



**SPECIAL CITY COUNCIL MEETING AND
COMMITTEE OF THE WHOLE MEETING**

**TO BE HELD AT
204 SOUTH BLOOMINGTON STREET
STREATOR, ILLINOIS 61364**

**TUESDAY, JUNE 11, 2019
1:30 P.M.**

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT

SPECIAL CITY COUNCIL MEETING

- 1. RESOLUTION 2019-37. AUTHORIZING AND APPROVING EXECUTION OF A NOTICE OF INTENT TO AWARD THE CENTER STREET SANITARY AND STORM SEWER SEPARATION PROJECT**

STUDY SESSION

- 1. Amusement Tax Proposal**
- 2. Review of a Draft Ordinance Amending Title 8 (Health and Safety) Chapter 8.40 (Smoking Materials) Chapter 8.44 (Smoke Free Illinois Act Adopted) Relative to Electronic Cigarettes and Alternative Nicotine Products and raising the Legal Age to Purchase or Possess Tobacco Products from 18 to 21.**
- 3. Review of Park Permit Form**

ADJOURNMENT

NOTE: Anyone planning to attend the meeting who has need of special assistance under the Americans with Disabilities Act (ADA) is asked to contact the City Clerk's office at (815) 672-2517, 24 hours prior to the meeting. Staff will be pleased to make the necessary arrangements.

RESOLUTION 2019-37

AUTHORIZING AND APPROVING EXECUTION OF A NOTICE OF INTENT
TO AWARD THE CITY OF STREATOR CENTER STREET SANITARY AND
STORM SEWER SEPARATION PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STREATOR, LA
SALLE AND LIVINGSTON COUNTIES ILLINOIS, that Jimmie D. Lansford, Mayor, is
hereby authorized and directed to execute the attached Notice of Intent on behalf of the City of
Streator, Illinois

Passed by the City Council of the City of Streator, LaSalle and Livingston Counties,
Illinois at a special meeting thereof held on the 11th day of **June, 2019**, and approved by me as
Mayor on the same day.

APPROVED:

Jimmie D. Lansford, Mayor

ATTESTED:

Patricia L. Henderson

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Jimmie D. Lansford				
Councilwoman Tara Bedei				
Councilman Ed Brozak				
Councilman Brian Crouch				
Councilman Joe Scarbeary				

NOTICE OF INTENT TO AWARD

TO: Opperman Construction
16535 N 1650 East Road
Pontiac, IL 61764

Project Description: City of Streator, Center Street Sanitary and Storm Sewer Separation Proj

The OWNER has considered the BID submitted by you for the above described WORK, in response to its Advertisement for Bids, dated April, 2019 and Information for Bidders.

You are hereby notified that your BID will be accepted, contingent upon Illinois Environmental Protection Agency (IEPA) approval, for items in the amount of \$1,664,311.07.

You will be required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND and certificates of insurance within ten (10) calendar days from the date of the final Notice to be sent upon IEPA approval, to you.

Dated the 11th day of June 2019.

OWNER:

By: _____
Jimmie D. Lansford

Title: Mayor of City of Streator

OFFICE MEMORANDUM

TO City Manager
FROM City Engineer
SUBJECT Notice of Intent to Award of Center Street Sewer Project
DATE June 6, 2019

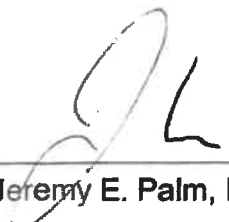
A bid opening was held on May 30, 2019 for the City of Streator Center Street Sewer Project which includes the construction of a new sanitary main and new storm sewer main along Center Street from 12th Street to Coal Run Creek and the installation of storm sewers along 9th, 10th, and 11th Streets to separate the storm and sanitary sewers in the area and eliminate one of the City's combined sewer overflows.

Proposals from three bidders were received and read at the bid opening. The three bidders and their respective bids were as follows:

- | | |
|------------------------------------|----------------|
| ▪ Opperman Construction- | \$1,664,311.07 |
| ▪ Tobey's Construction & Cartage – | \$1,696,217.00 |
| ▪ D Construction, Inc. - | \$1,884,116.50 |

Based on these bids Opperman Construction, Inc. of Pontiac, IL was determined to be the lowest responsive responsible bidder. The selection of Opperman as the contractor that would be considered the lowest responsive responsible bidder was made following tabulation of the three bid proposals, review of Opperman's bid proposal to assure that all required information was included, and after review of Opperman's work experience and financial information.

After review of the above material by the Community Development Department it is being recommended that a Notice of Intent to Award for the Center Street Sewer Project be made to Opperman Construction, Inc. Following approval of the bid by IEPA an Award of Bid will be recommended.



Jeremy E. Palm, P.E. – City Engineer

6/6/19

Date

p.henderson@ci.streator.il.us

From: Gregory T. Smith <gtsmith@ktjlaw.com>
Sent: Friday, May 31, 2019 2:24 PM
To: 'cm@ci.streator.il.us'
Cc: Sheryl H. Churney; Michael T. Jurusik
Subject: Amusement Tax

Mr. Plyman,

As we discussed earlier this week, regarding an amusement tax in the City of Streator, the Illinois Appellate Court held in the case of *DeWoskin v. Lowe's Chicago Cinema, Inc.*, 306 Ill.App.3d 504 (1st Dist. 1999), that there is a rational basis to include exhibitive amusements (like movie theaters) and exclude participatory amusements (like bowling alleys) within the scope of an amusement tax. In its decision, the Appellate Court noted that "[p]articipatory activities and the operation of amusement devices are so fundamentally different in kind from purely passive entertainment that excluding such activities and devices from the definition of an amusement under the Ordinance is not arbitrary or unreasonable as a matter of law." *Id.* at 523-24. As such, there is support in case law for an amusement tax which includes exhibitive amusements, but excludes participatory amusements.

If the City were to adopt an amusement tax, we recommend that the City not rebate all, or even a substantial portion, of it to a large taxpayer. If the City adopted an amusement tax that applied only, or in great part, to a single movie theater, it would not be appropriate for the City to then rebate all, or a substantial portion, of the tax to the movie theater. If the City did so, the tax could be challenged as being without a valid public purpose and a scheme to raise revenue for the benefit of a private entity with no corresponding public benefit. If the City adopts an amusement tax, we recommend the City keep no less than a third (33%) of the tax revenue itself for governmental use, to help support the City's position that the tax is for a valid governmental purpose, and not a scheme with an overriding private purpose. As there is a lack of case law on this topic, even if the City were to keep a third of the tax revenue itself, we cannot guarantee success for the City if a legal challenge were made on the grounds that the tax lacked a valid governmental purpose, considering the circumstances presented by the movie theater under consideration by the City.

If you have any questions, please contact me.

Best,

Gregory T. Smith
Klein, Thorpe and Jenkins, Ltd.
20 N. Wacker Drive, Suite 1660
Chicago, IL 60606
(312) 984-6436
gtsmith@ktjlaw.com

ORDINANCE 2019-_____

AN ORDINANCE AMENDING TITLE 8 (HEALTH AND SAFETY) CHAPTER 8.40 (SMOKING MATERIALS) SECTION 8.40.010 (DEFINITIONS) AND SECTION 8.40.020 (PROHIBITED SALES, DELIVERY, AND SIGNAGE); AND TITLE 8 (HEALTH AND SAFETY) CHAPTER 8.44 (SMOKE FREE ILLINOIS ACT ADOPTED) SECTION 8.44.010 (ADOPTION BY REFERENCE) OF THE STREATOR MUNICIPAL CODE OF ORDINANCES RELATIVE TO ELECTRONIC CIGARETTES AND ALTERNATIVE NICOTINE PRODUCTS AND RAISING THE LEGAL AGE TO PURCHASE OR POSSESS TOBACCO PRODUCTS FROM EIGHTEEN (18) TO TWENTY-ONE (21)

Recitals

1. The Mayor and City Council of the City of Streator desire to make certain amendments to the regulations of the Streator Municipal Code of Ordinances, relative to smoking and tobacco regulations (the "Code Amendments") to allow for the regulation of the use, sale and purchasing of electronic cigarettes and alternative nicotine products.
2. The Mayor and City Council of the City of Streator make the following findings in regard to the Code Amendments:
 - A. The United States Food and Drug Administration has warned about the possible adverse health effects brought about by the use of electronic cigarettes ("e-cigarettes") and other alternative nicotine products, as they have been found to contain carcinogens and toxic chemicals such as diethylene glycol, an ingredient used in antifreeze, and has further warned that the health effects of e-cigarettes, including any potential negative health effects of second-hand smoke inhalation, are unknown at this time.
 - B. The use of alternative nicotine products, e-cigarettes and similar devices should be restricted within the City in the same manner as the use of pipes, cigars or cigarettes containing tobacco.
 - C. Pursuant to Section 65 of the Smoke Free Illinois Act, 410 ILCS 82/65 (the "Act"), any home rule unit of local government or any non-home rule municipality may regulate smoking in public places so long as that regulation is no less restrictive than the Act.
 - D. The regulations set forth in the Code Amendments are regulations that are not less restrictive than those regulations contained in the Act.
 - E. The Code Amendments are intended to enhance the protection of the health, safety, and welfare of the City's residents, property owners, business owners and the public.
3. On April 7, 2019, Illinois Governor J.B. Pritzker signed legislation raising the legal age to purchase tobacco products in the State of Illinois from eighteen (18) to twenty-one (21), which takes effect on July 1, 2019.
4. In order to comply with the legal requirements of the State of Illinois, the Mayor and City Council of the City of Streator desire to make certain amendments to the Streator Municipal Code of Ordinances;

relative to smoking and tobacco regulations to increase the minimum age to purchase or be in possession of tobacco products from eighteen (18) to twenty-one (21) (the "Code Amendments").

5. Pursuant to the authority granted to municipalities by the applicable provisions of the Illinois Municipal Code (65 ILCS 5/1-2, 5/11-1, 5/11-20 and 5/11-42), the Illinois Clean Indoor Air Act, 410 ILCS 80/1 *et seq.*, the Smoke Free Illinois Act (410 ILCS 82/1 *et seq.*) and Article VII, Section 7 of the Illinois Constitution of 1970, the Mayor and City Council of the City of Streator find that the below Code Amendments are in the best interests of the City, its residents, property owners, business owners, and the public and approve the Code Amendments as set forth below.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STREATOR, COUNTIES OF LASALLE AND LIVINGSTON, STATE OF ILLINOIS AS FOLLOWS:

Section 1: Title 8 ("Health and Safety") Chapter 8.40 ("Smoking Materials") Section 8.40.010 ("Definitions") of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in *bold italics font*):

8.40.010 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Alternative Nicotine Products" means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means and includes, but is not limited to, e-cigarettes. Alternative nicotine product excludes cigarettes, smokeless tobacco, or other tobacco products as these terms are defined in Section 1 of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act (720 ILCS 675/1 et seq.) and any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

"E-Cigarette" means a device, usually battery-powered, that heats nicotine, releasing a nicotine vapor that can be inhaled by the user of the device. Not by way of limitation, the term "e-cigarette" includes e-cigar, e-cigarillo, e-pipe, e-hookah, or any other device that heats nicotine, releasing a nicotine vapor that can be inhaled by the user of the device.

"Minor" means a person who has not yet attained the age of ~~eighteen (18)~~ *twenty-one (21)* years.

"Person" means any individual, firm, partnership, corporation, company, association, joint venture or any employee or agent thereof.

"Rolling paper" means any paper product customarily used to insert loose tobacco, and, by rolling, make into a cigarette.

"Smoking materials" means any substance containing either smoking herbs or tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, loose tobacco, snuff, chewing or dipping tobacco,

and also including railing paper, matches and lighters. *The term "Smoking materials" also includes "Alternative Nicotine Products" and "E-Cigarette" even if certain alternative nicotine products and e-cigarettes do not contain any tobacco.*

"Vending machine" means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses smoking materials.

Section 2: Title 8 ("Health and Safety") Chapter 8.40 ("Smoking Materials") Section 8.40.020 ("Prohibited sales, delivery, and signage") of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in ***bold italics font***):

8.40.020 - Prohibited sales, delivery, and signage.

- A. It is unlawful for any person to sell, offer for sale, give away, or deliver smoking materials to any minor.
- B. If any person contemplating the sale or furnishing of smoking materials believes or has reason to believe that a sale or delivery of smoking materials is prohibited because of the minority of the prospective recipient, he or she shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his or her official duties.
- C. Warning Signs. Every person engaged in the business of selling smoking materials shall at all times display signs informing the public of the age restrictions provided in this section. The sign shall be posted by every person engaged in the business of selling smoking materials at or near every display of smoking materials and on or upon, every vending machine which offers smoking materials for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF SMOKING MATERIALS TO PERSONS UNDER ~~EIGHTEEN~~ *TWENTY-ONE*** YEARS OF AGE IS PROHIBITED BY LAW.**

The text of such signs shall be in stark contrast to the background color of the sign and such lettering shall be at least one inch high.

Section 3: Title 8 ("Health and Safety") Chapter 8.44 ("Smoke Free Illinois Act Adopted") Section 8.44.010 ("Adoption by Reference") of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in ***bold italics font***):

8.44.010 - Adoption by reference.

All definitions, requirements, regulations, prohibitions and provisions of the Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, as amended, are hereby adopted and incorporated in this Chapter 8.44; provided, however, that Sections 40 and 45 are not adopted *and except to the extent that the City has adopted the following definition of "Smoke" or "Smoking:"*

"Smoke" or "Smoking" means: a) inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form; b) inhaling or exhaling from, turning on, powering, ingesting or utilizing in any form any device intended for the atomization, charring, burning, piezoelectronic ignition of or ingestion of tobacco products or

nicotine in any gaseous, smoke, aerosol, vaporous, or other similar form, including but not limited to the use of any e-cigarette, personal vaporizer used with nicotine or tobacco derivatives, electronic nicotine delivery system, e-puffer, cartomizer or other similar device; c) use of any other device intended for the gaseous, smoke, aerosol, vaporous, or other similar airborne ingestion of tobacco, tobacco derivatives, nicotine, or nicotine derivatives; or, d) completing any of the foregoing actions utilizing any form of smoked, aerosolized, ionized, vaporous, or similar airborne ingestion of marijuana, cannabis, or any derivative thereof. Smoking shall not include non-airborne forms of tobacco, nicotine, or medical cannabis ingestion such as use of chewing tobacco or use of nicotine patches. "Smoke" or "smoking" also does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

This definition of "Smoke" or "Smoking" shall be used in the City's enforcement of the provisions of the Smoke Free Illinois Act, 410 Illinois Compiled Statutes 82/1 et seq., as amended, and the regulations of the Illinois Department of Public Health, as amended, along with any applicable regulations under federal law.

Section 4: Each section, paragraph, sentence, clause, and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance nor any part thereof.

Section 5: This ordinance shall take effect immediately upon its passage and publication in pamphlet form as provided by law and shall be incorporated into the Streator Municipal Code of Ordinances.

Section 6: This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

Section 7: Except as to the amendments heretofore mentioned, all articles, chapters and sections of the Streator Municipal Code of Ordinances shall remain in full force and effect.

Passed by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on **June 19, 2019**, and approved by me as Mayor on the same day

APPROVED:

ATTESTED:

Jimmie D. Lansford, Mayor

Patricia L. Henderson, City Clerk

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Jimmie D. Lansford				
Councilwoman Tara Bedei				
Councilman Ed Brozak				
Councilman Brian Crouch				
Councilman Joe Scarbeary				

City of Streator
204 S. Bloomington Street
Streator, Illinois 61364
815/672-2517 Fax 815/672-7566



APPLICATION FOR A PERMIT – USE OF CITY PARKS

Reference: Streator Municipal Code Chapter 12.32

Applicant's Name: _____ Phone: _____

Home Address, City, State, & Zip: _____

Group or Organization Name: _____ Number of Persons Attending: _____

Type of Event: _____

Which facility is application for?

* Groups of 25 or more persons must provide proof of insurance

GROUPS OF 100 OR MORE MUST PROVIDE INS.

* Park Hours are from Sunrise to Sunset. - (EXCEPT: CITY PARK)

DURING EVENTS

REGISTER WITH CITY

- Anderson Field Central Park Oakland Park Marilla Park
- Heritage Park Spring Lake
- City Park – NO PARKING ALLOWED IN PARK. Unloading is allowed in parking area.
- Plumb Pavilion – All events require liability insurance.

Date Requested: _____

Start Time: _____

End Time: _____

Yes Will alcohol be used in park? (Beer & Wine Only)
(Only allowed by special permit at Anderson, Marilla, Oakland and City Park)

No Who will supply the alcohol? _____

Has Dram Shop Insurance been provided?

Yes

No

Has copy of policy been provided?

Yes

No

Yes Will there be live or recorded music? (Music must end by 10:00 PM)

No

Copy of Photo ID of Signator Required.

Signature of Responsible Person: _____

Date: _____

(over)

CUE COLUMN

NOTES

- * GROUPS OF 25 OR MORE MUST REGISTER WITH THE CITY = HAVE A PERMIT
- * GROUPS OF 100 OR MORE MUST ALSO PROVIDE INSURANCE
- * PARK HOURS ARE FROM SUNRISE TO SUNSET (EXCEPT DURING CITY PARK EVENTS)
- * A FEE OF ? WILL BE CHARGED FOR PAVILION USE BY NON-CITIZENS

SUMMARY