

ORDINANCE NO. 14651

AN ORDINANCE ENACTING THE JOLIET ACCESSIBILITY CODE

WHEREAS, the Mayor and City Council have determined that local enforcement of state and federal accessibility standards for public facilities, public accommodations, commercial facilities and certain multi-family dwellings and multi-story housing units is necessary to ensure that persons with disabilities obtain the benefits intended to be provided by such enactments; and

WHEREAS, in order to locally enforce such standards the City of Joliet must adopt certain portions of the *Illinois Accessibility Code* (71 Ill. Admin. Code 400 *et seq.*), the *Americans with Disabilities Act Accessibility Guidelines* (28 CFR 36 *et seq.*) and the regulations pertaining to accessibility standards for covered multi-family residential dwellings adopted pursuant to the *Fair Housing Act Amendments of 1988* (24 CFR 100.200 *et seq.*); and

WHEREAS, a copy of said accessibility standards have been on file in the office of the City Clerk for more than thirty days and have been available for public inspection; and

WHEREAS, this Ordinance is adopted pursuant to the home rule powers of the City of Joliet and Section 1-3-2 of the *Illinois Municipal Code* (65 ILCS 5/1-3-2);

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF JOLIET, ILLINOIS, AS FOLLOWS:

SECTION 1: Chapter 8 of the Code of Ordinances of the City of Joliet is hereby amended with the addition of the following as Article XII.

ARTICLE XII. JOLIET ACCESSIBILITY CODE

Sec. 8-700. Short Title.

This ordinance shall be known and may be cited as the Joliet Accessibility Code.

DIVISION 1

ADOPTION OF FEDERAL AND STATE ACCESSIBILITY STANDARDS

Sec. 8-710. Adoption of the Illinois Accessibility Code.

The City of Joliet hereby adopts the *Illinois Accessibility Code* (71 Ill. Admin. 400 *et seq.*) by reference, including all appendices thereto. All references therein to the State of Illinois shall be construed to mean the City of Joliet and all references therein to the Illinois Attorney General shall be construed to mean the Corporation Counsel unless the context clearly suggests otherwise. Section 400.110(b), Sections 400.140(a)(4) and (a)(5) and Section 400.150 of the Code are not adopted. Amendments to the *Illinois Accessibility Code* promulgated by the an authorized agency of the State of Illinois shall

be deemed incorporated herein by reference without further action of the Mayor and City Council on the date such amendments take effect.

Sec. 8-711. Adoption of the Americans With Disabilities Act Accessibility Guidelines.

The City of Joliet hereby adopts by reference the *Americans with Disabilities Act Accessibility Guidelines* (Appendix A to 28 CFR Part 36) and the requirements for Removal of Barriers and Alternatives to Barrier Removal contained at 28 CFR 36.304-305, as amended. All references in the Guidelines to the United States or a State thereof shall be construed to mean the City of Joliet, all references to the Attorney General shall be construed to mean the Corporation Counsel and all references to the Department or the Secretary shall be construed to mean the City Manager unless the context clearly suggests otherwise. Amendments to the *Americans with Disabilities Act Accessibility Guidelines* promulgated by the an authorized agency of the United States shall be deemed incorporated herein by reference without further action of the Mayor and City Council on the date such amendments take effect.

Sec. 8-712. Adoption of the Fair Housing Act Accessibility Standards.

The City of Joliet hereby adopts by reference Sections 100.200, 100.201, 100.203 and 100.205 of Title 24, Subpart B, Chapter 1, Subchapter A, Part 100, Subpart D of the Code of Federal Regulations, being the regulations adopted pursuant to the *Fair Housing Act Amendments of 1988* (24 CFR 100.200 *et seq.*) pertaining to accessibility standards for covered multi-family residential dwellings. All references therein to the United States or a State thereof shall be construed to mean the City of Joliet, all references to the Attorney General shall be construed to mean the Corporation Counsel and all references to the Department or the Secretary shall be construed to mean the City Manager unless the context clearly suggests otherwise.

Sec. 8-713. Conflicts Between Standards.

In the event a building, structure or site is subject to more than one accessibility standard, the building, structure or site shall comply with the stricter standard.

Sec. 8-714. City Clerk to Keep and Maintain Copies of Accessibility Standards.

The City Clerk shall keep and maintain a current copy of the *Illinois Accessibility Code*, the *Americans with Disabilities Act Accessibility Guidelines* and Sections 100.200, 100.201, 100.203 and 100.205 of Title 24, Subpart B, Chapter 1, Subchapter A, Part 100, Subpart D of the Code of Federal Regulations, being the regulations adopted pursuant to the *Fair Housing Act Amendments of 1988*. These documents shall be available for public inspection during regular hours of operation at no charge.

DIVISION 2
NON-RESIDENTIAL STRUCTURES AND LAND USES

Sec. 8-720. Public Facilities

(a) A *public facility* shall mean:

- (1) any building, structure or site improvement which is: owned by or on behalf of a governmental unit, leased, rented or used, in whole or in part, by a governmental unit, or financed, in whole or in part, by a grant or a loan made or guaranteed by a governmental unit; or
- (2) any building, structure or site improvement used or held out for use or intended for use by the public or by employees for one or more of, but not limited to, the following: the purpose of gathering, recreation, transient lodging, education, employment, institutional care, or the purchase, rental, sale or acquisition of any goods, personal property or services; places of public display or collection; social service establishments; and stations used for public transportation.

(b) All public facilities constructed or altered after May 1, 1988 shall comply with the *Illinois Accessibility Code* unless specifically exempted therein.

Sec. 8-721. Public Accommodations

(a) A *public accommodation* shall mean:

- (1) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- (2) a restaurant, bar or other establishment serving food or drink;
- (3) a motion picture house, theater, concert hall, stadium or other place of exhibition or entertainment;
- (4) an auditorium, convention center, lecture hall or other place of public gathering;
- (5) a bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;
- (6) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;
- (7) a terminal, depot or other station used for public transportation;

- (8) a museum, library, gallery or other place of public display or collection;
- (9) a park, zoo, amusement park or other place of recreation;
- (10) a nursery, elementary, secondary, undergraduate, or postgraduate private school or other place of education;
- (11) a day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; and
- (12) a gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.

(b) All public accommodations constructed for first occupancy after January 26, 1993, or altered after January 26, 1992, shall comply with the *Americans with Disabilities Act Accessibility Guidelines* unless specifically exempted by law or regulation.

Sec. 8-722. Commercial Facilities

(a) A *commercial facility* shall mean all or any portion of a building, structure, site improvement, complex, equipment, road, walk, passageway, parking lot, or other real or personal property located on a site intended for nonresidential use whose operations will affect commerce. A commercial facility does not include any facility that is expressly exempted from coverage under the Fair Housing Act of 1968 (42 USC 3601 *et seq.*).

(b) All commercial facilities constructed for first occupancy after January 26, 1993, or altered after January 26, 1992, shall comply with the *Americans with Disabilities Act Accessibility Guidelines* unless specifically exempted by law or regulation.

Sec. 8-723. Removal of Architectural Barriers if Readily Achievable.

(a) It shall be a violation of this ordinance to fail to remove architectural barriers, and communication barriers that are structural in nature, in any commercial facility or public accommodation, where such removal is readily achievable. The phrase "readily achievable" shall have the meaning set forth under the *Americans With Disabilities Act of 1990* (42 U.S.C. 12182), as amended.

(b) Where an entity can demonstrate that the removal of a barrier under subsection (a) is not readily achievable, the entity shall nonetheless be required to make existing facilities available through alternative methods if such methods are readily achievable.

DIVISION 3
RESIDENTIAL STRUCTURES AND LAND USES

Sec. 8-730. Multi-Story Housing Units

(a) A *multi-story housing unit* shall mean any building of four or more stories containing ten or more dwelling units constructed to be held out for sale or lease by any person to the public.

(b) All multi-story housing units constructed after May 1, 1988 shall comply with the *Illinois Accessibility Code* unless specifically exempted therein.

Sec. 8-731. Covered Multi-Family Dwelling Units.

(a) A *covered multi-family dwelling unit* shall mean all dwelling units in a building consisting of four or more dwelling units if the building has one or more elevators. A *covered multifamily dwelling unit* shall also mean all ground floor dwelling units in any building consisting of four or more dwelling units that does not have at least one elevator.

(b) All covered multi-family dwellings constructed for first occupancy after March 13, 1991, shall comply with the construction and design standards set forth in Sections 100.205 of Title 24, Subpart B, Chapter 1, Subchapter A, Part 100, Subpart D of the Code of Federal Regulations (24 CFR 100.205) unless specifically exempted by law or regulation.

Sec. 8-732. Reasonable Modification of Rental Dwellings.

(a) It shall be unlawful for any person to refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises, occupied or to be occupied by a disabled person, if the proposed modifications may be necessary to afford the disabled person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for disabled persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(b) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

(c) For the purposes of this Section, the term “disabled person” shall mean a natural person with a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance.

DIVISION 4 ENFORCEMENT

Sec. 8-740. General.

The City Manager is authorized to take such action as may be necessary to enforce this Ordinance.

Sec. 8-741. Fines.

In addition to any other remedy provided herein or under law, each violation of the Joliet Accessibility Code shall be punishable in accordance with Section 1-8 of the Code of Ordinances. Each day of violation shall constitute a separate offense.

Sec. 8-742. Compliance Tickets.

In addition to any other remedy provided herein or under law, any person accused of violating the Joliet Accessibility Code may be issued a Compliance Ticket in accordance with Section 1-9 of the Code of Ordinances.

Sec. 8-743. Licenses and Permits.

In addition to any other remedy provided herein or under law, the City Manager, upon providing notice and an opportunity to be heard, may refuse to issue, condition, suspend or revoke any license or permit provided for by ordinance. Only the Liquor Commissioner shall be authorized to take such action with respect to a liquor license or liquor permit.

Sec. 8-744. Injunctive Relief.

In addition to any other remedy provided herein or under law, this Article may be enforced by any appropriate action in equity, including but not limited to, an action for injunctive relief. It shall not be necessary to demonstrate inadequate remedy at law or irreparable harm in order to obtain injunctive relief.

Sec. 8-745. Compliance Agreements.

In lieu of or in addition to any penalty or procedure authorized herein or by law, the City Manager and any person accused of violating the Joliet Accessibility Code may enter into a written agreement providing for the proper and timely abatement of violations. A Compliance Agreement may include a description of the specific action that will be taken to abate violations or to provide greater accessibility, a compliance timetable, a requirement for performance security, notice procedures and reporting

requirements, liquidated penalties and other items reasonably related to the proper and timely abatement of violations. A Compliance Agreement shall constitute a written contract between the City and the Owner which may be enforced by any appropriate action at law or in equity, including an action for specific performance or injunctive relief. A Compliance Agreement shall run with the land and may be recorded. The violation of a Compliance Agreement shall constitute a separate violation of the Joliet Accessibility Code. A Compliance Agreement shall not relieve any person from the continuing obligation to comply with the Joliet Accessibility Code or any other law or regulation pertaining to accessibility.

Sec. 8-746. Administrative Advisory Panel.

An Administrative Advisory Panel is hereby created to assist in the enforcement of the Joliet Accessibility Code. The Panel shall consist of five members. Two members shall be appointed by the Joliet Region Chamber of Commerce and Industry, at least one of whom shall own or operate a business located within the City of Joliet. One member of the Panel shall be appointed by the Will-Grundy Center for Independent Living and an additional member of the Panel shall be appointed by the Mayor's Committee of Citizens with Disabilities. The Director of the Department of Community and Economic Development shall also be a member of the Panel. Members of the Committee shall serve an annual term and may be re-appointed. The Panel shall review requests for Compliance Agreements and provide advice and counsel to the City Manager regarding the terms and conditions thereof. Final administrative decisions regarding the enforcement of this Article shall be made by the City Manager.

Sec. 8-747. Responsible Parties.

Unless otherwise provided in the *Illinois Accessibility Code*, the *Americans with Disabilities Act Accessibility Guidelines* or the regulations promulgated under the *Fair Housing Act Amendments of 1988*, owners and tenants shall be jointly and severally responsible for compliance with this ordinance.

SECTION 2: The City of Joliet shall defend and indemnify members of the Administrative Advisory Panel from and against claims related to their service on the Panel.

SECTION 3: The City Manager is authorized to promulgate rules and regulations administering and implementing this ordinance. Such rules and regulations shall be filed with the City Clerk.

SECTION 4: This Ordinance shall be considered severable, and the invalidity of any section, clause, paragraph, sentence, or provision of the Ordinance shall not affect the validity of any other portions of this Ordinance.

SECTION 5: This Ordinance does not create a private right of enforcement.

SECTION 6: This Ordinance shall be in effect upon its passage.

PASSED this 20th day of April, 2004.

MAYOR

CITY CLERK

VOTING YES MAYOR SCHULTZ and COUNCILMEN BROPHY, DORRIS,
GIARRANTE
HACKER, LEDESMA, SHETINA and TURK.

VOTING NO NONE.

NOT VOTING COUNCILMAN UREMOVIC (absent).