT FEE. Prior to issuance of a construction permit, the permittee shall pay a permit fee equal to five hundred dollars (\$500.00) or one percent (1%) of the estimated cost of constructing the telecommunication facilities, as certified by the applicant's engineer and approved by the City Engineer, whichever is greater.
- G. ANNUAL FEES. Unless otherwise agreed in a license or franchise grant agreement, each license or franchise grantee shall pay an annual license fee to the City equal to five hundred dollars (\$500.00) as reimbursement for the City's costs in connection with reviewing, inspecting and supervising the use and occupancy of the public ways in behalf of the public and existing or future users.
- H. CABLE FEES. Cable television franchisees shall be subject to the franchise fees, payments and costs provided in Section 12-11-10.
- I. REGULATORY FEES AND COMPENSATION NOT A TAX. The regulatory fees and costs provided for in this Chapter, and any compensation charged and paid for the public ways provided for in Paragraph D. of this Section, are separate from, and

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additional to, any and all federal, state, local and city taxes as may be levied, imposed or due from a telecommunications carrier or provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services.

### 12-11-12 CONDITIONS OF GRANT

A. LOCATION OF FACILITIES. All facilities shall be constructed, installed and located in accordance with Article 9, Section 2 of the Code and with the following terms and conditions, unless otherwise specified in a license or franchise agreement:

1. A grantee shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists within such utility facility.
2. A grantee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
3. Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the City, a grantee with permission to occupy the same public way must also locate its telecommunications facilities underground.
4. Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the City Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways.
5. Whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the grantee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future carriers.

*(Ord. 2008-12, 2/25/2008)*

B. COMPLIANCE WITH J.U.L.I.E. All license or franchise grantees shall, before commencing any construction in the public ways, comply with all regulations of J.U.L.I.E.

C. CONSTRUCTION PERMITS. All license or franchise grantees are required to obtain construction permits for telecommunications facilities as required in Section 12-11-13. However, nothing in this Chapter shall prohibit the City and a grantee from agreeing to alternative plan review, permit and construction procedures in a license or franchise

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agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

- D. INTERFERENCE WITH THE PUBLIC WAYS. No license or franchise grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public ways by the City, by the general public or by other persons authorized to use or be present in or upon the public ways. All such facilities shall be moved by the grantee, temporarily or permanently, as determined by the City Engineer.
- E. DAMAGE TO PROPERTY. No license or franchise grantee nor any person acting on a grantee's behalf shall take any action or permit any action to be done which may impair or damage any City property, public ways of the City, Other Ways or other property located in, on or adjacent thereto.
- F. NOTICE OF WORK. Unless otherwise provided in a license or franchise agreement, no license or franchise grantee, nor any person acting on the grantee's behalf, shall commence any non-emergency work in or about the Public Ways of the City or Other Ways without ten (10) working days advance notice to the City.
- G. REPAIR AND EMERGENCY WORK. In the event of an unexpected repair or emergency, a grantee may commence such repair and emergency response work as required under the circumstances, provided the Grantee shall notify the City as promptly as possible, before such repair or emergency work or as soon thereafter as possible if advance notice is not practicable.
- H. MAINTENANCE OF FACILITIES. Each license or franchise grantee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.
- I. RELOCATION OR REMOVAL OF FACILITIES. Within thirty (30) days following written notice from the City, a license or franchise grantee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public ways whenever the corporate authorities shall have determined that such removal, relocation, change or alteration is reasonably necessary for:
1. the construction, repair, maintenance or installation of any City or other public improvement in or upon the public ways; and
  2. the operations of the City or other governmental entity in or upon the public ways.
- J. REMOVAL OF UNAUTHORIZED FACILITIES. Within thirty (30) days following written notice from the City, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility or related appurtenances within the public ways of the City shall, at its own expense, remove such facilities or appurtenances from the public ways of the City. A

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telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

1. upon expiration or termination of the grantee's telecommunications license or franchise;
2. upon abandonment of a facility within the public ways of the City;
3. if the system or facility was constructed or installed without the prior grant of a telecommunications license or franchise;
4. if the system or facility was constructed or installed without the prior issuance of a required construction permit; and
5. if the system or facility was constructed or installed at a location not permitted by the grantee's telecommunications license or franchise.

K. EMERGENCY REMOVAL OR RELOCATION OF FACILITIES. The City retains the right and privilege to cut or move any telecommunications facilities located within the public ways of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency.

L. DAMAGE TO GRANTEE'S FACILITIES. Unless directly and proximately caused by the malicious acts of the City, the City shall not be liable for any damage to or loss of any telecommunications facility within the public ways of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public ways by or on behalf of the City.

M. RESTORATION OF PUBLIC WAYS, OTHER WAYS AND CITY PROPERTY.

1. When a license or franchise grantee, or any person acting on its behalf, does any work in or affecting any Public Ways, Other Ways or City Property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City.
2. If weather or other conditions do not permit the complete restoration required by this Section, the grantee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the licensee's or franchisee's sole expense and the licensee or franchisee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
3. A grantee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.

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- N. FACILITIES MAPS. Each license or franchise grantee shall provide the City with an accurate map or maps certifying the location of all telecommunications facilities within the public ways. Each grantee shall provide updated maps annually.
- O. DUTY TO PROVIDE INFORMATION. Within ten (10) days of a written request from the City Manager, each license or franchise grantee shall furnish the City with information sufficient to demonstrate:
1. that grantee has complied with all requirements of this Chapter;
  2. that all municipal sales, message and/or telecommunications taxes due the City in connection with the telecommunications services and facilities provided by the grantee have been properly collected and paid by the grantee; and
  3. all books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public ways shall be made available for inspection by the City at reasonable times and intervals;
- P. LEASED CAPACITY. A license or franchise grantee shall have the right, without prior City approval, to offer or provide capacity or bandwidth to its customers; provided:
1. grantee shall furnish the City with a copy of any such lease or agreement; and
  2. the customer or lessee has complied, to the extent applicable, with the requirements of this Chapter.
- Q. GRANTEE INSURANCE. Unless otherwise provided in a license or franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the City, and its elected and appointed officers, officials, agents and employees as co-insureds:
1. comprehensive general liability insurance with limits not less than
    - a. five million dollars (\$5,000,000) for bodily injury or death to each person,
    - b. five million dollars (\$5,000,000) for property damage resulting from any one accident, and
    - c. five million dollars (\$5,000,000) for all other types of liability;
  2. automobile liability for owned, non-owned and hired vehicles with a limit of three million dollars (\$3,000,000) for each person and three million dollars (\$3,000,000) for each accident;
  3. worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000); and

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4. comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).
5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise, and license such other period of time during which the grantee is operating without a franchise or hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew."

6. Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

R. GENERAL INDEMNIFICATION. Each license or franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a grant agreement made or entered into pursuant to this Chapter.

S. PERFORMANCE AND CONSTRUCTION SURETY. Before a license or franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the City as may be required by this Chapter or by an applicable license or franchise agreement.

T. SECURITY FUND. Each grantee shall establish a permanent security fund with the City by depositing the amount of \$50,000 with the City in cash, an unconditional letter of credit, or other instrument acceptable to the City, which fund shall be maintained at the sole expense of grantee so long as any of grantee's telecommunications facilities are located within the public ways of the City.

1. The fund shall serve as security for the full and complete performance of this Chapter, including any costs, expenses, damages or loss the City pays or incurs

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because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the City.

2. Before any sums are withdrawn from the security fund, the City shall give written notice to the grantee:
  - a. describing the act, default or failure to be remedied, or the damages, cost or expenses which the City has incurred by reason of grantee's act or default;
  - b. providing a reasonable opportunity for grantee to first remedy the existing or ongoing default or failure, if applicable;
  - c. providing a reasonable opportunity for grantee to pay any monies due the City before the City withdraws the amount thereof from the security fund, if applicable;
  - d. that the grantee will be given an opportunity to review the act, default or failure described in the notice with the City Manager or his designee.
3. Grantees shall replenish the security fund within fourteen (14) days after written notice from the City that there is a deficiency in the amount of the fund.

U. CONSTRUCTION AND COMPLETION BOND. Unless otherwise provided in a license or franchise agreement, a performance bond written by a corporate surety acceptable to the City equal to one hundred percent (100%) of the estimated cost of constructing grantee's telecommunications facilities within the public ways of the City shall be deposited before construction is commenced.

1. The construction bond shall remain in force until sixty (60) days after substantial completion of the work, as determined by the City Engineer, including restoration of public ways and other property affected by the construction.
2. The construction bond shall guarantee, to the satisfaction of the City:
  - a. timely completion of construction;
  - b. construction in compliance with applicable plans, permits, technical codes and standards;
  - c. proper location of the facilities as specified by the City;
  - d. restoration of the public ways and other property affected by the construction;
  - e. the submission of "as-built" drawings after completion of the work as required by this Chapter; and
  - f. timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.

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V. COORDINATION OF CONSTRUCTION ACTIVITIES. All grantees are required to cooperate with the City and with each other.

1. By February 1 of each year, grantees shall provide the City with a schedule of their proposed construction activities in, around or that may affect the public ways.
2. Each grantee shall meet with the City, other grantees and users of the public ways annually or as determined by the City to schedule and coordinate construction in the public ways.
3. All construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer, to minimize public inconvenience, disruption or damages.

W. ASSIGNMENTS OR TRANSFERS OF GRANT. Ownership or control of a telecommunications system, license or franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the City, which consent shall not be unreasonably withheld or delayed, as expressed by ordinance and then only on such reasonable conditions as may be prescribed therein.

1. No grant shall be assigned or transferred in any manner within twelve (12) months after the initial grant of the license or franchise, unless otherwise provided in a license or franchise agreement.
2. Absent extraordinary and unforeseeable circumstances, no grant, system or integral part of a system shall be assigned or transferred before construction of the telecommunications system has been completed.
3. Grantee and the proposed assignee or transferee of the grant or system shall provide and certify the following information to the City not less than one hundred and fifty (150) days prior to the proposed date of transfer:
  - a. complete information setting forth the nature, terms and condition of the proposed transfer or assignment;
  - b. all information required of a telecommunications license or franchise applicant pursuant to Sections 12-11-8 and 12-11-9 of this Chapter with respect to the proposed transferee or assignee; and
  - c. any other information reasonably required by the City.
4. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the telecommunications system pursuant to this Chapter.
5. Unless otherwise provided in a license or franchise agreement, the grantee shall reimburse the City for all direct and indirect fees, costs, and expenses reasonably

## Park Ridge Municipal Code

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incurred by the City in considering a request to transfer or assign a telecommunications license or franchise.

6. Any transfer or assignment of a telecommunications grant, system or integral part of a system without prior approval of the City under this Section or pursuant to a license or franchise agreement shall be void and is cause for revocation of the grant.
- X. TRANSACTIONS AFFECTING CONTROL OF GRANT. Any transactions which singularly or collectively result in a change of ten percent (10%) or more of the ownership or working control of the grantee, of the ownership or working control of a telecommunications license or franchise, of the ownership or working control of affiliated entities having ownership or working control of the grantee or of a telecommunications system, or of control of the capacity or bandwidth of grantee's telecommunication system, facilities or substantial parts thereof, shall be considered an assignment or transfer requiring City approval pursuant to Section 12-11-12V. Transactions between affiliated entities are not exempt from City approval.
- Y. REVOCAION OR TERMINATION OF GRANT. A license or franchise granted by the City to use or occupy public ways of the City may be revoked for the following reasons:
1. construction or operation in the City or in the public ways of the City without a license or franchise grant of authorization;
  2. construction or operation at an unauthorized location;
  3. unauthorized substantial transfer of control of the grantee;
  4. unauthorized assignment of a license or franchise;
  5. unauthorized sale, assignment or transfer of grantee's franchise or license assets, or a substantial interest therein;
  6. misrepresentation or lack of candor by or on behalf of a grantee in any application to the City;
  7. abandonment of telecommunications facilities in the public ways;
  8. failure to relocate or remove facilities as required in this Chapter;
  9. failure to pay taxes, compensation, fees or costs when and as due the City;
  10. insolvency or bankruptcy of the grantee;
  11. violation of material provisions of this Chapter; and

## Park Ridge Municipal Code

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12. violation of the material terms of a license or franchise agreement.

Z. NOTICE AND DUTY TO CURE. In the event that the City Manager believes that grounds exist for revocation of a license or franchise, he shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time not exceeding thirty (30) days to furnish evidence:

1. that corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
2. that rebuts the alleged violation or noncompliance; and
3. that it would be in the public interest to impose some penalty or sanction less than revocation.

AA. HEARING. In the event that a grantee fails to provide evidence reasonably satisfactory to the City Manager as provided in Section 12-11-12Y, the Manager shall refer the apparent violation or non-compliance to the corporate authorities. The corporate authorities shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

BB. STANDARDS FOR REVOCATION OR LESSER SANCTIONS. If persuaded that the grantee has violated or failed to comply with material provisions of this Chapter, or of a franchise or license agreement, the corporate authorities shall determine whether to revoke the license or franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

1. whether the misconduct was egregious;
2. whether substantial harm resulted;
3. whether the violation was intentional;
4. whether there is a history of prior violations of the same or other requirements;
5. whether there is a history of overall compliance; and
6. whether the violation was voluntarily disclosed, admitted or cured.

### 12-11-13 CONSTRUCTION STANDARDS

A. GENERAL. No person shall commence or continue with the construction, installation or operation of telecommunications facilities within the City except as provided in this Chapter and as required by Article 9, Chapter 2.

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- B. CONSTRUCTION CODES. Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.
- C. CONSTRUCTION PERMITS. No person shall construct or install any telecommunications facilities within the City without first obtaining a construction permit in accordance with Article 9, Chapter 2, therefore, provided, however:
1. no permit shall be issued for the construction or installation of telecommunications facilities within the City unless the telecommunications carrier has filed a registration statement with the City;
  2. no permit shall be issued for the construction or installation of telecommunications facilities in the public ways unless the telecommunications carrier has applied for and received a license or franchise; and
  3. no permit shall be issued for the construction or installation of telecommunications facilities without payment of the construction permit fee.
- D. APPLICATIONS. Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the City and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:
1. that the facilities will be constructed in accordance with all applicable codes, rules and regulations;
  2. the location and route of all facilities to be installed on existing utility poles;
  3. the location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public ways;
  4. the location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public ways along the underground route proposed by the applicant;
  5. the location of all other facilities to be constructed within the City, but not within the public ways;
  6. the construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public ways; and
  7. the location, dimension and types of all trees within or adjacent to the public ways along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction.

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- E. ENGINEER'S CERTIFICATION. All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.
- F. TRAFFIC CONTROL PLAN. All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.
- G. ISSUANCE OF PERMIT. The City Engineer, if satisfied that the applications, plans and document comply with all requirements of this Chapter, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as he may deem necessary or appropriate.
- H. CONSTRUCTION SCHEDULE. The permittee shall submit a written construction schedule to the City Engineer ten (10) working days before commencing any work in or about the public ways. The permittee shall further notify the City Engineer not less than two (2) working days in advance of any excavation or work in the public ways.
- I. COMPLIANCE WITH PERMIT. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City Engineer and his representatives shall be provided access to the work and such further information as he or she may require to ensure compliance with such requirements.
- J. DISPLAY OF PERMIT. The permittee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Engineer or his representatives at all times when construction work is occurring.
- K. SURVEY OF UNDERGROUND FACILITIES. If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the permittee shall cause the location of such facilities to be verified by a registered Illinois land surveyor. The permittee shall relocate any facilities which are not located in compliance with permit requirements.
- L. NONCOMPLYING WORK. Upon order of the City Engineer, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall be removed.
- M. COMPLETION OF CONSTRUCTION. The permittee shall promptly complete all construction activities so as to minimize disruption of the city ways and other public

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and private property. All construction work authorized by a permit within city ways, including restoration, must be completed within 120 days of the date of issuance.

- N. AS-BUILT DRAWINGS. Within sixty (60) days after completion of construction, the permittee shall furnish the City with two (2) complete sets of plans, drawn to scale and certified to the City as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit.
- O. RESTORATION OF IMPROVEMENTS. Upon completion of any construction work, the permittee shall promptly repair any and all public and provide property improvements, fixtures, structures and facilities in the public ways or otherwise damaged during the course of construction, restoring the same as nearly as practicable to its condition before the start of construction.
- P. LANDSCAPE RESTORATION:
1. All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of telecommunications facilities, whether such work is done pursuant to a franchise, license, permit replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work.
  2. All restoration work within the public ways shall be done in accordance with landscape plans approved by the City Engineer.
- Q. CONSTRUCTION SURETY. Prior to issuance of a construction permit, the permittee shall provide a performance bond, as provided in Section 12-11-12T.
- R. EXCEPTIONS. Unless otherwise provided in a license or franchise agreement, all telecommunications carriers are subject to the requirements of this Section.
- S. RESPONSIBILITY OF OWNER. The owner of the facilities to be constructed and, if different, the license or franchise grantee, are responsible for performance of and compliance with all provisions of this Chapter.

*(Ord. 2008-12, 2/25/2008)*

### 12-11-14 DEFINITIONS

For the purpose of this Chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- A. AFFILIATE means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.
- B. ANNUAL GROSS REVENUE. Reserved.

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- C. CABLE ACT shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. §532, et seq., as now and hereafter amended.
- D. CABLE OPERATOR means a telecommunications carrier other than the holder of a State-issued authorization pursuant to Section 21-401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-401) providing or offering to provide "cable service" within the City as that term is defined in the Cable Act.  
*(Ord. 2008-12, 2/25/2008)*
- E. CABLE SERVICE for the purpose of this Chapter shall have the same meaning provided by the Cable Act.
- F. CITY means the City of Park Ridge.
- G. CITY PROPERTY means and includes all real property owned by the City, other than public streets and utility easements as those terms are defined herein, and all property held in a proprietary capacity by the City, which are not subject to right-of-way licensing and franchising as provided in this Chapter.
- H. CORPORATE AUTHORITIES means the Mayor and City Council of the City.
- I. EXCESS CAPACITY means the volume or capacity in any existing or future duct, conduit, manhole, handhole or other utility facility within the public way that is or will be available for use for additional telecommunications facilities.
- J. FCC OR FEDERAL COMMUNICATIONS COMMISSION means the Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.
- K. ICC OR ILLINOIS COMMERCE COMMISSION means the State administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the State of Illinois.
- L. OTHER WAYS means the highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.
- M. OVERHEAD FACILITIES means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.
- N. PERSON means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.
- O. PUBLIC STREET means any highway, street, alley or other public right of way for motor vehicle travel under the jurisdiction and control of the City which has been

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acquired, established, dedicated or devoted to highway purposes not inconsistent with telecommunications facilities.

- P. PUBLIC WAY means and includes all public streets and utility easements, as those terms are defined herein, now or hereafter owned by the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for telecommunications facilities.
- Q. STATE means the State of Illinois.
- R. SURPLUS SPACE means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Illinois Commerce Commission, to allow its use by a telecommunications carrier for a pole attachment.
- S. TELECOMMUNICATIONS CARRIER means and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the City, used or to be used for the purpose of offering telecommunications service.
- T. TELECOMMUNICATIONS FACILITIES means the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.
- U. TELECOMMUNICATIONS PROVIDER means and includes every person who provides telecommunications service over telecommunications facilities without any ownership or management control of the facilities.
- V. TELECOMMUNICATIONS SERVICE means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.
- W. TELECOMMUNICATIONS SYSTEM. See TELECOMMUNICATIONS FACILITIES.
- X. UNDERGROUND FACILITIES means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.
- Y. USABLE SPACE means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Illinois Commerce Commission.
- Z. UTILITY EASEMENT means any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

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AA. UTILITY FACILITIES means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the City and used or to be used for the purpose of providing utility or telecommunications services.

**12-11-15      RESERVED**

*(Ord. 2003-37, 5/19/2003)*

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 12 GARAGE OR YARD SALES

##### SECTION

12-12-1	Definition
12-12-2	Permit Required
12-12-3	Person Eligible to Obtain Permit
12-12-4	Limitation on Number of Permits
12-12-5	Signs and Banners
12-12-6	Days and Hours of Sale
12-12-7	Obtaining and Posting Permit
12-12-8	Enforcement and Penalty

#### **12-12-1 DEFINITION**

Garage sale means any activity in which personal property, whether new or used, other than titled vehicles is offered for sale to the public and displayed in the yard, driveway or garage of residential property.

#### **12-12-2 PERMIT REQUIRED**

A permit from the City is required for every garage sale.

#### **12-12-3 PERSON ELIGIBLE TO OBTAIN PERMIT**

A garage sale permit may be issued only to the supervising resident of the property where the garage sale is to occur.

#### **12-12-4 LIMITATION ON NUMBER OF PERMITS**

No more than three (3) permits may be issued for the same location in any calendar year.

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### **12-12-5 SIGNS AND BANNERS**

Signs or banners advertising the garage sale or giving directions to the location of the sale may not be attached to any utility pole, traffic control device or tree, nor placed anywhere within the public right-of-way, including the sidewalk, berm, parkway or street, anywhere within the City. The supervising resident of the property where the garage sale is located shall be presumed to be the person placing or causing the placement of signs or advertising. Any signs or advertising, which violates this section, may be removed by any person and discarded in any trash container.

### **12-12-6 DAYS AND HOURS OF SALE**

Garage sales are permitted only between the hours of 8:00 a.m. and 8:00 p.m. A permit shall authorize the garage sale to take place on no more than three (3) consecutive calendar days.

### **12-12-7 OBTAINING AND POSTING PERMIT**

Application for a garage sale permit shall be made to the City identifying the location of the sale, the name and telephone number of the supervising resident, and the dates of the sale. The permit shall be displayed at the location of the garage sale at all times when the sale is in progress.

*(Ord. 2005-113, 11/21/05, S24)*

### **12-12-8 ENFORCEMENT AND PENALTY**

Any person who shall conduct a garage sale without a permit, or in violation of any provision of this Chapter shall be fined, upon conviction, in an amount not less than fifty dollars (\$50.00).

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 13 VALET PARKING BUSINESSES

##### SECTION

12-13-1	Definitions
12-13-2	License Required--Application--Fee
12-13-3	Issuance Conditions
12-13-4	Rules and Regulations
12-13-5	Violation; Penalty

#### 12-13-1 DEFINITIONS

For the purpose of this Chapter, the following terms shall have the following meanings:

- A. VALET PARKING OPERATOR means a person who provides a valet parking service for patrons of any business establishment, including his own business.
- B. VALET PARKING SERVICE means a service provided to patrons of any business establishment, which service is incidental to the business of the establishment and by which a person on behalf of the establishment takes temporary custody of the patron's motor vehicle and moves, parks, stores or retrieves the vehicle for the patrons' convenience.
- C. DIRECTOR means the Director of Public Works of the City of Park Ridge.

#### 12-13-2 LICENSE REQUIRED—APPLICATION—FEE

- A. No person shall conduct a valet parking service unless he has a valid valet parking operator license issued in accordance with this Chapter.
- B. Application for a valet parking operator license shall be made to the Director on forms provided by him for that purpose. Each valet parking operator license issued shall be for a one-year period only, commencing on January 1, and shall have designated thereon the name and address of the licensee and the business establishment(s) to be served by the licensee.

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- C. Applications for the renewal of a valet parking operator license shall be made to the Director on forms provided by him for that purpose not less than 60 days prior to the expiration of the license to be renewed.
- D. A valet parking operator license shall be nontransferable, and any attempt to transfer a license shall result automatically in the immediate expiration of the license.
- E. The fee for a valet parking operator license or renewal thereof shall be \$ 100.00.

### **12-13-3 ISSUANCE CONDITIONS**

- A. No valet parking operator license, or renewal thereof, shall be issued unless the applicant provides proof to the Director that he has obtained liability insurance covering all locations at which he operates or seeks to operate in the minimum amounts of \$1,000,000.00 per occurrence for general liability and property damage, and \$100,000.00 per occurrence for garage keeper's legal liability. The insurance policy shall be for a term at least coextensive with the duration of the license and shall not be subject to cancellation except upon 30 days' prior notice to the Director. Upon termination or lapse of the licensee's insurance coverage, any license issued to him shall automatically expire.
- B. No valet parking operator license, or renewal thereof, shall be issued unless the applicant provides proof to the Director that each business establishment for which the valet parking service is to be provided has made available a loading zone at least 25 feet in length within 100 yards of its premises for the pickup and delivery of the patrons vehicles. Where the loading zone is to be on-street, the business establishment must have obtained approval of the Director for the location of the loading zone. A single loading zone may serve more than one business establishment served by a single valet parking operator.
- C. No valet parking operator license, or renewal thereof, shall be issued to any applicant who has been found in violation of any provision of this chapter two or more times within the 180-day period prior to the date of the application or three or more times within the 365-day period prior to the date of the application.

### **12-13-4 RULES AND REGULATIONS**

- A. Every valet parking operator shall, during the hours of service display an 18-inch by 24-inch valet parking license sign in front of the business establishment being served and, if the loading zone for that establishment is not immediately adjacent to the business establishment, a similar sign at the loading zone. The sign shall display the name of the operator and cost, if any, on the valet parking license sign in four-inch dark blue lettering.

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- B. No valet parking operator shall park or permit its agent to park patrons' vehicles upon any public property except at locations approved by the Director, nor upon any private property except with permission of the owner thereof.
- C. Every valet parking operator shall place or cause his agent to place on the dashboard of each patron vehicle a sign or placard of a size no smaller than eight and one-half inches by 11 inches in such a manner so as to be conspicuously visible through the windshield of the patron vehicle. The sign or placard shall contain the following information in red or black letters no less than one inch high: "This Vehicle Parked By (valet parking operator) For Customer Of (business establishment)." In addition each attendant of a valet parking operator shall while on duty, wear conspicuously placed on his clothing an insignia which identifies the valet parking operator for whom the attendant is working.
- D. All valet parking attendants must, upon taking custody of a patron's vehicle, issue a numbered receipt to each customer containing the name, address and telephone number of the company providing the valet service, a statement that the company has liability insurance as required by law, the cost of the valet service, and the time and date the valet parking operator took custody of the vehicle from the patron.
- E. Upon presentation by the patron to the parking attendant of the numbered receipt, the patron's vehicle shall be delivered in a timely manner to the loading zone. Upon returning a vehicle to a patron, the parking attendant shall time stamp the receipt with the time and date the valet parking operator surrendered custody of the vehicle. No valet parking operator shall cease operation until all vehicles have been returned to all patrons.

### **12-13-5 VIOLATION; PENALTY**

A valet parking operator license may be suspended or revoked by the Director upon not less than 48 hours' notice to the licensee and an opportunity to be heard, and a finding by the Director that the licensee has violated any provision of this Chapter. In addition, any person convicted in a court of law of a violation of any provisions of this Chapter shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for each offense, and each day that an offense continues shall constitute a separate and distinct offense.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 14 CABLE AND VIDEO CUSTOMER PROTECTION LAW

*(Ord. 2007-80, 10/15/2007)*

##### SECTION

- 12-14-1 Customer Service and Privacy Protection Law
- 12-14-2 Enforcement
- 12-14-3 Penalties
- 12-14-4 Customer Credits

#### 12-14-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW

- A. Adoption. The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the City's boundaries.
- B. Amendments. Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the corporate authorities of the City.

#### 12-14-2 ENFORCEMENT

The City does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the City.

#### 12-14-3 PENALTIES

The City, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed seven hundred fifty dollars

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(\$750.00) for each day of the material breach, and shall not exceed twenty-five thousand dollars (\$25,000.00) for each occurrence of a material breach per customer.

- A. Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.
- B. The City shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least thirty (30) days from the receipt of the notice to remedy the specified material breach.
- C. A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (b).

### **12-14-4 CUSTOMER CREDITS**

The City hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

*(Ord. 2007-80, 10/15/07)*

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 15 CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE

*(Ord. 2007-81, 10/15/2007)*

#### SECTION

- 12-15-1 Definitions
- 12-15-2 Cable/Video Service Provider Fee Imposed
- 12-15-3 PEG Access Support Fee Imposed
- 12-15-4 Applicable Principles
- 12-15-6 Audits of Cable/Video Service Provider
- 12-15-7 Late Fees / Payments

#### 12-15-1 DEFINITIONS

As used in this Chapter, the following terms shall have the following meanings:

- A. CABLE SERVICE means that term as defined in 47 U.S.C. § 522(6).
- B. COMMISSION means the Illinois Commerce Commission.
- C. GROSS REVENUES means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.
  - 1. Gross revenues shall include the following:
    - a. Recurring charges for cable or video service.
    - b. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
    - c. Rental of set top boxes and other cable service or video service equipment.
    - d. Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

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- e. Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
  - f. Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
  - g. A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
  - h. Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (ix).
  - i. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - j. The service provider fee permitted by 220 ILCS 5/21-801(b).
2. Gross revenues do not include any of the following:
- a. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  - b. Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  - c. Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in

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the regular course of business and any applicable laws, rules, regulations, standards, or orders.

- d. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
  - e. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  - f. Security deposits collected from subscribers.
  - g. Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
3. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.
- D. HOLDER means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.
- E. PEG means public, education and governmental.
- F. PEG ACCESS SUPPORT FEE means the amount paid under this Chapter and 220 ILCS 5/21-801(d) by the holder to the City for the service areas within its territorial jurisdiction.
- G. SERVICE means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.
- H. SERVICE PROVIDER FEE means the amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a City for the service areas within its territorial jurisdiction.
- I. VIDEO SERVICE means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile

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service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

### 12-15-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED

- A. FEE IMPOSED. A fee is hereby imposed on any holder providing cable service or video service in the City.
- B. AMOUNT OF FEE. The amount of the fee imposed hereby shall be five percent (5%) of the holder's gross revenues.
- C. NOTICE TO THE CITY. The holder shall notify the City at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the City.
- D. HOLDER'S LIABILITY. The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the City.
- E. PAYMENT DATE. The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- F. EXEMPTION. The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.
- G. CREDIT FOR OTHER PAYMENTS. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 12-15-2(b).

### 12-15-3 PEG ACCESS SUPPORT FEE IMPOSED

- A. PEG FEE IMPOSED. A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to 12-15-2.
- B. AMOUNT OF FEE. The amount of the PEG access support fee imposed hereby shall be one percent (1%) of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

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- C. PAYMENT. The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in Section 12-15-2(d).
- D. PAYMENT DUE. The payment of the PEG access support fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- E. CREDIT FOR OTHER PAYMENTS. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that that operator owes under Section 12-15-3(b).

### **12-15-4 APPLICABLE PRINCIPLES**

All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

### **12-15-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER**

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

### **12-15-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER**

- A. AUDIT REQUIREMENT. The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No

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acceptance of amounts remitted should be construed as an accord that the amounts are correct.

- B. ADDITIONAL PAYMENTS. Any additional amount due after an audit shall be paid within thirty (30) days after the City's submission of an invoice for the sum.

### **12-15-7 LATE FEES / PAYMENTS**

All fees due and payments which are past due shall be governed by ordinances adopted by this City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 16      TEMPORARY OVERNIGHT SHELTERS

*(Ord. 2008-82, 11/17/2008)*

#### SECTION

- 12-16-1    Definitions
- 12-16-2    License Required
- 12-16-3    Application for License
- 12-16-4    Regulations
- 12-16-5    Revocation of License
- 12-16-6    Penalty

#### 12-16-1    DEFINITIONS

- A. CLIENT. A person using the services of an overnight shelter.
- B. DIRECTOR. The Director of Community Preservation and Development.
- C. PERSON. Any person, firm, partnership, association, corporation or company or any organization of any kind.
- D. TEMPORARY OVERNIGHT SHELTER OR SHELTER. As defined in Section 16.3 of the Zoning Ordinance.

#### 12-16-2    LICENSE REQUIRED

- A. It shall be unlawful for any person to conduct, operate or maintain or to permit to be conducted, operated or maintained or participate in the conduct, operation or maintenance of a temporary overnight shelter in the City of Park Ridge without a valid license issued by the City. Any entity required to be an applicant for a Special Use Permit for a temporary overnight shelter shall also be required to be an applicant for the license for such a shelter.
- B. A temporary overnight shelter license shall be valid for a period of one (1) year from the date of issuance and may be renewed for additional one-year periods provided that it complies with all applicable Code provisions and ordinances of the City.
- C. Licenses shall be not transferable either as to location or to person or organization.

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- D. Upon completion of all inspections of the premises and a review of a completed application, the Director shall make a recommendation to the City Council regarding whether to issue a temporary overnight shelter license to an applicant that meets the required standards set forth in this Chapter and all applicable sections of the Park Ridge Municipal Code and ordinances of the City. The City Council shall vote whether to accept or reject the Director's recommendation.
  
- E. At the second City Council meeting in May of each year, the City Manager shall issue a written report to the City Council on the number, location and status of temporary overnight shelters in the City. This shall include, but not be limited to, the number and nature of complaints received for each location and the number and nature of any calls for police assistance at each location.

### **12-16-3 APPLICATION FOR LICENSE**

- A. Application for a temporary overnight shelter shall be made to the Director of Community Preservation and Development on forms provided and shall include:
  - 1. The location of the premises for which the license is sought;
  - 2. The proposed maximum number of persons to be housed in the shelter;
  - 3. The total square footage, and calculation of same, of the sleeping area;
  - 4. The name and address of the applicant or applicants if an individual and, if a firm, partnership, corporation or association, the principal address of the entity and name and address of its officers;
  - 5. The name, address and telephone number of an individual that will be responsible for the supervision and management of the shelter;
  - 6. The date of special use approval;
  - 7. An Operation Plan. Such plan must include:
    - 8. Guidelines to be used for the shelter, including but not limited to, policies regarding admission criteria, including health screening, background checks and provision of identification cards, procedures for termination of stay and procedures to limit length of stay;
    - 9. A communication plan that describes how the applicant will communicate with the local community, neighborhood, business owners and adjacent neighbors on a regular basis, and how community issues and concerns will be addressed;
  - 10. Rules to prevent loitering by clients of the Shelter.
  - 11. If food is to be served, the plan for the service and/or preparation of such food; and

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12. Such other information as determined by the Director in order to implement this Chapter.

B. The annual fee for a temporary overnight shelter license shall be fifty dollars (\$50.00).

### 12-16-4 REGULATIONS

- A. INSPECTION. Upon receipt of an application for a license, the Director shall cause an inspection to be made of the proposed shelter by the City's Fire Department and Health and Building Divisions. The applicant shall allow the City's staff and inspectors reasonable opportunity to inspect the applicant's location for which the license is requested and to interview the applicant's agents and employees. During the term of licensure, the shelter shall be open to inspection by any authorized City police official and fire, building or health inspector.
- B. DISPLAY OF LICENSE. The license issued by the City shall be posted in a conspicuous place within ten (10') feet of the main entrance to the shelter.
- C. INSURANCE. Any person engaged in the ownership, operation or management of a temporary overnight shelter shall obtain and maintain in full force and effect during the operation of the shelter, liability and property damage insurance in the amount of \$1,000,000 for general liability per occurrence, \$1,000,000 for bodily injury and \$2,000,000 for general aggregate from an insurance company licensed to do business in the State of Illinois and subject to the approval of the City Manager. The applicant shall submit a certificate of insurance.
- D. NOT-FOR-PROFIT. No person shall own, operate or manage a temporary overnight shelter except on a not-for-profit basis and without charge to the temporary overnight shelter's occupants.
- E. MAXIMUM DAILY HOURS OF OPERATION. No owner, operator, or manager of a shelter shall operate a shelter for more than twelve (12) hours per twenty-four (24) hour period and no occupant may remain in any temporary overnight shelter for more than twelve (12) consecutive hours. No owner, operator or manager shall allow any person to remain in the temporary overnight shelter for a period in excess of twelve (12) consecutive hours.
- F. STAFF REQUIREMENTS. At all times that a shelter is actually serving clients, there shall be present at least two (2) persons whose duty it is to assure compliance with all rules governing the operation of the shelter. If there are more than twenty (20) clients, the shelter shall be required to have one (1) additional staff person for each multiple of ten (10) occupants and an additional staff person for each fraction over a multiple of ten. For example, if there are fifteen (15) clients, two staff persons are required. If there are thirty-one (31) clients, four staff persons are required. Staff persons must remain awake the entire time the shelter is open.

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- G. SEPARATION OF SLEEPING AREAS. Each shelter shall provide separate sleeping areas: (1) for men, (2) for women; and (3) for parents with children, if applicable.
- H. MEDICAL CARE. Medical care, nursing care or clinical services may not be offered as a regular service at any temporary overnight shelter. The prohibition in the prior sentence shall not apply to the following: (1) seasonal vaccines such as flu shots; (2) non-prescription items such as aspirin, aspirin substitutes or band-aid type dressings; (3) medical care or treatment in the event of an emergency; and (4) routine blood pressure or similar non-invasive testing.
- I. EVACUATION DIAGRAM. In each temporary overnight shelter, a diagram shall be posted on each floor of a shelter that illustrates evacuation routes from the floor and the shelter in the event of an emergency. Such diagram shall measure no less than twenty inches (20") square, and shall be posted in a place and manner where it will be readily visible to occupants.
- J. SMOKING MATERIALS PROHIBITED. No person shall use smoking materials in any temporary overnight shelter.
- K. SMOKE DETECTORS. As part of the inspection required by this Chapter, the Fire Department will determine the number of smoke detectors required and the placement of such smoke detectors. All required smoke detectors must be in place and operational prior to each opening of the temporary overnight shelter.
- L. AUTOMATIC SPRINKLER SYSTEMS. A temporary overnight shelter shall be protected throughout by an automatic sprinkler system in accordance with the National Fire Protection Association Requirements, as amended, adopted and modified in Article 7, Chapter 1 of the Park Ridge Municipal Code.
- M. FIRE EXTINGUISHERS. Fire extinguishers shall be installed and maintained in each temporary overnight shelter in accordance with the standards established by International Fire Code and the Life Safety Code.
- N. FIRE ALARMS. Each temporary overnight shelter shall have a fire alarm as required by Article 7, Chapter 1 of the Park Ridge Municipal Code.
- O. SANITARY REQUIREMENTS. Each temporary overnight shelter shall provide a minimum of one (1) water closet for each twenty (20) occupants.
- P. FOOD PREPARATION. Only an operator of a food service establishment that has received a permit pursuant to Article 5, Chapter 3 of the Park Ridge Municipal Code may serve food at a temporary overnight shelter. This shall be accomplished in accordance with all applicable state and local codes and regulations.
- Q. MEANS OF EGRESS. Each temporary overnight shelter shall maintain adequate exits in accordance with all applicable codes. All exit routes shall remain clear, unaltered and unobstructed.

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### **R. ADDITIONAL RESTRICTIONS AND PROHIBITIONS:**

1. No Licensee shall knowingly allow any occupant to bring weapons, alcohol or unprescribed drugs into the shelter.
2. No Licensee shall allow any occupant of the shelter to store personal belongings at the shelter during hours when the shelter is not in operation.

### **12-16-5 REVOCATION OF LICENSE**

- A. The Director may revoke a temporary overnight shelter license for violating any federal, state or local law, rule or regulation, or for making a false statement on the license or special use application; or for interfering with any governmental, official or other authorized City employee in the performance of his or her duties.
- B. Prior to revocation, the Director shall notify, in writing, the licensee of the specific reasons for which the license is to be revoked and that the license shall be revoked at the end of ten (10) days following service of such notice, unless the licensee files a written request for a hearing with the Director within such ten (10) day period. If no request for a hearing is filed within the ten (10) day period, the revocation of the license becomes final.
- C. The Director may also suspend a license and close a shelter, without providing notice, whenever an inspection reveals that a shelter is in violation of any regulation and poses an immediate threat to the public health or safety. In cases of such emergency closure, notice and an opportunity for a hearing on the revocation shall be provided to the licensee after the shelter has been closed. The licensee will have ten (10) days to file a written request for a hearing as provided in Paragraph B. If no written request is filed within the ten (10) day period, the revocation of the license becomes final.
- D. If a written request for a hearing is filed, a hearing shall be held before the Director. The Director shall issue written factual findings and a written recommendation regarding revocation to the City Council who shall act on the recommendation within thirty (30) days of receiving the recommendation of the Director.

### **12-16-6 PENALTY**

Any person violating any provision of this Chapter shall be fined not less than one hundred dollars (\$100.00) for each violation. Each day such violation occurs shall constitute a separate violation.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 17 GENERAL CONDITIONS

*(Ord. 2012-89, 12/03/2012)*

#### SECTION

- 12-17-1 Application for Business License
- 12-17-2 Issuance
- 12-17-3 Conditions of License
- 12-17-4 Suspension, Revocation or Denial
- 12-17-5 Operating Without a License; Penalty
- 12-17-6 Transfer/Assignment of License
- 12-17-7 Payment and Relocation

#### 12-17-1 APPLICATION FOR BUSINESS LICENSE

- A. PROCEDURE ON APPLICATION. In absence of provisions to the contrary or except as may be specifically provided elsewhere in this Code, applications for all business licenses shall be made, in writing, to the Department of Community Preservation and Development on the form provided by the City.
- B. APPLICATION FORM. The application form shall require the following information:
  - 1. whether the applicant is an individual, a partnership, a corporation, or a limited liability corporation;
  - 2. the full name, residence address, residence phone number for each individual applicant, partner, member share owner of a limited liability company, and principal officers;
  - 3. location or proposed location of the business, occupation, or activity.
  - 4. type of license desired;
  - 5. length of time for which such license is desired;
  - 6. a statement as to whether licenses granted by any state, municipality or other licensing authority, have ever been suspended or revoked or whether such license

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issuance or renewal has ever been refused to any person required to be named in B(2) above and the reasons for any such revocation or refusal

7. a statement as to whether any person required to be named in B(2) above has ever been convicted of a felony and, if so, the nature and the penalty assessed;
8. any additional information as may be required by this Code or by the Department of Community Preservation and Development.

### 12-17-2 ISSUANCE

- A. ISSUANCE OF LICENSE. Within thirty (30) days of the receipt of any completed license application, the Department of Community Preservation and Development is authorized to grant or renew any license contemplated under Section 12-17-1 of this Chapter for any period of time not exceeding one year upon payment by the applicant of the appropriate fees and/or bond as may be required elsewhere in this Code.
- B. INVESTIGATION. The Department of Community Preservation and Development may make or cause to be made an investigation in regard to such licenses or business inspection certificates to be granted in connection with all fire prevention, building and zoning matters.
- C. APPLICABILITY. This Chapter shall apply to all licenses which are required for the operation of any business activity within the City.
- D. DISQUALIFICATION. The Department of Community Preservation and Development shall issue a license to operate a business establishment unless it is found that:
  1. the establishment is in violation of any condition that would be cause for revocation of a license;
  2. the establishment does not meet the terms and provisions of any other published rule or regulation of the City or other governmental authority;
  3. the application contains a false, fraudulent, or misleading material statement;
  4. the applicant has suffered a revocation or refusal to issue or renew a similar license by any state, municipality or licensing authority; or
  5. the applicant did not pass any required inspections;
  6. any of the following persons have not paid any fees, fines, judgment or forfeitures due and owing the City: (a) manager, owner or beneficial owner of the building or zoning lot in or on which the establishment is to be located; (b) applicant; (c) owner of the business; (d) landlord; (e) prior license holder for the same premises; (f) any predecessor to the business interest of the applicant; or (g) the current license holder.

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- E. SIGNATURES. Each such license contemplated in this Chapter shall bear the signature of the City Manager and the City Clerk.
- F. DISPLAY LICENSE. All licenses and permits issued pursuant to this Chapter shall be displayed in a prominent place and visible to patrons and/or representatives of the City.
- G. NOT A LIMITATION. Nothing in this Article 12 shall be construed to limit the City's authority granted in any other section of the Municipal Code.
- H. NO PRORATION. No license shall be issued at less than the yearly fees; provided, however, that, where such license is issued on or after July 1, the fee shall be one-half (1/2) of the yearly fee. A penalty of twenty percent (20%) of the fee set forth in Section 12-2-7 shall be added for late payment of the license. Any commercial business establishment operated by a governmental or religious institution shall be exempt from the license fee.
- I. RECORDS. The Department of Community Preservation and Development shall maintain a record of all commercial establishments as from time to time may be deemed necessary for the purpose of classifying, inspecting and serving all commercial establishments in the City. The City shall issue a tag or sticker or certificate or similar evidence of licensure that shall be displayed by the owner of the commercial establishment in a conspicuous place.

### **12-17-3 CONDITIONS OF LICENSE**

- A. BUILDING AND PREMISES: No license shall be issued for the conduct of any business, occupation or activity if the premises do not fully comply with all applicable provisions of this Code and City regulations.
- B. CHANGE OF LOCATION: Except as otherwise provided in the Code, the location of any licensed business or occupation may be changed provided thirty (30) days' notice is given, in writing, to the Department of Community Preservation and Development and that any increase in fees, as required by this Code, is paid.
- C. NONTRANSFERABILITY OF LICENSE: No license issued under this Chapter shall be transferred or assigned or used by any person other than the one to whom it is issued.
- D. LICENSE TERM: Unless otherwise specified in this Code, all annual licenses issued pursuant to this Chapter shall terminate on December 31 following such issuance.

### **12-17-4 SUSPENSION, REVOCATION OR DENIAL**

- A. PROCEDURE. Any license contemplated or issued under this chapter may be suspended up to sixty (60) days or revoked by the City, or an application for issuance

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or renewal of such license may be refused by the City, if it is determined that the applicant or license holder:

1. has made any false, fraudulent, or misleading material statement on the application; or
  2. has made any false, fraudulent, or misleading material statement, or has been found guilty of perpetrating a fraud upon any person, whether or not such fraud was perpetrated in the course of conducting any business in the City, or that the applicant or license holder has committed a felony; or
  3. has conducted any activities directly related to his or her business in the City in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public; or
  4. has suffered a revocation or refusal to issue or renew such license by any state, municipality, or licensing authority; or
  5. has failed to pay any taxes, fees, or fines owed to the City; or
  6. has created a condition or conducted or performed an act, practice, or trade that would be classified as a nuisance or would result in a nuisance; or
  7. has committed an act considered home repair fraud as defined in Chapter 815, Act 515, Sections 3 and 5 of the Illinois Compiled Statutes (815 ILCS 515/3 and 5); or
  8. made false statements on any permit application; or
  9. failed to meet the requirements of this Article 12; or
  10. interfered with any City employee or official in the performance of his or her duties; or
  11. has been convicted of any felony as defined in Chapter 720, Act 5, Sections 2-7 of the Illinois Compiled Statutes (720 ILCS 5/2-7).
- B. Prior to revocation, suspension, or refusal to issue a license, the Department of Community Preservation and Development shall notify, in writing, the applicant or holder of the business license of the specific reasons for which the license is to be suspended, revoked or for which renewal will be denied. The notification will inform the applicant or license holder of the right to request, within ten (10) days of receipt of the notice, a hearing before the Administrative Adjudication Hearing Officer regarding the proposed action. Unless a written request for a hearing is filed with the Department of Community Preservation and Development within such ten (10) calendar day period, the license shall be revoked and the decision of the Department of Community Preservation and Development shall be final.

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- C. The notice shall be personally served or mailed, postage prepaid, to the applicant or license holder at the last known address of the license holder or applicant listed on the most recent application for a license.
- D. The Administrative Adjudication Hearing Officer, within seven (7) calendar days of receipt of a request for a hearing, will set a date, place, and time for the hearing and shall notify the applicant or license holder of the date, place, and time of the hearing via a notice personally delivered or sent by U.S. Mail, postage prepaid. The initial date for a hearing shall be no more than twenty-one (21) calendar days after receipt of the written request for a hearing.
- E. The applicant or license holder shall have the right to be represented by legal counsel at such hearing.
- F. At the conclusion of the hearing, the Administrative Adjudication Hearing Officer shall issue a written decision and findings of fact and shall mail the same to the applicant or license holder. The written decision shall state that the applicant or license holder may seek judicial review of the decision pursuant to the Illinois Administrative Review Law. The decision and findings of fact shall be mailed within five (5) business days following the conclusion of the hearing or the receipt of any transcript of the hearing, whichever is the latest to occur.
- G. Twenty-four (24) hours before the commencement of any suspension or revocation, the City of Park Ridge Health Authority or Police Department shall post on all entrances to the licensed premises a placard entitled, "Notice of Closure." The title shall be in letters not less than one inch (1") high. In the case of a suspension, the notice of closure shall give the times of the suspension and in the case of a revocation state the exact time when the revocation goes into effect. The notice of closure shall also state the section number and title of the city code or state law which has been violated, along with the telephone number of the appropriate City department that may be called for additional information. The notice of closure shall not be removed before the suspension period or less than seven (7) days after the posting of a revocation notice.
- H. A court reporter will be provided by the City for all hearings held pursuant to this Chapter.

### **12-17-5 OPERATING WITHOUT A LICENSE; PENALTY**

- A. If any person operates a business or other activity without a required license or after renewal of license has been refused for any reason, that person shall be fined not less than one hundred dollars (\$100.00) per day nor more than five hundred dollars (\$500.00) per day.
- B. PENALTY. In addition to the revocation and suspension procedure set forth above, any person or any owner of a commercial establishment in the City violating any of the

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terms or provisions of this Chapter or of the Park Ridge Municipal Code, upon a finding of guilty or liable, shall be fined in an amount not less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2,500.00). A separate offense shall be deemed committed for each day such violation is committed or permitted to continue.

### **12-17-6 TRANSFER/ASSIGNMENT OF LICENSE**

No license may be assigned, sold, loaned, transferred, used as collateral, or otherwise encumbered. No person shall use or display any license certificate, tag, badge, or sticker which has been improperly acquired.

### **12-17-7 PAYMENT AND RELOCATION**

The required fee for each license issued shall be collected in full at the time of the issuance. In no event shall any rebate or refund be made of any portion of any fee, by any reason of non-use or discontinuance of the operation of the commercial establishment. In the event a commercial establishment moves its place of operation from one location in the City to another location in the City, a new license and license fee shall be required for the new location in accordance with the terms and provisions of this Chapter.

## ARTICLE 12

### BUSINESSES AND OCCUPATIONS

#### CHAPTER 18      SCAVENGERS

##### SECTION

12-18-1 License Required; Application

12-18-2 Regulations

#### **12-18-1      License Required; Application**

It shall be unlawful to engage in the business of scavenger/junk hauler without having first secured a license from the City. Application for the license shall be made in accordance with Chapter 17 of this Article except that the application will be processed and issued by the Police Department. As part of the application process, the applicant shall agree to a criminal background check to be performed by the Park Ridge Police Department and shall provide information about each vehicle to be used.

#### **12-18-2      Regulations**

A. Any vehicle used for scavenging and hauling shall be equipped with a cover or covers that may be securely fastened to prevent refuse from coming loose or leaking. All vehicles, boxes or containers used or leased by a scavenger shall be kept securely closed during hauling.

B. Each licensed scavenger must have its license when engaged in the activities of scavenging or junk hauling and shall produce the license upon request to any law enforcement officer or inspector from the City.

C. A license shall not be issued to any applicant who has a warrant outstanding for any criminal offense or who has been found guilty of any felony or of a misdemeanor involving theft within 5 years prior to application.