



MUNICIPAL CODE
of the
CITY OF EVANSVILLE, WISCONSIN

Published by Order of the City Council

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Evansville, Wisconsin.

Source materials used in the preparation of the Code were the 1986 Code, as supplemented through Ordinance No. 1999-4, recodified with Ordinance No. 2001-7, adopted December 11, 2001, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof.

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MUNICIPAL CODE

Chapter 1

GENERAL PROVISIONS

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- Sec. 1-2. Definitions and rules of construction.
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GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code¹.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Municipal Code of the City of Evansville, Wisconsin" and may be so cited.

Sec. 1-2. Definitions and rules of construction².

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the common council:

Generally. Words shall be construed to have their ordinary, usual and customary meanings unless the contrary is clearly indicated.

City. The term "city" means the City of Evansville, Wisconsin, and shall extend to and include its several officers, agents and employees.

City clerk-treasurer, chief of police or other city officers. When the clerk-treasurer, chief of police or other city officers or departments are referred to by title only, such reference shall be construed to mean the clerk-treasurer, chief of police or such other municipal officers or departments, respectively, of the City of Evansville, Wisconsin.

Code. The term "Code" means the provisions of chapters 1 through 130, inclusive, and as may be subsequently amended, of the Municipal Code of the City of Evansville, Wisconsin.

Common council and council. The terms "common council" and "council" mean the common council of the City of Evansville, Wisconsin.

County. The term "county" means the County of Rock, Wisconsin.

Delegation of authority. Whenever a section of this Code requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision or section specifically provide otherwise.

Gender³. Words importing one gender extend and may be applied to any gender.

¹ **State law references:** Authority to codify ordinances, Wis. Stats. § 66.035.

² **State law references:** Similar provisions, Wis. Stats. §§ 990.001, 990.01.

³ **State law references:** Similar provisions, Wis. Stats. § 990.001(2).

Highway. The term "highway" includes any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city, dedicated or devoted to public use.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

May, shall and will. The term "may" shall be construed as being permissive and discretionary. The term "shall" shall be construed as being mandatory. The term "will" shall be construed as directory and shall be construed as requiring action, but allowing for reasonable discretion in how the action is actually carried out.

Month. The term "month" means a calendar month.

Number. Any word importing the singular number shall include the plural, and any word importing the plural number shall include the singular.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers, employees, departments, boards, commissions or agencies. Whenever a reference to an officer, employee, department, board, commission or agency appears, it shall be construed as if followed by the words "of the City of Evansville, Wisconsin."

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Owner. The term "owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" includes all partnerships, associations and bodies politic or corporate, as well as individuals.

Personal property. The term "personal property" includes money, goods, chattels, things in action, evidences of debt and energy.

Property. The term "property" includes real and personal property.

Public place. The term "public place" means any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

Real property. The term "real property" includes lands, tenements and hereditaments, and all rights thereto and interests therein.

Sidewalk. The term "sidewalk" means any portion of a street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature. If the signature of any person is required by law, it shall always be the handwriting of such person or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence, or, subject to any applicable requirements under Wis. Stats. §§ 137.04--137.06, the electronic signature of the person.

State. The term "the state" or "this state" means the State of Wisconsin.

Street. The term "street" includes any highway, street, avenue, boulevard, road, alley, lane, or viaduct in the city, dedicated or devoted to public use.

Tenant and occupant. The terms "tenant" and "occupant," applied to a building or land, include any person holding a written or oral lease thereof or who occupies the whole or part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Time computation.

- (1) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.
- (2) If the last day within which an act is to be done or a proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
- (3) When the last day within which a proceeding is to be had or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or with which such return, statement, report, notice or other document is required to be filed do not include any office hours thereof on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.
- (4) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.

- (5) The term "legal holiday," as used in this definition, means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service and the last day within the time prescribed by law for performing such act falls on a legal public holiday under federal law, or other holiday designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

Wis. Stats. and statute. The abbreviation "Wis. Stats." and the word "statute" mean the current edition of the official Wisconsin Statutes, as amended from time to time.

Written and in writing. The terms "written" and "in writing" include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

Sec. 1-3. Catchlines of sections and other headings.

The catchlines of the several subsections and sections and the headings of chapters, articles and divisions of this Code are intended as mere catchwords to indicate the contents of the subsection, section, chapter, article or division, and shall not be deemed or taken to be titles or substantive portions of such subsections, sections, chapters, articles or divisions, nor, unless expressly so provided, shall they be so deemed when any of such subsections, sections, chapters, articles or divisions, including the catchlines or other headings, are amended or reenacted.

Sec. 1-4. Filing of documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth in this Code, and the clerk-treasurer shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the clerk-treasurer's office hours, subject to such orders or regulations which the clerk-treasurer may prescribe for their preservation.

(Code 1986, § 25.03)

Sec. 1-5. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-6. History notes, editor's notes, state law references and cross references.

The history notes appearing in parentheses after each section and the editor's notes and state law and cross reference notes throughout the Code are for the benefit of the user of the Code and shall not be considered as part of the text of the Code.

Sec. 1-7. Provisions considered continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the Municipal Code of the City of Evansville, 1986, and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not new enactments.

Sec. 1-8. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

Sec. 1-9. Effect of repeals and amendments.

(a) The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

(b) The repeal or amendment of any section or provision of this Code or of any other ordinance of the common council shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the city.
- (3) Affect any offense committed or penalty or forfeiture incurred previous to the time when any ordinance is repealed or amended, except that when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense or the levy of any penalty of forfeiture pending at the time when any ordinance is repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances and such prosecution shall proceed in all respects as if such ordinance had not been repealed, except that all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

Sec. 1-10. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to affect any ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of the Code:

- (1) The issuance of corporate bonds and notes of the city of whatever name or description.
- (2) The establishment of grades, curblines and widths of sidewalks in the public streets and alleys.
- (3) The fixing of salaries of public officials and employees.
- (4) Rights, licenses or franchises or the creation of any contract with the city.
- (5) The lighting of streets and alleys.
- (6) The establishment of the grade of a street.
- (7) The annexation of territory to the city.
- (8) The naming and changing of names of streets, alleys, public grounds and parks.
- (9) The letting of contracts without bids.
- (10) The establishment of alderperson districts, alderperson district boundaries and election precincts.
- (11) Tax and special assessment levies.
- (12) Release of persons from liability.
- (13) Construction of any public works.
- (14) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (15) Budget ordinances, resolutions and actions.

(Code 1986, § 25.05)

Sec. 1-11. General penalty⁴.

(a) *Established.* Unless otherwise provided in this Code, any person who shall violate any of the provisions of the Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

- (1) *First offense.* Any person found guilty of violating any provision of this Code may, upon conviction thereof, be ordered to forfeit not less than \$5.00 and not more than \$1,000.00, plus applicable costs, surcharges, penalty assessments and fees, and in default of payment of such forfeiture and costs of prosecution may be incarcerated in the county jail until the forfeiture and costs are paid, but not

⁴ **State law references:** Penalty for violation of ordinances, Wis. Stats. § 66.115; bail generally, Wis. Stats. § 66.114; outstanding unpaid forfeitures, Wis. Stats. § 66.117; actions for violations of municipal ordinances, Wis. Stats. § 66.12; fines and costs in municipal court, Wis. Stats. § 814.65.

exceeding 90 days for each separate offense; provided, however, that imprisonment under this subsection shall be imposed only in accordance with the provisions of Wis. Stats. §§ 800.09 and 800.095.

- (2) *Second offense.* Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same ordinance within one year may, upon conviction thereof, forfeit not less than \$10.00 and not more than \$2,000.00 for each such offense, plus applicable costs, surcharges, penalty assessments and fees, and in default of payment of such forfeiture and costs may be incarcerated in the county jail until the forfeiture and costs of prosecution are paid, but not exceeding 90 days; provided, however, that imprisonment under this subsection shall be imposed only in accordance with the provisions of Wis. Stats. §§ 800.09 and 800.095.

(b) *Continued violations.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the city from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the city, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(d) *Payment of costs of notices.* Costs of prosecution shall include a fee for each notice or letter, as established by the council from time to time by resolution and as set forth in appendix A, for prosecution of ordinance violations that require or use notices sent by any department or agency of the city. The city department or agency sending a notice shall advise in the notice to the recipient of this cost and add it to the forfeiture amount due.

(Code 1986, § 25.04; Ord. No. 2000-1, § 1, 2-8-2000)

Sec. 1-12. Additions and amendments deemed part of Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the common council to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code, so that reference to the "Municipal Code of the City of Evansville, Wisconsin" shall be understood and intended to include such additions and amendments.

Sec. 1-13. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the common council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the common council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all Charter ordinances, adopted or amended, during the period. The pages of a supplement

shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code⁵, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-14. Conflicting provisions.

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(Code 1986, § 25.02(1))

Sec. 1-15. Severability of parts of Code.

It is declared to be the intention of the common council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or

⁵ **State law references:** Code of ordinances, Wis. Stats. § 66.035.

unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since such would have been enacted by the common council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1-16 Fees and Charges.

Unless otherwise specifically provided for, the amount of any fees or charges referenced in the City of Evansville's Code of Ordinances shall be as established by the City of Evansville's fee schedule which can be amended, from time to time, by the City Council.

(Ord 2021-15)

Chapter 2

ADMINISTRATION¹

Article I. In General

- Sec. 2-1. Recommendations by mayor to council regarding state of the city.
Secs. 2-2--2-30. Reserved.

Article II. City Council

Division 1. Generally

- Sec. 2-31. Composition.
Sec. 2-32. Meetings generally.
Sec. 2-33. Order of business.
Sec. 2-34. Presiding officer.
Sec. 2-35. Committees.
Sec. 2-36. Reports of bills and claims.
Sec. 2-37. Distribution of copies of minutes.
Secs. 2-38--2-50. Reserved.

Division 2. Ordinances and Resolutions

- Sec. 2-51. Reading; referral to committee.
Sec. 2-52. Distribution of copies of proposed ordinances.
Sec. 2-53. Approval of appropriations or payments.
Secs. 2-54--2-70. Reserved.

Division 3. Rules of Procedure

- Sec. 2-71. Generally.
Sec. 2-72. Suspension of rules.
Sec. 2-73. Amendment of rules.

¹ **Cross references:** Any ordinance for the rights, licenses or franchises or the creation of any contract with the city saved from repeal, § 1-10(4); administration and enforcement of buildings and building regulations, § 18-31 et seq.; civil emergencies, ch. 30; courts, ch. 34; elections, ch. 38; administration and enforcement floodplain zoning code regulations, § 54-71 et seq.; law enforcement, ch. 70; libraries, ch. 74; offenses against governmental administration, § 82-31 et seq.; planning, ch. 94; administration and enforcement of subdivision regulations, § 110-31 et seq.; taxation, ch. 114; administration and enforcement of traffic and vehicle regulations, § 122-31 et seq.; utilities, ch. 126; administration and enforcement of zoning regulations, § 130-31 et seq.

Secs. 2-74--2-90. Reserved.

Article III. Officers and Employees

Division 1. Generally

Sec. 2-91. Oath.
Sec. 2-92. Bonds.
Sec. 2-93. Ineligibility of persons having private interest in city contract.
Sec. 2-94. Medical examinations.
Sec. 2-95. Temporary vacancies.
Sec. 2-96. Powers and duties of officers.
Sec. 2-97. Departmental rules.
Sec. 2-98. Nepotism.
Sec. 2-99. Notice of job openings.
Sec. 2-100. Criminal Background Checks.
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Division 2. Elected Officials

Sec. 2-121. Enumerated.
Sec. 2-122. Terms.
Sec. 2-123. Eligibility.
Sec. 2-124. Compensation.
Sec. 2-125. Vacancies.
Secs. 2-126--2-140. Reserved.

Division 3. Administrator

Sec. 2-141. Office created.
Sec. 2-142. Appointment; term; removal.
Sec. 2-143. Residency.
Sec. 2-144. Powers and duties.
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Division 4. Appointed Officials

Sec. 2-161. Enumerated; appointments to be made by mayor.
Sec. 2-162. Repealed.
Sec. 2-163. Terms.
Sec. 2-164. Vacancies.
Sec. 2-165. Eligibility of alderpersons.

Secs. 2-166--2-190. Reserved.

Article IV. Boards, Commissions and Committees

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Sec. 2-241. Expenditures to be in accordance with appropriations.
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Sec. 2-261. Departmental estimates.
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Sec. 2-281. Imposed; fee schedule.
Sec. 2-282. Interest on unpaid accounts.
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Article VI. Public Records

Sec. 2-311. Definitions.
Sec. 2-312. Duty to maintain records; delivery to successors in office.
Sec. 2-313. Legal custodians.
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Sec. 2-315. Access procedures.

Sec. 2-316. Limitations on right to access.
Sec. 2-317. Destruction.
Sec. 2-318. Preservation through microfilm.
Sec. 2-319. Fee for clerk/treasurer search and report of tax and special assessments.
Sec. 2-320. Fees for open records requests.

ARTICLE I. IN GENERAL

Sec. 2-1. Recommendations by mayor to council regarding state of the city.

In the year elected, the mayor shall prepare the overall plan or recommendations for the city for the ensuing two years. In the preparation thereof, the mayor shall work with the council president. The mayor shall present such plan or recommendations to the council at the regular May meeting. At the end of the first year of the two-year term, the mayor may revise such plan and shall present it to the council for review.

(Code 1986, § 1.04)

Secs. 2-2--2-30. Reserved.

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-31. Composition.

The mayor and alderpersons shall be the city council.

(Code 1986, § 2.01)

Sec. 2-32. Meetings generally.

(a) *Organization meeting; regular meetings.* Following a regular city election, for the purpose of organization, the city council shall meet on the third Tuesday of April. Except as otherwise provided in this section, or as otherwise necessitated regular meetings of the city council shall be held on the second Tuesday of each month at 6:00 p.m. Whenever a legal holiday falls on the second Tuesday of the month, such regular meeting shall be held on the third Tuesday in such month at the same hour and place. All meetings of the council shall be held in the city hall, including special and adjourned meetings, except by vote of two-thirds of the entire council.

(b) *Special meetings.* Special meetings may be called by the mayor or by any two councilmembers upon written notice of the time and purpose of such meeting to each member of the council and the mayor, delivered to him personally or left at his usual place of abode at least six hours before the meeting. The clerk-treasurer shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. A special meeting may be held without such notice when two-thirds of the members of the council are present in person. Attendance by any councilmember shall be deemed a waiver on his part of any defect of notice. Any special meeting attended by all alderpersons shall be a regular meeting for the transaction of any business that may come before such meeting.

(c) *Adjourning; quorum.*

- (1) The council may, by a majority vote of those present but not less than three affirmative votes, adjourn from time to time to a specific date and hour.
- (2) No action shall be taken unless a quorum is present.
- (3) Two-thirds of the alderpersons shall constitute a quorum. A lesser number may compel the attendance of absent members or may adjourn. The mayor shall not be counted in determining whether a quorum is present at a meeting.

(d) *Applicability of open meeting law.* Meetings of the council, committees thereof and boards and commissions shall be subject to Wis. Stats. §§ 19.81--19.98.

(Code 1986, § 2.02)

Sec. 2-33. Order of business.

- (a) The business of the council shall be conducted in the following order:
- (1) Call to order by presiding officer.
 - (2) Roll call. If a quorum is not present, and cannot be obtained, the meeting shall thereupon adjourn, which may be to a specific date pursuant to section 2-32(c)(1).
 - (3) Reading the minutes of the preceding meeting, and approving the minutes if correct, and rectifying mistakes if any exist. The reading of the minutes may be waived by majority action if the minutes have been previously distributed pursuant to section 2-37.
 - (4) Residents present who wish to appear on any matter, regardless of whether the matter is listed or not listed on the agenda, will be permitted to speak at this time subject to a limit of three minutes per person, except that if the resident desires to speak about a subject regarding which there is a public hearing on the agenda of the same city council meeting, the resident shall not speak at this time but instead shall be permitted to speak during the public hearing. In addition, any non-residents present who wish to appear on any matter, regardless of whether the matter is listed or not listed on the agenda, will be permitted to speak at this time at the discretion of the presiding officer, except that if the non-resident desires to speak about a subject regarding which there is a public hearing on the agenda of the same city council meeting, the non-resident shall not speak at this time but instead shall be permitted to speak during the public hearing.
 - (5) Reports of committees.
 - (6) Unfinished business from previous meetings.
 - (7) Communications and recommendations of the administrator.
 - (8) Communications and recommendations of the mayor.
 - (9) New business and miscellaneous communications.
 - (10) Introduction of new ordinances.

(b) In the absence of the clerk, the mayor shall appoint a clerk pro tem.

(Code 1986, § 2.03, Ord. 2006-9)

Sec. 2-34. Presiding officer.

(a) *Mayor.* The mayor, at the stated hour, shall call the meeting to order. He shall preserve order and decorum.

(b) *Council president or acting mayor.* If the mayor is absent at the designated time of any meeting, the president of the council shall preside, and during the absence or inability of the mayor, or while the office is vacant, shall have the powers and duties of the mayor, except he shall not approve an act of the council which the mayor has disapproved by filing an objection with the clerk-treasurer. He shall, while so officiating, be styled "acting mayor." The president shall be selected by a majority vote of all members of the council at the annual meeting on the third Tuesday of April. In the absence of both the mayor and president of the council, the clerk-treasurer shall call the meeting to order and preside until the council shall, by motion, select an acting mayor for that meeting.

(c) *Speaking on questions.* Whenever the presiding officer desires to speak on any question, he shall first seek recognition of the president of the council, and, in the absence of the president, the senior alderperson in point of service. Upon receiving recognition, he shall not be required to vacate the chair.

(Code 1986, § 2.04)

Sec. 2-35. Committees.

- 1) **Appointment.** The following committees shall be appointed annually, on the third Tuesday in April, by the mayor subject to confirmation by a majority vote of the entire council:
 - (a) Municipal services.
 - (b) Public safety.
 - (c) Finance and labor.
- 2) **Composition; duties.** Each committee shall consist of three members. Subject to the approval of the council, the committees shall supervise the following phases of municipal activity:
 - (a) **Municipal services.** Public property, streets and alleys, Maple Hill Cemetery, sanitation, sanitary sewer system and wastewater treatment plant, storm water utility, and water and light utilities, including hearing and deciding appeals of water impact fees under section 126-184.
 - (b) **Public safety.** Police department, licenses and the emergency medical service.

- (c) Finance and labor. Financial matters, employee grievance appeals under a collective bargaining agreement, development of council labor negotiations strategy, and assistance to the city administrator with labor negotiations.
- 3) Committee of the whole. The mayor may declare the entire council a committee of the whole for informal discussion at any meeting or for any other purpose and shall ex officio be chairperson of the committee, provided there is no objection by any one of the alderpersons present at the meeting.
 - 4) Special committees. The mayor may, from time to time, appoint such special committees as provided for by motion or resolution, stating the number of members and object thereof, to perform such duties as may be assigned to them.
 - 5) Reports. Each committee shall, at the next regular meeting, submit a written or oral report on all matters referred to it, unless a longer time is granted by the council, and such report shall be entered in the proceedings. Such report shall recommend a definite action by the council on each item, and, if written, shall be signed by a majority of the committee, and shall be filed with the clerk-treasurer prior to each meeting. Minority reports may be submitted in writing.
 - 6) Cooperation by city officers and employees. Any committee may require any city officer or employee to confer with it and supply information needed in connection with any matter pending before the committee.
 - 7) Term of appointment. Each alderperson's appointment to a committee shall be for a one-year term and shall expire on the third Tuesday in April.

(Code 1986, § 2.05; Ord. No. 1999-21, §§ 2--4, 1-11-2000, Ord. 2005-4, Ord. 2006-18, Ord. 2014-02)

Sec. 2-36. Reports of bills and claims.

All bills and other financial claims against the city shall be itemized, and upon receipt thereof shall be delivered by the clerk-treasurer to the head of the department having jurisdiction of the expenditure or claim. The department head shall within a reasonable time thereafter examine the claim or bill and return it to the clerk-treasurer initialled by him with a notation as to his approval or disapproval and any comments thereon. The clerk-treasurer shall refer the bill or claim to the committee on finance for report thereon at the ensuing meeting of the council, provided payment of regular wages and salaries of officials and employees according to schedules adopted by the council shall be made by the clerk-treasurer without submission to the council after verification by the department head submitting the claim, subject to the requirements of Wis. Stats. §§ 62.12(8) and 62.25.

(Code 1986, § 2.07)

Sec. 2-37. Distribution of copies of minutes.

Within not more than ten days after each meeting of the council, the clerk-treasurer shall supply to each alderperson a written copy of the proceedings thereof.

(Code 1986, § 2.09)

Secs. 2-38--2-50. Reserved.

DIVISION 2. ORDINANCES AND RESOLUTIONS

Sec. 2-51. Reading; referral to committee.

Any alderperson may require the reading in full of any ordinance, resolution, communication, or other matter at any time it is before the council. The council may refer any matter to the appropriate committee.

(Code 1986, § 2.08(1), Ord. 2013-04)

Sec. 2-52. Distribution of copies of proposed ordinances.

(a) Prior to the first reading thereof, a written copy of each proposed ordinance shall be furnished to each alderperson and the mayor. If time permits, such copy shall be provided to the members of the council prior to the date of the council meeting at which the first reading thereof is scheduled.

(b) If prior mailing is not possible, a copy thereof shall be delivered to each member of the council attending such meeting at or prior to the commencement thereof. A copy of such proposed ordinance shall be provided to each councilmember not attending such meeting within two days following the meeting.

(Code 1986, § 2.08(2), Ord 2016-23)

Sec. 2-53. Approval of appropriations or payments.

All ordinances or resolutions appropriating money or creating any charge against the city other than the payment of claims for purchases or work previously authorized by the council shall require affirmative action by two-thirds of all members of the council.

(Code 1986, § 2.08(3))

Secs. 2-54--2-70. Reserved.

DIVISION 3. RULES OF PROCEDURE

Sec. 2-71. Generally.

The deliberations of the council shall be conducted in the following manner:

- (1) *Addressing council.* No alderperson or city staff shall address the council until he has been recognized by the presiding officer. He shall confine his remarks to the question under discussion and avoid all personalities.
- (2) *Recognition.* When two or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

- (3) *Citizens addressing council.* No person other than a member or city staff shall address the council, except under section 2-33(a)(4), and except that citizens may address the council with the permission of the presiding officer as to matters which are being considered by the council at the time.
- (4) *Withdrawing motions.* No motion shall be withdrawn without the consent of the person making the motion and the person seconding it.
- (5) *Permissible motions.* When a question is under discussion no action shall be in order except:
 - a. To adjourn.
 - b. To recess.
 - c. To lay on the table.
 - d. To move the previous question.
 - e. To postpone to a certain day.
 - f. To refer to a committee.
 - g. To amend.
 - h. To postpone indefinitely.

These motions shall have precedence in the order listed.

- (6) *Terminating debate.* Any member wishing to terminate the debate may move the previous question, in which event the mayor shall announce the question as, "Shall the main question now be put?" If two-thirds of the members present vote in the affirmative, the main question shall be taken without further debate, its effect being to put an end to all debate and to bring the council to a direct vote, first upon any pending amendments, and then upon the main question.
- (7) *Voting.*
 - a. The ayes and noes may be required by any member. On confirmation and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city of any fund thereof, the vote shall be by ayes and noes. All aye and nay votes shall be recorded in the journal. In all other motions, resolutions, and ordinances, the vote may be taken by viva voce (voice vote).
 - b. The mayor shall not vote except in the case of a tie. When the mayor does vote in the case of a tie, his vote shall be counted in determining whether a sufficient number of the council has voted favorably or unfavorably on any measure.
 - c. A majority vote of all members present of the council in favor of any proposed ordinance, resolution or appointment shall be necessary for

passage or approval, unless a larger number is required by statute. Except as otherwise provided, a majority vote of those present shall prevail in other cases.

- (8) *Non-debatable motions.* A motion to adjourn shall always be in order, and a motion to adjourn, to recess, or to lay on the table, and a call for the previous question, shall be decided without debate.
- (9) *Reconsideration.* Any member voting with the prevailing side may move for a reconsideration of the vote of any question, except confirmation of the appointment of city officials, at that meeting or at the next succeeding regular meeting. A motion to reconsider, being put and lost, shall not be renewed.
- (10) *Applicability of Robert's Rules of Order, 1970, Newly Revised.* The rules of parliamentary procedure contained in Robert's Rules of Order, 1970, Newly Revised, shall govern the proceedings of the council where not inconsistent with the rules stated in this Code.

(Code 1986, § 2.06; Ord. No. 2001-9, § 1, 12-11-2001, Ord. 2005-18, Ord. 2006-9, Ord. 2013-04)

Sec. 2-72. Suspension of rules.

The rules set forth in this division, or any part thereof, may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the members present.

(Code 1986, § 2.10)

Sec. 2-73. Amendment of rules.

The assent of two-thirds of all the members of the council shall be required to amend the rules set forth in this division, or any part thereof.

(Code 1986, § 2.11)

Secs. 2-74--2-90. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES²

DIVISION 1. GENERALLY

Sec. 2-91. Oath.

Every person elected or appointed to any office shall take and file the official oath within ten days after notice of his election or appointment.

(Code 1986, § 1.03(1))

Sec. 2-92. Bonds.

(a) The clerk-treasurer, chief of police and such others as the statutes or the council may direct shall execute and file an official bond in such sum as the council may determine, with such bond furnished by a surety company as provided by Wis. Stats. § 632.17(2). The council may at any time require new and additional bonds of any officer. All official bonds must be approved by the mayor, and when so approved shall be filed within ten days after the officer executing the bond shall have been notified of his election or appointment. Official bonds filed with the city clerk-treasurer shall be recorded by him in a book kept for that purpose.

(b) The City of Evansville elects not to give a bond to the county treasurer provided for by Wis. Stats. §70.67(1).

(c) Pursuant to Wis. Stats. §70.67(2), the City of Evansville shall pay, if the clerk-treasurer fails to do so, all taxes of any kind required by law to be paid by such clerk-treasurer to the county treasurer.

(Code 1986, § 1.03(2), Ord. 2018-07)

Sec. 2-93. Ineligibility of persons having private interest in city contract.

No person shall be eligible to any city office who directly or indirectly has any private interest, as prohibited by Wis. Stats. § 946.13, in any public contract with such city.

(Code 1986, § 1.03(3))

Sec. 2-94. Medical examinations.

(a) All persons hired as full-time city employees shall submit to a medical examination at the city's expense. Such reports shall be examined only by such city

² **Cross references:** Any ordinance fixing of salaries of public officials and employees saved from repeal, § 1-10(3); building inspector, § 18-51 et seq.; municipal judge, § 34-61 et seq.; chief of police, § 70-51 et seq.; zoning administrator, § 130-51 et seq.; chairperson for the board of zoning appeals, § 130-77.

officials as must know the contents thereof to properly evaluate the report, and otherwise such reports shall be kept confidential except upon the express or implied consent of the employee involved.

(b) All full-time police officers shall submit to the public safety committee such a report of medical examination at least once every three years.

(c) Committees may require such examinations of any other full-time or part-time employees whenever they deem it advisable.

(d) The information contained on such reports may be used by the committees or department heads to withdraw the offer of employment after an initial offer has been made.

(Code 1986, § 1.03(4))

Sec. 2-95. Temporary vacancies.

If any officer is incapacitated or absent from any cause, the council may appoint some person to discharge his duties until he returns or until such disability is removed.

(Code 1986, § 1.03(5))

Sec. 2-96. Powers and duties of officers.

(a) *Generally.* Officers shall have generally the powers and duties prescribed for like officers of towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law, and except as to the mayor shall perform such duties as shall be required of them by the council. Officers whose powers and duties are not enumerated in Wis. Stats. ch. 62 shall have such powers and duties as are prescribed by law for like officers or as are directed by the council.

(b) *Mayor, clerk, treasurer, attorney, chief of police, alderpersons and police officers.* The statutory provisions describing and defining the duties and powers of the mayor, clerk, treasurer, attorney, chief of police, alderpersons and police officers in Wis. Stats. § 62.09(8), (9), (11)--(13), as amended, are hereby adopted and by reference made a part of this chapter as if fully set forth in this chapter.

(Code 1986, § 1.03(6)) Ord 2016-23

Sec. 2-97. Departmental rules.

All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings.

(Code 1986, § 1.03(7))

Sec. 2-98. Nepotism.

(a) *Prohibited.* No person shall be employed by the city while he or a member of his immediate family is:

- (1) Authorized or required to participate in the employment, disciplining or removal of such person.
- (2) Authorized or required to participate in determining the wages, hours or working conditions of such person.
- (3) Authorized or required to exercise supervision over such person.

(b) *"Immediate family" defined.* For purposes of this section, immediate family includes spouse, brother, sister, father, mother, son, daughter, brother-in-law or sister-in-law, mother-in-law or daughter-in-law or father-in-law or son-in-law.

(c) *Applicability.*

- (1) This section applies only when considering whether to employ or appoint a person and not when such person is already employed or is holding a city office.
- (2) This section shall not apply to part-time, seasonal or temporary employees who are compensated by the city less than \$5,000.00 in any 12-consecutive-month period.

(Code 1986, § 1.03(10))

Sec. 2-99. Notice of job openings.

Job postings, notices and promotions shall be conducted in accordance with City and department policy. Department heads are to provide notification in such a manner that is in keeping with the position. All department head and officer of the City positions shall be posted no less than a class 2 notice. Supervisory committees of the department head position to be advertised shall determine how, when and what notice will be provided.

(Code 1986, § 1.03(11)) Ord 2016-23

Sec. 2-100. Criminal Background Checks.

- 1) The city shall conduct a criminal background check on all candidates for employment who reach final consideration for employment with the city. Additionally, when the city determines there to be a job related and business necessity for screening current employees for criminal conduct, the city shall require a criminal background check on a current employee.
- 2) When assessing an individual applicant or current employee with a criminal conviction or a pending criminal charge, the city shall consider whether the circumstances of the criminal conviction or pending criminal charge are substantially related to the circumstances of the particular job. In making this assessment, the city shall consider such things as the nature and gravity of the crime, the circumstances of the offense, the time elapsed since the offense

and/or completion of the sentence, the nature of the job and any other relevant information.

(Ord. 2013-09)

Secs. 2-101--2-120. Reserved.

DIVISION 2. ELECTED OFFICIALS

Sec. 2-121. Enumerated.

The elected officials shall be a mayor, two alderpersons from each alderperson district, and a municipal judge.

(Code 1986, § 1.01(1))

Sec. 2-122. Terms.

The mayor shall be elected in even-numbered years for a two-year term. One alderperson shall be elected from each alderperson district each year for a two-year term. The municipal judge shall be elected in even-numbered years for a four-year term. The regular term of the mayor and alderpersons shall commence on the third Tuesday of April in the year of election. The term of office of the municipal judge shall commence on May 1 in the year of election.

(Code 1986, § 1.01(2))

Sec. 2-123. Eligibility.

No person shall be elected by the people to a city office who is not at the time of his election a citizen of the United States and of this state and an elector of the city, and, in case of an alderperson district office, of the alderperson district, and actually residing therein.

(Code 1986, § 1.01(3))

Sec. 2-124. Compensation.

- (a) The mayor and alderpersons shall receive such salaries as may be provided from time to time by ordinance. Such ordinances establishing or changing such salaries for the ensuing year shall be adopted at the regular meeting of the council not later than in February or each year. Whenever salaries of an officer who may be elected or appointed for a definite term are to be changed or established, the council shall, not later than in February or each year, fix the amount of salary of such officer for the ensuing year. The salary of an elected officer shall not be increased or diminished during his term of office. The term "ensuing year," as used in this section, shall mean the year following beginning May 1 and ending April 30.

(b) The mayor and alderpersons shall be paid monthly. All other salaries shall be paid as directed by the city council.

(c) The compensation or salaries to be paid the officers of the city are established as follows:

(1) Mayor: \$550.00 per month.

(2) Alderperson:

a. One Hundred dollars (\$100) per meeting for each regular or special meeting of the council attended by an alderperson member. Compensation for special meetings may be waived at the discretion of the Council.

b. Seventy-Five dollars (\$75.00) per meeting for each meeting attended of any permanent, standing committee.

For the purpose of this section, the month shall commence on the date of the regular monthly council meeting and terminate on the day prior to the next regular monthly council meeting.

(3) Non-Alderperson Committee Members

a. Permanent, standing committee, board and commission members (excluding the Police Commission, ad hoc and sub-committees) shall be paid twenty dollars per meeting.

b. Police Commission members shall be paid twenty-five dollars per meeting.

(d) Such salaries shall commence on the third Tuesday of April in the year of the election of such officers.

(Code 1986, § 1.01(4), Ordinance 2003-2, Ord. 2008-01, Ord. 2011-01, Ord. 2013-08, Ord. 2014-02, Ord 2016-23, Ord. 2020-01)

Sec. 2-125. Vacancies.

Vacancies in elected municipal offices shall be filled in accordance with Wis. Stats. § 17.23.

(Code 1986, § 1.01(5))

Secs. 2-126--2-140. Reserved.

DIVISION 3. ADMINISTRATOR

Sec. 2-141. Office created.

In order to provide the city with a more efficient, effective and responsible government under a system of a part-time mayor and part-time common council at a time when city government is becoming increasingly complex, there is hereby created the office of city administrator for the city.

(Code 1986, § 1.06(1))

Sec. 2-142. Appointment; term; removal.

The city administrator shall be appointed by the mayor on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office, subject to confirmation by a majority vote of the council. The administrator shall hold office for an indefinite term subject to removal at any time by a three-fourths vote of the council. This section, however, shall not preclude the council from establishing other employment terms and conditions not inconsistent with the provisions of this division or other provisions of this Code.

(Code 1986, § 1.06(2))

Sec. 2-143. Residency.

The city administrator is considered an emergency employee under Section 66.0502(4) of the State Statutes.

(Code 1986, § 1.06(3))

Sec. 2-144. Powers and duties.

The city administrator, subject to the limitations defined in resolutions and ordinances of the city and state statutes, shall be the chief administrative officer and finance director of the city, responsible only to the mayor and the council for the proper administration of the business affairs of the city, pursuant to the statutes of the state, the ordinances of the city, and the resolutions and directives of the council, with power and duties as follows:

(1) *General duties.*

- a. Carry out directives of the mayor and council which require administrative implementation, reporting promptly to the mayor and council any difficulties encountered therein.
- b. Be responsible for the administration of all day-to-day operations of the city government, including the monitoring of all city ordinances, resolutions, council meeting minutes and state statutes.
- c. Prepare a plan of administration, including an organization chart, which defines authority and responsibility for all non-statutory positions of the city, and submit it to the city council for adoption as the official organization and administrative procedure plan for the city.
- d. Establish when necessary administrative procedures to increase the effectiveness and efficiency of city government according to current practices in local government, not inconsistent with subsection (1)c of this section or directives of the mayor and council.
- e. Serve as ex officio nonvoting member of all boards, commissions and committees of the city, except as specified by the council or state statutes.

- f. Keep informed concerning current federal, state, and county legislation and administrative rules affecting the city and submit appropriate reports and recommendations thereon to the council.
- g. Keep informed concerning the availability of federal, state and county funds for local programs, and assist department heads and the council in obtaining these funds under the direction of the mayor and the council.
- h. Represent the city in matters involving legislative and intergovernmental affairs as authorized and directed as to that representation by the mayor and council.
- i. Act as public information officer for the city with the responsibility of ensuring that the news media are kept informed about the operations of the city and that all open meeting rules and regulations are followed.
- j. Establish and maintain procedures to facilitate communications between citizens and city government to ensure that complaints, grievances, recommendations and other matters receive prompt attention by the responsible official, and to ensure that all such matters are expeditiously resolved.
- k. Promote the economic well-being and growth of the city through public and private sector cooperation.

(2) *Responsibilities to city council.*

- a. Attend the regular council meeting and attend committee of the whole and special meetings as requested by the mayor, assisting the mayor and the council as required in the performance of their duties.
- b. In coordination with the mayor, the council, and the clerk-treasurer, ensure that appropriate agendas are prepared for all meetings of the council, all council committees, and all other appropriate committees and commissions of the city, together with such supporting material as may be required; with nothing in this subsection being construed to give the administrator authority to limit or in any way prevent matters from being considered by the council, or any of its committees and commissions.
- c. Keep the mayor and council regularly informed about the activities of the administrator's office by written report at regular meetings of the council and at those special council meetings as requested.
- d. If action normally requiring council approval is necessary at a time when the council cannot meet, the administrator shall receive directives from the mayor.

(3) *Personnel.*

- a. Be responsible for the administrative direction and coordination of all employees of the city according to the established organizational procedures of the city and the state statutes.
 - b. Recommend to the council the appointment, promotion, and, when necessary for the good of the city, suspension or termination of department heads.
 - c. In consultation with the appropriate department head and committee, be responsible for the appointment, promotion, and, when necessary for the good of the city, suspension or termination of employees below the department head level.
 - d. Serve as personnel officer for the city with responsibilities to see that complete and current personnel records, including specific job descriptions, for all city employees are kept; evaluate in conjunction with department heads the performance of all employees on a regular basis; recommend salary and wage scales for city employees not covered by collective bargaining agreements; develop and enforce high standards of performance by city employees; ensure that city employees have proper working conditions; and work closely with department heads to promptly resolve personnel problems or grievances.
 - e. Act as the lead in labor contract negotiations and collective bargaining issues.
 - f. Work closely with department heads to ensure that employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills.
 - g. Has direct supervision of Finance Department office staff.
- (4) *Budgeting and purchasing.*
- a. Be responsible for the preparation of the annual city budget, in accordance with guidelines as may be provided by the city council and in coordination with department heads, and pursuant to state statutes, for review and approval by the mayor and the council.
 - b. Administer the budget as adopted by the council.
 - c. Report quarterly to the council on the current fiscal position of the city.
 - d. Supervise city operations in accordance with current professional accounting practices, city fiscal policies and internal controls.
 - e. Advise bonding activity and capital improvement plan (CIP).
 - f. Analyze fiscal trends and projections.

(Code 1986, § 1.06(4), Ord. 2013-01, Ord. 2020-01)

Sec. 2-145. Cooperation and assistance by city officials and employees.

All officials and employees of the city shall cooperate with and assist the city administrator so that the city government shall function effectively and efficiently.

(Code 1986, § 1.06(5))

Secs. 2-146--2-160. Reserved.

DIVISION 4. APPOINTED OFFICIALS

Sec. 2-161. Enumerated; appointments to be made by mayor.

The following officials shall be appointed by the mayor, subject to confirmation by the city council:

- (1) Clerk-treasurer. References to the city clerk or city treasurer throughout this Code shall be to the clerk-treasurer.
- (2) City assessor.
- (3) City attorney.
- (4) Engineer.
- (5) City auditor.
- (6) City administrator.

(Code 1986, § 1.02(1), Ord. 2013-01, Ord. 2014-02, Ord 2015-10, Ord 2016-23, Ord. 2020-01)

Sec. 2-162. Reserved.

(Code 1986, § 1.02(2), repealed by Ord. 2012-10)

Sec. 2-163. Terms.

Terms of office for appointed officials shall be as follows:

- (1) Clerk-treasurer for an indefinite term ending upon voluntary resignation or removal by a vote of three-fourths of the city council for inefficiency, neglect of duty, official misconduct or malfeasance in office.
- (2) City administrator for the term or series of terms defined in the city administrator's employment agreement.
- (3) Other officers for a two-year term beginning January 1 of each odd-numbered year or as defined in a council resolution or otherwise provided by state statute.

(Code 1986, § 1.02(3); Ord. No. 2003-18, § 1, 12-9-2003, Ord. 2014-02, Ord. 2015-10, Ord 2016-23, Ord. 2020-01, Ord. 2020-14)

Sec. 2-164. Vacancies.

Vacancies in appointive offices shall be filled by appointment for the remainder of the unexpired term by the appointing power and in the manner prescribed by law for making regular, full-term appointments thereto.

(Code 1986, § 1.02(5))

Sec. 2-165. Eligibility of alderpersons.

No alderperson shall, during the term for which he is elected, be eligible to any appointive city office, except that the council may be represented on boards and commissions and the council may fix the tenure of such representatives notwithstanding any other provisions.

(Code 1986, § 1.02(6))

Secs. 2-166--2-190. Reserved.

**ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES ³
(RESERVED)**

Secs. 2-191--2-240. Reserved.

ARTICLE V. FINANCE⁴

DIVISION 1. GENERALLY

Sec. 2-241. Expenditures to be in accordance with appropriations.

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 2-264. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the council, to

³ **Cross references:** Historic preservation commission, § 62-31 et seq.; library board, § 74-31 et seq.; park and recreation board, § 86-31 et seq.; plan commission, § 94-31 et seq.; economic development committee, § 94-71 et seq.; taxation board of review, § 114-31 et seq.; board of zoning appeals, § 130-71 et seq.

⁴ **Cross references:** Any ordinance for the letting of contracts without bids saved from repeal, § 1-10(9); any ordinance for the tax and special assessment levies saved from repeal, § 1-10(11); any ordinance for the budget ordinances, resolutions and actions saved from repeal, § 1-10(15); taxation, ch. 114.

be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriations shall continue in force until the purpose for which the appropriation was made shall have been accomplished or abandoned.

(Code 1986, § 3.05)

Sec. 2-242. Claims procedure.

(a) *Generally; auditing by council.* No account or demand against the city, except as provided in subsections (c) and (d) of this section, shall be paid until it has been audited by the city council and an order drawn on the city treasury therefor. Every such account shall be itemized.

After auditing, the city council shall cause to be endorsed by the clerk-treasurer, over his hand on each account, the word "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council shall show to whom and for what purpose every such account was allowed, and the amount. Every such account or demand allowed in whole or in part shall be filed by the clerk-treasurer, and those of each year consecutively numbered, and each shall have endorsed the number of the order on the clerk-treasurer issued in payment, and the clerk-treasurer shall take a receipt thereon for such order.

(b) *Verification of claims.* All accounts, demands or claims against the city shall be verified by the claimant or proper official.

(c) *Alternative payment procedure.* Payments may be made from the city treasury after the city clerk audits and approves each claim as a proper charge against the treasury, and endorses his or her approval on the claim after having determined that all of the following conditions have been complied with:

1. That funds are available for the claim pursuant to the budget approved by the governing body.
2. That the item or service covered by the claim has been duly authorized by the proper official, department head or board or commission.
3. That the item or service has been actually supplied or rendered in conformity with the authorization described in paragraph 2.
4. That the claim is just and valid pursuant to law. The city clerk may require the submission of proof to support that claim as the city clerk considers necessary.

The city clerk shall file with the city council not less than monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

The city shall obtain an annual detailed audit of its financial transactions and accounts by a certified public accountant licensed or certified under Wisconsin Statutes, Chapter 442, and designated by the city council.

The alternative payment procedure herein shall be operative only if the city clerk is covered by a fidelity bond of not less than \$5,000.

The alternative payment procedure herein shall not be applicable to claims to bring and maintain legal action against governmental bodies or officers, agents or employees pursuant to Wisconsin Statutes, Section 893.80.

(d) *Emergency Medical Volunteer Funds.* Pursuant to the authority granted by Section 66.0608 of the Wisconsin statutes, the Emergency Medical Services Coordinator, or his or her delegate, has authority to deposit volunteer funds of the volunteer funds, as defined in subparagraph i below, in an account in the name of the department and to have exclusive control over the expenditure of the volunteer funds subject to the following limitations:

- i. Volunteer funds shall mean funds that are raised by employees of the Emergency Medical Services Department, volunteers, or donated to the department.
- ii. The account shall not have a balance greater than five thousand dollars (\$5,000).
- iii. Account transactions shall be reported to the Finance Director/Treasurer on a monthly basis, and the account shall comply with the city's budget and audit procedures.
- iv. Notwithstanding the above, volunteer funds shall remain the property of the City of Evansville until disbursed.

(Code 1986, § 3.06; Ord. 2009-07, Ord. 2012-08)

Sec. 2-243. Travel expenses.

(a) The city shall reimburse city officials and employees for necessary incurred expenses while on city authorized and approved business according to the policy and guidelines relating to travel, lodging and meals defined in the city employee handbook.

(b) The travel expense restrictions will be adjusted periodically to compensate for price changes by amendment to the city employee handbook.

(Code 1986, § 3.08; Ord. No. 1999-9, § 1, 8-10-1999)

Sec. 2-244. General license and permit requirements.

No person or applicant shall be issued or reissued or have renewed a license or permit in the City of Evansville unless all delinquent municipal taxes, assessments, and overdue ordinance violation forfeitures are paid in full.

(Ord. 2006-38)

Sec. 2-245. Non-sufficient funds.

A charge as established by the council from time to time by resolution and as set forth in appendix A will be imposed for any check, credit card charge or other payment draft document in payment of a bill returned at any time unpaid by the financial institution on which drawn.

(Ord. 2012-01)

Secs. 2-246--2-260. Reserved.

DIVISION 2. BUDGET PROCEDURES

Sec. 2-261. Departmental estimates.

When requested by the finance committee, each year, each officer, department and committee shall file with the clerk-treasurer and city administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the city administrator and shall be designated as "departmental estimates," and shall be as nearly uniform as possible for the main division of all departments.

(Code 1986, § 3.03(1))

Sec. 2-262. Preparation of preliminary budget.

The city administrator shall coordinate a preliminary budget for the finance committee showing estimated income for the next year based on the current tax rate plus any adjustments recommended by the finance committee. The city administrator shall prepare preliminary budgeted expenses from proposed budgets submitted by departments, including wage adjustments per contracts and recommendations for noncontract labor wage adjustments. The city administrator shall prepare a listing of each department's requested capital outlay, broken down by item or project. The preliminary budget shall include the past year's and present city valuation and tax rates.

(Code 1986, § 3.03(2))

Sec. 2-263. Hearing; approval by council.

The council shall hold a public hearing on the budget as required by law. Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the council as resolutions.

(Code 1986, § 3.03(3), Ord. 2020-01)

Sec. 2-264. Changes in budget.

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof shall not be changed after approval of the budget except by resolution on a two-thirds vote of the entire membership of the city council. Notice of such transfer shall be given by publication within ten days thereafter in the official city newspaper.

(Code 1986, § 3.04)

Sec. 2-265. Utility Budget.

Utility expense in excess of revenue and reserves shall be authorized by three-fourths of all members of the Common Council.

(Ord. No. 2020-01)

Secs. 2-266—2-280. Reserved.

DIVISION 3. FIRE PROTECTION RESPONSE FEE⁵

Sec. 2-281. Imposed; fee schedule.

Owners of real property and personal property shall be charged a fire protection response fee according to the schedule published from time to time by the Evansville Fire Protection District, of which the city is a participant. The schedule of fire protection response fees shall be available to the public at the office of the Evansville Fire Protection District and the office of the city clerk-treasurer at city hall.

(Code 1986, § 3.09(1)(a))

Sec. 2-282. Interest on unpaid accounts.

The Evansville Fire Protection District may charge up to 1 1/2 percent per month interest on unpaid fire protection response fee accounts, provided the Evansville Fire Protection District complies with all federal and state laws concerning the charging of interest on delinquent accounts.

(Code 1986, § 3.09(1)(b))

Sec. 2-283. Property subject to fee.

All real and personal property shall be subject to the fire protection response fee, even if the real or personal property is exempt from general taxation by the city.

(Code 1986, § 3.09(1)(c))

Sec. 2-284. Appeals.

⁵ **Cross Reference:** Fire prevention and protection, Ch. 50. ⁶ **Cross references:** Definitions generally, § 1-2.

The Evansville Fire Protection District shall create and follow an appeal procedure for property owners who contest a response fee charged.

(Code 1986, § 3.09(1)(d))

Sec. 2-285. Maximum fee.

The fire protection response fee shall be set by the Evansville Fire Protection District.

(Code 1986, § 3.09(1)(e)) Ord 2016-23

Sec. 2-286. Collection of unpaid fees.

(a) Unpaid fire protection response fees more than 90 days old from date of first billing shall be placed as a special charge on the real property served, pursuant to the authority contained in Wis. Stats. § 66.60(16)(a). Such special charge shall not be payable in installments. The special charge shall become a lien as of October 1 of the year of delinquency, or October 1 of the following year if the delinquency was less than 90 days old as of October 1 of any year.

(b) As an alternative to, and in addition to, the provisions of subsection (a) of this section, the Evansville Fire Protection District may commence legal proceedings for collection of unpaid fire protection response fees due from real or personal property owners of the city.

(Code 1986, § 3.09(2))

Secs. 2-287--2-310. Reserved.

ARTICLE VI. PUBLIC RECORDS

Sec. 2-311. Definitions.⁶

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

Authority means any of the following city entities having custody of a city record:

- (1) An office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or
- (2) A formally constituted subunit of an entity listed in subsection (1) of this definition.

⁶ **Cross references:** Definitions generally, § 1-2.

Custodian means that officer, department head, division head, or employee of the city designated under section 2-313 or otherwise responsible by law to keep and preserve any city records or file, deposit or keep such records in his office, or who is lawfully in possession or entitled to possession of such public records and who is required by this article to respond to requests for access to such records.

Record means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. The term "record" includes but is not limited to handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. The term "record" does not include:

- (1) Drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working;
- (2) Materials that are purely the personal property of the custodian and have no relation to his office;
- (3) Materials to which access is limited by copyright, patent or bequest; and
- (4) Published materials in the possession of an authority other than a public library that are available for sale or are available for inspection at a public library.

Sec. 2-312. Duty to maintain records; delivery to successors in office.

(a) Except as provided under section 2-317, each officer of the city shall safely keep and preserve all records received from the officer's predecessor or other persons and required by law to be filed, deposited or kept in the officer's office or which are in the lawful possession or control of the officer or of the officer's deputies, or to the possession or control of which the officer or the officer's deputies may be lawfully entitled as such officers.

(b) Upon the expiration of each such officer's term of office or whenever the office becomes vacant, the officer, or on the officer's death the officer's legal representative, shall on demand deliver to the officer's successor all records then in the officer's custody, and the successor shall receipt therefor to the officer, who shall file such receipt with the clerk-treasurer. If a vacancy occurs before a successor is qualified, such records shall be delivered to and receipted for by the clerk-treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

Sec. 2-313. Legal custodians.

(a) Each elected official is the legal custodian of personal records and the records of the office, but the official may designate a staff employee to act as the legal custodian.

(b) Unless otherwise prohibited by law, the clerk-treasurer or the clerk-treasurer's designee shall act as legal custodian for the city council and for any committees, commissions, boards or other authorities created by ordinance or resolution of the city council.

(c) For every authority not specified in subsection (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate a staff employee to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in the custodian's absence or the absence of the custodian's designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Wis. Stats. § 19.21 et seq. and this article. The designation of a legal custodian does not affect the powers and duties of an authority under this article.

Sec. 2-314. Right to access; fees and deposits.

(a) Except as provided in section 2-316, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stats. § 19.35(1).

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.

(d) A requester may obtain copies or be permitted to view, but not use other media, to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

- (1) The cost of photocopying shall be the amount as established by the council from time to time by resolution and as set forth in appendix A. Such cost shall be calculated not to exceed the actual, necessary and direct cost of reproduction.

- (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
- (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes or videotapes, shall be charged.
- (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- (5) There shall be no charge for locating a record unless the actual cost exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to ensure payment if such estimate exceeds \$5.00.
- (7) Elected and appointed officials of the city shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (8) The legal custodian may provide copies of a record without charge or at a reduced charge where the custodian determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Wis. Stats. § 19.34, and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This subsection does not apply to members of the city council.

Sec. 2-315. Access procedures.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stats. § 19.37. Except as provided in this article, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under section 2-314(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons for denial. If the legal custodian, after conferring with the city attorney, determines that a written request is so general as to be unduly time-consuming, the party making the request may first be required to itemize the request in a manner that would permit reasonable compliance.

(c) A request for a record may be denied as provided in section 2-316. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stats. § 19.37(1), or upon application to the attorney general or a district attorney.

Sec. 2-316. Limitations on right to access.

(a) As provided by Wis. Stats. § 19.36, the following records are exempt from inspection under this article:

- (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law, except that any portion of that record which contains public information is open to public inspection as provided in Wis. Stats. § 19.36(6).
- (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aid by the state.
- (3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
- (4) A record or any portion of a record containing information qualifying as a trade secret as defined in Wis. Stats. § 134.90(1)(c).
- (5) Except with respect to an applicant who is a final candidate, as such term is defined in Wis. Stats. § 19.36(7)(a), any record related to the application that may reveal the identity of the applicant, if the applicant has indicated in writing that he does not wish the city to reveal his identity.
- (6) A record or portion of a record under Wis. Stats. § 19.35(1)(a) that contains specific information, including but not limited to a name, address, telephone number, voice recording or handwriting sample, which, if disclosed, would identify an informant, the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without

identifying the informant, the entire record unless the legal custodian of the record, designated under Wis. Stats. § 19.33, makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.

- (7) Income and expense information provided to the City's Assessor under Section 70.47(7)(af) of the Wisconsin Statutes shall be held by the Assessor on a confidential basis except, however, that the information may be revealed to and used by persons in the discharging of duties imposed by law, in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the board of Review in performance of its official duties), or pursuant to order of a court. Income and expense information provided to the Assessor under Section 70.47(7)(af), unless a court determines that it is inaccurate, is, per Section 70.47(7)(af), not subject to the right of inspection and copying under Section 19.35(1), Wis. Stats.

(b) As provided by Wis. Stats. § 43.30, public library circulation records are exempt from inspection under this article.

(c) In responding to a request for inspection or copying of a record not specifically exempt from disclosure, the legal custodian, after conferring with the city attorney, may deny the request, in whole or in part, only if the custodian determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include but are not limited to the following:

- (1) Records obtained under official pledges of confidentiality that were necessary and given in order to obtain the information contained in them.
- (2) Records of current deliberations after a quasi-judicial hearing.
- (3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any city officer or employee, or the investigation of charges against a city officer or employee, unless such officer or employee consents to such disclosure.
- (4) Records concerning current strategy for crime detection or prevention.
- (5) Records of current deliberations or negotiations on the purchase of city property, investing of city funds or other city business whenever competitive or bargaining reasons require nondisclosure.
- (6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

- (7) Communications between legal counsel for the city and any officer, agent or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications that are privileged under Wis. Stats. § 905.03.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If in the judgment of the custodian and the city attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(Ord. No. 2018-06)

Sec. 2-317. Destruction.

(a) City officers may destroy non-utility records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. § 442.01 et seq., subject to preapproval by state public records board retention and destruction schedule ordinance pursuant to Wis. Stats. § 16.61(3)(e).

(b) City officers may destroy utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. § 442.01 et seq., subject to state public service commission regulations, subject to preapproval by state public records board pursuant to Wis. Stats. § 16.61(3)(e),

(c) Unless notice is waived by the state historical society, at least 60 days' notice shall be given the state historical society prior to the destruction of any record as provided by Wis. Stats. § 19.21(4)(a).

(d) Any audio recordings of a governmental meeting of the city may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

(Ord. No. 2001-1, § 1(3.11), 2-13-2001, Ord. 2014-13, Ord 2016-23, Ord. 2017-07)

Sec. 2-318. Preservation through microfilm.

Any city officer or the director of any department or division of city government may, subject to the approval of the city council, keep and preserve public records in such officer's possession by means of microfilm or other photographic reproduction method.

Such records shall meet the standards for photographic reproduction set forth in Wis. Stats. § 16.61(7)(a) and (b), and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of sections 2-314--2-316.

Sec. 2-319. Fee for clerk/treasurer search and report of tax and special assessments.

A fee as determined by the common council from time to time will be charged to any person requesting a written report from the Evansville clerk/treasurer of the status of real estate taxes and special assessments for any real estate parcel in the city. The fee shall be paid before the report is issued.

(Ord. No. 2000-22, § 1(3.10), 1-9-2001)

Sec. 2-320. Fees for open records requests.

- (1) *Fee for locating records needed for open records request.* As permitted by § 19.35, Wis. Stats., as may be amended from time to time, there will be charged to the requester a fee to locate a record at the rate of the hourly wage of the lowest paid city employee in the department in which the record is customarily located. The city clerk/treasurer shall maintain a chart of the hourly rate of the lowest paid city employee in each department. This fee shall be charged to the requester only if the custodian of the record first determines the actual, necessary, and direct cost of location exceeds \$50.00. The record requester shall prepay the record location fee to the custodian of the record.
- (2) *Fee for photocopy of document for open records request.* As permitted by § 19.35, Wis. Stats., as may be amended from time to time, there will be charged to the record requester the actual, necessary, and direct cost of making a photocopy of any document shall be part of the fee schedule and set by resolution. The record requester shall pay the photocopy cost to the custodian of the record, and shall prepay the cost if the photocopy cost exceeds \$5.00.
- (3) *Fee for copy of other than paper document.* As permitted by § 19.35, Wis. Stats., as may be amended from time to time, there will be charged to the record requester the actual, necessary, and direct cost of making a copy of any photograph, chart, computer printout, or other document other than an existing paper document. The custodian of the record shall determine the cost of making the copy and advise the record requester prior to incurring the expense. The record requester shall pay the copy cost to the custodian of the record, and shall prepay the cost if the cost exceeds \$5.00.
- (4) *Fee for mailing and shipping records.* As permitted by § 19.35, Wis. Stats., as may be amended from time to time, there will be charged to the record requester the actual, necessary, and direct cost of mailing or shipping the records request at the rate established for the U.S. Mail or the shipper selected by the record

requester. The record requester shall pay the mail and shipping fee to the custodian of the record, and shall prepay if the mailing or shipping cost exceeds \$5.00.

- (5) *Waiver of fees.* The custodian of the record may waive or reduce for a record requester any of the above stated fees, if in the opinion of the custodian of the record such waiver or reduction is in the public interest.

(Ord. No. 2001-1, § 1(3.11), 2-13-2001, Ord. 2014-13, Ord 2016-23)

Chapter 6

ALCOHOL BEVERAGES¹

Article I. In General

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Sec. 6-2	Regulations pertaining to licensed premises.
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Sec. 6-5	Purpose and Findings.
Sec. 6-6	Prohibited Acts.
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Article II. Licenses and Permits

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Sec. 6-34	Consent of applicant to future regulations and amendments.
Sec. 6-35	Restrictions on issuance of "Class A" licenses.
Sec. 6-36	Standards for issuance; license quota for "Class B" licenses.
Sec. 6-37	Investigation and inspection.
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Sec. 6-40	Loss of rights on abandonment of business.
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Sec. 6-42	Duplicate license.
Sec. 6-43	Temporary Class "B" (picnic) beer license and temporary "Class B" (picnic) wine license.
Sec. 6-44	Operator's license.
Secs. 6-45--6-60	Reserved.

Division 2. Permit for Consumption in Public Parks

¹ **Cross references:** Businesses, Ch. 22; alcohol beverage or refreshments at cemeteries, § 26-12.

Secs. 6-61--6-62	Reserved.
Sec. 6-63	Eligibility; application; issuance.
Sec. 6-64	Reserved

ARTICLE I. IN GENERAL

Division 1 – Generally

Sec. 6-1. Intent and Purpose

(a) **State Statutes Adopted.** The provisions of Wis. Stats. Ch. 125 defining, describing and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to underage persons, are adopted and made a part of this section by reference. Violation of any such provisions shall constitute a violation of this section. Penalties for violations by or relating to sale, procurement, dispensing or transfer to underage persons shall strictly conform to the penalties imposed for violations of identical offenses defined and described in Wis. Stats. Ch. 125, adopted in this section.

(b) **Intent.** It is the City's intent to regulate the sale of alcoholic beverages within City limits in a manner that promotes public health, safety, morals and general welfare of the community. It is further the City's intent to discourage underage consumption, retail theft, delinquency or other violations of law. The City further intends to make the issue of licenses and permits in a manner that is orderly, uniform and fair to all while promoting the City's goals of tourism, business and general welfare.

(Code 1986, § 12.04(1), Ord. 2023-06)

Sec. 6-2. Regulations pertaining to licensed premises.

(a) **Unlawful or disorderly conduct prohibited.** Premises licensed under this chapter shall, at all times, be conducted in an orderly manner, and no unlawful conduct, either under municipal ordinance or state law, shall be allowed at any time on any licensed premises.

(b) **Sales by clubs.** No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(c) **Payment of state liquor taxes.** No licensee shall possess or sell or offer for sale any intoxicating liquor upon which the state tax established by Wis. Stats. Ch. 139 has not been paid.

(d) **Dancing.** No dancing by patrons or entertainers shall be permitted on premises for which a class "A" license has been granted.

(e) **Sale of commodities other than alcohol beverages.**

- (1) No holder of a class "B" liquor license shall sell any commodity other than such commodities as such "class B" liquor and class "B" fermented malt beverages license permits; provided the holder of such license may also sell tobacco for retail use and smoking accessories. No holder of a "class B" liquor license shall conduct any other business except pool, billiards or a bowling alley in the premises for which such license is granted.

- (2) This subsection shall not apply to restaurants or hotels, which may sell or dispose of food under their restaurant or hotel licenses.

(f) **Closing hours.** No premises for which a retail liquor or fermented malt beverage license has been issued shall remain open nor shall any intoxicating liquor or fermented malt beverages be sold or dispensed:

- (1) **Class A license.** If a Class A license, between 9:00 p.m. Saturday evening and 6:00 a.m. on Sunday, and on weekdays between 9:00 p.m. and 6:00 a.m. the next day, provided this subsection shall not prohibit drugstores holding such Class A license from remaining open on Sundays and beyond the hours set forth in this subsection for the conduct of business other than that provided for by such Class A license.

(2) **Class B license.**

- a. If a Class B license, on Saturdays and Sundays between 2:30 a.m. and 6:00 a.m., and on weekdays between 2:00 a.m. and 6:00 a.m. On January 1, premises operating under a class B license are not required to close. No package, container or bottle sales may be made after midnight.
- b. This subsection shall not prohibit restaurants, bowling alleys or similar establishments holding Class B licenses from remaining open beyond the hours set forth for the conduct of business other than that provided for by such class B license.

- (3) **Christmas Eve.** No person having a Class A license shall sell or dispense liquor or fermented malt beverages after 6:00 p.m. on Christmas Eve.

(g) **Violations by agents or employees.** A violation of this section, section 6-1, or article II, division 1 of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(h) **Temporary Extension of Premise and Sidewalk Cafés.**

- (1) The granting of a temporary extension of premise license for special events or sidewalk cafés shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages as permitted by the specific license held during the period of time and in the area described in the application for such temporary extension as expressly approved by the Common Council. Such authority is contingent upon and subject to the licensee obtaining any and all other special privileges and permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought.

- (2) Any business holding a valid Class B, Temporary Class B, Class C, Brewery, or Winery license may apply for the temporary extension of such license for a special event. The sidewalk café would create a designated outdoor seating area on public right of way immediately adjoining the premises for the purpose of consuming food or beverages

prepared at the full-service restaurant, coffee shop, tavern or other business serving food or beverages adjacent thereto or participating in other amenities offered by the adjoining business, subject to the following conditions. The extension of premise permit and sidewalk café shall be effective for the set date(s) and time approved by the Common Council subject to the requirements set forth in subsection 3.

(3) General Requirements-

- a. Applications for a temporary extension of premise for a special event or sidewalk café shall be made by an individual, or an authorized agent, in the case of a corporation, partnership or limited liability company, who shall be personally responsible for compliance with all of the terms and provisions of this chapter.
- b. The license holder is responsible to see that alcoholic beverages are served in compliance with state laws. Alcohol beverages may be sold and served only by the licensee.
- c. If applicable obtain a street closure permit in accordance with Sec 106-163 of the Municipal Code.
- d. Place a fence, planters or barricade around the portion of the property where fermented malt beverage, intoxicating liquor and/or wine may be sold, and consumed or possessed. Sidewalk café provisions as set forth in Sec 130-568
- e. Restrict the outdoor sale, consumption and possession of fermented malt beverages, intoxicating liquor, and wine to the approved hours.
- f. Provide adequate supervision and security to ensure public order and safety.
- g. Maintain compliance with accessibility requirements provided in the Americans with Disabilities Act (ADA) through and within the temporary seating and or sales display area.
- h. Provide a certificate of general liability insurance which must include coverage for the applicant's activities in the extended area.
- i. Remove all furniture, furnishings and equipment moved onto sidewalk and street at the end of each day/event.
- j. Anchor umbrellas in such a way that sudden burst of wind will not lift them out of their holders or blow them over.
- k. Do not obstruct access to a fire hydrant or obstruct one's view of the hydrant from the street.

- l. Pick up the trash from the approved area on a regular basis and keep it in a clean, orderly, litter free and hazard free condition.
 - m. If the extension is approved the City Clerk shall issue temporary extension of premises license reflecting the approved area to the licensee which must be posted on the premises at all time.
 - n. The licensee shall not allow patrons to bring alcohol beverages into the extended area from another location, nor carry open containers of alcohol beverages about within the area (patrons must be at a table), nor to carry open containers of alcohol beverages in the area outside the approved premise.
 - o. The licensee granted a temporary extension of licensed premises for special events shall not sell any alcohol or nonalcoholic beverages for consumption in bottles, cans and glass containers at the location of the extension of licensed premises. Beverages shall only be sold in single-service cups for on-premises consumption in the location of the temporary extension or sidewalk café of the licensed premises.
 - p. Smoking is prohibited within confinements of sidewalk cafés.
- (4) Application- The application for a temporary extension of premise or sidewalk café shall be filed not less than 15 days prior to the date upon which the applicant wishes that the application be considered by the Public Safety Committee, which date shall be not less than 30 days prior to the proposed special event.
- a. Submitted applications shall be referred by the City Clerk to the Municipal Services Director, Police Chief and Community Development Director along with the Street Closure application for review and recommendation. Each submitted application will be reviewed, a background check performed (if necessary) and recommend issuance or denial of the extension.
 - b. The Public Safety Committee will review the application and any recommendations from the City Clerk, Municipal Services Director, Police Chief, and Community Development Director. The Public Safety Committee shall decide by majority of those voting whether to recommend or not recommend to Common Council. The Public Safety Committee may attach any conditions and/or limitations as they deem necessary.
 - c. The Common Council will review the application and any recommendations set forth. Upon review the Council shall decide by majority of those voting whether to approve or deny the license. The Common Council may attach any conditions and/or limitations as they deem necessary. Upon the Common Council's approval the City Clerk shall issue a temporary extension of premise license or sidewalk café to the applicant.

An application may be denied if the Public Safety or the Common Council does not feel it is in the best interest of the city.

Any applicant denied a license or disagrees with the conditions and/or limitations set forth on the license may request an appeal to the Common Council. The applicant must submit in writing to the City Clerk a request to appeal the decision within 30 days of the initial decision.

(Code 1986, § 12.04(12)(a), (c), (e)--(g), (13), (18), Ord 2012-23, Ord. 2022-03, Ord. 2023-06)

Sec. 6-3. Consumption in public place.

(a) No person shall drink or carry for the purpose of immediate consumption in any container an alcohol beverage upon the streets, sidewalks, parks, public parking lots, public buildings or public school property within the city unless the proper licenses have been issued under Sec. 6-2, Sec. 6-43, and/or Sec. 106-163.

(Code 1986, § 9.17(1), (2)(a), Ord. 2022-03)

Sec 6-4 Definitions.

(a) Unless otherwise herein provided, the definitions found in Section 125.02, Wis. Stats., shall apply to the provisions of this chapter.

Alcohol Beverage means fermented malt beverages and intoxicating liquor.

Event or Gathering means any group of two or more persons who have assembled or gathered together for a social occasion or other activity.

Host or Allow means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

Parent means any person having legal custody of a juvenile:

As natural, adoptive parent or step-parent

As a legal guardian; or

As a person to whom legal custody has been given by order of the Court

Residence, Premises, or Public or Private Property means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

Underage Person means a person who has not attained the legal drinking age.

Present means being at hand or in attendance.

In control means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

Class A- means sale for consumption off the premises. Examples: Liquor stores, grocery stores or convenience stores. See (Sec. 125.25, Wis. Stats.) & (Sec. 125.51(2), Wis. Stats.) for more details.

Class B- means for consumption on or off premises. Examples: Restaurants, bars or taverns. See (Sec. 125.26, Wis. Stats.) & (Secs. 125.51(3), 125.51(3r), Wis. Stats.) for more details

Class C Wine License – Authorizes the retail sale of wine by the glass for consumption on the licensed premises.

Intoxicating Liquor - Any beverage (except fermented malt beverages as defined in sec. 125.02(6), Wis. Stats.) made by a distillation process from agricultural grains, fruits and sugars, containing 0.5% or more of alcohol by volume (sec. 139.01(3), Wis. Stats.). For example, beverages sold under the name of whiskey, brandy, gin, rum, cordials.

Cider – An alcohol beverage obtained by fermentation of the juice of apples or pears that contains 0.5 to 7.0 percent alcohol by volume. (sec. 139.01(2m), Wis. Stats.). "Cider" may be flavored, sparkling, and/or carbonated. (sec. 139.03(2n), Wis. Stats.).

Wine - Any beverage (except beer) made by a fermentation process from agricultural products, fruits and sugars, containing not less than 0.5% and not more than 21% of alcohol by volume (sec. 125.02(22), Wis. Stats.). For example, beverages sold under the name of wine, vermouth, sake. It includes cider containing more than 7% alcohol by volume.

(Ord. 2012-17, Ord. 2021-03, Ord 2022-03, Ord. 2023-06)

DIVISION 2. HOSTING GATHERINGS INVOLVING UNDERAGE POSSESSION AND CONSUMPTION OF ALCOHOL

Sec 6-5 Purpose and Finding.

(a) The City Council of the City of Evansville, Wisconsin intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City Council of Evansville finds:

Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

Prohibiting hosting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

Alcohol is an addictive drug which, when used irresponsibly, does have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.

A deterrent effect is created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

[Ord. 2012-17, Ord. 2023-06]

Sec 6-6 Prohibited Acts.

It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(a) A person is in violation of this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(b) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

[Ord. 2012-17]

Sec 6-7 Exceptions.

(a) This division does not apply in cases where a person procures for, sells, dispenses of or gives away alcohol beverage to an underage person in the direct company of his or her parent, guardian or spouse who has attained the legal drinking age, who has consented to the underage person acquiring or consuming the alcohol beverages and is in a position to observe and control the underage person.

(b) This division does not apply to legally protected religious observances.

(c) This division does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

[Ord. 2012-17]

Sec 6-8 Penalties.

An adult who violates any provision of this section must appear in municipal court and is subject to the following penalties:

(a) A forfeiture of not more than \$500 if the adult has not committed a previous violation within 30 months of the violation.

(b) Fined not more than \$500 if the adult has committed a previous violation within 30 months of the violation.

(c) Fined not more than \$1,000 if the adult has committed two previous violations within 30 months of the violation.

(d) Fined not more than \$10,000 if the adult has committed three or more previous violations within 30 months of the violation.

(Ord. 2012-17, Ord. 2018-01)

Secs. 6-9--6-30. Reserved.

ARTICLE II. LICENSES AND PERMITS

DIVISION 1. GENERALLY

Secs. 6-31--6-32. Reserved

Sec. 6-33. Filing of list of licensees with state department of revenue.

(a) By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this division, except a picnic, manager's or operator's license.

(Code 1986, § 12.04(5)(d), Ord. 2020-04)

Sec. 6-34. Consent of applicant to future regulations and amendments.

(a) By filing the application for a class A, B or C license under this division, the applicant consents that the council may make any rule or regulation or alteration or amendment to this chapter at any time during the period for which such license is granted.

(Code 1986, § 12.04(5)(e)(1))

Sec. 6-35. Restrictions on issuance of Class A licenses.

(a) The number of "Class A" intoxicating liquor licenses which may be issued to persons or premises in the city is limited to one (1) for each five-hundred (500) population in the city as defined by Wis. Stats. § 125.51(4). An application for a "Class A" liquor license shall not be favored or disfavored because the applicant already has been granted a Class "A" fermented malt beverage license.

(b) A Class "A" fermented malt beverage license may be granted separately from or in conjunction with a granting of a "Class A" intoxicating liquor license. The number of Class "A" fermented malt beverage licenses the city may issue is subject only to the applicable limit under state law, if any.

(Code 1986, § 12.04(5)(e)2, 3, Ord. 2006-7, Ord. 2012-11, Ord. 2020-04, Ord. 2023-06)

Sec. 6-36. Standards for issuance; license quota for Class B licenses.

(a) Location of premises.

(1) No retail Class A or B license shall be issued for premises the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church, except that this prohibition may be waived by a majority vote of the Common Council. Such distance shall be measured by the shortest route along the roadway from the closest point of the main entrance of such school, church or hospital to the main entrance of such premises.

(2) This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school, hospital or church building.

(3) This subsection shall not apply to a restaurant located within three hundred (300) feet of a church or school. This paragraph applies only to restaurants in which the sale of alcohol beverages accounts for less than fifty (50%) percent of their gross receipts.

(b) Issuance to violators of liquor, beer or wine laws or ordinances. No retail class A, B or C license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or wine law or the provisions of this division, section 6-1 or section 6-2 during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

(c) Health, safety and sanitation requirements. No license shall be issued for any premises which do not conform to the sanitary, safety and health requirements of the state department of commerce and the state department of health and social services and to all such local ordinances and state regulations adopted by the city.

(d) License quota.

(1) Class "B" fermented malt beverages license.

a. The number of persons and places that may be granted a Class "B" fermented malt beverage license under this division is limited to one (1) for each four hundred (400) population in the city, as defined by Wis. Stats. § 125.51(4).

b

(2) **"Class B" liquor license.** Only one (1) "Class B" liquor license shall be granted for each 500 population in the city as defined by Wis. Stats. § 125.51(4).

(3) **Exceptions.** Nothing contained in this subsection shall prevent a license being granted to any person or the assignee of any person holding a "Class B" liquor license on May 10, 1977; nor shall anything contained in this subsection prevent the council, in its discretion, from granting a license to any person who otherwise qualifies therefor according to Wis. Stats. § 125.51(4)(g), or from granting a Class "B" fermented malt beverage license to a bona fide club, as defined in Wis. Stats. § 125.02(4), which has existed in the city for not less than six (6) years and has been incorporated in the state for not less than 30 years, if sale or service of fermented malt beverages is restricted to club members, members of affiliated clubs and guests of either in a separate room which is locked during closing hours and no carryout sales are made.

(4) **"Class C" wine license.** The City Council may grant a "Class C" wine license, as defined in Wis. Stats. § 125.51(3m), without quota, to any restaurant that will agree in writing to the following conditions:

a. Sale of wine shall only be by the glass or in an open original container for consumption on the premises where sold.

b. The person shall be qualified under Wis. Stats. § 125.04(5) for a restaurant in which the sale of alcohol beverages accounts for less than fifty (50%) percent of gross receipts and which does not have a barroom if the city's quota under subsection (d)(2) of this section and Wis. Stats. § 125.51(4) prohibits the city from issuing a "Class B" liquor license to that person.

c. The license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

d. The license shall particularly describe the premises for which it is issued.

e. The council may not waive at any time any of these requirements as they are by state statute, and the requirements may be amended by state statute from time to time.

(e) **Payment of delinquent taxes, assessments and claims.** No license shall be initially granted or renewed to any person or applicant who, or premises for which,

municipal taxes, assessments, or overdue ordinance violation forfeitures due the City are delinquent and unpaid. When this section applies to an initial application for a license, the person or applicant shall be given notice of the intent to not issue the license and an opportunity to rebut the assertion of unpaid obligations. If this section is invoked upon a person or applicant request for renewal, the notice and opportunity for hearing provisions of Section 125.12(3) of the Wisconsin Statutes shall apply.

(f) **Residences not to be licensed.** No license shall be issued for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

(Code 1986, § 12.04(6); Ord. No. 2003-13, § 1, 11-11-2003, Ord. 2006-39, Ord. 2021-03, Ord. 2023-06)

Sec. 6-37. Investigation and inspection.

(a) The City Clerk shall notify the Chief of Police, Fire Chief and Building Inspector of each application for a license under this division, and those officials shall inspect or cause to be inspected each application and the premises, together with any other investigations, accompanied by a recommendation as to whether a license should be granted or refused.

(b) In determining the suitability of any applicant, consideration shall be given to the financial responsibility of the applicant, the appropriateness of the location and the premises proposed and, generally, the applicant's fitness for the trust to be reposed.

(c) No license shall be renewed without a reinspection of the premises and reports as originally required.

(d) Applications shall be valid for a period of 90 days prior to issuance.

(Code 1986, § 12.04(7), Ord. 2023-06)

Sec. 6-38. Procedure for issuance.

(a) **Generally.** Opportunity shall be given by the Council to any person to be heard for or against the granting of any license under this division. Upon approval of the application by the Council, the City Clerk shall file a receipt showing the payment of the required license fee and issue a license to the applicant.

(b) **Operator's license.** For provisions pertaining to operator's licenses, see section 6-44.

(c) **Picnic license.** For provisions pertaining to picnic licenses, see section 6-43.

(Code 1986, § 12.04(8), Ord. 2021-03, Ord. 2023-06)

Sec. 6-39. Contents.

(a) All licenses issued under this division shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee.

(Code 1986, § 12.04(9)(a))

Sec. 6-40. Loss of rights on abandonment of business.

(a) Any person holding a Class B license under this division who abandons such business shall forfeit any right or preference had to the holding and renewal of such license. The closing of such premises for fifteen (15) days or more shall be prima facie an abandonment.

(Code 1986, § 12.04(9)(b), Ord. 2020-04, Ord. 2023-06)

Sec. 6-41. Unlawful use of license; defacing, destroying or removing license.

(a) No person shall post a license issued under this division or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license, or remove such license without the consent of the holder thereof.

(Code 1986, § 12.04(11)(a))

Sec. 6-42. Duplicate license.

(a) Whenever a license issued under this division is lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfaction given as to the facts and upon payment of a fee as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 12.04(11)(b))

Sec. 6-43. Temporary Class "B" (picnic) beer license or temporary "Class B" (picnic) wine license.

(a) Picnic licenses may be issued by the Public Safety Committee under Wis. Stats. § 125.26(6). Application therefor shall be filed not less than 15 days prior to the date upon which the applicant wishes that the application be considered by the Public Safety Committee, which date shall be not less than thirty (30) days prior to the date such license is intended to be used. Applications may be accepted within such thirty (30) day period if the applicant agrees in writing to pay the cost of any special meeting of the Council or the Committee called for the purpose of acting upon such application.

(b) Any applicant wishing to obtain a Temporary Class "B" or "Class B" license or temporary outdoor premises shall pay the permit fee provided for, and present a completed written application form to the City Clerk along with any corresponding publication fees. The application shall be created and provided by the City Clerk.

(c) A written premise description along with a site plan describing the outdoor area sought to be added as an addendum to the licensed premises; said site plan, drawing or map also complying with and indicating all buildings and structures on the property, lot lines, setbacks, measurements, zoning uses or surrounding property, appropriate fencing, entrances and exits, safety and lighting, and any other requirements deemed necessary by the City Clerk, Chief of Police, or zoning officer. Premises for which a Temporary Class “B” beer or Temporary “Class B” wine license has been applied for on City property shall receive approval of the Common Council.

(d) The applicant shall have a certificate of insurance and shall name the City as an insured party as its interest may appear. The City Clerk shall be furnished with a copy of the certificate of insurance before the license is approved. Such coverage shall be primary and non-contributing with any insurance carried by the City.

(Code 1986, § 12.04(14), Ord2 2022-03, Ord. 2023-06)

Sec. 6-44. Operator's license.

(a) **Regular.** Application for an operator's license under § 125.17, Wis. Stats., shall state the name, residence, age, birthdate, and sex of the applicant, together with such other pertinent information as the City Clerk requires, and shall be issued by the Clerk for a period of no longer than two years to the renewal date of June 30, upon approval as detailed below.

(1) Submitted applications shall be referred by the City Clerk to the Police Department for review and recommendation. The Police Chief shall review each submitted application, perform a background check and recommend issuance or denial of the license.

(2) The Public Safety Committee will review the application and any recommendations from the Police Chief. The Public Safety Committee shall decide by majority of those voting whether to grant or deny a license to the applicant. The Public Safety Committee may attach any conditions and/or limitations to a granted operator license as they deem necessary.

(3) Upon the Public Safety Committee’s approval the City Clerk shall issue a regular operator license to an applicant.

(4) If an application is denied the applicant must wait at least six (6) months before they can apply for another operator license.

(b) Provisional license.

(1) Application for a provisional operator's license under Wis. Stats. § 125.17(5) shall be made to the City Clerk and shall state the name, residence, age, birthdate and sex of the applicant, together with such other pertinent information as the City Clerk requires. The provisional license shall be issued by the City Clerk following a background check and an approval recommendation by the Chief of Police.

(2) A provisional license shall be issued only to a person who has applied for an operator's license under this section. The provisional license shall expire sixty (60) days after its issuance or when the operator's license is issued, whichever is sooner.

(3) The City Clerk or the Public Safety Committee may revoke the provisional license if it discovers that the holder of the provisional license made a false statement on the application for a provisional license or a regular operator's license.

(4) The provisions of Wis. Stats. § 125.17(5) are hereby adopted in their entirety, and any conflict between this section and that statute as it may exist from time to time shall be resolved in favor of the statutory provision.

(c) **Violations.** The City has generally found convictions for the following offenses are substantially related to the duties and responsibilities associated with an operator's license. For purposes of these guidelines, any pending prosecution shall be treated as a conviction.

(1) OWI (all collectively referred to herein as "OWI"): Operating Under the Influence of an Intoxicant or Other Drugs, under Wis. Stat. § 346.63, local ordinances in conformity therewith, or other similar laws from other states, (commonly referred to as OWI, OWPBAC, PBAC, DWI, or DUI); or driving any vehicle while under the influence of alcohol or drugs; or injuring any person or damaging any property while driving under the influence of alcohol or other drugs.

a) The City has generally found OWI convictions within one (1) year of application for a License are grounds for denial of a License.

b) The City has also generally found two or more OWI convictions within five (5) years of application for a license can be grounds for denial of a License.

(2) Underage Drinking: Any underage drinking conviction which is the same as or similar to Wis. Stat. § 125.07(3) or (4) is substantially related to the duties and responsibilities associated with alcohol beverage licenses.

a) Any such underage drinking conviction within one (1) year of application for a license is typically grounds for denial.

b) Two or more such underage drinking convictions within five (5) year of application for a license are typically grounds for denial.

(3) Service to Underage Persons. Any service to underage persons conviction which is the same as or similar to Wis. Stat. § 125.07(1)(a) is substantially related to the duties and responsibilities associated with alcohol beverage licenses.

a) Two (2) or more service to underage persons within one (1) year of application for a License is typically grounds for denial.

(4) Drug Offense. The City has generally found that the following convictions are substantially related to the duties and responsibilities associated with alcohol beverage licenses: manufacturing, distributing or delivering a controlled substance or controlled substance analog under Wis. Stat. § 961.41(1); possessing with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Wis. Stat. § 961.41(1m); possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law or law of another state that is substantially similar to Wis. Stat. § 961.41(1) or (1m); possessing any of the materials listed in Wis. Stat. § 961.65 with intent to manufacture methamphetamine under that section or under federal law or a law of another state that is substantially similar to Wis. Stat. § 961.65; or possessing controlled substances as regulated by Chapter 961, Wis. Stats.

a) The City has generally found such convictions within one (1) year of application for a License are grounds for denial.

b) The City has generally found two or more such convictions within five (5) years of application for License can be grounds for denial of a License.

(5) Overall Conviction Record, Felons, or Other Offenses. No operator's license shall be issued under this guideline to any person who has:

a) Been convicted of a felony that substantially relates to the circumstances of the licensed activity unless the person has been duly pardoned;

b) Been deemed a habitual law offender;

c) Convictions not specifically listed above shall also be grounds for denial of a License, as reasonably determined in the sound discretion of the City; or

d) Any intentionally or accidentally omitted any violation it will be considered a false application, resulting in the delay and or possible denial of the application.

(Code 1986, § 12.04(15); Ord. No. 1999-10, § 1, 7-13-1999; Ord. No. 2000-21, § 2, 1-9-2001, Ord. 2021-03, Ord. 2023-06)

Secs. 6-45--6-60. Reserved.

DIVISION 2. PERMIT FOR CONSUMPTION IN PUBLIC PARKS²

² **Cross references:** Parks and recreation, Ch. 86.

Sec. 6-63. Eligibility; application; issuance.

(a) **Eligibility.** Eligible permit holders under this division are limited to residents of the city or the Evansville School District; persons who own real estate in the city or school district; recognized organizations, including sport leagues, the majority of whose members are residents of the city or school district; or companies having the city or school district as the company's principal place of business.

(b) **Form of application.** Applications shall be in a form determined and provided by the City Clerk, to include the name, address, telephone number and date of birth of the applicant, the date for which the permit is desired, and the approximate number of persons in the party. The Clerk may require such additional information about the applicant as the Clerk deems necessary. The permit form shall be as provided by the Clerk.

(c) **Filing of application; scope of permit.** Applications shall be made in person by the applicant at least forty-eight (48) hours in advance of the date for which the permit is requested. Organizations may in one application obtain a permit for each event date or league play date, paying the permit fee required for each date. The permit shall extend to all members of the applicant's immediate party of legal drinking age. The permit shall be valid for only one calendar date, which date will be specified thereon.

(d) **Fee.** The fee for each permit shall be as established by the council from time to time by resolution and as set forth in appendix A. The fee shall be payable at the time of application, and is not refundable.

(e) **Issuance.** The Clerk or the Deputy shall issue permits according to the requirements of this division, and may refuse to grant a permit if the applicant incompletely or falsely prepares the application or the applicant has violated terms of a permit or alcohol law at any prior time. An organization shall have permits for remaining unused dates revoked if there is violation of a prior permit date or any federal, state, county or city alcohol law.

(Ord. No. 1999-5, § 3, 5-11-1999, Ord. 2014-02, Ord. 2020-04)

Chapter 10

AMUSEMENTS AND ENTERTAINMENTS¹

Article I. In General

Sec. 10-1. Penalty.
Secs. 10-2--10-30. Reserved.

Article II. Public Entertainments

Sec. 10-31. Definitions.
Sec. 10-32. License fees.
Sec. 10-33. Exemptions from license requirement.
Secs. 10-34--10-60. Reserved.

Article III. Tavern Dancehalls

Division 1. Generally

Sec. 10-61. Dancing space.
Sec. 10-62. Hours when dancing permitted.
Secs. 10-63--10-80. Reserved.

Division 2. License

Sec. 10-81. Required.
Sec. 10-82. Rights granted by license.
Sec. 10-83. Application.
Sec. 10-84. Fee.

¹ **Cross references:** Businesses, ch. 22.

ARTICLE I. IN GENERAL

Sec. 10-1. Penalty.

Except as otherwise provided in this chapter, in addition to the suspension, revocation or nonrenewal of any license issued under the provisions of this chapter, any person who shall violate any provision of this chapter or who shall fail to obtain a license or permit as required under this chapter shall be subject to a penalty as provided in section 1-11.

(Code 1986, § 12.12)

Secs. 10-2--10-30. Reserved.

ARTICLE II. PUBLIC ENTERTAINMENTS

Sec. 10-31. Definitions².

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

Public entertainment means any sporting activity, show, theater, circus, carnival, concert or similar activity to which the public is admitted upon payment of an admission fee or other thing of value.

(Code 1986, § 12.08(1))

Sec. 10-32. License fees.

License fees for bowling alleys, circuses and carnivals, jukeboxes, pool and billiard tables, public entertainments, skating and roller rinks, and theaters shall be as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 12.08(2))

Sec. 10-33. Exemptions from license requirement.

(a) Whenever any public entertainment is part of a larger public entertainment or is conducted on premises which are licensed under this article, no additional license shall be required.

(b) Entertainments of a scientific, historical or literary character or entertainments conducted under the management of citizens of the city for religious, charitable, cultural,

² **Cross references:** Definitions generally, § 1-2.

scientific or eleemosynary purposes or authorized school or college functions shall not be required to obtain a license.

(Code 1986, § 12.08(3))

Secs. 10-34--10-60. Reserved.

ARTICLE III. TAVERN DANCEHALLS

DIVISION 1. GENERALLY

Sec. 10-61. Dancing space.

(a) No tavern dancehall license shall be issued, nor shall any public or private dancing be permitted, unless such premises shall have 100 square feet or more of unobstructed continuous floor area available for dancing space.

(b) The dancing space shall not include the area enclosed by an imaginary line six feet in front of any bar and the back bar wall, or the area within three feet of any part of an exit door or toilet room door, any exit passageway or any other space or room which is not used exclusively by the public. Such open dancing space shall be used for dancing only and for no other purpose at the time the space is used for dancing purposes.

(Code 1986, § 12.10(3))

Sec. 10-62. Hours when dancing permitted.

All public and private dancing and instrumental music conducted under the authority of a license issued pursuant to this article shall be permitted only for the hours stated in section 6-2(f).

(Code 1986, § 12.10(6))

Secs. 10-63--10-80. Reserved.

DIVISION 2. LICENSE

Sec. 10-81. Required.

No person holding a class "B" retail intoxicating liquor or fermented malt beverage license shall offer, secure or permit in the place for which such license is granted any dancing, whether public or private, without having first procured a tavern dancehall license as provided in this article.

(Code 1986, § 12.10(1))

Sec. 10-82. Rights granted by license.

A tavern dancehall license, when issued by the city clerk-treasurer, shall entitle the holder thereof to permit dancing upon such licensed premises, provided nothing contained in this section shall authorize or permit entertainment, exhibitions or floorshows other than instrumental music and recorded phonograph music on such licensed premises, and any such entertainment, exhibitions or floorshows are prohibited.

(Code 1986, § 12.10(2))

Sec. 10-83. Application.

The application for a tavern dancehall license shall be filed with the city clerk-treasurer. Such application shall state the name and address of the applicant, the location at which such tavern dancehall is intended to be conducted, the name of the person owning the premises for which the permit is requested, and the type of license issued for such premises to sell intoxicating liquor or fermented malt beverages at retail. All such applications shall be accompanied by the applicable license fee.

(Code 1986, § 12.10(5))

Sec. 10-84. Fee.

The fee for a tavern dancehall license shall be as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 12.10(4))

Chapter 14

ANIMALS¹

ARTICLE I. IN GENERAL

- Sec. 14-1. Definitions.
Sec. 14-2. Excessive Animal Hoarding, Sheltering and Ownership.
Sec. 14-3. Running at large.
Sec. 14-4. Animals not permitted on school grounds.
Sec. 14-5. Unattended animals in standing or parked vehicles – Authority to remove – Liability for Removal
Sec. 14-6. Confinement and observation of animals biting person.
Sec. 14-7. Declaration of vicious animal.
Sec. 14-8. Disturbing the peace prohibited.
Sec. 14-9. Animals as gifts.
Sec. 14-10. Carcasses
Secs. 14-11--14-30. Reserved.

ARTICLE II. DOGS AND CATS

- Sec. 14-31. License.
Sec. 14-32. Applicability of state law.
Sec. 14-33. Harboring certain dogs prohibited.
Sec. 14-34. Reserved.
Sec. 14-35. Removal of waste deposited on public or private property.
Secs. 14-36 - -14-39. Reserved.

ARTICLE III. EXOTIC ANIMALS

- Sec. 14- 40. Licensing requirements.
Sec. 14- 41. Providing registration information to relevant personnel.
Sec. 14- 42. Prohibited animals.
Sec. 14- 43. Prohibited animals enumerated.
Sec. 14- 44. Owner to report escape of Exotic Animals.
Secs. 14-45 - -14-49. Reserved.

ARTICLE IV. CRUELTY TO ANIMALS AND RELATED OFFENSES

- Sec. 14-50. Cruelty to animals generally.
Sec. 14-51. Reserved
Sec. 14-52. Humane care of animals.
Sec. 14-53. Poisoning of Pets.

¹ **Cross references:** Environment, ch. 46; health and sanitation, ch. 58; agricultural district one (A-1), § 130-701 et seq.; agricultural district two (A-2), § 130-721 et seq.; agricultural district three (A-3), § 130-741 et seq.

- Sec. 14-54. Instigating or allowing fights between animals.
Sec. 14-55. Injured or ill animals.
Secs. 14-56 - -14-59. Reserved.

ARTICLE V. COMMERCIAL ANIMAL ESTABLISHMENTS.

- Sec. 14-60. Permit Required.
Sec. 14-61. Operation of Commercial Animal Establishments.

ARTICLE VI. ENFORCEMENT

- Sec. 14-62. Penalties for violations of Chapter 14.

ARTICLE I. IN GENERAL

Sec. 14-1. 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.

Animal means any multicellular organism under the scientific kingdom classification of Animalia.

Animal control officer means any person appointed by the City to act as animal control officer of the City or any police officer.

Commercial Animal Establishment means an establishment that:

- (1) Bathes, clips, plucks, or otherwise grooms animals, not their own;
- (2) Breeds, boards, or buys;
- (3) Sells or donates more than 10 animals per calendar year;
- (4) Trains, or sports animals; or
- (5) Displays or exhibits animal

Cat: a small domesticated carnivore, *Felis domestica* or *F. catus*, bred in a number of varieties.

Dog: a domesticated canid, *Canis familiaris*, bred in many varieties.

Domestic Pet means an animal that has been traditionally tamed and kept by humans as a service animal, or pet such as birds (i.e. caged birds such as parakeets, finches, macaws, and typically caged birds); small caged animals like hamsters, ferrets, sugar gliders, chinchillas, pet rats and gerbils: fish, including Dogs or Cats.

Exotic Animal Means any animal which is kept within the city limits by a person, and does not meet the definition provided under Domestic Pet.

Feral existing in a natural state, not domesticated, or having reverted to the wild state, as from domestication; or characteristic of wild animals; ferocious; brutal.

Owner means any person owning, keeping, harboring, temporarily taking care of, or having under their control one or more Pet.

Pet means all animals which are kept or cared for within the city limits by a person and including Exotic Animals, Domestic Pets, Dogs or Cats.

Pet Boarding Facility means the cages maintained by the Evansville Police Department, the Rock County Humane Society, or any private entity that conducts business as a kennel and contracts with the Evansville Police Department for boarding Pets.

Running at Large means that an animal found off the premises of its owner or keeper and not under control and restrained by leash, cord or chain and not within a vehicle. A leash, cord or chain shall not exceed 6 feet in length. Pets in designated exercise areas are not considered running at large if their activities comply with rules posted for the exercise area. All chains, ropes and leashes on the owner's property shall be so placed or attached so that they cannot become entangled with another animal or object, and shall be of sufficient length and in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. Such chain, rope or leash shall be located so as to prohibit such animal from trespassing on public property or private property belonging to others and from causing harm or danger to persons or other animals.

Service Animal means an animal specially trained to lead blind, deaf person or to provide support for mobility-impaired persons.

Unkempt means that the animal appears to be neglected, or is in poor health due to lack of food, dehydration, or untreated injuries.

Vicious means that the Pet has been declared vicious pursuant to section 14-7.

(Ord. 2020-05, Ord 2021-04, Ord. 2023-03)

Sec. 14-2. Excessive Animal Hoarding, Sheltering and Ownership.

(a) No property owner shall make or allow such use of property or harbor animals in a manner that creates one of the following violations:

- (1) Neglect of the Animals – The number of animals located at the property causing violations of 14-50 and/or 14-52 can be enforced under this provision.
- (2) Unsanitary Conditions for Humans –The location and/or number of animals cause or reasonably may cause health consequences to an individual or community such as, but not limited to, infectious bites or scratches to neighborhood children, Toxoplasmosis, asthma triggering caused by excessive urine, Leptospirosis, hookworms, Psittacosis, Lymphocytic Choriomeningitis Virus, Brucellosis, Scabies, Cryptosporidiosis, tape worms, insect infestation and rabies.
- (3) Unsanitary Conditions for Animals – The number of animals in relation to the space available and/or care provided could cause the spread of distemper, ring worm, flea anemia, Toxoplasmosis, asthma triggering caused by excessive urine, Leptospirosis, hookworms, Psittacosis, Lymphocytic Choriomeningitis

Virus, Brucellosis, Scabies, Cryptosporidiosis, tape worms, insect infestation, rabies and other unsanitary conditions.

- (4) Harboring or Attracting Feral and Stray Animals –The property owner’s actions or allowance of such actions on their property creates a harbor for feral and/or stray animals by the creation of feeding stations, leaving the premises open for animals to freely leave and return or not properly containing their refuse.
- (5) Shelters –Evansville ordinances allow animal shelters to be permitted under proper licensing and zoning requirements. Shelters that are temporary, non-profit and commercial must be properly licensed, zoned, and maintained so that they do not violate any other section of the municipal code. This subsection excludes family/friends or volunteers of non-profit shelters watching an animal temporarily unless a separate violation of this Chapter occurs. If a separate violation occurs then this section may be enforced without exception.
- (6) Noise Disturbance – Violation of ordinance 14-8
- (7) Property Maintenance and Nuisance – Violations of any ordinances pertaining to the maintenance and care of properties caused by the number of animals or causes the attraction of animals that may result a public nuisance.

Any property owner creating or allowing such a violation shall be responsible for the humane disposal or placement of the animals to the extent the property is no longer in violation of local ordinances.

(Ord. 2020-05, Ord 2021-04, Ord 2023)

Sec. 14-3. Running at large.

(a) No person having in their possession or under their control any animal shall allow the animal to run at large within the city.

(b) *Impoundment authorized.* The police department or any other officer appointed by the City shall attempt to apprehend any animal running at large within the city or any dog or cat which does any of the things prohibited under section 14-31(3). The animal may be held at the police department or other location approved by the police department for a period of 1 day or such additional time as the chief of police may determine. If the police department is unable to identify the owner of the animal; or the owner of the animal fails to respond to the police department; or pay the fees and charges the animal may be transferred to a veterinary clinic or animal boarding facility for the duration of the holding period at the expense of the owner.

(c) *Fees and charges.* The owner shall be responsible for the expense of all fees and charges for apprehension, impoundment, transport, veterinary care, quarantine, observation, and examination of the animal and may be subject to a forfeiture as provided

in section 1-11. Fees and charges shall be as established by the council from time to time by resolution.

(d) *Release to owner.* An animal may be returned to its owner upon proof that the owner has either resolved, or enrolled the animal in training to resolve, the reason the animal was impounded, completion of any required quarantine period, and payment of the fees and charges. If after seven (7) days from the date the animal was impounded or five (5) days after the expiration of the quarantined period, whichever is longer, the owner does not claim the animal and pay the fees and charges, ownership of the animal will be relinquished. The chief of police, instead of having the animal destroyed, may authorize the Rock County Humane Society or another non-profit organization to place the animal for adoption.

(Code 1986, § 11.04(1), Ord. 2012-22, Ord. 2015-01, Ord. 2016-18, Ord. 2023-03)

Sec. 14-4. Animals not permitted on school grounds.

No owner shall permit their Pet to be upon any school property except upon express permission of the school principal or their designee, except when a dog is participating in an organized event or activity. This does not include animals that would otherwise be considered Service Animals.

Sec. 14-5. Unattended animals in standing or parked vehicles – Authority to remove – Liability for Removal.

No person may leave a Pet unattended in a standing or parked vehicle in a manner that endanger the health or safety of such animal. If a Pet is found in a standing or parked vehicle, and the health and safety of the animal appears to be endangered, any animal control officer or police officer may use reasonable force to remove such animal. Removal of an unattended animal by an animal control officer or police officer shall not constitute an offense. Prior to the use of reasonable force the animal control officer or police officer shall attempt to contact the owner or operator of the vehicle.

Sec. 14-6. Confinement and observation of Pets biting person.

(a) Any Pet known to have bitten any person shall be immediately seized by a police officer of the city and reported at once to the county health department for observation and attention. Such Pet shall be placed in an isolation facility for observation for ten days or such additional period as the officer may require under Wis. Stats. § 95.21, at the expense of the owner.

(b) If the Pet has not been seized, the owner shall, on demand of the person bitten, a police officer or the county health department, immediately deliver such Pet to an isolation facility to be held for ten days for observation at the expense of the owner.

(c) The individual or entity that takes responsibility for completing the quarantine of a Pet shall report at the end of such observation without delay to the county health department by telephone and confirmed in writing all reports required by law under Wis. Ch 95 regarding the quarantine.

(d) Any person who refuses or fails to deliver such Pet as required shall be subject to a forfeiture as provided in section 1-11.

(e) If after five days or such additional time as the chief of police in their discretion may deem advisable following such ten-day observation period, the owner does not claim such animal and pay the cost of keeping such animal, such officer shall dispose of the animal in a proper and humane manner. The chief of police, instead of destroying such animal, may authorize the Rock County Humane Society or another non-profit organization to place the Pet for adoption.

(f) If the Pet is a dog or cat and the person has proof of current rabies vaccination, the isolation may be conducted within the owner's home in compliance with Wisconsin statutes.

(Code 1986, § 11.04(4), (5), Ord. 2012-22, 2015-01, Ord. 2023-03)

Sec. 14-7. Declaration of vicious animal.

The owner of a vicious animal must remove the animal from City limits or have the animal humanely disposed. An animal may be declared to be a vicious animal by at least two persons employed as a police officer, animal control officer, veterinarian, or the attending physician of a victim of an animal bite or scratch. In making such a declaration the individuals shall consider an animal to be vicious if:

- (1) An animal which, in a vicious or aggressive manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks or any public grounds, parks or places; or
- (2) An animal, while on private property, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a postal worker, meter reader, service person, journeyman, delivery person, or another person or animal that are on the private property with the consent of the owner or occupant of the private property.
- (3) No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or is not authorized to be upon the premises occupied by the owner of the animal, or who is teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

- (4) The following factors may also be considered in making a determination of viciousness:
- a. The nature or severity of the attack or bite.
 - b. Whether the animal has shown a propensity to display dangerously aggressive behavior and is able or likely to inflict injury to another animal or person.
 - c. Previous incidents of a similar nature.

(Ord. 2023-03)

Sec. 14-8. Disturbing the peace prohibited.

No person may keep a Pet which habitually makes noise to the annoyance of any two or more other person.

(Ord 2021-04)

Sec. 14-9. Animals as prizes.

No Person or entity shall offer as a prize or give away any animal, except a small fish in a plastic bag with enough water for the fish to easily move around, in a contest, raffle or lottery, as an enticement to enter any place of business, or to exploit any animal for the purpose of fundraising.

Sec. 14-10. Carcasses

Carcasses of Pets shall be buried or otherwise disposed of in a sanitary manner within 24 hours after death.

Secs. 14-11--14-30. Reserved.

ARTICLE II. DOGS AND CATS

Sec. 14-31. License.

(a) *Required.* Every person residing in the city who owns a dog or cat which is more than five months of age on January 1 of any year or five months of age within the license year shall, on or before the date the dog or cat becomes five months of age, and annually thereafter, pay the dog or cat license fee and obtain a license therefore.

(b) *Fees.* Such owner shall pay to the City Clerk the amount as established by the council from time to time by resolution. The owner of any dog or cat who fails to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable dog or cat, or fails to obtain a license on or before the dog or cat reaches licensable age

shall pay an additional late fee as established by the council from time to time by resolution and be subject to further penalties pursuant to section 14-62.

(c) *Issuance; tag.* Upon payment to the City Clerk of the required fee, the City Clerk shall issue to such person a license and tag bearing a serial number in the form prescribed by Wis. Stats. § 174.07, to keep such dog or cat for the license year. The owner shall upon procuring the license place upon the dog or cat a collar and shall securely attach and keep attached the tag furnished to them by the City Clerk to the collar as required by Wis. Stats. § 174.07. No license shall be issued under this article for any dog or cat unless the applicant exhibits a certificate of a qualified veterinarian showing that the dog or cat is currently immunized against rabies. The owner shall attach the rabies vaccination tag to a collar, which shall be kept on the dog or cat at all times, but this requirement does not apply to a dog or cat during competition or training, to a dog while hunting, to a dog or cat securely confined indoors, to a dog or cat securely confined in a fenced area or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner, as required by Wis. Stats. § 95.21(2)(f).

(d) Every Pet specially trained to lead blind or deaf persons, or to provide support for mobility-impaired persons is exempt from the license fee.

(Code 1986, § 12.03(7), Code 1986, § 12.03(1)--(3); Ord. No. 2000-8, § 1(12.03(2)), 4-11-2000, 2015-01, Ord 2021-04, Ord. 2023-03)

Sec. 14-32. Applicability of state law.

The provisions of Wis. Stats. ch. 174 and Wis. Stats. § 95.21, except for imprisonment penalties imposed are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited under this Code. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made part of this Code.

(Code 1986, § 12.03(4))

Sec. 14-33. Harboring certain dogs or cats prohibited.

No person shall possess, harbor or keep any animal which:

- (1) Habitually pursues any vehicles upon any public street, alley or highway.
- (2) Which has been declared vicious.
- (3) Is required to be licensed, but is not.
- (4) Does not have a valid license tag and current rabies vaccination tag attached to a collar which is kept on the dog or cat whenever the dog or cat is outdoors and not securely confined in a fenced area.

(Code 1986, § 12.03(6), Ord 2021-04, Ord. 2023-03)

Sec. 14-34. Reserved.

Sec. 14-35. Removal of waste deposited on public or private property.

(a) *Removal required.* Any person owning or having control of any animal on property, public or private, which property is not owned or occupied by such person, shall promptly remove excrement left by such animal and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by the person.

(b) *Possession of means of removal required.* Any person causing or permitting an animal to be on any property, public or private, which property is not owned or occupied by such person, shall have in their immediate possession a device or object suitable for removal of the excrement and a depository for the transmission of the excrement to property owned or occupied by the person.

(c) *Penalty.* Any person who fails to comply with any of the provisions of this section shall be issued a warning for the first offense and, upon conviction thereafter, shall be subject to punishment as provided in section 1-11.

Sec. 14-36. Designated Exercise Areas for Dogs

Areas of the City shall be set aside for proper socialization, exercise, and wellbeing of dogs. Such areas, per Sec 14-1, allow dogs to be without leashes and are defined as:

- (1) The fenced enclosure of the City designated Dog Park located at 535 S. Madison.
- (2) Leonard Leota Park on Saturdays from 7am to 10am.
- (3) Other special events, not longer than 8 hours, as designated by a Resolution of Common Council

(Code 1986, § 12.03(10). Ord. 2023-03)

Secs. 14-37 - - 14.39. Reserved

ARTICLE III. EXOTIC ANIMALS

Sec. 14- 40. Licensing requirements.

(a) Any person who resides within the City limits and is the owner of an Exotic Animal which is within the City limits, shall license the Exotic Animal with the city clerk. Every person residing in the city who owns an Exotic Animal on January 1 of any year or within 30 days of acquiring ownership shall annually and thereafter obtain a license.

(b) Such owner shall pay to the City Clerk the amount as established by the council from time to time by resolution. The owner of any Exotic Animal who fails to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of an Exotic Animal shall pay an additional late fee as established by the council from time to time by resolution and be subject to further penalties pursuant to section 14-62.

(Ord. 2023-03)

Sec. 14- 41. Providing registration information to relevant personnel.

The City Clerk shall provide copies of all Exotic Animal registrations to the police department and other emergency rescue personnel which may have reason to enter the premises where wild animals are present for purposes of rescue operations resulting from a natural disaster or personal emergency.

Sec. 14- 42. Prohibited animals

It shall be unlawful for any person to keep maintain or have in their possession or under their control within the City any poisonous reptile or other dangerous animal, hybrid animal, carnivorous wild animal or reptile, vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious, or dangerous propensities. Short term educational exhibits are exempt from this provision.

Sec. 14- 43. Prohibited animals enumerated.

In addition to the prohibition in section 14 – 42, it shall be unlawful for any person to keep, maintain or have in their possession or under their control within the City any of the following animals:

- (1) Any animal which has been declared to be protected or endangered by the U.S. Department of Interior;
- (2) All poisonous animals, including snakes; that upon touch or bite may cause hallucinations, alter cardiopulmonary functions, or even death.
- (3) Badgers;
- (4) Bears
- (5) Beavers
- (6) Canids (such as: wolves, foxes, coyotes, jackals, dingoes, or raccoon dogs);
- (7) Civet;
- (8) Constrictor snakes above six (6) feet in length
- (9) Crocodylian (such as: Alligators, crocodiles, or caimans);

- (10) Falconiformes (such as: eagles, hawks, owls, or falcons) except falcons and hawks in the possession of a state or federally licensed handler;
- (11) Edentata (such as: anteaters, tamadas, sloths, or armadillos);
- (12) Emus
- (13) Felids (such as: lions, tigers, leopards, cheetahs, jaguars, pumas, lynx, ocelots, or bobcats);
- (14) Game cocks and other fighting birds;
- (15) Hyenas
- (16) Marsupials (such as: opossums, Tasmanian wolf, kangaroos, koalas, or wombats);
- (17) Muskrats
- (18) Ostriches
- (19) Porcupine
- (20) Primates (such as: apes, monkeys, baboons, chimpanzees, gibbons, gorillas, orangutans, siamangs.)
- (21) Procyonids (such as: raccoons, coatis, kinkajous, ring-tailed cats, or pandas)
- (22) Rheas;
- (23) Skunks;
- (24) Squirrels;
- (25) Sharks;
- (26) Ungulates (such as: elephants, zebra, tapirs, rhinoceroses, camel, llama, caribou, antelope, bison, reindeer, deer, giraffe, hippopotamus, wild boar, gazelle, or gnu);
- (27) Water buffalo;
- (28) Wart hogs;
- (29) Weasels;
- (30) Wolverines;
- (31) Woodchucks; or
- (32) Any other dangerous animal.

Sec. 14- 44. Owner to report escape of Exotic Animal.

The owner or keeper of any Exotic Animal that escapes from their custody or control shall within one hour after they discover or reasonably should have discovered the escape, report it to a law enforcement officer of the City and the County Sheriff where the escape occurred.

Secs. 14-45 - - 14-49. Reserved

ARTICLE IV. CRUELTY TO ANIMALS AND RELATED OFFENSES

Sec. 14-50. Cruelty to animals generally.

No Person shall beat, torture, or injure any animal, nor overload any working animal, nor shall any person abuse, mistreat or neglect any such animal.

Sec. 14.51. Reserved

Sec. 14-52. Humane care of animals.

All persons keeping, possessing and/or in control of an animal shall provide the animal with sufficient food and water, proper shelter, humane care and treatment and veterinary care when needed to prevent suffering. No person shall mistreat any animal nor shall any animal be abandoned. An owner may take an animal they no longer desire to care for to an Animal Shelter licensed by the State of Wisconsin.

Sec. 14-53. Poisoning of Pets.

It shall be unlawful for any person to administer or cause to be administered a substance which they knew or should have known was a poison of any sort whatsoever to any Pet, or to place any poison or poisoned food where the same is accessible to any Pet.

Sec. 14-54. Instigating or allowing fights between animals.

No person shall engage in or allow any fighting between animals of any kind upon their premises or premises in their possession or under their control in the City. No person shall keep any house, pit, or other place to be used in permitting fights between animals. No person shall instigate or encourage any animal to attack, bite, wound, or worry another animal for any bet, stake, reward or entertainment.

Sec. 14-55. Injured or ill animals.

Whenever an animal control officer encounters a stray animal suffering pain, the animal control officer may take the animal to a veterinarian where the cost of any care or treatment shall be borne by the owner of the animal. If ownership of the animal cannot be determined, the animal control officer shall impound the animal for five days unless it appears that a longer impoundment will lead to identification of the owner. If the owner cannot be located the animal may be disposed of by humane means without notice.

Secs. 14-56 - - 14-59. Reserved.

ARTICLE V. COMMERCIAL ANIMAL ESTABLISHMENTS.

Sec. 14-60. Permit Required.

No Person or entity shall operate a commercial animal establishment without first obtaining a permit. An application for a commercial animal establishment permit shall be made to the city clerk, and the applicant shall pay a fee prior to the city clerk issuing a commercial animal establishment permit. No permit shall be granted without an inspection of the premises to determine compliance with this Code and state law. The permit shall be issued for one year, commencing on January 1 of each year. Renewal applications for permits shall be made 30 days prior to and up to 30 days after the start of the calendar year. If there is a change of ownership of a commercial animal establishment, the new owner shall obtain a permit.

Sec. 14-61. Operation of Commercial Animal Establishments.

Every Commercial Animal Establishment:

- (1) Shall be maintained in a clean and sanitary condition and not to allow any refuse or waste material to accumulate.
- (2) Shall have impervious, smooth and cleanable floors.
- (3) Shall post its permit in a conspicuous place open to the public.
- (4) Shall isolate and treat any animal in its possession which has any disease, injure, or abnormality and may not sell such animal without full disclosure to the buyer of the condition of the animal.
- (5) Shall furnish the buyer of any animal, except fish, with a written statement of sale showing the date of sale, approximate age of the animal, immunization and medication type and date administered, and the names of both the seller and buyer.

(6) Shall take measures to limit the potential creation of a noise nuisance and take measures to mitigate the actual noise at the establishment or premise.

(7) A violation of this chapter shall be cause for revocation of the Commercial Animal Establishment Permit.

(Ord. 2020-05, Ord. 2023-03)

ARTICLE VI. ENFORCEMENT

Sec. 14-62. Penalties for violations of Chapter 14.

Any person who shall violate any section within this chapter is subject to the penalties set forth in section 1-11 of the City ordinances, in addition to any other remedies or sanctions stated with this Chapter

Chapter 16
ANNEXATION

- Sec. 16-1. Petition.
- Sec. 16-2. Notice of public hearing.
- Sec. 16-3. Public hearing and review by plan commission.
- Sec. 16-4. Action by city council.
- Sec. 16-5. Fees.
- Sec. 16-6. Zoning of Annexed Land.

Sec. 16-1. Petition.

Any petition for annexation shall be accompanied by the following:

- 1) A map of the subject property showing all lands that are proposed to be annexed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- 2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all other lands on the map as the names and addresses appear on the current tax records of the city. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city at the discretion of the zoning administrator.)
- 3) A copy of the application to the state department of administration for review of the proposed annexation.
- 4) A written statement of the reasons why the petitioner is seeking annexation, such as a need to connect to municipal sewer service because of a failing septic system or a desire to subdivide the territory to be annexed and provide municipal water and sewer service to the lots in the subdivision, the reasons why the proposed annexation is or is not consistent with the city's comprehensive plan, and the reasons why the proposed annexation is or is not consistent with any boundary agreement between the city and a township;
- 5) If the proposed annexation is not consistent with the city's comprehensive plan, such written statement shall include a request for an amendment to the city's comprehensive plan so that the proposed annexation and the plan will be consistent and the reasons why the city council should amend the plan as requested by the petitioner.
- 6) A statement of the current zoning of the territory that is proposed to be annexed;
- 7) If the current zoning of the territory that is proposed to be annexed is not agricultural, an application for change in zoning under section 130-173;
- 8) The fee, if applicable, for an application for change in zoning under section 130-178;
- 9) The fee under section 110-255.

(Ord. 2005-27)

Sec. 16-2. Notice of public hearing.

The zoning administrator shall mail to property owners and publish a notice of public hearing regarding a petition for annexation that meets all of the notice requirements for an application to amend the official zoning map and/or zoning classification under section 130-175(c). The notice of public hearing shall include the proposed zoning for land covered by the petition, as described under section 16-6 below.

(Ord. 2005-27, Ord. 2012-20)

Sec. 16-3. Public hearing and review by plan commission.

After the mailing and publication of the notice under section 16-2 and before making its recommendation to the council, the plan commission shall hold a public hearing on the petition for annexation. The plan commission shall review the petition for annexation and accompanying documents and recommend to the council approval or denial of the annexation ordinance and any associated request for an amendment to the city's comprehensive plan. If the petition is not consistent with any boundary agreement between the city and a township, the plan commission shall recommend denial of the petition. The plan commission shall also make a recommendation on the zoning of the land covered by the petition, as described in section 16-6.

(Ord. 2005-27, Ord. 2012-20)

Sec. 16-4. Action by city council.

Notwithstanding any provision in chapter 130 to the contrary, the city council shall take no action on an annexation ordinance, other than giving the ordinance its first reading, and any associated application for change in zoning until the time for the state department of administration to review and issue a written comment on the proposed annexation has expired. If the proposed annexation is not consistent with the city's comprehensive plan, the city council shall deny the petition, impose conditions on approval of the petition sufficient to make the annexation consistent with the plan, or amend the plan. If the petitioner has requested an amendment to the city's comprehensive plan, the city council shall take no action on the petition until any required notice and public hearing regarding amendment of the plan has been provided and held. If the petition is not consistent with any boundary agreement between the city and a township, the city council shall deny the petition. Council action to approve the petition shall include action on the zoning of the annexed land.

(Ord. 2005-27, Ord. 2012-20)

Sec. 16-5. Fees.

A fee as the council shall establish and may from time to time modify by resolution, as set forth in appendix A, is required for consideration of a petition for annexation. In addition to the fee under this section, the applicant shall reimburse the city for all

administrative, planning, engineering and legal service costs of evaluating the annexation and the feasibility of any proposed development of the territory to be annexed. The applicant shall execute for the benefit of the city a written agreement to reimburse the city for such costs. No petition for annexation shall be processed by the city until such reimbursement agreement is executed and filed with the city clerk-treasurer and the required security, as approved by the city administrator, is provided. Such agreement and a preliminary land divider's agreement under section 110-32(b) may be combined into a single document.

(Ord. 2005-27)

Sec. 16-6. Zoning of Annexed Land.

- (1) All land annexed to the city shall automatically be zoned A under Chapter 130, Article VIII, Division 2, unless a petition requests a different zoning designation, per (2) and (3) below.
- (2) Petitioners may request that land covered by the petition be zoned to a non-agricultural district. The Plan Commission may recommend approval of the requested zoning district to the City Council, or may recommend that the petition be zoned according to (1) above.
- (3) An annexation petitioner may not request multiple zoning districts, Planned Unit Development zoning, Mobile Home Parks District zoning, or Traditional Neighborhood Development zoning under (2) above.

(Ord. 2012-20)

Chapter 18

BUILDINGS AND BUILDING REGULATIONS¹

Article I. In General

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Sec. 18-2.	Building Permit; Fees
Sec. 18-3.	Permit Lapses; Revocation
Sec. 18-4.	Adoption of State Codes
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Sec. 18-6.	Building; HVAC; Electrical; Plumbing Inspector
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Article II. Administration and Enforcement

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Article III. Electrical Code

Sec. 18-81.	State electrical code adopted.
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¹ **Cross references:** Environment, ch. 46; fire prevention and protection, ch. 50; flood area zoning, ch. 54; health and sanitation, ch. 58; historic preservation, ch. 62; planning, ch. 94; solid waste, ch. 102; streets, sidewalks and other public places, ch. 106; numbering of buildings, § 106-341; subdivisions, ch. 110; utilities, ch. 126; zoning, ch. 130; manufactured homes and trailers, § 130-1241.

Article IV. Plumbing Code

- Sec. 18-111. State plumbing code adopted.
- Sec. 18-112. Compliance with article; authority to refuse utility service.
- Sec. 18-113. Affidavit of compliance.
- Sec. 18-114. Residential and commercial business water softeners.
- Secs. 18-115--18-140 Reserved.

Article V. Fences

- Sec. 18-141. Penalty; condemnation of unlawful fences.
- Sec. 18-142. Exemptions.
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- Sec. 18-145. Electric fences.
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Article VI. Swimming Pools

- Sec. 18-171. Permit.
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- Sec. 18-221. Permit required.
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Article I. In General

- Sec. 18-1. Permit Required
- Sec. 18-2. Building Permit; Fees
- Sec. 18-3. Permit Lapses; Revocation
- Sec. 18-4. Adoption of State Codes
- Sec. 18-5. Certified Municipality Status
- Sec. 18-6. Building; HVAC; Electrical; Plumbing Inspector
- Sec. 18-7. Violations and Penalties
- Sec. 18-8. Unsafe Buildings
- Sec. 18-9. Razing of Buildings
- Sec. 18-10. Moving Buildings
- Sec. 18-11. Severability
- Secs. 18-12--18-30. Reserved.

ARTICLE I. IN GENERAL

Sec. 18-1. Permit Required

- (a) Except as otherwise expressly provided in this Chapter, no owner or contractor may construct, erect, alter, enlarge, repair, move, convert to other uses, or demolish any building, structure or mechanical system until a valid permit is obtained from a Municipal Building Inspector. The building permit shall be issued if the requirements for filing and fees are satisfied, and the plans have been conditionally approved.
- (b) The foregoing described work that shall require a building permit includes, but is not limited to:
 - (1) New 1-and 2-family dwellings and commercial buildings including agricultural buildings, detached structures (decks), and detached accessory buildings.
 - (2) Additions that increase the physical dimensions of a building including all garages, decks, balconies, stoops, and similar structures that are attached to any building.
 - (3) Alterations to the building structure, cost shall include market labor value, or alterations to the building's heating, electrical, or plumbing systems.
 - (4) Any electrical wiring for new construction or remodeling excluding new wiring for existing industrial and manufacturing facilities that do not require State mandated building plan review.
 - (5) Any HVAC for new construction or remodeling.

- (6) Any plumbing for new construction or remodeling.
- (7) Any new or re-wired electrical service, including services for agricultural buildings.
- (8) The repairs, alterations, improvements, or enlargements are in whole or in part to the exterior of the building or structure and the property is located in a historic district or is listed as a landmark, landmark site, or specially designated landmark under Chapter 62.
 - a. If a building permit is required under paragraph h) of this section, before the building permit is issued, a completed application for a certificate of appropriateness under Chapter 62 shall be submitted to the historic preservation commission for review and approval in accordance with section 62-36(10).

(c) The following construction activities shall not require a building permit:

- (1) Finishing of interior surfaces, installation of cabinetry, and repairs which are deemed minor by the Building Inspector.
- (2) Replacement of 1-and 2-family dwelling building equipment including furnaces and central air conditioners, water heaters, and any other similar equipment.
- (3) Normal repairs of HVAC, plumbing, and electrical, or systems such as replacing switches, receptacles, light fixtures, and dimmers.

(d) If, in the reasonable judgement of the Building Inspector, the character of the construction related work is sufficiently described in the application, the Building Inspector may waive the filing of plans for alterations and/or repairs, provided the cost of such work does not exceed One Thousand (\$1,000.00) Dollars.

(Code 2024, Ord. 2024-01)

Sec. 18-2. Building Permit; Fees

- (a) At the time of building permit issuance, the applicant shall pay fees as established by resolution periodically by the City.
- (b) If work commences prior to permit issuance, the permit fees shall be double.

(Code 2024, Ord. 2024-01)

Sec. 18-3. Permit Lapses; Revocation

(a) Permit Lapses

- (1) The building permit shall become null and void unless operations are commenced within 6 months from the date thereof, or if the building or work authorized by such permit is suspended at any time after work is commenced for a period of 180 days. No construction shall commence or resume unless a time extension is granted. The Building Inspector shall make the final determination as to if the permitted work has not started or has been suspended or abandoned. The permit shall not be considered expired until the Inspector has notified the permit holder in writing and offered a time extension.

- (2) In any event, except the work required to construct a one-family or two-family residence under a Wisconsin Uniform Building Permit, all work requiring a

permit shall be completed within 12 months of the issuance of the building permit. Wisconsin Uniform Building Permits shall expire 24 months after issuance if the dwelling exterior has not been completed in accordance with Wis. Admin. Code SPS 320.09(9)(a)5. Completion requires the passing of a final inspection. A 6-month extension may be granted by the City Council. Before any work is commenced or recommended after the permit has lapsed under subsections (a) or (b), a new permit, subject to regular rates and fees, shall be issued.

(b) Permit Revocation

- (1) The Building Inspector or the City Council (or its designee) may revoke any building, plumbing or electrical permit, certificate of occupancy, or approval issued under the regulations of this chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices, or appliances for any of the following reasons:
 - a. Whenever the Building Inspector shall find at any time that applicable ordinances laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning.
 - b. When the continuance of any construction becomes dangerous to life or property.
 - c. When there is any violation of any condition or provisions of the application for permit or of the permit.
 - d. When, in the reasonable judgment of the Building Inspector, there is inadequate supervision provided on the job site.
 - e. When any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
 - f. When there is a violation of any of the conditions of an approval or occupancy given by the City Building Inspector for the use of all new materials, equipment, methods or construction devices or appliances.
- (2) The notice revoking a building, plumbing or electrical permit, certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and their agent, if any, and on the person having charge of construction. A revocation placard shall also be posted upon the building, structure, equipment, or premises in question by the City Building Inspector.
- (3) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this chapter. However, such work as the City Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as the City Building Inspector may require for the preservation of life and safety.

(Code 2024, Ord. 2024-01)

Sec. 18-4. Adoption of State Codes

- (a) The following Chapters of the Wisconsin Administrative Code, as well as all subsequent future amendments, modifications, and revisions, are adopted by the Municipality and shall be enforced by the Building Inspector.

Ch. SPS 302.31	Plan Review Fee Schedule
Ch. SPS 305	Credentials
Ch. SPS 316	Electrical Code
Chs. SPS 320-325	Uniform Dwelling Code
Ch. SPS 327	Campgrounds
Chs. SPS 361-366	Commercial Building Code
Chs. SPS 375-379	Buildings Constructed Prior to 1914
Chs. SPS 381-387	Uniform Plumbing Code
Wisconsin State Statutes Chapter 101 Department of Safety and Professional Services- Regulation of Industry, Buildings, and Safety	

- (b) For the purpose of this Ordinance, the standards contained in the Wisconsin Uniform Building Code shall be expanded to apply to the alteration, enlargement or repair of existing 1- and 2-family dwellings constructed prior to June 1, 1980, for which a building permit is required under this Chapter. Submitted building permit applications for alterations or additions to homes built prior to June 1, 1980, may provide alternative methods or materials that, when deemed necessary in the opinion of the Building Inspector, meet the current intent of the code.
- (c) Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter.

(Code 2024, Ord. 2024-01)

Sec. 18-5. Certified Municipality Status

- (a) Certified Municipality. The City of Evansville has adopted the Certified Municipality Status as described in SPS 361.60 of the Wisconsin Administrative Code.
- (1) Responsibilities. The City shall assume the following responsibilities for the Department of Safety and Professional Services (Department):
- Provide HVAC and structural inspection of all sized commercial buildings with certified commercial building inspectors.
 - Provide HVAC and structural plan review of all sized commercial buildings with certified commercial building inspectors.
- (2) Plan Examination. Drawings, specifications, and calculations for all the types of buildings and structures, except state-owned buildings and structures, to be constructed within the limits of the municipality shall be submitted, if the plans are for any of the following:
- All commercial buildings, without size limitations [Appointed Agent per Wis. Stat. § 101.12(3g)].

- (3) Notes.
 - a. A certified municipality may waive its jurisdiction for the plan review of a specific project or type of project, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.
 - b. The Department may waive its jurisdiction for the plan review of a specific project, agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.
- (4) Plan Submission Procedures. All commercial buildings, structures, and alterations, including new buildings and additions less than 25,000 cubic feet, require plan submission as follows:
 - a. Building permit application.
 - b. Application for review - SBD-118, or equivalent.
 - 1. Fees per Table SPS 302.31-2 and SPS 302.31.
 - 2. Fees apply to commercial projects.
 - c. Four sets of plans.
 - 1. Signed and sealed per SPS 361.31.
 - 2. One set of specifications.
 - 3. Component and system plans.
 - 4. Calculations showing code compliance.

(Code 2024, Ord. 2024-01)

Sec. 18-6. Building; HVAC; Electrical; Plumbing Inspector

- (a) Creation and Appointment. There is hereby created the office of the Building Inspector. The Building Inspector shall be appointed by the municipality. The Building Inspector shall be certified for inspection purposes by the Department in the required categories specific under SPS 305, Wisconsin Administrative Code.
- (b) Assistants. The Building Inspector may employ, assign, or appoint, as necessary, assistant inspectors. Any assistant hired to inspect buildings shall be certified as defined in SPS 305, Wisconsin Administrative Code by the Department.
- (c) Duties. The Building Inspector shall administer and enforce all provisions of this ordinance.
- (d) Powers. The Building Inspector or an authorized certified agent of the Building Inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The Building Inspector may require the production of the permit for any building, plumbing, electrical, or heating work. No person shall interfere with or refuse to permit access to any such premises from the Inspector or his/her agent while in the performance of his/her duties. If the Inspector is refused access to any such premises, then the Inspector is authorized to apply for a special inspection warrant pursuant to Section 66.0119, Stats. The Inspector may request the assistance of City attorney, police department, and other officers and departments of the City. The Inspector shall have the authority to make periodic inspections of existing buildings to determine their safety and

to make inspections at the site of buildings damaged by any cause to determine the safety of the affected buildings.

- (e) Inspection results. The findings of inspection by the Building Inspector, plumbing inspector and electrical inspector are intended to report conditions of non-compliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the closed structural and non-structural elements or the mechanical systems of the building and premises. No warranty of the operation, use, or durability of equipment and materials not specifically cited in the findings of inspection are expressed or implied.
- (f) Appeals of orders and decisions. Appeals from orders or decisions of the city building inspector relating to granting or denying a building inspection or occupancy permit, or any other application of this chapter, may be taken pursuant to Wis. Stats. ch. 68. The zoning board of appeals shall act as the impartial decision-maker on such appeals; provided, however, that a determination of the board of appeals with respect to applications or construction subject to the Wisconsin Uniform Dwelling Code shall not entitle the applicant or permittee to a variance or exception until approved by Department of Safety and Professional Services in accordance with the provisions of Wis. Admin. Code §§ SPS320.19 and SPS320.21. Appeals to the department shall be taken within 14 days of the date on which the board of appeals' written determination is mailed to the applicant.

(Code 2024, Ord. 2024-01)

Sec. 18-7. Violations and Penalties

- (a) Prohibition. No person, firm, or entity may construct, remodel, demolish, or repair any building in a manner which violates any provision or provisions of this ordinance.
- (b) Any person, firm, or entity who violates any of the provisions of this ordinance, or who fails to comply with any order made hereunder, or who builds in violation of any detailed statement of specifications or plans submitted and conditionally approved hereunder, or any certificate or permit herein from which no such appeal has been taken, or who fails to comply with such an order as affirmed or modified by a court of competent jurisdiction within the time fixed herein, shall for each and every violation and noncompliance be subject to the following:
 - (1) Every person, firm, or entity which violates any provisions of this ordinance shall be subject to a penalty of not less than \$25.00 nor more than \$1,000.00 for each day of non-compliance, together with the costs of prosecution.
 - (2) Imposition of a penalty for each such violation shall not excuse the violation or permit it to continue and such violations or defects shall be corrected or remedied within the time stated in the order. Each and every day that a violation of this Code occurs constitutes a separate offense.
 - (c) Violations discovered by the Building Inspector shall be corrected within 30 days, or more if allowed by the Inspector, after written notice is given. Violations involving life safety issues shall be corrected in a reasonable time frame established by the Building Inspector.
 - (d) Compliance with the requirements of this ordinance is necessary to promote the safety, health, and well-being of the community and the owners, occupants, and

frequenters of buildings. Therefore, violations of this ordinance shall constitute a public nuisance that may be enjoined in a civil action.

(Code 2024, Ord. 2024-01)

Sec. 18-8. Unsafe Buildings

- (a) Whenever the Building Inspector shall find that any building or structure, or any part thereof, is dangerous to life or adjoining property by reason of bad conditions, defective construction, overloaded floors, decay, lack of guards against fire, general dilapidation or other cause, he or she shall order the owner of or tenant thereof to cause the same to be made safe or to be removed, as in the judgment of the Building Inspector may be necessary; and he or she shall also affix a notice of such order in a conspicuous place on the outside wall of the building. No person shall remove or deface such notice. The owner or tenant of such building or structure shall thereupon immediately cause the same to be made safe, or to be removed, as ordered. Any person who fails to comply with any such order shall be guilty of a violation of this section.
- (b) Where the public safety requires immediate action, the Building Inspector shall enter upon the premises with such assistance as may be necessary and cause the building or structure to be made safe or to be removed, and the expense of such work may be recovered by the City in an action against the owner or tenant.
- (c) Whenever any building or portion thereof is, in the judgment of the Building Inspector, so old, dilapidated, or out of repair and consequently dangerous, unsafe, unsanitary, or otherwise unfit for human habitation and unreasonable to repair, order the owner of the building to raze the building or, if the building can be made safe by reasonable repairs, order the owner to either make the building safe and sanitary or to raze the building, at the owner's option; or, where there has been a cessation of normal construction of any building or structure for more than two years, to raze and remove such building or part thereof. The order shall specify a time within which the owner shall comply therewith and shall specify repairs, if any. It shall be served as provided by Wis. Stats. § 66.0413.
 - (1) If the owner fails or refuses to comply within the time prescribed, the Building Inspector shall cause the building, or part thereof, to be razed and removed or closed if unfit for human habitation, use or occupancy. The cost of such razing and removal or closing shall be charged against the real estate upon which the building is located and shall be a lien upon such real estate and the amount thereof shall be certified by the Building Inspector to the City Treasurer, which shall be collected as a special tax.
 - (2) If the building, or part thereof, is unsanitary and unfit for human habitation, occupancy, or use, and is not in danger of structural collapse, the Building Inspector shall placard the premises as follows: "This Building Cannot Be Used for Human Habitation, Occupancy, Or Use."

(Code 2024, Ord. 2024-01)

Sec. 18-9. Razing of Buildings

- (a) Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building, such as water, electric, gas, sewer, and other connections. A permit to demolish or to remove a building shall not be issued until it is ascertained that service connections and appurtenant equipment, such as meters and regulators, have been removed, sealed and/or plugged in a safe manner. Excavations shall be filled with solid fill to match the lot grade within 30 days of removal of the structure. Any excavation shall be protected with appropriate fences, barriers and/or lights. Nothing within this section shall alter the requirement for obtaining approval from the historic preservation commission as required by section 62-36(11).

(Code 1986, § 14.29, Ord. 2005-31, 2024-01)

Sec. 18-10. Moving Buildings

- (a) Permit required. A permit shall be obtained from the building inspector and payment for same shall be received prior to the moving of any building or structure within or into the city. Every permit to move a building or structure shall state all conditions to be complied with, designate the route to be taken, and limit of time for removal.
- (b) Compliance with codes and conformity with existing structures required. Buildings or structures moved within or into the city shall comply with the provisions of this article for new buildings and structures where deemed practical by the building inspector. The building or structure to be moved shall conform with the existing buildings in the area in which it is to be moved as determined by the city plan commission or city zoning department.
- (c) Approval by plan commission. In no event shall a permit be issued for moving a building or structure unless it has been found as a fact by the plan commission by at least a majority vote, after an examination of the application for the permit, which shall include exterior elevations of the building and accurate photographs of all sides and views of the building, and in case it is proposed to alter the exterior of the building, plans and specifications of such proposed alterations, and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plan of the building, as related to buildings already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district established by the zoning ordinances of the city, or any ordinance amendatory thereof or supplementary thereto, will not cause a substantial depreciation in the property values of the neighborhood within the applicable district. In case the applicant proposes to alter the exterior of the building after moving the building, he shall submit with their application papers complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a bond to the city plan commission, which shall not be less than \$10,000.00, to be executed in the manner provided in sub-section e) of this section, to the effect that he will, within a time to be set by the plan commission, complete the proposed exterior alterations to the building in the manner set forth in their plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the city. No occupancy permit shall be issued for the building until the exterior alterations proposed to be made have been completed.
- (d) Unsafe or unfit buildings prohibited. No building or structure shall be moved within or into the city if deemed by the building inspector structurally unsafe. The Inspector may, at their discretion, require the applicant and/or persons responsible for moving the

building to provide sufficient structural analysis to determine the fitness of the building as it relates to the proposed movement of said building.

- (e) Bond required. Before a permit to move any building or structure is issued by the building inspector, the party applying therefore shall give a bond in the sum of \$10,000.00 with good and sufficient sureties to be approved by the building inspector, mayor and city attorney, conditioned, among other things, that such party will save and indemnify judgments, costs and expenses which may in any way accrue against the city and keep the city harmless against all liabilities, judgments, costs and expenses in consequence of granting such permit.
 - (1) Unless the building inspector, or other appointed designee, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under 12 years of age unlikely, the bond required by subsection (a) of this section shall be further conditioned upon the permittee erecting adequate barriers, and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the building inspector and reasonably adopted or calculated to prevent the occurrences set forth in this subsection.
- (f) The removal of a building shall be continuous during all hours of the day, and day by day, and at night if the building inspector so orders, until completed, with the least possible obstruction to thoroughfares. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night. The route and time of moving shall be approved, in writing, by the chief of police.
- (g) Damage to streets and highways. Every person receiving a permit to move a building or structure shall within one day after reaching its destination, report the fact to the building inspector who shall report the same to the street commissioner who shall thereupon inspect the streets and highways over which the building was moved, or cause the same to be done, and ascertain their condition. If the removal of the building or structure has caused any damage to the streets or highways over which moved, the building mover shall forthwith place them in as good repair as they were before the permit was granted. Upon failure of the building mover to do so within ten days thereafter, to the satisfaction of the street commissioner, the street commissioner shall order the repair of the damage done to such streets and highways and hold sureties of the bond given by the building mover responsible for the payment of same.
- (h) Insurance. In addition to the bond indicated sub-section 5) of this section, the City shall require public liability insurance covering injury to one person in a sum of not less than \$100,000.00 and for one accident in a sum not less than \$300,000.00, together with property damage insurance in a sum not less than \$50,000.00, or such other coverage as deemed necessary.

(Code 2024, Ord. 2024-01)

Sec. 18-11. Severability

- (a) If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances

whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

(Code 2024, Ord. 2024-01)

ARTICLE II. ADMINISTRATION AND ENFORCEMENT²

DIVISION 1. GENERALLY

Sec. 18-31. Penalty; additional remedies; citations.

(a) *General penalty.* The provisions of section 1-11 shall apply to violations of any provision of this chapter.

(b) *Injunctive remedies.* Any building or structure erected, constructed or reconstructed in violation of this chapter shall be deemed an unlawful structure and a nuisance. The city attorney, upon complaint of any person performing inspection services under this chapter, may bring an action to enjoin or abate such construction and nuisance in the municipal court or in the circuit court for the county.

(c) *Citations.* The city building inspector shall issue citations for violation of this chapter in accordance with the provisions of Wis. Stats. ch. 800, subject to endorsement by the city attorney and to the schedule of deposits from time to time established by the municipal judge and approved by the city council.

(Code 1986, § 14.05(8))

Secs. 18-32--18-50. Reserved.

DIVISION 2. BUILDING INSPECTOR³

Sec. 18-51. Appointment.

The building inspector shall be appointed as provided in section 2-161.

(Code 1986, § 14.01(1))

Sec. 18-52. Powers and duties.

The building inspector shall enforce all provisions of this chapter and laws regulating building construction, and for such purpose he may request the assistance of the city attorney, the police department and other officers and departments of the city. He shall make periodic inspections of existing public buildings to determine their safety. He shall make inspections at the site of buildings damaged by any cause to determine the safety of the buildings affected.

(Code 1986, § 14.01(2), 14.30)

² **Cross references:** Administration, ch. 2.

³ **Cross references:** Officers and employees, § 2-91 et seq.

Sec. 18-53. Appeal of orders and decisions.

Appeals from orders or decisions of the city building inspector relating to granting or denying a building inspection or occupancy permit, or any other application of this chapter, may be taken pursuant to Wis. Stats. ch. 68. The zoning board of appeals shall act as the impartial decision-maker on such appeals; provided, however, that a determination of the board of appeals with respect to applications or construction subject to the Wisconsin Uniform Dwelling Code shall not entitle the applicant or permittee to a variance or exception until approved by the state department of commerce in accordance with the provisions of Wis. Admin. Code §§ COMM 20.19 and 20.21. Appeals to the department shall be taken within 14 days of the date on which the board of appeals' written determination is mailed to the applicant.

(Code 1986, § 14.05(5))

Secs. 18-54--18-80. Reserved.

ARTICLE III. ELECTRICAL CODE⁴

Sec. 18-81. State electrical code adopted.

The Wisconsin Electrical Code, Wis. Admin. Code chs. COMM 16 and 24, volume 1, parts 1 and 2, so far as applicable, is adopted by reference and made a part of this article.

(Code 1986, § 14.11)

Sec. 18-82. Compliance with article; authority to refuse utility service.

All electrical wiring done in the city shall comply with this article. The electric utility shall not furnish service when any wiring is done or exists which does not comply with this article.

(Code 1986, § 14.12)

Sec. 18-83. Affidavit of compliance.

Prior to furnishing of service, the municipal services superintendent or the building inspector may require an affidavit of proof of compliance with this article. Such affidavit shall not be required for repair work. Replacement of an existing item with an item of similar nature and capacity shall constitute repair work.

(Code 1986, § 14.13, Ord. 2014-02)

⁴ **Cross references:** Utilities, ch. 126.

Sec. 18-84. Electrician's license.

No person shall do electrical wiring in the city for a fee or other remuneration or consideration unless he has a license from the city. No license shall be required of a trained electrician employee of any employer in the city to perform electrical wiring in or about such employer's place of business. Application for such license shall be made on the form provided by the city. All licenses shall expire on December 31. The initial license fee and the fee for the renewal of any license shall be as established from time to time by resolution and as set forth in appendix A. Any license shall be subject to revocation by the city council on proof that any wiring done by any licensee is not done in accordance with this article. Neither the initial fee nor the renewal fee shall be prorated.

(Code 1986, § 14.10)

Secs. 18-85--18-110. Reserved.

ARTICLE IV. PLUMBING CODE⁵

Sec. 18-111. State plumbing code adopted.

The State Plumbing Code, Wis. Admin. Code chs. 82--87, and all amendments thereto adopted by the state department of commerce, is incorporated into this article by reference as if set forth in full in this section.

(Code 1986, § 14.15)

Sec. 18-112. Compliance with article; authority to refuse utility service.

All plumbing done in the city shall comply with this article. The utility need not furnish service when any plumbing done does not comply with this article.

(Code 1986, § 14.16)

Sec. 18-113. Affidavit of compliance.

Prior to furnishing of service, the municipal services superintendent or plumbing inspector may require an affidavit or proof of compliance with this article. Such affidavit shall not be required for repair work. Replacement of an existing item with an item of similar nature and capacity shall constitute repair work.

(Code 1986, § 14.17, Ord. 2014-02)

Sec. 18-114. Residential and commercial business water softeners.

⁵ **Cross references:** Utilities, ch. 126.

(a) All new or replacement water softeners installed in residential and commercial business served by the city sewer collection system must regenerate based upon demand-based cycles. Demand-based softeners can be either of the flow demand type or the sensor demand type. New or replacement water softeners shall meet the following minimum requirements:

(1) Flow-based water softeners:

- a. Complete unit shall include pressure resin tank, brine tank, and demand-based automatic flow meter. Cabinet or free-standing units are equally acceptable.
- b. Demand-based automatic flow meter shall initiate resin tank regeneration based upon a preset volume of water softened through the unit. A dial or dials, or other means, shall be provided on the face of the meter to allow selection of volume to trigger regeneration. Volume shall be selected based on the capacity of the resin tank, estimate of the grains of hardness in water, number of people in the household, and typical water use per person (70 gallons per person per day is typical).

$$V = (A : B) - (C \times D)$$

Where:

- V = Preset volume to trigger regeneration, gallons
- A = Resin tank capacity, grains
- B = Water hardness, grains/gallon
- C = Number of persons in household
- D = Water use per person, gallons/person/day

Value of D shall be selected based upon best estimate of use in household.

- c. Regeneration may be delayed to a preset time (such as 2:00 a.m.) provided reserve volume is allocated to allow continued softening of water from time preset volume is reached to time of regeneration. Regeneration cycle time delay start shall be triggered by preset volume as described above.
- d. Demand-based meter valves may be of brass or approved plastic construction, and shall contain all required controls for setting regeneration volume.

(2) Sensor-based water softeners:

- a. Complete unit shall include pressure resin tank, brine tank, and demand-based sensor installed in the resin bed. Cabinet or free-standing units are equally acceptable.
- b. Sensor type softener shall be capable of sensing the degree of capacity remaining or used in the resin bed and regenerating the resin bed based upon sensed capacity used or remaining. The unit shall allow for a reserve capacity to allow regeneration during nonuse periods. This reserve shall be calculated based upon the capacity of a portion of the bed to be used for reserve.

c. A positive means shall be provided in the unit to troubleshoot problems with the sensor and allow for removal of the sensor probe as necessary.

(b) Twin resin tank type water softening systems are encouraged for residential use, but not required. Twin resin tank softeners that allow continuous water service and volume triggered regeneration without the need for setting preset regeneration time or calculating reserve volumes. New commercial and industrial establishments shall evaluate use of twin resin tank type softening systems when selecting a softening system.

(c) The city, by its building inspector, may upon review of an applicant's situation, allow an exemption to this section if treatment of iron is a consideration in the operation of the softening units. This situation will be reviewed on a case-by-case basis.

(Ord. No. 2000-10, § 1(14.18), 5-9-2000)

Secs. 18-115--18-140. Reserved.

ARTICLE V. FENCES⁶

Sec. 18-141. Penalty; condemnation of unlawful fences.

The provisions of section 1-11 shall apply to violations of this article. The building inspector may condemn any fence erected or maintained in violation of this article.

(Code 1986, § 14.21(8))

Sec. 18-142. Exemptions.

(Code 1986, § 14.21(7), deleted by Ord. 2007-10)

Sec. 18-143. Permit.

No person shall install, erect, construct, or relocate or alter a fence within the city without first obtaining a permit from the building inspector. No permit shall be issued if the building inspector determines that the proposed fence does not meet any of the requirements of this code. A sketch or design of the proposed fence, including a description of materials to be used and specification of height, shall be submitted with the application for a permit. Any person aggrieved by a decision of the building inspector may appeal to the board of appeals. There shall be a fee for a fence permit as established by the council from time to time by resolution. No fee shall be charged for a fence permit issued for outdoor swimming pool enclosures at the time of issuance of a pool permit under article VI of this chapter.

(Code 1986, § 14.21(6), Ord. 2007-10)

Sec. 18-144. Maximum height.

(Code 1986, § 14.21(1), deleted by Ord. 2007-10)

⁶ **Cross Reference:** Section 130-540 Fences

Sec. 18-145. Electric fences.

(Code 1986, § 14.21(2), deleted by Ord. 2007-10)

Sec. 18-146. Barbed wire fences.

(Code 1986, § 14.21(3), deleted by Ord. 2007-10)

Sec. 18-147. Safety or traffic hazards.

(Code 1986, § 14.21(4), deleted by Ord. 2007-10)

Sec. 18-148. Construction on property of another.

(Code 1986, § 14.21(5), deleted by Ord. 2007-10)

Secs. 18-149--18-170. Reserved.

ARTICLE VI. SWIMMING POOLS

Sec. 18-171. Permit.

No person shall commence the construction of any swimming pool without first obtaining a permit therefor from the building inspector. The fee for such permit shall be as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 14.20(3))

Sec. 18-172. Construction, equipment and maintenance standards.

All outdoor swimming pools shall be constructed, equipped and maintained in such manner as to meet the requirements of the state department of health and family services and the state department of commerce and all applicable ordinances and codes of the city.

(Code 1986, § 14.20(1))

Sec. 18-173. Enclosure.

Every outdoor swimming pool constructed in the city shall be enclosed with a fence or wall not less than four feet high and of such design and construction that it cannot be climbed through or over or under. Entrance shall be designed such that small children cannot open it and which shall be self-closing and self-latching to prevent uncontrolled access. It shall be at the discretion of the building inspector as to whether or not a gate or door meets the requirements of this section.

(Code 1986, § 14.20(2), Ord. 2004-23)

Sec. 18-174. Definitions and exclusions.

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

Swimming pool means any structure, above or below ground, which is designed to contain water in excess of twelve inches and is primarily used for recreational activities of wading and/or swimming.

(b) Section 18-173 does not apply to the following:

(1) An above-ground swimming pool, provided that the owner of the property on which the pool is located has written documentation to show that the owner has an insurance policy that covers claims for injuries sustained while on the property, the insurer that provided the insurance policy is aware of the presence of the pool, and the insurer has not excluded claims for injuries related to the pool from the coverage of the insurance policy.

(2) A small, portable, plastic wading or kiddie pool.

(Ord. 2004-23)

Secs. 18-174--18-190. Reserved.

ARTICLE VII. GARAGES

Sec. 18-191. Definitions.⁷

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

Attached private garage means a private garage so constructed as to form an integral part of the principal building or portion of the principle building designed, arranged, used or intended to be used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers of the occupant.

Detached private garage means a private garage entirely separated from the principal building.

(Code 1986, § 14.25(1); Ord. No. 2002-4, § 1, 4-9-2002)

Sec. 18-192. Location of detached garages.

Detached garages shall be governed by the following unless otherwise provided for in appropriate zoning codes: Garages shall be located not less than ten feet from any residence building.

⁷ **Cross references:** Definitions generally, § 1-2.

(Code 1986, § 14.25(2))

Sec. 18-193. Maximum area of detached garages.

All detached garages shall be limited in area as follows: 850 square feet.

(Code 1986, § 14.25(3))

Sec. 18-194. Foundation and footings.

Attached private garages shall be provided with the same type footings and foundations as required for the principal building. Detached private garages may be built with a continuous floating slab of reinforced concrete not less than four inches in thickness. Reinforcement shall be a minimum of six-inch by six-inch no. 10 × 10 wire mesh. The slab shall be provided with a thickened edge all around, eight inches wide and eight inches below the top of the slab. Exterior wall curbs shall be provided not less than four inches above the finished ground grade adjacent to the garage. Bolts three-eighths inch in diameter with nuts and washers attached, six inches long, shall be embedded three inches in the concrete curb of detached garages eight feet on centers.

(Code 1986, § 14.25(4))

Sec. 18-195. Floor surface.

The floor in all private garages shall be of concrete construction. No openings or pits in the floor shall be permitted, except for drainage.

(Code 1986, § 14.25(5))

Sec. 18-196. General construction.

Private garages shall be constructed as follows:

- (1) Loadbearing foundation walls and piers, masonry walls, and partitions shall be constructed as regulated in this chapter, except as stated in this article.
- (2) Detached private garages of wood frame construction shall be constructed with the following minimum requirements:
 - a. Studs may have a maximum spacing of 24 inches on centers.
 - b. Diagonal corner bracing may be applied on the inside surface of studs.
 - c. Corner posts may consist of two two-inch by four-inch studs or a single four-inch by four-inch stud.
 - d. Horizontal bracing and collar beams may be two inches by six inches with a maximum spacing of four feet on centers.
- (3) Attached private garages shall be of the same type of construction as that of the principal building and as further regulated in this Code.

(Code 1986, § 14.25(6))

Sec. 18-197. Fire protection for attached garages.

Private garages may be attached to or made a part of residence buildings when in compliance with the following regulations:

- (1) All walls in common with a principal building and attached private garage shall be of not less than one-hour fire-resistive construction on the garage interior.
- (2) Where a private garage is part of a building having habitable rooms over such garage, there shall be provided a horizontal and vertical separation between the two occupancies of not less than two-hour fire-resistive construction, except that, in lieu thereof, the space between the joists and studs of the floor and wall shall be filled with approved noncombustible material four inches in thickness and protected with one-hour fire-resistive construction.

(Code 1986, § 14.25(7))

Secs. 18-198--18-220. Reserved.

ARTICLE VIII. MOVING BUILDINGS⁸

Sec. 18-221. Permit required.

No person shall move any building or structure upon any of the public ways of the city without first obtaining a permit therefore from the building inspector and paying the required fee. Every such permit issued by the building inspector for the moving of a building shall designate the route to be taken and the conditions to be complied with, and shall limit the time during which the moving operations shall be continued.

(Code 1986, § 14.28(1))

Sec. 18-222. Approval by building inspector.

No permit shall be issued to move a building within or into the city and to establish it upon a location within the city until the building inspector has made an investigation of such building at the location from which it is to be moved, and is satisfied from such investigation that the building is in a sound and stable condition and of such construction that it will meet the requirements of the building code in all respects. A complete plan of all repairs, improvements and remodeling with reference to such building shall be submitted to the building inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of the building code and that, when such repairs, improvements and remodeling are completed, the building as such will comply with the building code. If a building is to be moved from the city to some point outside the boundaries thereof, the provisions with

⁸ **Cross references:** Environment, ch. 46.

respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

(Code 1986, § 14.28(4))

Sec. 18-223. Approval by plan commission.

No permit shall be issued for moving a building or structure unless it has been found as a fact by the plan commission by at least a majority vote, after an examination of the application for the permit, which shall include exterior elevations of the building and accurate photographs of all sides and views of the building, and in case it is proposed to alter the exterior of the building, plans and specifications of such proposed alterations, and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plan of the building, as related to buildings already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district established by the zoning ordinances of the city, or any ordinance amendatory thereof or supplementary thereto, will not cause a substantial depreciation in the property values of the neighborhood within the applicable district. In case the applicant proposes to alter the exterior of the building after moving the building, he shall submit with his application papers complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a bond to the city plan commission, which shall not be less than \$5,000.00, to be executed in the manner provided in section 18-224, to the effect that he will, within a time to be set by the plan commission, complete the proposed exterior alterations to the building in the manner set forth in his plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the city. No occupancy permit shall be issued for the building until the exterior alterations proposed to be made have been completed.

(Code 1986, § 14.28(7))

Sec. 18-224. Bond.

(a) Before a permit is issued to move any building over any public way in the city, the party applying therefor shall give a bond to the city in a sum to be fixed by the building inspector, which shall not be less than \$5,000.00. The bond shall be executed by a corporate surety or two personal sureties to be approved by the council or its designated agent, conditioned upon, among other things, the indemnification of the city for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment, together with the costs and expenses incurred by the city in connection therewith, arising out of the removal of the building for which the permit is issued.

(b) Unless the building inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of

children under 12 years of age unlikely, the bond required by subsection (a) of this section shall be further conditioned upon the permittee erecting adequate barriers, and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the building inspector and reasonably adopted or calculated to prevent the occurrences set forth in this subsection.

(Code 1986, § 14.28(5))

Sec. 18-225. Insurance.

The building inspector shall require, in addition to the bond indicated in section 18-224, public liability insurance covering injury to one person in a sum of not less than \$100,000.00 and for one accident in a sum not less than \$300,000.00, together with property damage insurance in a sum not less than \$50,000.00, or such other coverage as deemed necessary.

(Code 1986, § 14.28(6))

Sec. 18-226. Continuous movement required; obstruction of streets; leaving building on street at night.

The movement of building shall be a continuous operation during all the hours of the day, and day by day and at night, until such movement is fully completed. All of such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

(Code 1986, § 14.28(2))

Sec. 18-227. Repair of damage to streets.

Every person receiving a permit to move a building shall, within one day after the building reaches its destination, report that fact to the building inspector, who shall thereupon, in the company of the city highway commissioner, inspect the streets and highways over which the building has been moved and ascertain their condition. If the removal of the building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the permittee to do so within ten days thereafter to the satisfaction of the council, the council shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment for such repair.

(Code 1986, § 14.28(3))

Chapter 22

BUSINESSES¹

Article I. In General

Secs. 22-1--22-30. Reserved.

Article II. Licenses

Sec. 22-31. Generally; fee schedule.
Sec. 22-32. License required.
Sec. 22-33. Application.
Sec. 22-34. Payment of fee.
Sec. 22-35. Refund of fee.
Sec. 22-36. Issuance.
Sec. 22-37. Term.
Sec. 22-38. Form and contents.
Sec. 22-39. Record.
Sec. 22-40. Display.
Sec. 22-41. Compliance with city ordinances.
Sec. 22-42. Transfer.
Sec. 22-43. Exemptions.
Sec. 22-44. Renewal.
Sec. 22-45. Consent to inspection.
Sec. 22-46. Suspension or revocation.
Sec. 22-47. Applicants owing money to city.
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Article III. Weights & Measures

Sec. 22-51. Regulations adopted
Sec. 22-52. Appointment of inspectors.
Sec. 22-53. Definitions.
Sec. 22-54. Weights and measures participation required.
Sec. 22-55. Fees assessment.

¹ **Cross references:** Alcohol beverages, ch. 6; amusements and entertainments, ch. 10; emergency services, ch. 42; peddlers and solicitors, ch. 90; secondhand goods, ch. 98; taxation, ch. 114; telecommunications, ch. 118; utilities, ch. 126; commercial land uses, § 130-401 et seq.; industrial land uses, § 130-501 et seq.; home occupation, § 130-531; local business district (B-1), § 130-761 et seq.; central business district (B-2), § 130-791 et seq.; community business district (B-3), § 130-821 et seq.; regional business district (B-4), § 130-851 et seq.; light industrial district (I-1), § 130-1161 et seq.; heavy industrial district (I-2), § 130-1181 et seq.; special industrial district (I-3), § 130-1196 et seq.; planned office district (O-1), § 130-1211 et seq.

Article IV. Mobile Vendors

- Sec. 22-61. Purpose of Article
- Sec. 22-62. License Required.
- Sec. 22-63. Definitions.
- Sec. 22-64. License Application.
- Sec. 22-65. Investigation.
- Sec. 22-66. License Issuance.
- Sec. 22-67. License Restrictions.
- Sec. 22-68. Penalty

ARTICLE I. IN GENERAL

Secs. 22-1--22-30. Reserved.

ARTICLE II. LICENSES

Sec. 22-31. Generally; fee schedule.

A license shall be required for the sale of any items or the conduct of any business or activity as established by the council from time to time by resolution and as set forth in appendix A, and the license fees shall be as indicated in such schedule. The license fees shall be for one year, unless otherwise indicated.

(Code 1986, § 12.01)

Sec. 22-32. License required.

No person shall engage in any business or activity for which a license is required under section 22-31 without a license or permit therefor as provided by this article. The words "license" and "permit" as used throughout this article shall be interchangeable.

(Code 1986, § 12.02(1))

Sec. 22-33. Application.

Application for a license under this chapter shall be made to the City Clerk on a form furnished by the city. Such application shall contain such information as may be required by the city council.

(Code 1986, § 12.02(2), Ord. 2016-08)

Sec. 22-34. Payment of fee.

License fees imposed under section 22-31 shall accompany the license application. If a license is granted, the City Clerk shall issue the applicant a receipt for his license fee.

(Code 1986, § 12.02(3), Ord 2021-12)

Sec. 22-35. Refund of fee.

No fee paid under this article shall be refunded if denied or withdrawn.

(Code 1986, § 12.02(4), Ord 2021-12)

Sec. 22-36. Issuance.

(a) The City Clerk may issue the following licenses subject to the standards established by this article without prior approval of the City Council:

- (1) Cigarette licenses.
- (2) Mobile home occupancy permits.
- (3) Public amusements and entertainments licenses.
- (4) Mobile Vendor, upon recommendation of the Police Chief and Zoning Administrator.

(b) All other licenses shall be issued by the City Council unless otherwise designated.

(Code 1986, § 12.02(5), Ord. 2012-07, Ord 2021-12)

Sec. 22-37. Term.

All licenses issued under this chapter, except for pet licenses, shall expire on June 30 in the year of issuance, unless issued for a shorter term or otherwise stated, when they shall expire on midnight of the last effective day of the license, unless otherwise provided by this Code or state laws.

(Code 1986, § 12.02(6), Ord. 2016-08, Ord 2021-12)

Sec. 22-38. Form and contents.

All licenses issued under this chapter shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the City Clerk and be impressed with the city seal, if any.

(Code 1986, § 12.02(7), Ord. 2016-08, Ord 2021-12)

Sec. 22-39. Record.

The City Clerk shall keep a record of all licenses issued under this chapter.

(Code 1986, § 12.02(8), Ord. 2016-08, Ord 2021-12)

Sec. 22-40. Display.

All licenses issued under this chapter shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the City upon request.

(Code 1986, § 12.02(9), Ord. 2016-08)

Sec. 22-41. Compliance with city ordinances.

It shall be a condition of holding a license under this chapter that the licensee comply with all ordinances of the City. Failure to do so shall be cause for revocation of the license.

(Code 1986, § 12.02(10), Ord. 2016-08)

Sec. 22-42. Transfer.

All licenses issued under this chapter shall be personal to the person to whom issued and shall not be transferred except with the consent of the Council.

(Code 1986, § 12.02(11), Ord. 2016-08)

Sec. 22-43. Exemptions.

No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, military, or religious organization where the activity which would otherwise be licensed is conducted for the benefit of the members or for the benefit of the public generally.

(Code 1986, § 12.02(12), Ord. 2016-08)

Sec. 22-44. Renewal.

All applications for renewal of licenses under this chapter shall be made to the City Clerk.

(Code 1986, § 12.02(13), Ord. 2016-08, Ord 2021-12)

Sec. 22-45. Consent to inspection.

An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the City upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this article all things found therein in violation of this chapter or state law.

(Code 1986, § 12.02(14), Ord. 2016-08)

Sec. 22-46. Suspension or revocation.

(a) Any license issued under this chapter may be revoked for cause by the City Council.

(b) No license shall be revoked except upon written verified complaint filed with the city council by the mayor, a member of the city council, the chief of police, or a resident of the city. The licensee shall be served with a copy of the written charges and shall be given an opportunity to be heard before the city council. The hearing before the city council shall be not more than 20 and not less than five days after notice, except as otherwise agreed between the parties.

(c) At such hearing, the licensee may be represented by counsel, may present and cross examine witnesses and, upon request, may have subpoenas issued by the mayor or presiding officer of the city council to compel the attendance of witnesses.

(d) After hearing the evidence, the City Council may revoke such license or impose a limited period of suspension. The determination of the Council shall be final.

(e) The Mayor or City Council may suspend the license of a licensee under this article without hearing for not to exceed ten days.

(f) The Police Department shall repossess any license revoked under this section.

(Code 1986, § 12.02(15), Ord. 2016-08)

Sec. 22-47. Applicants owing money to city.

No license shall be issued by the City to any person who or any partnership or corporation which owes the city any money for any service rendered or any obligation incurred. The term "person," as used in this section, includes anyone other than a partnership or corporation.

(Code 1986, § 12.02(16))

Article III, Weights and Measures

Sec. 22-51. Regulations Adopted.

The statutory provisions of Chapter 98, Wis. Stats., and Wisconsin Administrative Code, ATCP 92, Weighing and Measuring Devices, are hereby adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any further amendments, revisions or modifications of the statutes incorporated herein or Wis. Adm. Code provisions incorporated herein are intended to be made a part of this section. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

(Ord. 2012-09)

Sec 22-52. Appointment of Inspectors.

In order to assure compliance with this article, the City hereby grants the authority and duties of sealers and inspectors required by this article to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

(Ord. 2012-09)

Sec. 22-53. Definitions.

(a) Commercial Weighing or Measuring Devices. Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, items, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

(b) Weights and Measures Program. The program that includes administration and enforcement of this section, Chapter 98, Wis. Stats., and applicable Wis. Adm. Code provisions, and any related actions.

(Ord. 2012-09)

Sec. 22-54. Weights and Measures Participation Required.

(a) Except as provided in subsection b, each and every person, corporation, limited liability corporation, limited liability partnership, business group, organization or other entity who holds, owns, possesses, operates and/or maintains any commercial weighing or measuring devices or any other weights and measures or systems and accessories related thereto which are used commercially within the City of Evansville for determining the weight, measure or count is deemed to be a participant in the City of Evansville Weights and Measures Program subject to the provisions of this article.

(b) Exemptions. Sales permitted at any farmers' market or other similar event in the City which has been otherwise lawfully permitted, licensed or approved as required by the City Code or sales permitted by direct seller, transient merchants and solicitors are exempt from licensing under this section.

(Ord. 2012-09)

Sec. 22-55. Fees Assessment.

(a) Annual Assessment. The City Clerk shall annually assess fees and mail invoices to each participant in the City of Evansville Weights and Measures Program by May 15th and due by June 30th. Assessment fees will be based on the number and types of weighing and measuring devices as indicated by the Department of Agriculture, Trade and Consumer Protection. The total of the fees assessed and the fees collected shall not exceed the actual costs of the City of Evansville Weights and Measures Program.

(b) Failure to Pay Assessment. If the assessment fee is not paid by June 30th of each year, an additional administrative collection charge of ten percent (10%) of the fee shall be added to the amount due. A participant failing to pay the assessment shall not be issued any alcohol beverage license or cigarette license until such fee is paid in full. If

the participant is the owner of the real estate premises where the weighing and measuring device is located, any delinquent assessment shall be extended upon the current or the next tax roll as a charge against the real estate premises as provided in Section 66.60(16), Wis. Stats.

(c) Change of Ownership. If the ownership of the participant is transferred during the year, the owner of the participant as of June 30th of the current year shall be liable and responsible for the payment of the fees assessed under this article.

(Ord. 2012-09)

Sec. 22-56-60. Reserved.

(Ord. 2016-08)

Article IV. Mobile Vendors

Sec. 22-61. Purpose of Article.

The purpose of this article is to provide regulation of Mobile Vendors, defined in this chapter, to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens by requiring that new and existing mobile food vendors provide residents and customers with a level of cleanliness, quality and safety. It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food carts to operate within city limits by averting imbalanced favor against brick and mortar businesses, while allowing for a diversity of businesses.

(Ord. 2016-08)

Sec. 22-62 License Required.

No individual, partnership, corporation or other for-profit entity shall operate a Mobile Vendor without first having obtained a Mobile Vendor License as provided for in this article. Mobile Vendors operating in association with community sponsored events are exempt from the applicable fees but must have the city's consent and provide copy of liability insurance.

(Ord. 2016-08, Ord 2021-12)

Sec. 22-63. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings given to them within this section.

Goods means personal property of any kind including but not limited to food products which are prepared or prepackaged.

Mobile Vendor means a for-profit business which has no permanent address in the city and which is selling goods from a motor vehicle, trailer, or food cart.

Nonprofit Organization means a corporation, trust or community chest, fund or foundation or other entity organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Police Chief or Chief of Police means the City Police Chief and/or their designated representative

City Clerk or Clerk means the City Clerk and/or their designated representative.

(Ord. 2016-08, Ord 2021-12)

Sec. 22-64. License Application.

An applicant wishing to obtain a license per this article shall submit to the City Clerk the following:

(a) Application:

- (1) Name of applicant, name of business and business owner, address, cell phone, driver's license number of licensed operator and a copy of applicants photo id;
- (2) Copy of Rock County Public Health Department inspection report as required for the sale of food products;
- (3) Copy of State of Wisconsin Seller's Permit
- (4) Proof of commercial liability insurance with limits of not less than \$500,000.00 and motor vehicle liability insurance with limits of not less than \$250,000.00 per person and per accident;
- (5) References;
- (6) Site and signage plan per sec. 22-64 of this Article.
- (7) Address and/or description of location for which license is being applied for.
- (8) Written consent of the owner of each property the Mobile Vendor will operate. If on school district property include the written consent of the school district. If on City property must include the written consent from a city official.
- (9) A description on the product(s) to be sold.
- (10) Any other information deemed necessary.

(b) Fees: At the time of filing application, the applicant shall pay a fee as set forth in appendix A. The license fee shall be paid at the time the application is filed with the City Clerk. The license fee will not be refunded if the application is withdrawn or denied.

(Ord. 2016-08, Ord 2021-12)

(c) Site and Signage Plan.

- (1) **Site Plan**-Each application for a Mobile Vendor License shall include a site plan for the subject property showing, at a minimum, the stationery location of the Mobile Vendor, the available customer parking, location of all motor vehicle entrances/exits, proposed lighting, and location of public roads.
- (2) **Signage Plan**-Each application for a Mobile Vendor License shall include a signage plan for the subject property showing, at a minimum, proposed signage as well as proposed signage illumination. The signage plan must be in accordance with Article X. Sign Regulation.
- (3) **Recommendation**-The Zoning Administrator shall review applications for Mobile Vendor Licenses for compliance with the requirements of this chapter. The Zoning Administrator shall have authority to require modifications to the proposed site plan in the interest of public safety. After review of such application, the Zoning Administrator shall forward the site plan to the Clerk, with a written report stating whether the site plan is in compliance with the requirements of this article.

(Ord. 2016-08, Ord 2021-12)

Sec. 22-65. Investigation

(a) **Background Check**-Upon receipt of an application and fee, the City Clerk shall refer the application to the Chief of Police. The Police Chief shall make an investigation of the accuracy of the statements made in the application and determine whether the applicant has been convicted of a felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of the permitted activity and, if so, the nature and date of the offense and the penalty assessed.

(b) **Non Recommend**-If, as a result of an investigation, the Police Chief discovers that any representation on the application contains a material omission or inaccuracy, or the Police Chief is of the opinion that the applicant is not a fit person to conduct such sales, the Police Chief shall return the application to the City Clerk for referral to the Public Safety Committee who shall approve or disapprove the application to the City Clerk. Upon return of a disapproved application, the City Clerk shall notify the applicant that the permit has been denied, along with the reasons therefore.

(c) **Recommendation**-If as a result of an investigation, the Police Chief is of the opinion that the applicant is a fit person to conduct such sales, the Police Chief shall endorse on the application his/her approval and return the application to the City Clerk to be reviewed by the zoning administrator.

(Ord. 2021-12)

Sec. 22-66. License Issuance.

(a) Following receipt of the approval of the Mobile Vendor License application, the Zoning Administrator or City Clerk may grant the Mobile Vendor License

(b) The City Clerk will refuse to issue the license if the Zoning Administrator or Police Chief not a non-recommend or if it is determined, pursuant to the requirements described in this article that the application contains any material omission, inaccuracies, or that the applicant was convicted of a crime, the nature of which is directly related to the applicant's fitness to engage in the operation of the Mobile Vendor.

(c) If a license reprint is needed the applicant shall pay to the City Clerk a fee as established by Council from time to time by resolution as set forth in appendix A.

(Ord. 2016-08, Ord 2021-12)

Sec. 22-67. License Restrictions.

The following restrictions apply to the Mobile Vendor License:

- (1) Any violation of the City's Municipal Code, including Article X Sign Regulation is grounds for revocation of the Mobile Vendor License.
- (2) Each license issued shall be valid for a period no more than one (1) year expiring on December 31st of each calendar year.
- (3) The Mobile Vendor may be permitted on private property with a letter from the property owner verifying permission, or on school district property with a letter from the school district verifying permission.
- (4) Not less than two parking stalls per customer and employee shall be required for every eight feet of the Mobile Vendor.
- (5) Hours of operation are limited to the hours of 7:00 a.m. to 10:00 p.m. Sunday through Saturday.
- (6) No sales of alcoholic beverages are permitted.
- (7) The Mobile Vendor may not generate noise louder than levels produced by the equipment used in operating the Mobile Vendor.
- (8) Each Mobile Vendor shall be equipped with at least one leak-proof container for the deposit of waste, garbage, litter, and refuse. A second leak-proof container for the deposit of recycle materials is also required. All such containers shall be kept covered with tight-fitting lids. When leaving the sales area, the licensee and his or her employee shall be responsible for the removal of all litter resulting from his or her business or customer's use of his or her business.
- (9) Each operator, licensee and mobile food vending vehicle, trailer or cart shall comply with all state and county laws, codes, regulations, and standards relating to serving and selling food and food products.

(10) A Mobile Vendor License may be revoked if in violation of the approved site plan.

(11) A Mobile Vendor must not endanger the safety of the general public in any way.

(Ord. 2016-08, Ord 2021-12)

Sec. 22-68. Penalty.

Any person, firm or corporation violating any provisions of this article may, upon conviction, have their license revoked and shall further be punished by a forfeiture of not less than \$50.00 or more than \$1,000.00. Each day's violation constitutes a separate offense.

(Ord. 2016-08)

Chapter 26

CEMETERIES¹

Article I. In General

- Sec. 26-1. Plantings.
- Sec. 26-2. Animals in cemetery.
- Sec. 26-3. Decorations.
- Sec. 26-4. Duties of Municipal Services Committee.
- Sec. 26-5. Finances and accounts.
- Sec. 26-6. Records.
- Sec. 26-7. Maps and plats.
- Sec. 26-8. Entry.
- Sec. 26-9. Firearms.
- Sec. 26-10. Vehicles.
- Sec. 26-11. Disturbing property.
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- Secs. 26-16--26-40. Reserved.

Article II. Sales, Fees, Transfers, Abandonment and Assessments

- Sec. 26-41. Issuance of deeds and agreements.
- Sec. 26-42. Transfer of internment and inurnment rights.
- Sec. 26-43. Establishment of lot, space, and niche prices and fees.
- Sec. 26-44. Amount of fees.
- Sec. 26-45. Abandonment of cemetery lots and annual assessments for care of graves.
- Secs. 26-46--26-60. Reserved.

Article III. Perpetual Care

- Sec. 26-61. Required.
- Sec. 26-62. Establishment of charges.
- Secs. 26-63--26-80. Reserved.

Article IV. Interments and Disinterment

- Sec. 26-81. Payment of charges required prior to interment or inurnment.
- Sec. 26-82. Burial or cremation permit.

¹ **Cross references:** Streets, sidewalks and public places, ch. 106.

- Sec. 26-83. Notice and supervision of interment or inurnment.
- Sec. 26-84. Depth of graves.
- Sec. 26-85. Number of interments or inurnments.
- Sec. 26-86. Approved outer burial container required.
- Secs. 26-87--26-110. Reserved.

Article V. Improvement of Lots

- Sec. 26-111. Gradient of lots.
- Sec. 26-112. Public Works Foreperson (PWF); powers.
- Sec. 26-113. Memorials.
- Sec. 26-114. Fences or other enclosures.
- Sec. 26-115. Level of graves.
- Sec. 26-116. Definitions.

ARTICLE I. IN GENERAL

Sec. 26-1. Plantings.

(a) The landscaping of the entire cemetery is under the direction of the Public Works Foreperson (PWF) and the Cemetery Sexton. Any planting may be done only with approval from the public works director and the Cemetery Sexton.

(b) No ledges, trees, or brushes may be planted on any lot which will eventually grow past the boundaries of the lot.

(c) If any tree or shrub, by means of its roots and growth, become dangerous or inconvenient to safe and practical passageway, which shall include vehicles, the PWF or Cemetery Sexton may enter upon the lot containing the growth and remove what they deem necessary for the benefit of the cemetery.

(d) The City reserves the right to trim and/or remove any planting.

(e) Annual flowers may be planted in either urns or beds, but must be located so as not to interfere with the maintenance and operations of the cemetery.

(f) All plantings, urns and flowerbeds must be approved by the Cemetery Sexton or the Public Works Foreperson.

(g) Chairs, settees, receptacles for cut flowers, vases, glass jars, shells, or toys which are deemed inconsistent with the proper keeping of the cemetery are prohibited. The Cemetery Sexton or PWF may remove from any lot without notice any of the above articles and any artificial or natural flowers which may be objectionable or become unsightly.

(h) The cemetery assumes no liability for damage to the property of lot owners.

(i) The cemetery assumes no responsibility for any damage to any live plants. The cemetery staff shall in turn exercise due regard and make all attempts to prevent damage to any plantings, provided they have been placed in accordance with the above rules.

(Ord. No. 2000-11, § 12(21.37), 5-9-2000, Ord. 2014-02, Ord. 2023-07)

Sec. 26-2. Animals in cemetery.

(a) Dogs and other pets are prohibited in the cemetery; service animals shall be allowed. This section does not apply to service or military dogs as defined in Wis. Stats. § 951.01(5), as may be amended.

(Ord. No. 2000-11, § 10(21.35), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

Sec. 26-3. Decorations.

- (a) No more than two decorations on any marker or monument are permitted
- (b) All decorations, including solar lights, must be in a pot, vase, or placed on an approved upright support and placed within six inches of the memorial.
- (c) All summer decorations must be removed by November 11 and no winter decorations may be installed until the Monday before Thanksgiving.
- (d) All winter decorations must be on an approved upright support.
- (e) All decorations, unless placed on concrete foundation must be removed by April 15th.
- (f) No decorations, other than fresh cut flowers or placed on concrete foundation, may be placed on any grave until four days prior to Memorial Day. Any decorations placed prior to this date may be removed without notice.
- (g) No decorations shall be allowed on the panel of a niche or on the columbarium, without Sexton approval.

(Ord. No. 2000-11, § 11(21.36), 5-9-2000, Ord. 2014-08, Ord. 2016-14, Ord. 2023-07)

Sec. 26-4. Duties of Municipal Services Committee.

(a) The Municipal Services Committee shall supervise the management and operation of the city cemetery, and may expend for the use, maintenance, protection, development, and improvement of the cemetery such sums as are necessary within the budget established by the council and in conformity with all ordinances, resolutions and orders enacted by the council.

(Code 1986, § 21.01; Ord. No. 2000-11, § 1(21.01(2)), 5-9-2000, Ord. 2014-02, Ord. 2023-07)

Sec. 26-5. Finances and accounts.

(a) *Allocation of lot sales receipts, interment fees and perpetual care receipts.* All city cemetery lot, space, and niche sales receipts shall go to perpetual care, as well as all annual assessments received pursuant to section 26-45. All lot, space, and niche sales receipts, interment and inurnment fees and assessments shall go into the cemetery trust fund for the maintenance and operation of the city cemetery to be held by the City Treasurer as trustee and shall be invested as provided in Wis. Stats. § 66.04(2).

(b) *Budget approval by council.* The council shall approve the budget in such an amount as is deemed necessary to maintain and operate the city cemetery for the next calendar year. The money in the account shall be expended under the direction of the PWF for the development, improvement, upkeep and care of the cemetery. Unless previously authorized by the council, no debt or deficit shall be incurred which cannot be fully paid by money in the cemetery account.

(c) *Duties of City Treasurer.* The City Treasurer shall serve as trustee to receive and hold money in trust according to the terms of any gift or bequest, the income of which is to be used for the improvement, maintenance, repair, preservation or ornamentation of the cemetery or any lot, niche or structure thereon. Such money shall be invested pursuant to Wis. Stats. § 66.04(2), in the same manner as money in the perpetual care fund, but separately accounted for. No additional compensation shall be paid the City Treasurer for such duties, and the bond of the City Treasurer shall also cover the performance of all such duties.

(Code 1986, § 21.02, Ord. 2013-11, Ord. 2014-08)

Sec. 26-6. Records.

(a) The City Clerk shall be the official record keeper of Maple Hill Cemetery in accordance with state law. (Code 1986, § 21.03, Ord. 2013-11, Ord. 2023-07)

Sec. 26-7. Maps and plats.

(a) *Official maps and plats.*

(1) The official maps or plats of Maple Hill Cemetery, as amended, are filed with the City Clerk, and shall be surveyed and platted by a professional land surveyor those portions of the lands that are from time to time required for burial, into cemetery lots, drives, and walks, and record a plat or map of the land in the office of the register of deeds in accordance with Wis. Stats. §157.07.

(2) *Platting and recording of new blocks.* Before any new block of the cemetery is opened for the sale of lots, the City Clerk shall cause it to be platted and recorded in the office of the register of deeds, following Council approval.

(Code 1986, § 21.04, Ord. 2014-08, Ord. 2023-07)

Sec. 26-8. Entry.

(a) No person shall enter or leave a city cemetery except through the gates. No persons other than cemetery employees or police officers shall be within the cemetery except during the daylight hours.

(Code 1986, § 21.30, Ord. 2023-07)

Sec. 26-9. Firearms.

(b) No person shall carry any firearms in a city cemetery, except for any law enforcement officer, or except in the case of military funerals and on Memorial or Veterans Day, without the written permission of the PWF.

(Code 1986, § 21.31, Ord. 2014-08, Ord. 2023-07)

Sec. 26-10. Vehicles.²

² **Cross references:** Traffic and vehicles, ch. 122.

(a) No vehicle shall be driven in a city cemetery except on roads designated for that purpose. No vehicle shall be driven in a reckless manner.

(b) Snowmobiles or all-terrain vehicles are prohibited in the cemetery.

(Code 1986, § 21.32; Ord. No. 2000-11, § 8(21.32), 5-9-2000)

Sec. 26-11. Disturbing property.

(a) No person, except the owner of the lot or a city employee, shall cut, remove, injure or carry away any flowers, trees, shrubs, plants or vines from any lot or property in a city cemetery, or deface, injure or mark upon any markers, headstones, monuments, fences or structures, nor shall any person other than the owner injure, carry away or destroy any vases, flowerpots, urns or other objects which have been placed on any lot.

(Code 1986, § 21.33, Ord. 2023-07)

Sec. 26-12. Alcohol beverages or refreshments.³

(a) No person shall possess or consume any intoxicating liquor, fermented malt beverages in the cemetery.

(Code 1986, § 21.34; Ord. No. 2000-11, § 9(21.34), 5-9-2000, Ord. 2023-07)

Sec. 26-13. Maintenance of order.

(a) The Public Works Foreperson (PWF) and/or Cemetery Sexton shall maintain order and shall eject any person whose conduct is objectionable or who violates this chapter.

(Ord. No. 2000-11, § 13(21.38), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

Sec. 26-14. Appeals.

(a) Appeals of any decision by the Cemetery Sexton or the PWF may be presented to the Municipal Services Committee.

(Ord. No. 2000-11, § 14(21.39), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

Sec. 26-15. Penalty.

(a) Any person who violates any provisions of this chapter shall be subject to a penalty as provided in section 1-11.

(Ord. No. 2000-11, § 15(21.40), 5-9-2000, Ord. 2023-07)

Secs. 26-16--26-40. Reserved.

³ **Cross references:** Alcohol beverages, ch. 6.

ARTICLE II. SALES, FEES, TRANSFERS, ABANDONMENT AND ASSESSMENTS

Sec. 26-41. Issuance of deeds and agreements.

(a) The sale of lots, spaces, and niches in the city cemetery shall be under the control of the City Clerk, subject to the rules, regulations, and general supervision of the council. Any applicant shall apply to the City Clerk and, upon payment for the lot, space, or niche selected, the City Clerk shall issue a deed to the lot or space or agreement for the niche in the form prescribed by the city attorney. The deed or agreement shall be signed by the City Clerk and mayor, sealed with the corporate seal and acknowledged so as to entitle it to be recorded. The purchaser may record a deed with the register of deeds.

(Code 1986, § 21.06, Ord. 2013-11, Ord. 2023-07)

Sec. 26-42. Transfer of internment and inurnment rights.

(a) The transfer, in accordance with the applicable state statutes, of lots, spaces, and niches in a city cemetery previously sold may be registered with the City Clerk by presentation of the original deed, on the back of which is written "I hereby transfer to (name of owner) (spaces(s) or portion of the lot)," and the endorsement of the original lot or space owner, or by presenting a court order evidencing transfer. This shall be acknowledged and witnessed if it is desired to record the transfer with the register of deeds.

(b) Alienation, disposition and use of cemetery lots, spaces and columbarium spaces. In this section, "owner" means a person named in the records of the cemetery authority who has an ownership interest in a cemetery lot, space or columbarium niche and a right to bury human remains in the cemetery lot, sale or columbarium niche.

- (a) While any person is buried in a cemetery lot, space or columbarium space, the cemetery lot, space or columbarium space shall be inalienable, without the consent of the cemetery authority, and on the death of the last owner, full ownership of the cemetery lot, space or columbarium space shall descend as follows:
- (i) To the owner's surviving spouse or domestic partner under ch. 770.
 - (ii) If there is no living member of the class designated in subd. i., to that owner's children, including by adoption.
 - (iii) If there is no living member of the class designated in subd. i. or ii., to the owner's grandchildren, including by adoption.
 - (iv) If there is no living member of the class designated in subd. i., ii., or iii., to the cemetery authority for the cemetery in which the cemetery lot, space or columbarium niche is located.
- (b) If ownership of a cemetery lot, space or columbarium niche descends to the cemetery authority under sub. (1), the cemetery authority shall comply with Wis Stats. § 157.115 (2) for any grave in the cemetery lot, space or columbarium niche in which human remains are not buried.

- (c) Any one or more persons under sub. (1) i. to iii. may, only with the consent of the cemetery authority, convey to any other person under sub. (1) i. to iii. their interest in the cemetery lot, space or columbarium niche.
- (d) No human remains may be buried in a cemetery lot, space or columbarium niche except the human remains of an owner of the cemetery lot, space or columbarium niche, or a relative, or the spouse of an owner, or their relative, except by the consent of a majority of the owners of the cemetery lot, space or columbarium niche.
- (e) The cemetery authority shall be held harmless for any decision made by a majority of the owners of a cemetery lot, space or columbarium niche.

(c) A grave or ownership transfer fee is due payable upon recording at the Clerk's Office. This fee includes recording the property transfer. In the instance of an estate, a properly executed "affidavit for transfer of property" shall cause the transfer and recording with no fee imposed.

(Code 1986, § 21.07, Ord. 2013-11, Ord. 2023-07)

Sec. 26-43. Establishment of lot, space, and niche prices and fees.

(a) On or before August 1 annually, the PWF shall present to the Municipal Services Committee their recommendations for revision in the schedule of prices for all lots, spaces, and niches sold in any cemetery under the city's jurisdiction and for all work done for private parties by the PWF or designees. The Municipal Services Committee shall review such recommendations and incorporate any approved changes in the budget submitted to the city council under section 26-5(b).

(Code 1986, § 21.05, Ord. 2013-11, Ord. 2014-08, Ord. 2023-07)

Sec. 26-44. Amount of fees.

(a) Fees for interment and inurnment in a city cemetery shall be as established by the council from time to time by resolution and as set forth in appendix A.

(b) Fees for cemetery lots, spaces, and niches and perpetual care charges shall be as established by the council from time to time by resolution and as set forth in Appendix A in the City of Evansville Municipal Code.

(Code 1986, § 21.08; Ord. No. 1998-11, § 1, 8-11-1998; Ord. No. 200-11, § 2(21.08), 5-9-2000, Ord. 2013-11)

Sec. 26-45. Abandonment of cemetery lots and annual assessments for care of graves.

(a) In this subsection:

- (1) "Abandoned lot" means any grave or columbarium space of a cemetery lot that is not owned by the cemetery authority of the cemetery in which the cemetery lot is located if that grave or that columbarium space has not been used for the burial of human remains and if, according to the records of the City Clerk, all of the following apply during the 50-year period immediately preceding the date on which the notice requirement under par. (c) is satisfied:

- i. No owner has transferred any ownership interest in the cemetery lot to any other person.
 - ii. No owner has purchased or sold another cemetery lot or a columbarium space in the cemetery.
 - iii. No other grave in that cemetery lot or adjoining cemetery lot or adjoining columbarium space that is owned or partially owned by an owner has been used for the burial of human remains.
 - iv. No grave marker, monument or other memorial has been installed on the cemetery lot.
 - v. No grave marker, monument or other memorial has been installed on any other cemetery lot, in Maple Hill Cemetery, that is owned or partially owned by an owner.
 - vi. No nameplate, monument or other memorial has been installed to identify the human remains that are buried within a mausoleum space, in the same cemetery, that is owned or partially owned by an owner.
 - vii. The City Clerk has not been contacted by an owner or assignee or received any other notice or evidence to suggest that an owner or assignee intends to use the cemetery lot for a future burial of human remains.
- (2) "Assignee" means a person who has been assigned in the deceased owner's will or in any other legally binding written agreement, or who is entitled to receive under Wis. Stats. § 852, an ownership interest in the abandoned cemetery lot.
- (3) "Owner" has the meaning given in Wis. Stats. § [157.10 \(1\)](#).
- (4) The City Clerk shall mail to each owner, at each owner's last-known address, a notice of the cemetery authority's intent to resell the abandoned lot as provided in this subsection. If an owner is buried in the cemetery in which the abandoned lot is located or if the cemetery authority has any other evidence that reasonably supports a determination by the cemetery authority that the owner is deceased, no notice is required under this paragraph.
- (5) If no notice is required under par. (4) or if, within 60 days after notice is mailed under par. (4), no owner or assignee contacts the City Clerk to express an intent to use the abandoned lot for a future burial of human remains, the City Clerk shall publish in a newspaper of general circulation in the county in which the abandoned lot is located, a class 3 notice under ch. 985 that includes all of the following:
- i. The location of the abandoned lot.
 - ii. The name and last-known address of each owner.
 - iii. A statement that, unless an owner or assignee contacts the cemetery authority within the period specified in par. (6), the City intends to resell the abandoned lot as provided in this subsection.

- (6) If within 60 days after notice is published under par. (5) no owner or assignee contacts the City Clerk to express an intent to use the abandoned lot for a future burial of human remains, the cemetery authority shall bring an action in the circuit court of the county in which the abandoned lot is located for a judgment that the cemetery lot is an abandoned lot and an order transferring ownership of the abandoned lot to the City.
- (7) If within one year after the circuit court enters a judgment and order under par. (6) no owner or assignee contacts the City to express an intent to use the abandoned lot for a future burial of human remains, the cemetery authority may resell the abandoned lot, except as provided in par. (8). The payment of principal shall be deposited into the care fund. Before depositing the payment of principal into the care fund, the City may retain an amount necessary to cover the City's administrative and other expenses related to the sale, but the amount retained may not exceed 50 percent of the proceeds.
- (8) If at any time before an abandoned lot is resold under par. (7) an owner or assignee contacts the City Clerk to express an intent to use the abandoned lot for a future burial of human remains, the City may not resell the abandoned lot, and ownership of the abandoned lot shall be transferred to the owner or assignee. The City shall pay all costs of transferring ownership under this paragraph.
- (9) Nothing in this subsection prohibits the City from seeking the authority to resell more than one abandoned lot by publishing a single class 3 notice under par. (5) or bringing a single action under par. (6) that applies to all of the abandoned lots for which such authority is sought.

(b) **Annual assessments for care of graves.** The Municipal Services Committee may make annual assessments for the maintenance and care of grave spaces in city cemeteries for which perpetual care is not provided, such annual assessment to be subject to the limitations of Wis. Stats. § 157.11. When uniform care of a lot has been given for two consecutive years or more for which assessments are unpaid under Wis. Stats. § 157.11(7), the right to interment is forfeited until delinquent assessments are paid. When uniform care has been given for five consecutive years or more and the assessments are unpaid upon like notice, title to all unoccupied parts of the lot shall pass to the city and may be sold, the proceeds to be a fund for perpetual care of the occupied portion.

(Code 1986, § 21.13, Ord. 2014-08, Ord. 2023-07)

Secs. 26-46--26-60. Reserved.

ARTICLE III. PERPETUAL CARE

Sec. 26-61. Required.

(a) **Expense to be included in lot price.** All lots, spaces, and niches hereafter sold in the city cemetery shall be provided with perpetual care services, the expense shall be included in the price of the lot, space, or niche and equate to 50% of total sales cost.

(b) **Lots and spaces previously sold without perpetual care.** Owners of lots or spaces previously sold without perpetual care must secure the benefits of perpetual care by paying to the City Clerk a sum pursuant to the schedule which shall be set by the council as a reasonable amount for the care of such lots or spaces in perpetuity. All amounts so received shall be deposited in the city general fund.

(c) **Burial prohibited without perpetual care.** No burial shall be permitted in any grave space until the person requesting the burial, or the person interested in the lot of which the grave space is a part, provides perpetual care for the entire lot of which the grave space is a part.

(Code 1986, § 21.10, Ord. 2013-11, Ord. 2023-07)

Sec. 26-62. Establishment of charges.

(a) On or before August 1 each year, the City Clerk and PWF shall submit to the Municipal Services Committee a schedule or amendments to the schedule of perpetual care charges for all lots, grave spaces, and niches in any cemetery under the city's jurisdiction. The Municipal Services Committee shall review such scheduled amendments and include its recommendations in the budget submitted to the city council under section 26-5(b).

(Code 1986, § 21.11; Ord. No. 1998-11, § 2, 8-11-1998, Ord. 2013-11, Ord. 2014-08, Ord. 2023-07)

Secs. 26-63--26-80. Reserved.

ARTICLE IV. INTERMENTS AND DISINTERMENTS

Sec. 26-81. Payment of charges required prior to interment or inurnment.

(a) No interment or inurnment shall be allowed in any city cemetery lot, space, or niche which has not been fully paid for or where annual assessments for care of the lot are delinquent.

(Code 1986, § 21.15, Ord. 2013-11)

Sec. 26-82. Burial or cremation permit.

(a) No interment or inurnment shall be permitted or body or cremated remains received in a city cemetery without a burial permit, cremation permit, or removal certificate issued by the register of deeds, city health officer or City Clerk of the place where the death occurred. Such permit or certificate shall be retained by the City Clerk as part of the record. All interments, disinterments and other matters relating to the disposal

of bodies shall be pursuant to the state statutes and the orders of the state department of health and family services.

(Code 1986, § 21.16, Ord. 2013-11, Ord. 2023-07)

Sec. 26-83. Notice and supervision of interment or inurnment.

(a) Notice of interment or inurnment shall be given to the City Clerk on a regular work day at least 2 full working days in advance of burial. The PWF or Cemetery Sexton must be present at all interments and inurnments and shall have full charge of the opening, closing and seeding of all graves and opening and closing of all niches.

(b) When the instructions for opening a grave are not definite, the Cemetery Sexton or PWF will use their best judgment in deciding when and if a grave is to be opened.

(Code 1986, § 21.17; Ord. No. 2000-11, § 3(21.17), 5-9-2000, Ord. 2013-11, Ord. 2014-08, Ord. 2018-10, Ord. 2023-07)

Sec. 26-84. Depth of graves.

(a) The minimum depth of graves in a city cemetery shall be five feet.

(Code 1986, § 21.18, Ord. 2023-07)

Sec. 26-85. Number of interments or inurnments.

(a) One full burial and one cremation burial or two cremation burials will be allowed in each plot.

(1) In the case of infants/cherubs

(2) Urns of ashes, where two interments, single or companion, will be permitted.

(b) Niches shall be used only for the inurnment of cremated human remains in an urn. The ashes of only one person shall be permitted in an urn. One urn shall be permitted to be inurned in a single niche; two urns or one companion urn shall be permitted to be inurned in a double niche.

(c) For good cause the Municipal Services Committee may grant an exception, but in this case the committee must report such action to the council at its next meeting.

(Code 1986, § 21.19, Ord. 2013-11, Ord. 2014-08, Ord. 2023-07)

Sec. 26-86. Approved outer burial container required.

(a) No interment shall be permitted or body received unless it is contained in a cement, metal or other permanent type of container or vault approved by the PWF or Cemetery Sexton.

(Code 1986, § 21.20; Ord. No. 2000-11, § 4(21.20), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

Secs. 26-87--26-110. Reserved.

ARTICLE V. IMPROVEMENT OF LOTS

Sec. 26-111. Gradient of lots.

(a) No person shall change the grade of any lot nor interfere in any way with the general plan of the landscaping in the cemetery.

(Ord. No. 2000-11, § 5(21.25), 5-9-2000, Ord. 2023-07)

Sec. 26-112. Public Works Foreperson (PWF); powers.

(a) The Public Works Foreperson (PWF) or Cemetery Sexton may enter upon any lot or space and remove any shrub or tree which is deemed detrimental to the cemetery or adjoining lots or spaces or is unsightly or inconvenient to the public. They may also enter upon any lot or space and make any improvements deemed for the advantage of the grounds.

(Ord. No. 2000-11, § 6(21.26), 5-9-2000, Ord. 2013-11, Ord. 2014-08, Ord. 2023-07)

Sec. 26-113. Memorials.

(a) Only one marker shall be allowed per grave, set in accordance with the rules of the cemetery. A double marker covering two spaces constitutes two markers.

(b) Only one monument shall be allowed per lot, set in accordance with the rules of the cemetery.

(c) Every memorial of any type will require an adequate concrete foundation.

(d) All monuments and markers shall be of bronze or granite and no vertical joints therein shall be permitted. No monument or marker constrained of any other materials may be erected in the cemetery.

(e) All foundations for monuments and markers and other structures must be of sufficient depth and stability to support the proposed structure. The foundations shall be flush with the ground matching the grade of the gravesite.

(f) No monument or marker may be erected until the foundation therefore has been approved by the Cemetery Sexton or the PWF and a written permit granting such approval has been issued by the City Clerk. If a monument or marker is placed before the City Clerk issues a foundation approval permit for the monument or marker, the city may, at its sole discretion, remove the monument or marker at the expense of the owner of the cemetery lot on which it was placed.

(g) Foundation work in the cemetery shall be done by approved monument salespersons under the supervision of the Cemetery Sexton or the PWF.

(h) Monuments or markers shall be of a size no larger than 16 inches high by 36 inches long and 12 inches wide/depth for a single marker and 16 inches high by 48 inches long and 12 inches wide/depth for a double marker.

(i) No monuments, markers, or burials shall be placed in the walkways.

(j) The owner of a cemetery lot or space or a monument vendor may apply to the City Clerk for a written permit granting approval of a foundation for a proposed monument or marker. The city council shall by resolution establish and may from time to time adjust the fee for a foundation approval permit, the amount of which is set forth in appendix A. When application for a foundation approval permit is submitted, the applicant shall pay the fee to the City Clerk. If application is made after the monument or marker is placed, the applicant shall pay the City Clerk twice the amount of the fee charged for timely applications.

- (k) The exterior panel of a niche shall be able to accommodate:
- i. an engraving of the name, date of birth, and date of death of the inurned in the font provided on Addendum A.
 - ii. an optional engraving of an official emblem from the list on Addendum A, or any officially recognized symbol.
 - iii. An optional photo of the inurned no larger than 3” oval or a military service plaque no larger than 3” in diameter

(l) No attached appliquéés are allowed on the exterior panel of a niche with the exception of (k) iii above.

(m) All memorials acting as inurnments shall require a burial permit per Municipal Code Sec. 26-82 and foundation permit per section 26-113(f).

Addendum A



(Ord. No. 2000-11, § 7(21.27), 5-9-2000, Ord. 2004-20, Ord. 2013-11, Ord. 2014-08, Ord. 2014-08, Ord. 2016-14, Ord. 2018-10, Ord. 2023-07)

Sec. 26-114. Fences or other enclosures.

(a) No fences or enclosures around lots shall be permitted in a city cemetery.

(Code 1986, § 21.28, Ord. 2023-07)

Sec. 26-115. Level of graves.

(a) Graves in a city cemetery shall not be raised above the level of the lot.

(Code 1986, § 21.29, Ord. 2023-07)

Sec. 26-116. Definitions.

(a) The following terms have the meanings set forth:

- (1) GRAVE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Grave is synonymous with space and grave space.
- (2) SPACE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Space is synonymous with grave and grave space.
- (3) GRAVE SPACE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Grave space is synonymous with grave and space.
- (4) LOT shall mean eight contiguous graves or spaces.
- (5) NICHE shall mean an enclosure that is used or intended to be used for the aboveground inurnment of human remains.
- (6) MEMORIAL shall mean either a marker or a monument.
- (7) MONUMENT shall mean a gravestone placed in the ground to designate a lot.
- (8) MARKER shall mean a gravestone placed in the ground to designate a grave or space.
- (9) PERPETUAL CARE shall mean “permanent” care and maintenance of the cemetery grounds and gravesites within.

(Ord. 2013-11, Ord. 2023-07)

Chapter 30

CIVIL EMERGENCIES¹

Sec. 30-1.	Joint action ordinance adopted.
Sec. 30-2.	Civil defense director.
Sec. 30-3.	Penalty.

¹ **Cross references:** Administration, ch. 2; courts, ch. 34; emergency services, ch. 42; fire prevention and protection, ch. 50; law enforcement, ch. 70.

Sec. 30-1. Joint action ordinance adopted.

A joint action ordinance of the county board of supervisors providing for a county-city joint action civil defense plan or organization was adopted by the county board on August 17, 1970. A copy of such ordinance is attached to Ordinance No. 3.08, adopted August 8, 1972, and made a part of this section by reference, and is ratified and accepted by the city. This ratification and acceptance of the joint action ordinance constitutes a mutual agreement between the city and the county as provided by such ordinance.

(Code 1986, § 6.01)

Sec. 30-2. Civil defense director.

The county municipal civil defense director, as provided in the ordinance adopted under section 30-1, is designated and appointed civil defense director for the city, subject to the conditions and provisions as set forth in the state statutes and the county joint action ordinance. The city shall appoint a deputy city civil defense director.

(Code 1986, § 6.02)

Sec. 30-3. Penalty.

Any person who shall violate the ordinance adopted under section 30-1 or any order, rule or regulation adopted or issued thereunder shall be subject to a penalty under section 1-11.

(Code 1986, § 6.03)

Chapter 34

COURTS¹

Article I. In General

Secs. 34-1--34-30. Reserved.

Article II. Municipal Court

Division 1. Generally

Sec. 34-31. Established.
Sec. 34-32. Hours.
Sec. 34-33. Location.
Sec. 34-34. Forfeitures, fees, assessments and costs.
Sec. 34-35. Contempt procedure.
Sec. 34-36. Stipulations and deposits.
Sec. 34-37. Authority to impose alternative juvenile dispositions and sanctions.
Secs. 34-38--34-60. Reserved.

Division 2. Municipal Judge

Sec. 34-61. Office created.
Sec. 34-62. Salary.
Sec. 34-63. Oath and bond.
Sec. 34-64. Jurisdiction.
Sec. 34-65. Election; term of office.

ARTICLE I. IN GENERAL

¹ **Cross references:** Administration, ch. 2; civil emergencies, ch. 30; law enforcement, ch. 70; offenses and miscellaneous provisions, ch. 82; traffic and vehicles, ch. 122.

Secs. 34-1--34-30. Reserved.

ARTICLE II. MUNICIPAL COURT²

DIVISION 1. GENERALLY

Sec. 34-31. Established.

There is hereby created and established a municipal court under the provisions of Wis. Stats. ch. 755 to be designated as "municipal court for the City of Evansville and the Town of Union."

(Code 1986, § 1.05(2)(a); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-32. Hours.

The municipal court shall be open as determined by order of the municipal judge.

(Code 1986, § 1.05(2)(b); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-33. Location.

The municipal judge shall keep his office and hold court in the city hall.

(Code 1986, § 1.05(2)(c); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-34. Forfeitures, fees, assessments and costs.

The Municipal Judge may impose punishment and sentences as provided by Wis. Stats. ch. 800 and as provided in the ordinances of the City of Evansville and the Town of Union. All forfeitures, fees, penalty assessments, crime laboratories and drug law enforcement assessments, consumer information assessments, domestic abuse assessments and costs paid to the municipal court under a judgment before the municipal judge shall be paid to the City of Evansville clerk-treasurer within seven days after receipt of the money by the municipal judge or other court personnel. At the time of the payment, the municipal judge shall report to the clerk-treasurer the title of the action, the offense for which a forfeiture was imposed and the total amount of the forfeiture, fees, penalty assessments, crime laboratories and drug law enforcement assessments, consumer information assessments, domestic abuse assessments and costs, if any. The clerk-treasurer shall disburse the fees as provided in Wis. Stats. § 814.65(1).

² **Editor's note:** Ord. No. 2002-7, § 1, adopted Jan. 2, 2003, repealed the former Art. II., §§ 34-31--34-65, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from the Code of 1986, § 1.05 and Ord. No. 1999-16, §§ 1, 2, adopted Nov. 9, 1999.

All jail assessments paid to the municipal court under a judgment before the municipal judge shall be paid to the county treasurer within seven days after receipt of the money by the municipal judge or other court personnel.

(Code 1986, § 1.05(2)(d); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-35. Contempt procedure.

The municipal judge may impose a sanction authorized under § 800.12(2), Wis. Stats., for contempt of court, as defined in § 785.01(1) Wis. Stats., in accordance with the procedures under § 785.03 Wis. Stats.

The municipal judge may impose a forfeiture for contempt under § 800.12(1) Wis. Stats. in an amount not to exceed \$50.00 or, upon nonpayment of the forfeiture and the penalty assessment under § 165.87, Wis. Stats., a jail sentence not to exceed seven days.

(Code 1986, § 1.05(2)(e); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-36. Stipulations and deposits.

(a) *Establishment of deposit schedule.* The municipal judge shall establish and submit to the city council and town board for approval, in accordance with Wis. Stats. § 800.03(3), a schedule of deposits for violations of city and town ordinances, resolution and bylaws, except traffic regulations which are governed by Wis. Stats. § 345.27, and boating violations governed by Wis. Stats. § 23.67. When approved by the council and town board, such deposit schedule shall be posted in the office of the municipal court clerk and the city and town police departments, if any.

(b) *Stipulations and deposit in lieu of court appearance.* Persons cited for violations of city ordinances, resolutions or bylaws for which a deposit has been established under this section shall be permitted to make a stipulation of no contest and a deposit in lieu of court appearance as provide in Wis. Stats., §§ 800.03, 800.04 and 800.09.

(c) *Traffic and boating violation deposits.* The deposit schedule established by the state judicial conference and the procedures set forth in Wis. Stats. chs. 23 and 345 shall apply to stipulations and deposits for violations of traffic regulations enacted in accordance with Wis. Stats. § 345.27 and boating regulations enacted in accordance with Wis. Stats. § 30.77.

(d) *Cases where not permitted.* Stipulations and deposits may not be permitted after initial appearance or in cases of contempt under section 34-36 of the City of Evansville Municipal Code or Town of Union Code, unless otherwise approved by the court.

(Code 1986, § 1.05(2)(f); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-37. Authority to impose alternative juvenile dispositions and sanctions.

(a) For a juvenile adjudged to have violated an ordinance, the municipal court is authorized to impose any of the dispositions listed in Wis. Stats. §§ 938.343 or 938.344 in accordance with the provisions therein.

(b) For a juvenile adjudged to have violated an ordinance, and who further violates a condition of a dispositional order of the municipal court under Wis. Stats. §§ 938.343 or 938.344, the municipal court is authorized to impose any of the sanctions listed in Wis. Stats. §§ 938.355(6)(d) and (6)(m), in accordance with the provisions therein.

(c) This section is enacted pursuant to the authority of Wis. Stats. § 938.17(c)(cm).
(Code 1986, § 1.05(3); Ord. No. 2002-7, § 1, 1-2-2003)

Secs. 34-38--34-60. Reserved.

DIVISION 2. MUNICIPAL JUDGE

Sec. 34-61. Office created.

Pursuant to Wis. Stats. § 755.01, there is created the office of municipal judge for the City of Evansville and Town of Union.

(Code 1986, § 1.05(1)(a); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-62. Salary.

The municipal judge shall receive a salary as established from time to time by resolution of the Evansville common council as allowed according to Wis. Stat. § 755.04. The salary shall be in lieu of fees and costs. No salary shall be paid to the judge for any time during the term for which an official bond and oath have not been executed and filed with the clerk-treasurer. The municipalities may by separate ordinances allocate funds for the administration of the municipal court pursuant to § 66.30, Wis. Stats.

(Code 1986, § 1.05(1)(c); Ord. No. 1999-16, § 2(1.05(c)), 11-9-1999; Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-63. Oath and bond.

The judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in § 757.02(1), Wis. Stats., and at the same time execute and file an official bond in the amount of \$15,000.00. The judge shall not act until the oath and bond have been filed as required by § 19.01(4)(c), Wis. Stats., and the requirements of § 755.03(2), Wis. Stats. have been complied with.

(Code 1986, § 1.05(1)(d); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-64. Jurisdiction.

The municipal judge of the municipal court shall have such jurisdiction as provided by §§ 755.045 and 755.05, Wis. Stats., and as otherwise provided by state law. Such court shall be under the jurisdiction of and presided over by a municipal judge who shall

be an attorney licensed to practice law in Wisconsin, and who resides in the City of Evansville or the Town of Union.

(Code 1986, § 1.05(1)(e); Ord. No. 2002-7, § 1, 1-2-2003)

Sec. 34-65. Election; term of office.

Such municipal judge shall be elected at large in the spring election for a term of four years commencing on May 1. All candidates for the position of municipal judge shall be nominated by nomination papers as provided in § 8.10, Wis. Stats., and selection at a primary election if such is held as provided in § 8.11, Wis. Stats. The common council of the City of Evansville and the town board of the Town of Union shall provide for a primary election in the event that more than two candidates file nomination papers for such position of municipal judge as provided in § 8.11 (1) (a) Wis. Stats, and such primary election shall be held on the third Tuesday of February as provided in § 5.02(22) Wis. Stats.

The municipal clerk of each municipality shall see to the compliance with §§ 5.58(1c), 5.60 (1)(b), 5.60(2), 7.10(1)(a), 7.60(4)(a) and 8.10(6)(a) Wis. Stats. To provide for the election of a municipal judge under § 755.01(4).

(Ord. No. 1999-16, § 1(1.05(b)), 11-9-1999; Ord. No. 2002-7, § 1, 1-2-2003)

Chapter 38

ELECTIONS¹

Sec. 38-1.	Polling places and hours.
Sec. 38-2.	Aldermanic districts.
Sec. 38-3.	Wards.

¹ **Cross references:** Administration, ch. 2.

Sec. 38-1. Polling places and hours.

(a) The polls at all elections shall be open at 7:00 a.m. and close at 8:00 p.m.

(b) The polling place for each aldermanic district shall be at Creekside Place, 102 Maple Street, Evansville, Wisconsin, unless some other place is provided and designated in accordance with Wis. Stats. § 5.25.

(Code 1986, § 1.15; Ord. No. 2001-4, § 2(1.15(2)), 7-24-2001; Ord. No. 2002-1, § 1, 4-9-2002; Ord. No. 2003-5, § 1, 6-10-2003, Ord. No. 2011-06, Ord 2021-09)

Sec. 38-2. Aldermanic districts.

Pursuant to § 62.08, Wis. Stats., the boundaries of the aldermanic districts within the city shall be as follows:

- (1) *First aldermanic district.* Beginning at a point on Porter Road at the west city limits; running thence east on the centerline of Porter Road to its intersection with South Fifth Street; thence north on the centerline of South Fifth Street to its intersection with West Liberty Street; thence east on the centerline of West Liberty Street to its intersection of South Fourth Street; thence north on the centerline of South Fourth Street to its intersection with College Drive; thence east and north on the centerline of College Drive to its intersection with West Church Street; thence east on the centerline of West Church Street to its intersection with South Third Street; thence north on the centerline of South Third Street to its intersection with West Main Street; thence east on the centerline of West Main Street to its intersection with Second Street; thence north on the centerline of North Second Street to its intersection with Garfield Avenue; thence west on the centerline of Garfield Avenue to its intersection with North Third Street; thence north along the centerline of North Third Street to its intersection with Grove Street; thence west along the centerline of Grove Street to its intersection with Clifton Street; thence south along the centerline of Clifton Street to its intersection with Garfield Avenue; thence west on the centerline of Garfield Avenue to its intersection with North Fourth Street; thence northwest on the centerline of North Fourth Street to its intersection with North Fifth Street; thence south on North Fifth Street to its intersection with the northeast corner of parcel 6-27-965; thence west to its intersection with the northwest corner of parcel 6-27-965; then north 90.07'; thence east 131.46'; thence north 100'; thence west on the north city limits to its intersection with the west city limits; thence south on the west city limits to the point of beginning. Aldermanic District #1 consists of Wards 1 and 2.
- (2) *Second aldermanic district.* Beginning at the northwest corner of the city limits, south of Porter Road and along the west line of Parcel 6-27-559-500E; running thence south along the west city limits; thence east, south, east, and north along the city limits to Vision Drive; thence east on the centerline of Vision Drive to

South Fifth Street; thence north on the centerline of South Fifth Street to its intersection with the southwest corner of parcel 6-27-970.21A; thence east, south, east, east, south, east, north, and west along the outer lines of parcels 6-27-970.21A and 6-27-970.21B to its intersection with the southwest corner of parcel 6-27-970.20; thence east to the west line of parcel 6-27-970.22; thence south along the outer lines of parcel 6-27-970.22 to the northeast corner of parcel 6-27-970.22; thence east on the south city limits north of Old Highway 92 to its intersection with South First Street; thence north on the centerline of South First Street to its intersection with Highland Avenue; thence west on the centerline of Highland Avenue to its intersection with Second Street; thence north on the centerline of Second Street to its intersection with West Church Street; thence west on the centerline of West Church Street to its intersection with College Drive; thence south and west on the centerline of College Drive to its intersection with South Fourth Street; thence south on the centerline of South Fourth Street to its intersection with West Liberty Street; thence west on the centerline of West Liberty Street to its intersection with South Fifth Street; thence south on the centerline of South Fifth Street to its intersection with Porter Road; thence west on the centerline of Porter Road to the point of beginning. Aldermanic District #2 consists of Wards 3 and 4.

- (3) *Third aldermanic district.* Beginning at the centerpoint of North Fourth Street and North Fifth Street; running thence southeast on the centerline of North Fourth Street to its intersection with Garfield Avenue; thence east on the centerline of Garfield Avenue to its intersection with Clifton Street; thence north on the centerline of Clifton Street to its intersection with Grove Street; thence east on the centerline of Grove Street to its intersection with North Third Street; thence south on the centerline of North Third Street to its intersection with Garfield Avenue; thence east on the centerline of Garfield Avenue to North Second Street; thence south on centerline of North Second Street to West Main Street; thence east on the centerline of West Main Street to its intersection with the southeast corner of parcel 6-27-316.369, thence east along the south city limits to the east city limits west of the centerline of County Highway M; thence north on the east city limits west of the centerline of County Highway M to its intersection with the north city limits; thence west on the north city limits to point of beginning. Aldermanic District #3 consists of Wards 5 and 6.
- (4) *Fourth aldermanic district.* Beginning at the centerpoint of Second Street and Highland Avenue; running thence east on the centerline of Highland Avenue to its intersection with First Street; thence south on the centerline of First Street to the south city limits; thence east along the city limits to its intersection with South Madison Street and Walker Street; thence east along the south city limits

to the east city limits; thence north along the east city limits to the north city limits; thence west along the north city limits to the west city limits east of the centerline of County Highway M; thence south on the west city limits east of the centerline of County Highway M to its intersection with the centerline of County Highway M; thence south on the centerline of County Highway M to its intersection with East Main Street; thence west on the centerline of East Main Street to its intersection with Third Street; thence south on the centerline of South Third Street to its intersection with West Church Street; thence east on the centerline of West Church Street to its intersection with South Second Street; thence south on the centerline of South Second Street to the point of beginning. Aldermanic District #4 consists of Wards 7 and 8.

(Code 1986, § 1.20; Ord. No. 2001-5, § 1(1.20), 7-24-2001, Ord. 2009-11, Ord. No. 2011-06, Ord. 2015-11, Ord. 2019-02, Ord 2021-09)

Sec. 38-3. Wards.

Pursuant to § 5.15, Wis. Stats., the City of Evansville shall have ten wards with boundaries as follows:

- (1) *First ward.* Beginning at a point on Porter Road at the west city limits; running thence east on the centerline of Porter Road to its intersection with Sixth Street; thence north on the centerline of Sixth Street to its intersection with West Main Street; thence east on the centerline of West Main Street to its intersection with Fifth Street; thence north on the centerline of Fifth Street to its intersection with northeast corner of parcel 6-27-965; thence west to its intersection with the northwest corner of parcel 6-27-965; then north 90.07'; thence east 131.46'; thence north 100'; thence west on the north city limits to its intersection with the west city limits; thence south on the west city limits to the point of beginning. First Ward is located in Aldermanic District #1, Rock County Supervisory District #1.

2020 Census Block Numbers- Ward 1		
551050029023031	551050029023035	551050029023037
551050029023039	551050029023040	551050029023038

- (2) *Second ward.* Beginning at the center point of the intersection of Porter Road and South Sixth Street; running thence east on the centerline of Porter Road to its intersection with South Fifth Street; thence north on the centerline of South Fifth Street to its intersection with West Liberty Street; thence east on the centerline of West Liberty Street to its intersection of South Fourth Street; thence north on the centerline of South Fourth Street to its intersection with College Drive; thence east and north on the centerline of College Drive to its intersection with West Church Street; thence east on the centerline of West Church Street to its intersection with South Third Street; thence north on the centerline of South

Third Street to its intersection with West Main Street; thence east on the centerline of West Main Street to its intersection with Second Street; thence north on the centerline of North Second Street to its intersection with Garfield Avenue; thence west on the centerline of Garfield Avenue to its intersection with North Third Street; thence north along the centerline of North Third Street to its intersection with Grove Street; thence west along the centerline of Grove Street to its intersection with Clifton Street; thence south along the centerline of Clifton Street to its intersection with Garfield Avenue; thence west on the centerline of Garfield Avenue to its intersection with North Fourth Street; thence northwest on the centerline of North Fourth Street to its intersection with North Fifth Street; thence south on the centerline of North Fifth Street to its intersection with West Main Street; thence west on the centerline of West Main Street to its intersection with Sixth Street; thence south on the centerline of South Sixth Street to the point of beginning. Second Ward is located in Aldermanic District #1, Rock County Supervisory District #1.

<i>2020 Census Block Numbers- Ward 2</i>		
551050029022002	551050029022007	551050029022009
551050029022010	551050029022011	551050029022012
551050029022013	551050029022014	551050029022015
551050029022016	551050029022017	551050029022018
551050029022020	551050029022021	551050029023041

- (3) *Third ward.* Beginning at the southwest corner of the city limits, south of Porter Road and along the west line of Parcel 6-27-559.500E; running thence south along the west city limits; thence east, south, east, and north along the city limits to Vision Drive; thence east on the centerline of Vision Drive to South Fifth Street; thence north on the centerline of South Fifth Street to its intersection with Higgins Dr thence northeast on the center line of Higgins Dr to the intersection of Higgins Dr and Badger Dr, thence west on the centerline of Badger Drive to the intersection of Badger Dr and S Sixth St, thence north on the centerline of S Sixth St, to the intersection with Porter Road; thence west on the centerline of Porter Road to the point of beginning. Third Ward is located in Aldermanic District #2, Rock County Supervisory District #1.

<i>2020 Census Block Numbers- Ward 3</i>		
551050029023034	551050029023042	551050029023043
551050029023044	551050029023045	551050029023046
551050029022028	551050029023049	551050029023050
551050029023051	551050029023052	551050029023053
551050029023054	551050029023056	551050029023057

- (4) *Fourth ward.* Beginning at the southwest corner of parcel 6-27-559.5005, which is located on the northeast corner of Badger Drive and S Sixth St; running thence east on the centerline of Badger Drive to its intersection with Higgins Dr; thence southwest along the center line of Higgins Dr to its intersection with S Fifth St, thence south along the center line of S Fifth St to the southwest corner of parcel 6-27-970.21A; thence east, to the northwest corner of 6-27-970.21B, then south, east, south, east, north, to the southeast parcel 6-27-970.21A, then north, west along the outer lines of parcels 6-27-970.21A;—thence north to the southwest corner of parcel 6-27-970.20; thence east, north to the northeast corner of parcel 6-27-970.20; thence east along parcel 6-27-491 to the lower northwest corner of parcel 6-27-970.22, thence south, west, south, west, south, east, north, to the northeast corner of parcel 6-27-970.22, thence east along the outer lines of parcel 6-27-491 to the northwest corner of parcel 6-27-992, which is south of the intersection of Fair St and Longfield St; thence south of Fair Street following the outer lines of parcels 6-27-992 and 6-27-991 back to Fair Street; thence east to the northwest corner of parcel 6-27-989 following the outer lines of parcel 6-27-989 and 6-27-990 running to the intersection of Fair St and Second St; thence south to the southwest corner of parcel 6-27-984.1; thence east, south, west to the northwest corner of parcel 6-27-984; thence running south to the intersection of S Second St and Old Highway 92; thence northeast on the south city limits north of Old Highway 92 to its intersection with S First Street; thence north on the centerline of S First Street to its intersection with Highland Avenue; thence west on the centerline of Highland Avenue to its intersection with S Second Street; thence north on the centerline of S Second Street to its intersection with W Church Street; thence west on the centerline of W Church Street to its intersection with College Drive; thence south and west on the centerline of College Drive to its intersection with South Fourth Street; thence south on the centerline of South Fourth Street to its intersection with West Liberty Street; thence west on the centerline of West Liberty Street to its intersection with South Fifth Street; thence south on the centerline of South Fifth Street to its intersection with Porter Road; thence west on the centerline of Porter Road to its intersection with S Sixth St, thence southeast on S Sixth St to the point of beginning. Fourth Ward is located in Aldermanic District #2, Rock County Supervisory District #1.

<i>2020 Census Block Numbers- Ward 4</i>		
551050029021007	551050029021011	551050029021012
551050029021013	551050029022019	551050029022022
551050029022023	551050029022024	551050029022026
551050029023047	551050029022029	551050029022031
551050029023048		

- (5) *Fifth ward.* Beginning at the center point of North Fourth Street and North Fifth Street; running thence southeast on the centerline of North Fourth Street to its

intersection with Garfield Avenue; thence east on the centerline of Garfield Avenue to its intersection with Clifton Street; thence north on the centerline of Clifton Street to its intersection with Grove Street; thence east on the centerline of Grove Street to its intersection with North Third Street; thence south on the centerline of North Third Street to its intersection with Garfield Avenue; thence east on the centerline of Garfield Avenue to North Second Street; thence south on centerline of North Second Street to West Main Street; thence east on the centerline of West Main Street to its intersection with Cemetery Road; thence north on the centerline of Cemetery Road to the north city limits; thence west on the north city limits to the point of beginning, Fifth Ward is located in Aldermanic District #3, Rock County Supervisory District #1.

2020 Census Block Numbers- Ward 5		
551050029011001	551050029011017	551050029011018
551050029011019	551050029011022	551050029021000
551050029021001	551050029021002	551050029021003
551050029022001	551050029022004	551050029022005
551050029022006	551050029022008	551050029022027
551050029023026	551050029023027	551050029023029

- (6) *Sixth ward.* Beginning at the center point of East Main Street and Cemetery Road; running thence east on the centerline of East Main Street to its intersection with the southeast corner of parcel 6-27-316.369, thence east along the south city limits to the east city limits west of the centerline of County Highway M; thence north on the east city limits west of the centerline of County Highway M to its intersection with the north city limits; thence west on the north city limits to its intersection with Cemetery Road to the point of beginning. Sixth Ward is located in Aldermanic District #3, Rock County Supervisory District #1.

2020 Census Block Numbers- Ward 6		
551050029011005	551050029011007	551050029011008
551050029011009	551050029011010	551050029011011
551050029011012	551050029011013	551050029011014
551050029011015	551050029011016	551050029011046

- (7) *Seventh ward.* Beginning at the centerpoint of Second Street and Highland Avenue; running thence east on the centerline of Highland Avenue to its intersection with First Street; thence south on the centerline of First Street to the south city limits; thence east along the city limits to its intersection with South Madison Street; thence north on the centerline of South Madison Street to its intersection with Water Street; thence east on the centerline of Water Street to its intersection with S Union Street; thence northwest on the centerline of S Union Street to its intersection with East Main Street; thence west on the centerline of

Main Street to its intersection with Third Street; thence south on the centerline of South Third Street to its intersection with West Church Street; thence east on the centerline of West Church Street to its intersection with South Second Street; thence south on the centerline of South Second Street to the point of beginning. Seventh Ward is located in Aldermanic District #4, Rock County Supervisory District #1.

<i>2020 Census Block Numbers- Ward 7</i>		
551050029011020	551050029011021	551050029011023
551050029011024	551050029011025	551050029011027
551050029011028	551050029011029	551050029011048
551050029021004	551050029021005	551050029021006
551050029021008	551050029021009	551050029021010
551050029023063	551050029023065	

- (8) *Eighth ward.* Beginning at the centerpoint of South Madison Street and Walker Street; running thence east along the south city limits to the east city limits; thence north along the east city limits to the north city limits; thence west along the north city limits to the west city limits east of the centerline of County Highway M; thence south on the west city limits east of the centerline of County Highway M to its intersection with the centerline of County Highway M; thence south on the centerline of County Highway M to its intersection with East Main Street; thence west on the centerline of East Main Street to S Union Street; thence south on the centerline of S Union Street to its intersection with Water Street; thence east on the centerline of Water Street to its intersection with South Madison Street; thence south on the centerline of South Madison Street to the point of beginning. Eighth Ward is located in Aldermanic District #4, Rock County Supervisory District #1.

<i>2020 Census Block Numbers- Ward 8</i>		
551050029011026	551050029011033	551050029011034
551050029011035	551050029011036	551050029011042
551050029011043	551050029011044	551050029011045
551050029011049	551050029012057	551050029012059
551050029012060	551050029012061	551050029012063
551050029012065	551050029012066	551050029012072
551050029012073	551050029011030_01	551050029011032_00

(Ord. No. 2001-4, § 1(1.19), 7-24-2001, Ord. 2009-11, Ord. 2011-06, Ord. 2014-10, Ord. 2015-11, 2019-02, Ord 2020-06, Ord 2021-09)

Chapter 42

EMERGENCY SERVICES¹

Article I. In General

Secs. 42-1--42-30. Reserved.

Article II. Emergency Medical Services

Sec. 42-31. Emergency medical services chief.

¹ **Cross references:** Businesses, ch. 22; civil emergencies, ch. 30; fire prevention and protection, ch. 50; law enforcement, ch. 70.

ARTICLE I. IN GENERAL

Secs. 42-1--42-30. Reserved.

ARTICLE II. EMERGENCY MEDICAL SERVICES

Sec. 42-31. Emergency medical services chief.

There is hereby created for the city the position of emergency medical services chief. The emergency medical services chief shall be appointed by the mayor subject to confirmation by the city council and shall serve during good behavior. Removal from the position shall require a minimum of 6 Council member votes. Compensation for the position shall be determined annually by the council.

(Ord. No. 7-83, § 1, 8-9-1983 – NOTE: Charter Ordinance No. 7-83 was repealed by Ord 2015-10, Ord. No. 2016-01)

Chapter 46

ENVIRONMENT AND PROPERTY MAINTENANCE¹

Article I. In General

- Secs. 46-01. Title.
- Secs. 46-02. Intent and Purpose.
- Secs. 46-03. Definitions.
- Secs. 46-04--46-30. Reserved.

Article II. Junked Vehicles or Other Junked or Discarded Property

- Sec. 46-31. Storage generally.
- Sec. 46-32. Storage in connection with automobile sales or repair business.
- Sec. 46-33. Enforcement; removal.
- Secs. 46-34--46-60. Reserved.

Article III. Open Burning

- Sec. 46-61. Prohibited burning.
- Sec. 46-62. Restrictions on permitted burning.
- Secs. 46-63--46-90. Reserved.

Article IV. Nuisances

- Sec. 46-91. Adoption of state law.
- Sec. 46-93. Noxious weeds and rank vegetation.
- Sec. 46-94. Public nuisances affecting peace and safety.
- Sec. 46-95. Notice
- Sec. 46-96. Penalty
- Secs. 46-97--46-100. Reserved.

Article V. Property Maintenance Standards

¹ **Cross references:** Animals, ch. 14; buildings and building regulations, ch. 18; moving buildings, § 18-221 et seq.; design and layout standards for erosion control, § 110-161; environmental consideration in subdivisions, § 110-221 et seq.

Secs. 46-101.	Safe and Sanitary Maintenance of Property.
Secs. 46-102.	Establishing Responsibility of Owners, Operators, and Occupants.
Secs. 46-103.	Administration and Enforcement.
Secs. 46-104.	Severability
Secs. 46-105	Abrogation and Greater Restrictions
Secs. 46-106.	Interpretation.

ARTICLE I. IN GENERAL

Secs. 46-01. Title.

This chapter shall be known as the “Environment and Property Maintenance Code” of the City of Evansville.

Secs. 46-02. Intent and Purpose.

- (1) This chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City and its environs. This includes, among others, physical, aesthetic, and monetary values.
- (2) It is recognized that there may now be, or may in the future be, residential and nonresidential buildings, structures, yards or vacant areas and combinations thereof which are so dilapidated, unsafe, dangerous, inadequately maintained so as to constitute a menace to the health, safety, and/or general welfare of the people. The establishment and enforcement of property maintenance standards is necessary to preserve and promote the private and public interests of the community.

Secs. 46-03. 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.

Approved means approved by the Administrative Officer under the regulations of this chapter or approved by an authority designated by law.

City Inspector means the Building Inspector or other designated inspector.

Inspection means an examination performed in conjunction with a lawful request of the Evansville Plan Commission, or City inspector for the purpose of certifying the fulfillment of an official requirement listed in the request.

(Ord. 2016-10)

Secs. 46-04-30. Reserved.

ARTICLE II. JUNKED VEHICLES OR OTHER JUNKED OR DISCARDED PROPERTY²

Sec. 46-31. Storage generally.

- (1) *Junked Vehicles.* No person shall allow any disassembled, inoperative, unlicensed, junked or wrecked motor vehicle to be stored or to remain viewable from the public right of way on public or private property within the city for longer than thirty (30) days, unless in connection with an automotive sales or repair business enterprise located in a properly zoned area and in conformity with this article. To the extent that this article applies to abandoned vehicles the terms of Wis. Stats. § 342.40 shall be complied with. Removal of a vehicle or other junked or discarded property under this article shall be at the owner's expense.
- (2) *Junked or Discarded Property, Trash, Litter, or Debris.* No person shall allow to accumulate, or store, junk, litter, trash, or debris on any property in the City longer than thirty (30) days, including but not limited to the following:
 1. Any broken or otherwise inoperable or dilapidated furniture, dilapidated outdoor structures, or appliances or part thereof.
 2. Any electronic devices or part thereof including but not limited to televisions, stereo components, computers, printers, copiers and stereo components.
 3. Any accumulation of paper; cardboard; wood; trash; garbage; rubbish; used, reclaimed or rotting wood; glass; aluminum cans; plastic containers or other junk, waste, refuse, discarded material or similar items having little or no value.
 4. Any building material including used or reclaimed lumber, pallets or pallet lumber or other reclaimed or salvaged building materials, rocks, trees, stumps, or other debris from land development, materials for building construction, street grading, or installation of underground utilities, upon the surface of any land in the City of Evansville except on approved and active construction sites or at approved storage or disposal sites.

(Code 1986, § 7.09(1), Ord. 2016-10, Ord. 2019-04)

Sec. 46-32. Storage in connection with automobile sales or repair business.

Any vehicles, disassembled vehicles, inoperative vehicles, or other junked or discarded property stored or allowed to remain more than three days in connection with an automobile sales or repair business enterprise shall be kept in an area at least 50 feet distant and screened from the nearest city street right of way.

(Code 1986, § 7.09(2), Ord. 2016-10, Ord. 2019-04)

² **Cross references:** Traffic and vehicles, ch. 122.

Sec. 46-33. Enforcement; removal.

- (1) Whenever any police officer finds any property or vehicles as described in Article II; including any disassembled inoperative, unlicensed, junked or wrecked motor vehicle or other junked or discarded property, trash, litter or debris placed or stored in the open upon any public property within the city, he may issue a citation to the owner of such vehicle or other junked or discarded property and such owner shall be subject to a penalty as provided in section 1-11. In addition, after trying to notify the owner verbally or otherwise, he may cause such vehicle or other junked or discarded property to be removed to a junk or salvage yard and stored in such junk or salvage yard for 30 days, at the end of which time such junk or salvage yard shall dispose of such vehicle or other junked or discarded property unless previously claimed by the owner.
- (2) Whenever any police officer, other city officer, or employee finds any property or vehicles as described in Article II; including such vehicles or other junked or discarded property, trash, litter or debris placed or stored in the open upon private property within the City, they shall notify the owner of the property upon which such vehicle or other junked or discarded property is placed or stored that the vehicle or other junked or discarded property constitutes a violation of this article. Such notice may be given to the owner personally or by mail to the owner at any place such owner may be found or to his last known address. The owner may be notified that it is the intention of the city to remove such vehicle or other junked or discarded property, trash, litter or debris immediately. If such vehicle or other junked or discarded property, trash, litter or debris is not removed within three days, any police officer or other city officer may cause the vehicle or other junked or discarded property, trash, litter or debris to be removed, and the cost of such removal shall be charged to the property where the vehicle or other junked or discarded property is stored, which unpaid charges shall be entered as a special charge on the tax roll. The officer may also issue citations for each day of violation with the penalties as stated in section 1-11.
- (3) If such vehicle or other junked or discarded property trash, litter or debris is claimed by the owner, the junk or salvage yard shall charge to the owner a reasonable fee for handling or storage.

(Code 1986, § 7.09(3)--(5), Ord. 2016-10, Ord. 2019-04)

Secs. 46-34--46-60. Reserved.

ARTICLE III. OPEN BURNING³

Sec. 46-61. Prohibited burning.

The following non-exclusive list of open burnings are prohibited on any land, public or private, in the city:

- (1) The burning of garbage, rubbish, yard refuse materials, recyclable materials, building materials, putrescible material, leather, rubber, plastic, petroleum-based materials or any material coated with plastic, rubber or petroleum-based substances.
- (2) The burning of anything in a street, gutter, or ditch or within 15 feet of any surface water.

(Code 1986, § 9.13(1), Ord. 2016-10)

Sec. 46-62. Restrictions on permitted burning.

The following restrictions shall apply to all permitted open burning in the city:

- (1) All bonfires set to mark a public event, victory celebration, ceremony or similar event must be more than 25 feet from any building, utility pole, overhead wire or other combustible material and must be attended at all times.
- (2) All other types of open fires must be more than 25 feet from any building, utility pole, overhead wire or other combustible material and must be attended at all times.
- (3) Any burning within 25 feet of a building, utility pole, overhead wire or other combustible material, except for appliances intended solely for outdoor cooking, is prohibited.
- (4) The fire chief, fire inspector or city inspector may, in their discretion, require greater distances or otherwise further restrict instances of open burning that may pose a fire hazard to the people or property of the city.
- (5) The city fire chief, fire inspector or city inspector may, at their discretion, grant exemptions with or without conditions from these restrictions upon written advance request as long as people and property of the city are appropriately protected at the expense of the requesting party.

(Code 1986, § 9.13(2), Ord. 2016-10)

Sec. 46-63. Penalty

Any person who violates any provision of this article shall be subject to a citation and a penalty as provided in section 1-11 of the code of ordinances.

Secs. 46-64--46-90. Reserved.

³ **Cross reference:** Fire prevention and protection, ch. 50.

ARTICLE IV. NUISANCES

Sec. 46-91. Adoption of state law.

The provisions of Wis. Stats. ch. 823, Nuisances, are hereby adopted by reference as a city ordinance as if set out at length in this article. This includes but is not limited to bawdyhouses, disorderly houses, drug or criminal gang houses, places of prostitution, places of illegal gambling, and dilapidated buildings.

(Code 1986, § 10.12, Ord. 2016-10)

Sec. 46-93. Noxious weeds and rank vegetation.

- (1) The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other nuisances coming within the other provisions of this article or pursuant to state law: all noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed eight (8) inches.
- (2) The city may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property unpaid charges shall be placed as a special charge on the tax roll.

(Code 1986, § 10.03, Ord. 2008-15, Ord. 2016-10)

Sec. 46-94. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the other provisions of this article:

- (1) *Signs, billboards, etc.* All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city.
- (3) *Animal Waste.* All exterior property areas shall be properly maintained to be free from animal feces. All animal feces shall be removed within twenty-four (24) hours of deposit.

Sec. 46-95. Notice.

- (1) If the City police officer, other City officer, or City inspector shall determine with reasonable certainty that any public nuisance exists, he or she shall immediately cause written notice to be served on the owner, occupant or person in charge of the property that said public nuisance must be removed within five (5) days and that if not removed the City may take such actions as prescribed in 46-103(4).
- (2) Said notice may be served by any of the following means:
 - (a) Personal service,
 - (b) Certified mail, or
 - (c) First class mail if the notice is also posted no later than the same day as mailing on the front door of the main building or dwelling on the premises or, if no building or dwelling exists, by posting on the premises in a conspicuous manner.

Sec. 46-96. Penalty.

Any person who shall violate any provision of this article or cause a public nuisance shall be subject to citation and a penalty as provided in section 1-11 for each day there is a violation. Injunctive relief, if available, may also serve as an enforcement remedy.

Secs. 46-97-100. Reserved.

(Code 1986, § 10.05(1), (8), Ord. 2016-10, Ord. 2019-04)

ARTICLE V. PROPERTY MAINTENANCE STANDARDS

Secs. 46-101. Safe and Sanitary Maintenance of Property.

- (1) The purpose of this subsection is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and nonresidential buildings, structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values.
- (2) Every owner or operator shall improve and maintain all property under his/her ownership or control to comply with the following minimum requirements:
 - (a) All exterior property areas and all buildings shall be properly maintained and kept in a clean, safe and sanitary condition.
 - (b) Fences, other minor construction, landscaping, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide safe and convenient all weather access to buildings and shall not cause tripping or fall hazards. Landscaping shall be maintained with dead or dying trees, shrubs, etc. replaced as needed.
 - (c) Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint, other suitable preservative, or a protective covering which will provide adequate resistance to weathering. Any exterior surface treated with paint, other preservative, or protective covering shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface, surface treatment, or protective covering. All paint, preservative, or protective covering shall be applied in a workmanlike fashion. Protective coverings shall not include insulation or moisture barriers and shall be applied to achieve a consistent exterior appearance. All exterior cabling, cords and piping shall be installed in a workmanlike fashion and maintained to prevent detachment or deterioration.
 - (d) Every exterior window, door, and basement hatchway shall be reasonably weather tight, watertight and kept in proper repair. All exterior door and window hardware shall be installed and maintained in proper working condition. Interior window coverings shall be in good repair and consist of materials and installation in keeping with industry standards. Tarps, drop cloths, stickers, stored materials, furniture, tape, etc shall not be used as window coverings.
 - (e) Every outside stair, porch, deck, ramp, roof, soffit, fascia, and appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair. All exterior stairs, steps, porches, decks, ramps,

roofs, soffits, fascia, and every appurtenance thereto shall comply with the requirements specified in Wisconsin Administrative Code Wisconsin Department of Safety and Professional Services (SPS) including Uniform Dwelling Code Chapters SPS 320, 321, 322, 323, 324, and 325; and Commercial Building Code Chapters SPS 361, 362, 363, 364, 365, and 366, as may be amended and as dictated by the type of occupancy in the building.

Secs. 46-102. Establishing the Responsibility of Owners, and Occupants.

- (1) The purpose of this subsection is to establish the responsibility of owners and occupants of buildings and structures.
- (2) In addition to all of the other requirements set forth in this chapter, the responsibility of owners and occupants of buildings is as follows:
 - (a) Every owner and occupant of a building shall keep in a clean, proper and sanitary condition that part of the building and premises thereof which he/she owns and/or occupies and controls. Every owner and/or occupant of a building shall dispose of all his/her refuse, recycling and garbage in an appropriate and sanitary manor.
 - (b) Every owner of a building containing two (2) or more units shall be responsible for maintaining in a clean, proper and sanitary condition the shared or public areas of the residential building and premises thereof.

Secs. 46-103. Administration and Enforcement.

- (1) The purpose of this section is to provide for the administration and enforcement of this Article.
- (2) The Zoning Administrator, Police Chief, Building Inspector, and Municipal Services Superintendent or their designee are hereby given power to enforce this chapter. Therefore, for purposes of enforcement of this article, he/she shall be designated as and have the same powers as the officer referred to in the Wisconsin State Statutes as the City inspector.
- (3) The non-exclusive duties of the City inspector, the shall be as follows:
 - (a) Maintain permanent and current records of all matters arising out of this chapter.
 - (b) Determine compliance with the terms of this article, all state laws, City Ordinances and take such action as necessary to secure such compliance, including: imposition of forfeitures and injunctive action. They shall have full power to pass upon any question arising under the provisions of the housing, building, plumbing, electrical and heating codes and zoning procedures, subject to conditions contained herein.

- (c) Initiate, direct, and review from time to time a study of the provisions of this chapter and make recommendations to the Common Council.
 - (d) Coordinate such inspection and code compliance programs with inspections or improvement programs of other neighborhood groups whose purpose is neighborhood improvement.
- (4) The process for enforcement shall be as follows:
- (a) Any person or entity who shall violate any of the provisions of this article shall be notified by the City inspector of the violations and a reasonable timeframe for repair or remedy. Such notice may be given in person or by mail.
 - (b) If such violation(s) have not been repaired or remediated in the specified timeframe, the city may choose to take any or all of the following actions:
 1. Take appropriate action to remedy the violation and assess the cost of such repair to the property in question. Unpaid charges shall be placed as a special charge on the tax roll.
 2. Issue citations to the person(s) or entity responsible for the violations thereby subjecting them to penalty as provided in section 1-11. Each day a violation continues or occurs shall constitute a separate offense.
 3. Pursuit of injunctive relief.
 - (c) Citations permitted under this section may be issued by any City inspector.
 - (d) The issuance of a citation under this section shall not preclude the City or any individual from commencing any action against a violator under any other authority of law.

Secs. 46-104. Severability.

If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect with the invalid or unconstitutional provisions or applications.

Secs. 46-105. Abrogation and Greater Restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, chapter or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

Secs. 46-106. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

(Ord. 2016-10, Ord. 2019-04)

Chapter 48.

Erosion control.

- Sec. 48-1. Authority and administration.
- Sec. 48-2. Findings of fact.
- Sec. 48-3. Purpose and intent.
- Sec. 48-4. Jurisdiction, applicability and waivers.
- Sec. 48-5. Technical standards.
- Sec. 48-6. Performance standards.
- Sec. 48-7. Permits and waivers.
- Sec. 48-8. Fee schedule.
- Sec. 48-9. Enforcement and penalties.
- Sec. 48-10. Appeals.
- Sec. 48-11. Severability.
- Sec. 48-12. Definitions.

Section 48-1. Authority and administration.

- (1) This ordinance is adopted under the authority granted by secs. 62.231 and 62.234, Wisconsin State Statutes. This ordinance supersedes all conflicting and contradictory storm water management regulations previously adopted by the city under sec. 62.23 Wisconsin State Statutes. Except as specifically provided for in secs. 62.231 or 62.234, sec. 62.23 applies to this ordinance and to any amendments to this ordinance.
- (2) The requirements of this ordinance do not preempt more stringent storm water management requirements that may be imposed by the Wisconsin Department of Natural Resources (“DNR”).
- (3) The provisions of this ordinance are not intended to limit any other lawful regulatory powers of the city.
- (4) The city council designates the Building Inspector to administer and enforce the provisions of this ordinance. The Building Inspector may refer projects to the City Engineer or other professionals or specialists, where additional professional expertise is required. The Municipal Services Committee may review staff decisions upon written request by an applicant or permit holder to the committee chair.

(Ord. 2005-27, Ord. 2010-03, Ord. 2014-02)

Section 48-2. Findings of fact.

- (1) The city council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in and near the city. The city council also finds that these sediments and other pollutants have a detrimental effect on water quality and downstream water uses and increases the potential for flooding of adjacent lands.
- (2) Recognizing the well-established relationship between erosion and sedimentation and the loss of water quality and the increased dangers of flooding, the city council finds that effective erosion control practices should be required. The city council also finds that construction site erosion and sediment control best management practices (BMPs) are commonly available and effective, and that the effectiveness of these BMPs depends upon proper planning and design, timely installation, and continuous maintenance.

(Ord. 2005-27)

Section 48-3. Purpose and intent.

- (1) PURPOSE. The general purpose of this ordinance is to promote the health, safety, and general welfare of the people, preserve the natural resources, and protect the quality of the waters of the state in and near the city. Specific purposes are to:
- A. Minimize the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activities to the waters of the state, or adjacent property, to the extent practicable.
 - B. Foster consistent, statewide application of the non-agricultural performance standards developed by the DNR in subchapters III and IV of chapter NR 151, Wisconsin Administrative Code.
 - C. Assist the city in becoming an "Authorized Local Program" under the National Pollutant Discharge Elimination System Storm Water Phase 2 rules.
- (2) INTENT. The intent of this ordinance is to require, through the use of a permit, BMPs to reduce the amount of sediment and other pollutants leaving sites of land disturbing construction activities. It is intended that permit holders be able to choose the most cost-effective BMPs meeting the performance standards required under this ordinance. This ordinance is not intended to limit activity or land division permitted under the applicable zoning and land division ordinances.

(Ord. 2005-27)

Section 48-4. Jurisdiction, applicability and waivers.

(1) JURISDICTION. The provisions of this ordinance shall apply in all lands within the jurisdictional boundaries of city.

(2) APPLICABILITY.

A. This ordinance applies to the following land disturbing construction activities unless documentary evidence establishes that the project bids were advertised, contracts signed where no bids were advertised, or substantial, on-site, work on the project had been completed before the effective date of this ordinance:

I. Grading, removal of protective ground cover or vegetation, excavation, land filling, or other land disturbing activity where:

1. The cumulative area affected exceeds a surface area of 1,000 square feet on a slope of 12 percent or greater, or

2. Where the cumulative area affected exceeds a surface area of 4,000 square feet or more. This includes any activity directly affecting a cumulative surface area less than 4,000 square feet that is part of a larger construction site that in total disturbs more than 4,000 square feet.

II. Grading, removal of protective ground cover or vegetation, excavation, land filling, or other activity affecting a cumulative surface area of more than 1,000 square feet, or more than 40 cubic yards of fill, within the Shoreland Overlay District as defined in Chapter 100, City of Evansville Code of Ordinances;

III. Grading, excavation or filling, or any combination thereof, affecting 400 cubic yards or more of soil, sand, or other excavation or fill material;

IV. Laying, repairing, replacing, or enlarging underground pipe, cable, or wire for a distance of 300 feet or more;

V. Disturbing 100 feet or more of road ditch, grass waterway, or other land area where surface drainage flows in a defined open channel;

VI. Constructing new public or private roads, access roads, or driveways, or portions thereof, exceeding 100 feet in length;

VII. Land disturbing construction activities relating to land divisions, including subdivision plats, certified survey maps, and condominium plats requiring public or quasi-public improvements;

VIII. Land disturbing construction activities, on a site of any size, that have been observed to cause, or have been determined likely to

result in, undue channel erosion, increased water pollution by scouring or the transportation of particulate matter, or endangerment of property or public safety. The Building Inspector shall make this determination after review by the Technical Review Committee.

(3) EXEMPTIONS.

A. This ordinance does not apply to the following:

- I. Nonpoint discharges from agricultural facilities and practices;
- II. Nonpoint discharges from silviculture (forestry) activities;
- III. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- IV. Land disturbing construction activities conducted, or contracted by, a state agency, as defined under sec. 227.01 (1), Wisconsin State Statutes, but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under sec. 281.33 (2), Wisconsin State Statutes;
- V. Land disturbing construction activity that includes the construction of single and two family buildings and manufactured dwellings otherwise regulated by the Wisconsin Department of Commerce under COMM 21.125 or public buildings regulated by COMM 61.115, Wisconsin Administrative Code;¹
- VI. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollution discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity;
- VII. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

B. Any project that is designed and/or certified by the City of Evansville, Rock County Land Conservation Department, or the Natural Resources Conservation Service (NRCS) of the United States Department of

¹ Note: COMM 21.125 refers to statewide construction standards and inspection standards for one- and 2 family dwellings and manufactured dwellings. COMM 61.115 refers to Wisconsin Pollution Discharge Elimination System (WPDES) General Permit coverage for the construction of a public building or a building that is a place of employment.

Agriculture as part of a soil conservation or water pollution control project shall comply with all of the requirements of this ordinance, but shall be exempted from obtaining a permit, providing a financial guarantee, or paying fees under sec. 48-8.

C. Any land disturbing construction activity that is conducted by or for the city shall comply with all of the requirements of this ordinance, including obtaining a permit and submitting an erosion and sediment control plan, but shall be exempted from providing a financial guarantee, or paying fees under sec. 48-8.

I. At the discretion of the Building Inspector, for land disturbing construction activity that is conducted by or for the city, a qualified employee of the city department, or agent, undertaking the construction activity may administer the permit.

(4) WAIVERS.

A. The Building Inspector may, after review by the Technical Review Committee, waive any or all of the requirements of this ordinance if the Building Inspector determines that:

I. A requirement is not necessary for a particular site to ensure compliance with the intent of this ordinance; or

II. Storm water runoff from the construction site activities will have no appreciable off-site impact.

(Ord. 2005-27, Ord. 2010-03)

Section 48-5. Technical standards.

(1) All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications identified, developed or disseminated by the DNR under subchapter V of Chapter NR 151, Wisconsin Administrative Code.

(2) Where technical standards have not been identified or developed by the DNR, other technical standards may be used provided that the methods have been approved by the Building Inspector.

(3) The Building Inspector may develop a “Design Guidelines and Standards” manual to supplement this ordinance. This manual will assist landowners, developers, and consultants to comply with the provisions of this ordinance. The manual will include approved best management practices (BMPs), either within the manual or by reference, which may be used to meet the performance

standards of this ordinance. However, other BMPs that meet the performance standards of this ordinance may be approved for use.

(Ord. 2005-27, Ord. 2010-03)

Section 48-6. Performance standards.

(1) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.

- A. All persons who conduct land disturbing construction activities under sec. 48-4 of this ordinance shall design, install, apply and maintain erosion control BMPs, either on or off the construction site, in accordance with a permitted erosion and sediment control plan (plan) designed to limit sediments and other pollutants from entering waters of the state, storm water systems, or adjacent property. BMPs that limit erosion are preferable to those that control runoff sediment. Accordingly, credit toward meeting the sediment reduction goal will be given for limiting the duration, area, or both, of land disturbing construction activity.
- B. BMPs shall, by design, reduce pollutants from the construction site to the maximum extent practicable by use of methods including, but not limited to, the following:
 - I. Prevent gully and bank erosion.
 - II. Achieve a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. The Building Inspector may, upon written approval by the DNR, use a standard that is equivalent to an 80 % reduction in sediment load. Erosion and sediment control BMPs may be used alone or in combination to meet this requirement.
 - 1. If BMPs cannot be designed to meet the standard in paragraph (B) 2., the plan shall include a written and site-specific explanation as to why the standard is not attainable and a statement that the sediment load shall be reduced to the maximum extent practicable.
- C. Calculations used to comply with paragraph (B) 2. shall be determined by a methodology selected by the Building Inspector in consultation with the Technical Review Committee.
- D. For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- E. Where appropriate, sediment controls shall be implemented to do all of the following:
 - I. Prevent tracking of sediment from the construction site onto roads and other paved surfaces;
 - II. Prevent the discharge of sediment as part of site de-watering;

III. Protect separate storm drain inlet structures from receiving sediment.

F. The use, storage, and disposal of chemicals, cement, and other compounds and materials used on the construction site shall be managed during the construction period to prevent their entrance into the waters of the state, separate storm sewers connecting to the waters of the state, or adjacent property. However, projects that require the placement of these materials in the waters of the state, such as constructing bridge footings, or BMP installations are not prohibited by this paragraph.

G. Only clean fill may be used for restoration conducted on any land disturbing construction activity.

H. BMPs for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.

(2) MAINTENANCE OF BMPs. The permit holder shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has achieved final site stabilization and a written BMP removal authorization has been received from the Building Inspector.

(3) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering the waters of the state. While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

(4) ALTERNATE REQUIREMENTS.

A. The Building Inspector, after review by the Technical Review Committee, may establish erosion and sediment control requirements more stringent than those set forth in this section if the Building Inspector determines that an added level of protection is needed to protect sensitive resources.

(Ord. 2005-27, Ord. 2010-03)

Section 48-7. Permits and waivers.

(1) PERMIT OR WAIVER REQUIRED. No responsible party may undertake a land disturbing construction activity subject to this ordinance without receiving a permit from the Building Inspector, or a waiver as provided in sec. 48-4(4), prior to beginning the proposed activity.

(2) PRELIMINARY REVIEW LETTER.

A. A preliminary review letter provides a potential permit applicant with a simple initial evaluation of whether erosion and sediment control standards can be met for a proposed site, lot layout, or construction design.

This review is voluntary and intended to assist applicants to obtain a permit. A preliminary review letter does not guarantee that a plan will be approved, or that a permit will be issued. Permit applications and plans must meet all applicable standards and criteria for approval.

B. Preliminary Review Letter Procedure:

- I. Any responsible party may apply for a preliminary review letter by submitting an application using a form provided by the Building Inspector.
- II. The Building Inspector will evaluate completed applications and may consult other governmental departments or agencies. The Building Inspector may request additional information from the applicant to better evaluate the application.
- III. The Building Inspector will provide the applicant with the preliminary review letter within 10 working days from the date the last information concerning the application is received.
- IV. The fee for preliminary review letters shall be determined according to sec. 48-8 of this ordinance. The amount of this fee shall be deducted from an application fee for an erosion and sediment control permit for the site reviewed.

(3) GENERAL PERMITS FOR PRIVATE UTILITY WORK PROJECTS

- A. A General Permit may be issued for land disturbing construction activities which are subject to this ordinance under sec. 48-4(2) conducted by or for utilities. The following conditions apply to these General Permits.
 - I. General Permits will be issued to a utility for a one-year period.
 - II. An application for a General Permit must include a generic erosion control plan or plans that include the best management practices (BMPs) typically used on the land disturbing construction activities conducted by the applicant.
 - III. All land disturbing construction conducted under the General Permit must meet the performance standards specified under sec. 48-6 of this ordinance using best management practices referenced under sec. 48-5.
 - IV. General Permit holders must notify the Building Inspector two days prior to the planned beginning any land disturbing construction covered the General Permit. This notification must include the following information:

1. Location of the planned land disturbing activity
 2. Purpose of the planned land disturbing activity
 3. Approximate amount of disturbance
 4. Beginning and ending dates of the planned land disturbing activity
 5. A simple sketch plan of the planned land disturbing activity
 6. The name of those responsible for BMP installation or reestablishment, if not the General Permit holder.
- V. The enforcement, penalties appeals, and fee schedule provisions of this ordinance shall apply to General Permits.

(4) PERMIT / WAIVER APPLICATION.

- A. Any responsible party desiring a permit or waiver shall submit an application to the Building Inspector using a form provided by the City.
- I. If the application is from a land user, the application must be signed by the landowner of the site where the land disturbing construction activities are to take place. A notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent shall also be accepted, provided that it binds the landowner to the terms of this ordinance and any permit issued to the permit holder, including the enforcement actions set forth in sec. 48-9.
 - II. Submission of an application by one of several landowners or land users of a particular site shall constitute an affirmation by the applicant of authority to act on behalf of the other landowners or land users to apply for, receive, and abide by the provisions of a permit. The city shall be under no obligation to ascertain the legal authority of the applicant to so act.
 - III. A permit application shall consist of a completed application form, including a waiver application for relief from any requirement deemed not necessary to ensure compliance with the intent of this ordinance as provided for in sec. 48-3, an erosion and sediment control plan, or simplified plan document as described in sec. 48-7(5) and a non-refundable application review fee.
 - IV. A waiver application, as provided for in sec. 48-4(4), shall consist of a completed waiver application form, including complete

documentation of the justification for the requested waiver, and a non-refundable application review fee.

- V. Each application shall contain an agreement by the applicant that:
1. Authorizes the Building Inspector to enter the site to obtain information required for the review of the application; and
 2. Any land disturbing construction activity shall be conducted in accordance with the provisions of an approved or amended permit.

(5) EROSION AND SEDIMENT CONTROL PLANS

A. PLAN REQUIRMENTS FOR CLASS ONE LAND DISTURBING CONSTRUCTION ACTIVITIES.

- I. Class One land disturbing construction activities contain:
1. One or more acres (43,560 square feet) of disturbed area;
 2. 4,000 square feet or more of disturbed area if any portion of that disturbed area contains slopes of 12% or greater;
 3. More than 1,000 square feet, or a cumulative area of more than 1,000 square feet, of disturbed area, or more than 40 cubic yards of fill, if located within the Shoreland Overlay District, as defined in Chapter 100, City of Evansville Code of Ordinances.
- II. The plan shall address pollution caused by soil erosion and sedimentation during construction until a written BMP removal authorization is received, as described in sec. 48-6(2). The plan shall include, at minimum, the following items:
1. The name(s) and address(es) of the owner or developer of the site, and the principal contact person of any consulting firm retained by the applicant;
 2. The start and end dates of land disturbing construction activity;
 3. The intended sequence of major land disturbing activities at the site, including stripping, rough grading, construction of utilities, infrastructure, and buildings. Sequencing shall identify the expected date on which clearing will begin,

areas of clearing, the estimated duration of exposure of cleared areas, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation;

4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities;
5. Calculations showing compliance with the soil loss standards of sec. 48-6(1).
6. Existing data describing the surface soils and subsoils;
7. Depth to groundwater, as indicated by NRCS soil information, where available;
8. Name of the immediate receiving point of discharge identified on a United States Geological Service topographical map.
9. A materials list for the proposed BMPs that will meet the minimum requirements stated below in paragraph 4.

III. The plan shall include a site map. The site map shall be at a scale of either 1 inch equals 50 feet or 1 inch equals 100 feet, whichever is appropriate to the site size and at a contour interval not exceeding 2 feet in areas with less than 20 percent slope. The site map shall include the following items:

1. Existing topography, vegetative cover, natural and engineering drainage systems, and roads;
2. All surface waters, including lakes, rivers, streams, wetlands, channels, ditches, and other watercourses on, or immediately adjacent to, the site;
3. Floodways and 100-year floodplains;
4. Boundaries of the construction site;
5. Drainage patterns and approximate slopes anticipated after major grading activities;
6. Areas of soil disturbance;
7. Location of all structural and non-structural BMPs identified in the plan;

8. Location of all areas that will be vegetated following construction;
 9. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland;
 10. Locations of all surface waters and wetlands within one mile of the construction site, on an inset map of a convenient scale;
 11. Alphanumeric or equivalent grid overlying the entire construction site map.
- IV. Each plan shall include a description of interim and permanent BMPs that will be implemented at the site to prevent pollutants from reaching waters of the state or adjacent property. The BMPs shall meet, when appropriate, the following minimum requirements:
1. Preservation of existing vegetation where possible;
 2. Stabilization of the disturbed portions of the site;
 3. Diversion of flow away from exposed soils;
 4. Store flows, or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Building Inspector, structural BMPs shall be installed on upland soils.
 5. Management of sheet flow runoff at all sites, unless otherwise controlled by outfall controls;
 6. Trapping of sediment in channelized flow;
 7. Staging construction to limit bare areas subject to erosion;
 8. Protection of downslope drainage inlets;
 9. Minimization of tracking at all sites;
 10. Clean up of off-site sediment deposits;
 11. Proper disposal of building and waste materials at all sites;
 12. Stabilization of drainage ways;
 13. Control of soil erosion from soil stockpiles;

14. Installation of permanent stabilization BMPs immediately after final grading;

15. Minimization of dust to the maximum extent practicable.

V. Velocity dissipation devices shall be placed at discharged locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

B. PLAN REQUIREMENTS FOR CLASS TWO LAND DISTURBING CONSTRUCTION ACTIVITY.

I. Class Two land disturbing construction activities contain less than one acre (43,560 square feet) of disturbed area with no portion of that disturbed area containing slopes of 12% or greater. Class Two activities cannot be located within the shoreland overlay district as defined in Chapter 100, City of Evansville Code of Ordinances.

II. For Class Two sites the applicant may prepare a simplified plan document as part of a permit application. Using an application form provided by the Building Inspector, the simplified plan must contain a site description, a simplified map, a description of the BMPs, and a schedule of implementation. Applicants for a permit for Class Two sites are not required to provide financial assurance as described in paragraph (10) of this section. The submission of a simplified plan document does not relieve the permit holder from achieving the performance standards found in sec. 48-6.

(6) **EVALUATION AND APPROVAL OF APPLICATIONS.** Within 3 working days of receipt, the Building Inspector shall review applications to insure they are complete. Any application found to be incomplete shall be returned to the applicant for completion. Upon receiving a complete application, the Building Inspector shall use the following approval/disapproval procedure:

A. Completed applications will be evaluated for compliance with the requirements of this ordinance. Other governmental departments or agencies may be consulted during application evaluation.

B. Additional substantive information may be requested from the applicant to better evaluate the application.

C. Within 15 working days from the receipt of a complete permit application, or 10 working days from the receipt of additional information requested in accordance with paragraph (B), whichever is later, the applicant shall be informed whether the application has been approved or disapproved. The

City engineer shall base the decision on the requirements of this ordinance.

- D. If the applicant is applying for a waiver, within 20 working days from the receipt of a complete waiver application, or 10 working days from the receipt of additional information requested in accordance with paragraph (B), whichever is later, the applicant shall be informed whether the waiver application has been approved or disapproved. The Building Inspector shall base the decision in consideration of the recommendations of the Technical Review Committee and the requirements of this ordinance.
 - E. Failure to inform an applicant of a decision within the applicable time specified in paragraph (C) or (D) shall constitute approval of the application. If the application was for a permit, the applicant may then proceed in accordance with the provisions of the submitted plan, including any waivers requested in accordance with sec. 48-4(3)(A). If the application was for a waiver under sec. 48-4(3)(B), the waiver shall be deemed granted.
 - F. If the application is approved the Building Inspector shall issue the permit or waiver.
 - G. An application for a permit may be approved with conditions determined by the Building Inspector to be needed to meet the requirements of this ordinance.
 - H. If the application is disapproved, the Building Inspector shall notify the applicant by certified mail and provide a written statement of the reasons for disapproval.
 - I. If the application is disapproved, or if the applicant does not agree with the permit conditions, the applicant may request a review by the Technical Review Committee. This request must be made in writing within 30 calendar days from the date of the applicant was notified of the Building Inspector decision. The schedule and procedure for a waiver described in paragraph (D) above will be followed for this review.
- (7) PERMIT MODIFICATIONS AT THE PERMIT HOLDER'S REQUEST. The permit holder must obtain permission from the Building Inspector prior to modifying an approved plan. Plans, or portions thereof, drawn by a certified erosion control planner, professional engineer, surveyor, or landscape architect, must be amended to show that the author has approved the modifications. These modifications must be shown as amendments to the copy of the plan kept by the permit holder.

- (8) **PERMIT MODIFICATIONS AT THE BUILDING INSPECTOR'S REQUEST.** If the BMPs implemented as part of the approved plan are determined by the Building Inspector to be inadequate to meet the performance standards of this ordinance, the Building Inspector may modify the plan after consultation with the permit holder. These modifications shall be provided to the permit holder in writing and shall be shown as amendments to the copy of the plan kept by the permit holder. The permit holder shall implement these modifications according to a timetable established in the modifications.
- (9) **PERMIT CONDITIONS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state and local laws and regulations. All permits shall require the permit holder to:
- A. Install and maintain all BMPs as identified in the approved plan;
 - B. Notify the Building Inspector within 2 working days of beginning land disturbing construction activity. This notification is not necessary for minor land disturbances undertaken to prepare for site development. Examples of minor disturbances are: survey work, perk tests, well boring, installation of tracking pads or culverts, stump rooting, or the installation of temporary electrical service;
 - C. Establish a site erosion control log to document the installation and maintenance of BMPs required by the plan. This site erosion control log will not be required for a Class Two land disturbing construction activity as provided for under sec. 48-7(5)(B) of this ordinance;
 - D. Provide access to the erosion control log and a copy of the plan, including approved amendments, for referral by the Building Inspector during site visits;
 - E. Notify the Building Inspector within 10 working days of the completion of the installation of all BMPs required in the plan;
 - F. Inspect BMPs at least once each week and after each rain of 0.5 inches or more, make needed repairs, and document the findings of the inspections in the site erosion control log with the date of inspection and the name of the person conducting the inspection;
 - G. Document and repair, with the permission of the property owner, any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities. A financial consideration may be paid by the permit holder in lieu of repair to the

owner of affected property. The Building Inspector must approve this financial consideration.

- H. Allow the Building Inspector to enter the site for the purposes of inspecting compliance with the plan;
- I. Allow the Building Inspector, or agent, to enter the site for the purposes of performing any work necessary to bring the site into compliance with the plan, as provided in sec. 48-9 of this ordinance;
- J. Complete all seeding or mulching called for in the plan by the next September 15th. If either permanent or temporary soil stabilization by seeding or mulching is not accomplished by September 15, additional erosion control practices will be required. These practices may include additional mulching, application of erosion control matting, sodding, or application of polymer tackifiers. These additional practices will be prescribed by the Building Inspector according to sec. 48-7(6).

(10) SITE VISITS.

- A. If land disturbing construction activities are being conducted without a permit required by this ordinance, a representative of the Building Inspector may enter the land, pursuant to the provisions of secs. 66.0129 (1), (2) and (3), Wisconsin State Statutes, to obtain information necessary to undertake enforcement and penalties as provided by sec. 48-9 of this ordinance.
- B. The Building Inspector shall conduct a site visit of each construction site that holds a permit under this ordinance at least once every 30 calendar days during the period starting March 1 and ending October 31, and at least 2 times during the period starting November 1 and ending February 28, to ensure compliance with the provisions of the permit.
- C. Site visits will be conducted at no additional cost to the permit holder, unless as the result of the visit the Building Inspector determines that a previously issued remedial action issued as part of a notice of non-compliance, as provided for in sec. 48-9 of this ordinance, has not been accomplished as scheduled. The cost of the site visit will then be billed to the permit holder, according to the fee schedule adopted as provided for in sec. 48-8.

- (11) FINANCIAL GUARANTEE. As a condition of approval and issuance of the permit, the Building Inspector shall require the applicant to submit a financial guarantee, the form and type of which shall be acceptable to the Building Inspector. This financial guarantee shall not be required in the case of a Class 2 activity, as defined in sec. 48-7(4)(B).

- A. The financial guarantee shall be in an amount determined by the Building Inspector to be adequate to ensure payment of the estimated costs of implementing the plan.
- B. The financial guarantee shall give the Building Inspector authorization to use the funds to complete the plan if the permit holder defaults, or does not properly implement the required BMPs in accordance with the approved plan. The Building Inspector shall notify the permit holder in writing as provided for in sec. 48-9 of this ordinance.

(12) PERMIT DURATION. Permits issued under this section shall be valid for one year or until the site has achieved final site stabilization. After one year permits shall be renewed monthly until the site has achieved final site stabilization. The Building Inspector may require additional BMPs as a condition of the renewal if necessary to meet the requirements of this ordinance. In the case where the land disturbing construction activities do not begin within two years after the issuing of a permit, that permit shall become void.

(Ord. 2005-27, Ord. 2010-03)

Section 48-8. Fee schedule.

- (1) The city council, as part of the annual budget, shall determine the fees referenced in other sections of this ordinance.
- (2) Fees paid under this section shall equal as closely as possible the Building Inspector costs of administrating the provisions of this ordinance, including applicant consultations, application evaluation and approval, permit holder consultations and site inspections.
- (3) All fees shall be doubled if work is started before a permit is applied for and issued. Such doubled fees shall not release the applicant from full compliance with this ordinance nor from prosecution for violation of this ordinance.

(Ord. 2005-27, Ord. 2010-03)

Section 48-9. Enforcement and penalties.

- (1) Any land disturbing construction activities initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the provisions of this ordinance shall be deemed a violation unless conducted in compliance with the requirements of this ordinance.
- (2) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctinal order at the suit of the city pursuant

to sec. 62.23(7)(f), 62.23(7a)(g) and/or 62.23(8), Wisconsin State Statutes. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

- (3) The Building Inspector shall notify the permit holder by certified mail of any non-complying land disturbing construction activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken. Non-complying activities include, but are not limited to:
 - A. Any land disturbing construction activity regulated under this ordinance being undertaken without a permit or waiver;
 - B. The plan not being implemented;
 - C. The conditions of the permit not being met.
- (4) Upon receipt of written notification from the Building Inspector under paragraph (3) (A) the permit holder shall comply with the remedial actions described in the notice.
- (5) Upon receipt of written notification from the Building Inspector under paragraphs (3) (B) or (3) (C), the permit holder shall correct work that does not comply with the plan, or other provisions of the permit as necessary to meet the specifications and schedule set forth in the notice.
- (6) If a permit holder does not comply with the provisions of a notice of non-compliance, the Building Inspector may revoke the permit.
- (7) If non-compliance with this ordinance is determined by the Building Inspector as likely to result in damage to adjacent property, public facilities, or waters of the state, the Building Inspector may post a stop-work order at the time of notification.
- (8) If the permit holder does not comply with the provisions of a notice of non-compliance, or violates a stop-work order posed under paragraph (7), the Building Inspector may request the City Attorney to obtain a cease and desist order in any court with jurisdiction.
- (9) Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the Building Inspector, board of appeals, or by a court with jurisdiction.
- (10) If non-compliance with this ordinance is determined by the Building Inspector as likely to result in damage to adjacent property, public facilities, or waters of the state, the Building Inspector may issue to the permit holder or landowner a notice of intent to perform specific work necessary to comply the requirements of an approved plan, or to protect property, public facilities, or waters of the state.

- (11) After 5 working days from issuing the notice of intent, the Building Inspector may enter upon the land and perform work, or other operations necessary to bring the condition of said lands into conformance with an approved plan, or to protect adjacent property, public facilities, or waters of the state.
- A. The Building Inspector shall keep a detailed account of the costs and expenses of performing this work. These costs, plus legal and staff costs incurred by the city, shall be billed to the owner of title of the property.
 - B. In the event a permit holder or landowner fails to pay the amount due, the amount shall be deducted from any financial guarantee posted pursuant to sec. 48-7(11) of this ordinance. Where such a financial guarantee has not been established, or is insufficient to cover these costs and expenses, the amount shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon pursuant to subchapter VII of chapter 66, Wisconsin State Statutes, for the year in which the work is completed.
- (12) Upon the receipt of assurances deemed sufficient by the Building Inspector, the permit holder may be authorized by the Building Inspector to resume responsibility for the BMPs undertaken under paragraph (11).
- (13) Any person, firm, or corporation who removes, destroys, repositions, or otherwise renders ineffective for a period of 2 working days or more any erosion control BMP installed under a plan approved under this ordinance, unless acting in a manner consistent with that plan, shall be in violation of this ordinance.
- (14) Any person, firm, association, or corporation violating any of the provisions of this ordinance shall be subject to a forfeiture of no less than 500 dollars, nor more than 5,000 dollars, and the costs of prosecution, including staff time, per offense. Each day a violation exists shall constitute a separate offense.

(Ord. 2005-27, Ord. 2010-03)

Section 48-10. Appeals.

(1) BOARD OF APPEALS. The board of appeals:

- A. Shall hear and decide appeals where it is alleged that there is an error in any order, decision, or determination made by the Building Inspector in administering this ordinance, except for cease and desist orders obtained under sec. 48-9(8);
- B. Shall use the rules, procedures, duties, and powers authorized by statute, in hearing and deciding appeals and authorizing variances; and
- C. Upon appeal, may authorize variances from the provisions of this ordinance that are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.

(2) WHO MAY APPEAL. Any applicant, permittee, or landowner may appeal within 30 calendar days of the date of any order, decision, or determination made by the Building Inspector in administering this ordinance, relative to sites in which such person has an interest.

(Ord. 2005-27, Ord. 2010-03)

Section 48-11. Severability.

If a court of competent jurisdiction judges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

(Ord. 2005-27)

Section 48-12. Definitions.

Agency means the Building Inspector and the municipal services committee.

Agricultural Facility means a structure associated with an agricultural practice.

Agricultural Practice means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning

land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

Applicant means the responsible party of a site subject to this ordinance.

Application Review Fee means money paid to the city clerk-treasurer by the permit applicant for recouping the expenses incurred by in administering the provisions of this ordinance.

Average Annual Rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

Bank Erosion means the removal of soil particles from a bank slope primarily caused by water action, such as fluctuations in water volume and velocity, but also by climatic conditions, ice and debris, chemical reactions, and changes in land and stream use.

Best Management Practice or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Cease and Desist Order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit, or in violation of the terms of a permit.

Clean Fill means uncontaminated soil, brick, building stone, concrete, reinforced concrete, or broken pavement.

Channel means any natural or artificial watercourse constructed, developed, and utilized for the drainage of surface waters.

Construction Site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Development means residential, commercial, industrial, or institutional land uses and associated roads.

Disturbed means a site which, due to developing or disturbing activities, has or will experience disturbance or destruction of the existing land surface and/or vegetative cover.

Division of Land means the division of an existing lot or land parcel; the creation of a condominium unit; an interest in real property (including land for a public facility) by the owner thereof for the purpose of sale or building development.

DNR means the Wisconsin Department of Natural Resources.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice, or gravity.

Erosion and Sediment Control Plan or *Plan* means a comprehensive plan developed to address pollution caused by soil erosion and sedimentation of soil particles or rock fragments during construction.

Facilities Development Manual means the most recent edition of the Facilities Development Manual published by the Wisconsin Department of Transportation.

Final Site Stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial vegetative cover has been established with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Financial Guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city clerk-treasurer by the permit holder to assure that requirements of the ordinance are carried out in compliance with the erosion and sediment control plan.

Gully Erosion means a severe loss of soil caused by, or resulting in concentrated flow of sufficient velocity to create a defined flow channel.

Land Conservation Department means the Rock County Land Conservation Department responsible for assisting the administration erosion control and stormwater management ordinances of Rock County.

Land Disturbing Construction Activity means any man-made alternations of the land surface resulting in a change in the topography or existing vegetative and non-vegetative soil cover, or the existing soil topography, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural land use or silviculture activities.

Land User means any person operating upon, leasing, or renting land, or having made any other arrangements with the landowner by which the land user engages in uses of land that are subject to this ordinance.

Landowner means person holding title to or having an interest in a parcel of land that includes a site subject to this ordinance.

Maximum Extent Practicable means a level of implementing BMPs in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. "Maximum extent practicable" allows flexibility in the way to meet the

performance standards and may vary based on the performance standard and site conditions.

NRCS means the Natural Resources Conservation Service, a division of the United States Department of Agriculture.

Off-site means located outside the property boundary described in the permit application for land disturbing construction activity.

Performance Standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the Building Inspector to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pervious Surface means an area that releases as runoff a small portion of the rainfall that falls upon it. Lawns, gardens, parks, forests, or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant means has the meaning given in sec. 283.01 (13), Wisconsin State Statutes.

Pollution means has the meaning given in sec. 281.01 (10), Wisconsin State Statutes.

Quasi-Public means essentially public, as in services rendered, although under private ownership or control.

R Factor means a numeric value used in erosion modeling to account for the total precipitation, intensity and duration patterns of precipitation events.

Responsible Party means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate Storm Sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria Is designed or used for collecting water or conveying runoff, Is not part of a combined sewer system, Is not draining to a storm water treatment device or system, Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of which the land disturbing construction activity is proposed in the permit application, or has occurred.

Site Visit means an in-person observation of the site by the Building Inspector to determine compliance with this ordinance.

Sheet and Rill Erosion means a loss of soil caused by sheet flow or shallow concentrated flow, and characterized by an absence of channeling, or a relatively uniform loss across the exposed layer of the soil, or shallow irregular scouring of the soil subsurface.

Sheet Flow Runoff means water, usually storm runoff, flowing in a thin layer of the ground surface; also called overland flow.

Shoreland Overlay District means as defined in Chapter 100, City of Evansville Code of Ordinances, an area within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages, or within 300 feet of the ordinary high water mark of navigable rivers or streams, or to the landward of the floodplain, whichever distance is greater.

Stabilized means that all disturbed ground, soil or soil storage piles have been contained on site by filter barriers, fences, straw bales, or other BMPs.

Stop-Work Order means an order issued by the Building Inspector that requires that all construction activity on the site be stopped.

Storm Water Basin means an artificially created catchment for the purposes of retaining, detaining, or infiltrating storm water. A storm water basin may also be designed to collect sedimentation.

Storm Water System means waters of the state, drainage swales, storm water basins, storm sewers and pipes, storm drains, pumps, and lift stations, roads with drainage systems, streets, curbs, gutters, ditches, constructed channels, culverts and all other appurtenances now and hereafter existing, used or useful in connection with the collection, control, transportation, treatment, or discharge of storm water.

Technical Review Committee means a committee comprised of the city engineer, zoning administrator, and chair of the municipal services committee.

Technical Standard means a document promulgated by the DNR that specifies design, predicted performance and operation and maintenance specification for a material, device or method.

Tracking Pad means a temporary graveled access located at points of vehicular access to a construction site designed to retain sediment on-site.

Waters of the State means all lakes, bays, rivers, streams, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private within Wisconsin, or its jurisdiction.

Working Day means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding any such day officially observed by the city as a legal holiday.

Wisconsin Storm Water Manual means the Wisconsin Storm Water Manual from the DNR.

(Ord. 2005-27, Ord. 2010-03, Ord. 2014-02)

Chapter 50

FIRE PREVENTION AND PROTECTION¹

Article I. In General

- Sec. 50-1 Appointment, term, and powers of fire district trustees.
Secs. 50-2--50-30. Reserved.

Article II. Fire Prevention Code

- Sec. 50-31. State code adopted.
Sec. 50-32. Responsibility for administration and enforcement.
Sec. 50-33. Penalty; additional remedies; citations.
Secs. 50-34--50-60. Reserved.

Article III. Flammable and Combustible Liquids Code

- Sec. 50-61. Penalty.
Sec. 50-62. State code adopted.
Sec. 50-63. Enforcement generally.
Sec. 50-64. Notice to remove violation.
Sec. 50-65. Collection of cost of abatement.

¹ **Cross references:** Fire protection response fee, § 2-281 et seq.; buildings and building regulations, ch. 18; civil emergencies, ch. 30; emergency services, ch. 42; open burning, § 46-61 et seq.; fireworks, § 82-141 et seq.; performance standards for fire and explosive hazards, § 130-233.

ARTICLE I. IN GENERAL

Sec. 50-1. Appointment, term, and powers of fire district trustees.

(a) As long as the city is a member of the Evansville Fire Protection District, on the third Tuesday in April, the mayor, subject to confirmation by a majority vote of the entire city council, shall appoint (i) as many alderpersons as trustees of the district as is authorized by the agreement regarding the governance and operation of the district and (ii) an equal number of alderpersons as alternate trustees.

(b) Each alderperson's appointment as a trustee or alternate trustee of the district shall be for a one-year term and shall expire on the third Tuesday in April.

(c) If there is a vacancy in a trustee or alternate trustee position, the mayor, subject to confirmation by a majority vote of the entire city council, shall appoint another alderperson as trustee or alternate trustee, whichever is applicable, to serve the remainder of the original alderperson's term.

(d) Trustees shall have whatever powers are given them by applicable state statute and the agreement regarding the governance and operation of the district. If a trustee is absent from a meeting of the trustees of the district, an alternate trustee in attendance at the meeting shall have the powers of a trustee.

(Ord. 2006-19)

Secs. 50-2--50-30. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 50-31. State code adopted.

The Wisconsin Administrative Code for Fire Prevention and Addendums, also known as Wis. Admin. Code ch. COMM 14, Fire Prevention, is hereby adopted by reference and made a part of this article as if fully set forth in this section. Any act required to be performed or prohibited by such code is required or prohibited by this section. This section adopts such other Wisconsin Administrative Code provisions as may supersede, supplant, or in any way modify, change or add to Wis. Admin. Code ch. COMM 14, Fire Prevention and Addendums as adopted.

(Ord. No. 1999-3, § 1(14.04(1)), 4-13-1999)

Sec. 50-32. Responsibility for administration and enforcement.

The fire chief of the Evansville Fire Protection District is hereby authorized and directed to administer and enforce all the provisions of this article and Wis. Admin. Code ch. COMM 14 incorporated in this article by reference.

(Ord. No. 1999-3, § 1(14.04(2)), 4-13-1999)

Sec. 50-33. Penalty; additional remedies; citations.

(a) *General penalty.* The provisions of section 1-11 shall apply to violations of any provision of this article.

(b) *Injunction remedies.* Any building in violation of this article shall be deemed an unlawful structure and a nuisance. The city attorney, upon complaint of the fire chief for the Evansville Fire Protection District or any person performing inspection services under this article, may bring an action to enjoin or abate the violation and nuisance in the municipal court.

(c) *Citations.* The fire chief for the Evansville Fire Protection District shall recommend to the city attorney the issuance of citations for violation of this article in accordance with the provisions of Wis. Stats. ch. 800, and to the schedule of deposits from time to time established by the municipal judge and approved by the city council.

(Ord. No. 1999-3, § 1(14.04(3)), 4-13-1999)

Secs. 50-34--50-60. Reserved.

ARTICLE III. FLAMMABLE AND COMBUSTIBLE LIQUIDS CODE

Sec. 50-61. Penalty.

Any person who shall violate any provision of this article shall be subject to a penalty as provided in section 1-11.

(Code 1986, § 9.21(5))

Sec. 50-62. State code adopted.

The provisions of Wis. Admin. Code ch. COMM 10, and all amendments thereto, are hereby adopted and incorporated in this article by reference as if fully set forth in this section.

(Code 1986, § 9.21(1))

Sec. 50-63. Enforcement generally.

The chief of the fire department and the city building inspector are hereby authorized and directed to administer and enforce all of the provisions of this article and the rules on flammable and combustible liquids incorporated in this article by reference that come within the jurisdiction of their offices. They shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this article to enforce the rules unless the officer shall have inspected or caused to be inspected the premises where a violation is alleged to exist and satisfied himself that a violation does, in fact, exist.

(Code 1986, § 9.21(2))

Sec. 50-64. Notice to remove violation.

If the inspecting officer shall determine that a violation of this article exists on private premises, he shall serve notice on the person causing or maintaining the violation to remove the violation within 30 days. If such violation is not removed within 30 days, the proper officer may cause the violation to be brought to the attention of any court having jurisdiction or the city attorney for prosecution and/or an order for abatement.

(Code 1986, § 9.21(3))

Sec. 50-65. Collection of cost of abatement.

In addition to any other penalty imposed by this article for the erection, creation, continuance or maintenance of a violation, the cost of abating the violation by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation and, if notice to abate the violation has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(Code 1986, § 9.21(4))

Chapter 54

FLOOD AREA ZONING¹

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¹ **Cross references:** Buildings and building regulations, ch. 18; health and sanitation, ch. 58; parks and recreation, ch. 86; planning, ch. 94; subdivisions, ch. 110; utilities, ch. 126; zoning, ch. 130; manufactured homes and trailers, § 130-1241.

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ARTICLE I. GENERAL PROVISIONS²

Sec. 54-1. Title of chapter.

This chapter shall be known as the Floodplain Zoning Ordinance for the City of Evansville, Wisconsin.

(Code 1986, § 20.04, Ord. 2006-10)

Sec. 54-2. Statutory authority.

This chapter is adopted pursuant to the authorization contained in Wis. Stats. §§ 62.23 and the requirements of § 87.30.

(Code 1986, § 20.01, Ord. 2006-10)

Sec. 54-3. Legislative findings.

Uncontrolled development and use of the floodplains, rivers or streams of the city would adversely affect the public health, safety, convenience and general welfare and impair the tax base.

(Code 1986, § 20.02, Ord. 2006-10)

Sec. 54-4. Purpose of chapter.

The purpose of this chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the city to:

- (1) Protect life, health and property.
- (2) Minimize expenditures of public moneys for costly flood control projects.
- (3) Minimize rescue and relief efforts generally undertaken at the expense of the taxpaying public.
- (4) Minimize business interruptions, which usually result in the loss of local income.
- (5) Minimize damage to public facilities on the floodplains, such as water mains, sewer lines, streets and bridges.
- (6) Minimize the occurrence of future flood blight areas on floodplains.
- (7) Discourage the victimization of unwary land and home buyers.
- (8) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.
- (9) Discourage the development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

² Originally from Code 1986, § 14.03, amended by Ord. 2006-10.

(Code 1986, § 20.03, Ord. 2006-10)

Sec. 54-5. Definitions.³

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. Unless specifically defined in this section, words or phrases used in this chapter shall have the same meaning as they have at common law and to give this chapter it's most reasonable application.

A zones means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A zones. The A zones may or may not reflect flood profiles, depending on the availability of data for a given area.

Accessory structure or use means a facility, structure, building, or use which is accessory or incidental to the principal use of a property, structure or building.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by the Federal Emergency Management Agency as part of a flood insurance study and depicted on a flood insurance rate map.

Basement means any enclosed area of a building having it's sub-grade (ie, below ground level) on all sides.

Building. See *Structure.*

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by city ordinance and approved by the state department of natural resources pursuant to Wis. Stats. § 30.11, and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

Certificate of compliance means a certification by the zoning administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.

Channel means a natural or artificial watercourse with a definite bed and banks to confine and conduct the normal flow of water.

Crawlways or *crawl space* means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Department means the state department of natural resources.

³ **Cross references:** Definitions generally, § 1-2.

Development means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures, or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation, mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials; and the installation, repair, or removal of public or private sewage disposal systems or water supply facilities.

Dry land access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment means any fill, structure, building, use or development in the floodway.

Existing manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale on which the construction of facilities for servicing the lots (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed before the effective date of the ordinance from which this chapter is derived.

Expansion to existing manufactured home park means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be placed. This includes installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood and *flooding* mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by:

- (1) The overflow or rise of inland waters.
- (2) The rapid accumulation or runoff of surface waters from any source.
- (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior.
- (4) The sudden increase caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency means the probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring on the average once in a specified number of years or as a percent chance of occurring in any given year.

Flood fringe means that portion of the floodplain outside of the floodway which is covered by floodwater during the regional flood. It is generally associated with standing water rather than flowing water.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance study means a technical engineering examination, evaluation and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps that accompany the flood insurance study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood profile means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation means an elevation two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see *Freeboard* .)

Flood storage means those floodplain areas where storage of floodwater has been taken into account in reducing the regional flood discharge.

Floodplain means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means the full range of public policy and action for ensuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include but are not limited to ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.

Habitable structure means any structure or portion thereof used for human habitation.

Hearing notice means publication or posting meeting requirements of Wis. Stats. ch. 985. Class 1 notice is the minimum required for appeals, published once at least one week before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments, including map amendments, published twice, once each week consecutively, the last at least one week before the hearing. Local ordinances or bylaws may require additional notice exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Historic structure means any structure that is either:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.

Human habitation means a human residence or dwelling.

Hydraulic shadow means that area of land downstream from a dam that would be inundated by water upon failure of the dam during the regional flood.

Increase in regional flood height means a calculated upward rise in the regional flood elevation equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions, which is directly attributable to development in the floodplain, but not attributable to manipulation of mathematical variables, such as roughness factors, expansion and contraction coefficients and discharge.

Land use means any nonstructural use made of unimproved or improved real estate. (See *Development* .)

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term includes a mobile home but does not include a mobile recreational vehicle.

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles.”

Municipality and *municipal* mean the city of Evansville.

National Geodetic Vertical Datum (NVGD) means elevations referenced to mean sea level datum, 1929 adjustment.

New construction, for floodplain purposes, means structures for which the start of construction commenced on or after the date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structure.

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies (e.g., an existing residential structure in the flood fringe district is a conforming use; however, if the first floor is lower than the flood protection elevation, the structure is nonconforming).

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies, such as a residence in the floodway.

Obstruction to flow means any development which physically blocks the conveyance of floodwater such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this chapter as described in section 54-7, which has been approved by the state department of natural resources and FEMA.

Open space use means those uses having relatively low flood damage potential and not involving structures.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.

Person means an individual or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the state department of commerce, including a substitute for the septic tank or soil absorption field, holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities means those utilities using underground or overhead transmission lines, such as electric, telephone and telegraph systems, and distribution and collection systems, such as water, sanitary sewer and storm sewer systems.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have generally occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the flood insurance rate map, the regional flood elevation is equivalent to the base flood elevation.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start of construction on a site, such as the pouring of slab footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the

property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes but is not limited to such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Subdivision has the meaning given in Wis. Stats. S. 236.02(12).

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

Unnecessary hardship means that circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

Variance means an authorization by the board of appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

Violation means the failure of a structure or other development to be fully compliant with the provisions of this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates, or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Water surface profile means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed means the entire region or area contributing runoff or surface water to a particular watercourse or body of water.

Well means an excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater, regardless of its intended use.

(Code 1986, § 20.05)

ARTICLE II. FLOODPLAIN ZONING CODE

Division 1. Generally

Sec. 54-36. Areas regulated by article.

Areas regulated by this article include all areas within the limits of the city that would be covered by the regional flood, including floodplain islands, where emergency rescue and relief routes would be inundated by the regional flood and hydraulic shadow of the dam.

(Code 1986, § 20.10)

Sec. 54-37. Official maps.

(a) The boundary of the floodplain districts, including the hydraulic shadow, floodway, flood fringe and other floodplain districts, are those areas designated as floodplains or A zones on flood insurance rate map (FIRM) panels 55105C0012E, 55105C0014E, 55105C0016E, 55105C0017E, 55105C0018E, 55105C0019E; having an effective date of September 16, 2015, along with the corresponding flood insurance study (FIS) report.

(b) These maps are the official floodplain zoning maps and have been approved by the state department of natural resources and the Federal Emergency Management Agency (FEMA) and are on file in the office of the city clerk.

(Code 1986, § 20.11, Ordinance 2015-04)

Sec. 54-38. Floodplain districts established.

The regional floodplain areas are hereby divided into three districts defined as follows:

- (1) *Floodway district (FW)*. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwater.
- (2) *Flood fringe district (FF)*. That portion of the floodplain between the regional flood limits and the floodway.
- (3) *General floodplain district (GFP)*. All areas which have been or may be hereafter covered by floodwater during the regional flood. It includes both the floodway and flood fringe districts.

(Code 1986, § 20.12)

Sec. 54-39. Determination of location of district boundaries.

Where an apparent discrepancy exists between the location of the outermost boundary of the flood fringe district or general floodplain district shown on the official floodplain zoning map and actual field conditions, the location shall be initially determined by the zoning administrator using the criteria in subsections (1) and (2) of this section. Where the zoning administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in section 54-52. Disputes between the zoning administrator and an applicant over the location of the district boundary line shall be settled according to section 54-74(d).

- (1) Where flood profiles exist, the location of the district boundary line shall be determined by the zoning administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and actual field conditions, the

regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The zoning administrator shall have the authority to grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The zoning administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.

- (2) Where flood profiles do not exist, the location of the district boundary line shall be determined by the zoning administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the department. Where there is a significant difference between the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the city council and the department, the zoning administrator shall have the authority to grant or deny a land use permit.

(Code 1986, § 20.13)

Sec. 54-40. Removal of lands from district.

Compliance with the provisions of this article shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to section 54-52. To remove flood insurance requirements, FEMA must first revise the flood insurance rate map or issue a letter of map amendment or revision.

(Code 1986, § 20.14)

Sec. 54-41. Compliance with applicable regulations.

Any development or use within the areas regulated by this article shall be in full compliance with the terms of this article and other applicable local, state and federal regulations.

(Code 1986, § 20.15)

Sec. 54-42. Applicability of article to governmental agencies.

Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.12(4) applies.

(Code 1986, § 20.16)

Sec. 54-43. Effect of article on existing ordinances and property restrictions.

(a) This article supersedes provisions of any city zoning ordinance enacted under Wis. Stats. §§ 62.23 and 87.30 which relates to floodplains, except that, where another city zoning ordinance is more restrictive than the provisions contained in this article, that

ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) The article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements; however, where this article imposes greater restrictions, the provisions of this article shall prevail.

(Code 1986, § 20.17)

Sec. 54-44. Interpretation of article.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation on or repeal of any other powers granted by the state statutes. Where a provision of this article is required by a standard in Wis. Admin. Code ch. NR 116, and where the provision of this article is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 116 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Code 1986, § 20.18)

Sec. 54-45. Warning and disclaimer of liability.

The degree of flood protection provided by this article is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams or bridge openings restricted by debris. Therefore, this article does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages, nor does this article create a liability on the part of or a cause of action against the city or any officer or employee thereof for any flood damage that may result from reliance on this article.

(Code 1986, § 20.19)

Sec. 54-46. Annexed lands.

The county floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all areas annexed by the city until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116. These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city zoning administrator.

(Code 1986, § 20.21)

Sec. 54-47. Prohibited development.

(a) No development, except as provided in subsection (b) of this section, shall be allowed in floodplain areas which will:

- (1) Cause an obstruction to flow, as any development which physically blocks the conveyance of floodwater by itself or in conjunction with future similar development, causing an increase in regional flood height; or
- (2) Cause an increase in regional flood height, due to floodplain storage area lost, which is equal to or exceeds 0.01 foot.

(b) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this article or the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with section 54-52, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than one foot for the affected hydraulic reach of the stream.

(c) The zoning administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.

(Code 1986, § 20.22)

Sec. 54-48. Watercourse alterations.

Prior to any alteration or relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the zoning administrator shall notify in writing adjacent municipalities, the appropriate district office of the state department of natural resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

(Code 1986, § 20.23)

Sec. 54-49. Development requiring permit from state department of natural resources.

Development which requires a permit from the state department of natural resources under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed, provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or this article are made according to section 54-52.

(Code 1986, § 20.24)

Sec. 54-50. Submission of information regarding proposed development.

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, and existing floodplain developments, together with all pertinent information, such

as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.

- (2) Require the applicant to furnish any of the following additional information as is deemed necessary by the department for evaluation of the effects of the proposal upon flood height and flood flows and the regional flood elevation and, where applicable, to determine the boundaries of the floodway:
 - a. A typical valley cross section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development and all historic high water information.
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply and sanitary facilities; soil types and other pertinent information.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream.
 - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department district office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 54-72(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Code 1986, § 20.38)

Sec. 54-51. Public information.

(a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.

(b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.

(c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

(Code 1986, § 20.51)

Sec. 54-52. Amendments.

(a) *Generally.* The city council may change or supplement the boundaries of the floodplain zoning districts and the regulations contained in this article in the manner

provided by law. Actions which require an amendment include but are not limited to the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height.
- (5) Any upgrading of the text of this article required by Wis. Admin. Code § NR 116.05, or otherwise required by law, or for changes by the city.

(b) *Procedure.*

- (1) Amendments to this article may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 54-50 and 54-72(b).
- (2) Copies of any amendment proposed shall be referred to the plan commission as described in section 54-73 for a public hearing and recommendation to the city council. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate district office of the state department of natural resources for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
- (3) No amendment to the maps or text of this article shall become effective until reviewed and approved by the department.
- (4) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the city council.
- (5) When considering amendments to the official floodplain zoning map in areas where no water surface profiles exist, the plan commission or board shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information. (See section 54-39).

(Code 1986, § 20.52)

Secs. 54-53--54-70. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT⁴

Sec. 54-71. Generally.

This division provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer this article. Where a zoning administrator, planning agency or board of appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stats. § 62.23(7), these officials shall also administer this article.

(Code 1986, § 20.45)

Sec. 54-72. Powers and duties of zoning administrator; issuance of permits and certificates of compliance.

(a) *Powers and duties of zoning administrator.* The zoning administrator is hereby authorized to administer the provisions of this article and shall have the following duties and powers:

- (1) Advise applicants of the provisions of this article, assist them in preparing permit applications and appeals and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with the provisions of this article and issue certificates of compliance, where appropriate.
- (3) Keep records of all official actions, such as:
 - a. All permits issued.
 - b. Inspections made.
 - c. Work approved.
 - d. Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - e. Records of water surface profiles, floodplain zoning maps and ordinances, and nonconforming uses and structures, including changes, appeals, variances and amendments.
- (4) Submit copies of the following items to the department district office:
 - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations and map or text amendments.
 - b. Copies of any case-by-case analyses and any other information required by the department, including an annual summary of the number and types of floodplain zoning actions taken.

⁴ **Cross references:** Administration, ch. 2.

- (5) Investigate, prepare reports on and report violations of this article to the appropriate city zoning agency and the city attorney for prosecution. Copies of the violation reports shall also be sent to the department district office.
- (6) Submit copies of text and map amendments and biennial reports to the regional office of FEMA.

(b) *Land use permits.* A land use permit shall be obtained from the zoning administrator before any new development, or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application shall be made to the zoning administrator upon furnished application forms and shall include the following data:

- (1) *General information.* The following shall be included:
 - a. Name and address of the applicant, property owner and contractor/builder.
 - b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved.
- (2) *Site development plan.* The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Location, dimensions, area and elevation of the lot.
 - b. Location of the ordinary high-water mark of any abutting navigable waterways.
 - c. Location of any structures, with distances measured from the lot lines and centerline of all abutting streets or highways.
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems.
 - e. Location and elevation of existing or future access roads.
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps.
 - g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic Vertical Datum (NGVD).
 - h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of division 3 of this article or division 4 of this article are met.
 - i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to section 54-47. This may include any of the information noted in section 54-103(a).
- (3) *Data requirements to analyze developments.*

- a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as the term "subdivision" is defined in Wis. Stats. § 236.02, and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
 2. A map showing location and details of vehicular access to lands outside the floodplain.
 3. A surface drainage plan with adequate details showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar items reasonably applied to the overall development costs, but may not include land costs.
 - b. The department will determine regional flood elevations and evaluate the proposal where the applicant is not required to provide computations as specified in subsection (b)(3)a of this section and inadequate data exists. The city may transmit additional information, such as the data specified in section 54-50(2), where appropriate, to the department with the request for analysis.
- (4) *Expiration.* All permits issued under the authority of this article shall expire one year from the date of issuance.
- (c) *Certificate of compliance.* No land shall be occupied or used and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building, premises or part thereof and the proposed use conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) The certificate of compliance shall be issued within ten days after notification of completion of the work specified in the permit, providing the building, premises or proposed use conforms with all the provisions of this article.
 - (4) The applicant shall submit a certification, signed by a registered professional engineer or land surveyor, that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing adequacy meets the requirements of section 54-76.

(d) *Other permits.* It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(Code 1986, § 20.46)

Sec. 54-73. Powers and duties of plan commission.

- (a) The plan commission shall:
 - (1) Oversee the functions of the office of the zoning administrator.
 - (2) Review and make recommendations to the city council on all proposed amendments to this article, maps and text.
- (b) This plan commission shall not:
 - (1) Grant variances to the terms of this article in place of action by the board of appeals.
 - (2) Amend the text or zoning maps in place of official action by the city council.

(Code 1986, § 20.47)

Sec. 54-74. Board of appeals.

(a) *Generally.* The board of appeals created under Wis. Stats. § 62.23(7)(e) is hereby authorized or shall be appointed to act as the board of appeals for the purposes of this article. The board of appeals shall exercise the powers conferred by the state statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the board.

- (b) *Powers and duties.* The board of appeals shall:
 - (1) *Appeals.* Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
 - (2) *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - (3) *Variances.* Hear and decide upon appeal variances from the dimensional standards of this article.
- (c) *Appeals procedure.*
 - (1) *Filing.* Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 10 days as provided by the rules of the board by filing with the official whose decision is in question and with the board a notice of appeal, specifying the reasons for the appeal. The official whose decision is in

question shall transmit to the board all papers constituting the record concerning the matter appealed.

(2) *Notice and hearing.* Notice and hearing for appeals, including variances, shall be as follows:

a. *Notice.* The board shall:

1. Fix a reasonable time for the hearing.
2. Publish adequate class 1 or 2 notice, pursuant to state statutes, specifying the date, time, place and subject of the hearing.
3. Ensure that notice shall be mailed to the parties in interest and the district office of the department at least ten days in advance of the hearing.

b. *Hearing.* Any party may appear in person or by agent or attorney. The board shall:

1. Resolve boundary disputes according to subsection (d) of this section.
2. Decide variance applications according to subsection (e) of this section.
3. Decide appeals of permit denials according to section 54-75.

(3) *Decision.* The final decision regarding the appeal or variance application shall:

- a. Be made within 30 days of final hearing.
- b. Be sent to the district office of the department within ten days of the decision.
- c. Be a written determination signed by the chairperson or secretary of the board.
- d. State the specific facts which are the basis for the board's decision.
- e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance.
- f. Include the reasons or justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant, in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(d) *Boundary disputes.* The following procedure shall be used by the board of appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:

- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined.
 - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals.
 - (3) Where it is determined that the district boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the location of the boundary to petition the city council for a map amendment according to section 54-52.
- (e) *Variances.*
- (1) The board of appeals may upon appeal grant a variance from the dimensional standards of this article where an applicant convincingly demonstrates that:
 - a. Literal enforcement of the provisions of this article will result in practical difficulty or unnecessary hardship on the applicant.
 - b. The hardship is due to adoption of this article and special conditions unique to the property not common to a group of adjacent lots or premises. In such case the ordinance or map must be amended.
 - c. Such variance is not contrary to the public interest.
 - d. Such variance is consistent with the purpose of this article stated in section 54-34.
 - (2) A variance shall not:
 - a. Grant, extend or increase any use of property prohibited in the zoning district.
 - b. Be granted for a hardship based solely on an economic gain or loss.
 - c. Be granted for a hardship which is self-created.
 - d. Damage the rights or property values of other persons in the area.
 - e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation.
 - f. Allow any floor, basement or crawlway below the regional flood elevation for residential or commercial structures.
 - g. Allow actions without the required amendment to this article or maps described in section 54-52(a).
 - (3) When a variance is granted in a floodplain area, the board shall notify the applicant in writing that increased flood insurance premiums and risks to life

and property may result. A copy of this notification shall be maintained with the variance appeal record.

(Code 1986, § 20.48)

Sec. 54-75. Review of denial of permits.

(a) The plan commission (see section 54-73) or board of appeals shall review all data constituting the basis for the appeal of permit denial. This data may include, where appropriate:

- (1) Permit application data listed in section 54-72(b).
 - (2) Floodway/flood fringe determination data listed in section 54-50.
 - (3) Data listed in section 54-103(a)(2)b where the applicant has not submitted this information to the zoning administrator.
 - (4) Other data submitted to the zoning administrator with the permit application or submitted to the board with the appeal.
- (b) For appeals of all denied permits the board shall:
- (1) Follow the procedures of section 54-74.
 - (2) Consider plan commission recommendations.
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the board shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after the flood profile and map are amended and all appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot, provided no other reasons for denial exist.

(Code 1986, § 20.49)

Sec. 54-76. Floodproofing requirements for issuance of permit or variance.

(a) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation.

- (b) Where floodproofing measures are required, they shall be designed to:
- (1) Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood.
 - (2) Ensure protection to the flood protection elevation.

- (3) Provide anchorage of structures to foundations to resist flotation and lateral movement.
- (4) Ensure that the structural walls and floors are watertight to the flood protection elevation and the interior remains completely dry during flooding without human intervention.
- (c) Floodproofing measures could include:
 - (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (2) Addition of mass or weight to structures to prevent flotation.
 - (3) Placement of essential utilities above the flood protection elevation.
 - (4) Surface or subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures.
 - (5) Construction of water supply wells and waste treatment systems to prevent the entrance of floodwater into the systems.
 - (6) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

(Code 1986, § 20.50)

Sec. 54-77. Violations; penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the city attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the city a penalty of not less than \$10.00 and not more than \$50.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the city, state or any citizen thereof, pursuant to Wis. Stats. § 87.30.

(Code 1986, § 20.53)

Secs. 54-78--54-100. Reserved.

DIVISION 3. FLOODWAY DISTRICT

Sec. 54-101. Applicability of division.

The provisions of this division apply to all areas mapped as floodway on the official floodplain zoning maps and to those portions of the general floodplain district determined to be floodway according to the procedures in section 54-50.

(Code 1986, § 20.25)

Sec. 54-102. Permitted uses.

The following open space uses are allowed in the floodway district and the floodway portion of the general floodplain district providing they are not prohibited by any other ordinance, they meet the standards in sections 54-103 and 54-104 and all permits or certificates have been issued according to section 54-72:

- (1) Agricultural uses, such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails according to section 54-103(d).
- (4) Uses or structures accessory to open space uses or essential for historical areas that are not in conflict with the provisions in sections 54-103 and 54-104.
- (5) Extraction of sand, gravel or other materials according to section 54-103(d).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, including those used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines and pipelines, according to Wis. Stats. chs. 30 and 31.
- (7) Public utilities, streets and bridges according to section 54-103(c).

(Code 1986, § 20.26)

Sec. 54-103. Development standards.

- (a) *General standards.*
 - (1) Any development in floodway areas shall meet all of the provisions of sections 54-47--54-49 and have a low flood damage potential.
 - (2) Applicants shall provide the following data for the zoning administrator to determine the effects of the proposal according to section 54-47:
 - a. A cross section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
 - (3) The zoning administrator shall deny the permit application where it is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted under subsection (a)(2) of this section.

(b) *Structures.* In or over floodway areas, only structures which are accessory to permanent open space uses, are essential for historical areas or are functionally dependent on a waterfront location may be allowed by permit, providing the structures meet all of the following criteria:

- (1) The structures are not designed for human habitation or associated with high flood damage potential.
- (2) The structures are constructed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of floodwater. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of floodwater and approximately on the same line as those of adjoining structures.
- (3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.
- (4) The structures have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for the particular area.

(c) *Utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, provided that:

- (1) Adequate floodproofing measures are provided to the flood protection elevation.
- (2) Construction does not cause an increase in the regional flood height according to section 54-47, except where the water surface profiles, floodplain zoning maps and this article are amended as needed to reflect any changes resulting from such construction.

(d) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, provided that:

- (1) The requirements of section 54-47 are met.
- (2) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the state department of natural resources pursuant to Wis. Stats. ch. 30 and a permit pursuant to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334, has been issued, if applicable, and the other requirements of this section are met.
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading sufficient to prevent erosion.
- (4) Such fills are not associated with private or public solid waste disposal.

(Code 1986, § 20.27)

Sec. 54-104. Prohibited uses.

All uses not listed as permitted uses in section 54-102 are prohibited within the floodway district and in the floodway portion of the general floodplain district, including the following uses, which are always prohibited in the floodway:

- (1) Structures in, on or over floodway areas which are designed for human habitation associated with high flood damage potential or not associated with permanent open space uses.
- (2) The storage of any materials that are capable of floating, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life.
- (3) Any uses which are not in harmony with or which may be detrimental to the uses permitted in the adjoining districts.
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code ch. COMM 83.
- (5) Any public or private wells which are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and NR 812.
- (6) Any solid and hazardous waste disposal sites, whether public or private.
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b).
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development outside the floodway which complies with the regulations for the floodplain area occupied.

(Code 1986, § 20.28)

Secs. 54-105--54-130. Reserved.

DIVISION 4. FLOOD FRINGE DISTRICT

Sec. 54-131. Applicability of division.

The provisions of this division apply to all areas within the flood fringe district as shown on the official floodplain zoning maps and to those portions of the general floodplain district that are determined to be in the flood fringe area pursuant to section 54-50.

(Code 1986, § 20.30)

Sec. 54-132. Permitted uses.

Any structures, land use or development, including accessory structures and uses, are allowed within the flood fringe district and flood fringe portions of the general floodplain district, provided that the standards contained in section 54-133 are met, that the use is not prohibited by this article, any other ordinance or any other local, state or federal regulation and that all permits or certificates specified in section 54-72 have been issued.

(Code 1986, § 20.31)

Sec. 54-133. Development standards.

All of the provisions of section 54-47 shall apply for purposes of this division, in addition to the following requirements according to the use requested:

- (1) *Residential uses.* Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:
 - a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation, which is a point two feet above the regional flood elevation, on fill, except where subsection (1)b of this section is applicable. The fill elevation shall be one foot or more above the regional flood elevation, extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical, provided the board of appeals grants a variance due to dimensional restrictions.
 - b. The basement or crawlway floor may be placed at the regional flood elevation, providing it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - c. Contiguous dry land access, as defined in section 54-35 as a vehicle access route above regional flood elevation, shall be provided from a structure or building to land which is outside of the floodplain, except as provided in subsection (1)d of this section.
 - d. In existing developments where existing streets or sewer lines are at elevations which make compliance with subsection (1)c of this section impractical, the city may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:
 1. The city has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structures by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
 2. The city has an adequate natural disaster plan concurred with the division of emergency government and approved by the department.
- (2) *Accessory structures or uses.* An accessory structure or use not connected to a principal structure, including nonresidential agricultural structures, shall meet all the applicable provisions of section 54-103(a), (b) and (d) and section 54-104. A lesser degree of protection compatible with these criteria and the criteria in subsection (3) of this section may be permissible for an accessory structure or use, providing that the site is not inundated to a depth greater than two feet or

subjected to flood velocities greater than two feet per second during the regional flood.

- (3) *Commercial uses.* Any commercial structure or building which is to be erected, constructed, altered or moved into the flood fringe area shall meet the requirements of subsection (1) of this section. Storage yards, parking lots and other accessory structures or land uses may be at lower elevations, subject to the requirements of subsection (5) of this section. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second during the regional flood. Inundation of such yards or parking areas exceeding two feet may be allowed provided an adequate warning system exists to protect life and property.
- (4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levies, floodwalls, adequate floodproofing measures in accordance with section 54-76 or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in subsections (3) and (5) of this section, may be permissible for storage yards, parking lots and other accessory structures or uses.
- (5) *Storage of materials.* The storage of materials that are buoyant, flammable or explosive or which in times of flooding could be injurious to property, water quality or human, animal, plant, fish or aquatic life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with section 54-76. Adequate measures shall be taken to ensure that such materials will not enter the river or stream during flooding.
- (6) *Public utilities, streets and bridges.* Public utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans and:
 - a. When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of any substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 54-76 to the flood protection elevation.
 - b. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations, providing they withstand flood forces to the regional flood elevation.
- (7) *Deposition of materials.* Any materials deposited for any purpose may only be allowed if all the provisions of this article are met.
- (8) *Mobile homes and manufactured homes.*

- a. Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
- b. All new, replacement and substantially improved mobile manufactured homes to be placed or improved on a site located in the regional floodplain shall:
 1. Be elevated to the flood protection elevation.
 2. Meet the residential development standards for the flood fringe in subsection (1) of this section.
 3. Be anchored so they do not float, collapse or move laterally during a flood.

(Code 1986, § 20.32)

Secs. 54-134--54-150. Reserved.

DIVISION 5. GENERAL FLOODPLAIN DISTRICT

Sec. 54-151. Applicability of division.

The provisions for the general floodplain district shall apply to all floodplains for which regional flood data is not available or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be designated as in the flood fringe district or floodway district, as appropriate.

(Code 1986, § 20.35)

Sec. 54-152. Permitted uses.

The general floodplain district encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to section 54-50 to determine whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodways (see section 54-102) and flood fringe areas (see section 54-132) are allowed within the general floodplain district according to the standards of section 54-153 and provided that all permits or certificates required under section 54-72 have been issued.

(Code 1986, § 20.36)

Sec. 54-153. Development standards.

Once it is determined according to section 54-50 that a proposed use is located within a floodway, the provisions of division 3 of this article shall apply. Once it is determined that the proposed use is located within the flood fringe, the provisions of division 4 of this article shall apply. All provisions of the remainder of this article apply to either district.

(Code 1986, § 20.37)

Secs. 54-154--54-170. Reserved.

DIVISION 6. NONCONFORMING USES

Sec. 54-171. Generally.

(a) Insofar as the standards in this division are not inconsistent with the provisions of Wis. Stats. § 62.23(7)(h), they shall apply to all nonconforming uses and structures. These regulations apply to the modification of or addition to any structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.

(b) The existing lawful use of a structure, building or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they are made in conformity with the provisions of this article for the area of the floodplain occupied. For purposes of this subsection, the terms "modification" and "addition" include but are not limited to any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions. These include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.
- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted, and any future use of the property and any structure or building thereon shall conform to the applicable requirements of this article.
- (3) As requests are received by the city for modifications or additions to nonconforming uses or structures, a record shall be kept which lists the nonconforming uses and structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 54-133(1) and section 54-133(3).
- (5) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practicably restored, it cannot

be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this article. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50 percent of the present equalized assessed value of the structure.

(Code 1986, § 20.40)

Sec. 54-172. Floodway areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

- (1) Has been granted a permit or variance which meets the floodway requirements of this article.
- (2) Meets the requirements of section 54-171.
- (3) Will not increase the obstruction to flood flows or regional flood height.
- (4) Any addition to the existing structure shall be floodproofed, pursuant to section 54-76, by means other than the use of fill, to the flood protection elevation.

(b) No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all city ordinances and Wis. Admin. Code ch. COMM 83.

(c) No new well or modification to an existing well used to obtain water for ultimate human consumption shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all city ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Code 1986, § 20.41)

Sec. 54-173. Flood fringe areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city. In addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 54-133, except where subsection (b) of this section is applicable.

(b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using procedures established in section 54-74, may grant a variance from those provisions of subsection (a) of this section for modifications or additions which are protected to elevations lower than the flood protection elevation, provided:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures.
- (2) Human lives are not endangered.
- (3) Public facilities, such as water or sewer facilities, will not be installed.
- (4) Flood depths will not exceed two feet.
- (5) Flood velocities will not exceed two feet per second.
- (6) The structure will not be used for storage of materials described in section 54-133(5).

(c) If the provisions of neither subsection (a) nor subsection (b) of this section can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one-time basis only if the addition:

- (1) Meets all other regulations and will be granted by permit or variance.
- (2) Does not exceed 60 square feet in area.
- (3) In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.

(d) All new private sewage disposal systems or additions to, replacement, repair or maintenance of private sewage disposal systems shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. COMM 83.

(e) All new wells or additions to, replacement, repair or maintenance of wells shall meet the applicable provisions of this article and Wis. Admin. Code chs. NR 811 and 812.

(Code 1986, § 20.42)

Chapter 58

HEALTH AND SANITATION¹

Article I. In General

Secs. 58-1--58-30. Reserved.

Article II. Milk and Milk Products

Sec. 58-31. Applicability of state and federal law.
Sec. 58-32. Violations.
Sec. 58-33. Enforcement.
Secs. 58-34- -58-40. Reserved

Article III. Public Health

Secs. 58-41. Depositing Human Waste
Secs. 58-42- -58-99. Reserved

(Ord. 2017-15)

¹ **Cross references:** Animals, ch. 14; buildings and building regulations, ch. 18; flood area zoning, ch. 54; solid waste, ch. 102; utilities, ch. 126; manufactured homes and trailers, § 130-1241.

ARTICLE I. IN GENERAL

Secs. 58-1--58-30. Reserved.

ARTICLE II. MILK AND MILK PRODUCTS

Sec. 58-31. Applicability of state and federal law.

The production, transportation, handling, sale and distribution of milk and milk products shall be regulated in accordance with all applicable rules, regulations and laws of the United States, the state and the various departments and boards of each, especially Wis. Stats. ch. 97, Food Regulations.

(Code 1986, § 11.01(1))

Sec. 58-32. Violations.

The sale or distribution of all milk and dairy products within the city except in conformity with the requirements of this article and all requirements of the applicable United States and state rules and regulations is hereby prohibited.

(Code 1986, § 11.01(2)(e))

Sec. 58-33. Enforcement.

The county health department shall have charge of the enforcement of this article.

(Code 1986, § 11.01(2)(d))

ARTICLE III. PUBLIC HEALTH

Sec. 58-41. Depositing Human Waste.

No person shall deposit human waste products upon nor urinate or defecate upon any public or private property other than into a toilet or other device designed and intended to be used to ultimately deposit such human waste products into a septic or sanitary sewer system.

(Ord. 2017-15)

Secs. 58-42- -58-99. Reserved

Chapter 62

Historic Preservation

Article I. In General

- Sec. 62-1. Declaration of policy and definitions.
- Sec. 62-2. Criteria for designation of local landmarks, landmark sites and historic districts.
- Sec. 62-3. Procedure for designation of landmarks, landmark sites and historic districts.
- Sec. 62-4. Rezoning.
- Sec. 62-5. Historic district boundaries.
- Sec. 62-6. Historic preservation easements.
- Sec. 62-7. Maintenance of historic property.
- Sec. 62-8. Conditions dangerous to life, health or property.
- Secs. 62-9--62-30. Reserved.

Article II. Historic Preservation Commission

- Sec. 62-31. Membership.
- Sec. 62-32. Term of members.
- Sec. 62-33. Vacancies.
- Sec. 62-34. Officers; rules of procedure.
- Sec. 62-35. Compensation of members.
- Sec. 62-36. Powers and duties.

ARTICLE I. IN GENERAL

Sec. 62-1. Declaration of policy and definitions.

(a) The city council determines that the historic, architectural, archeological, and cultural heritage of the community is among the most important assets of the community; and that the social, economic and physical development of contemporary society threatens to degrade or destroy the remaining vestiges of this heritage. It is therefore declared to be the public policy and in the public interest of the city to engage in a comprehensive program of historic preservation to promote the use and conservation of such property representative of the residential, commercial, and recreational heritage of the community for education, inspiration, pleasure, and enrichment of the citizens of the community.

(b) 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:

Adverse effect means any of the following:

- (1) Physical destruction, damage or alteration of any part of the property which would have a deleterious effect on the historic significance of that property.
- (2) Isolation of a property from or alteration of the character of the property's setting when that character contributes to the property's qualification as a landmark or landmark site.
- (3) Introduction of visual, audible or atmospheric elements that are out of character with a property or alter its setting.
- (4) Neglect of a property resulting in its deterioration or destruction.

Alteration means an intentional physical change in the condition or integrity of the structural elements of a historic property, or in the appearance or condition of the exterior of a historic property and includes the physical destruction of less than a significant portion of a building, structure, or site. The repainting of a previously painted surface is not an alteration.

Building has the meaning given in section 130-6 of these ordinances.

Certificate of Appropriateness means a document issued by the commission in response to an application in accordance with sec. 62-36(10) by or on behalf of an owner of a property that is located within a historic district or that is a landmark, landmark site, or specially designated landmark for permission to maintain, provide protection, reconstruction, rehabilitation, restoration, or make an alteration to such property.

Commission means the historic preservation commission created under this chapter.

Demolition or *Demolish* means the physical destruction of all, or a significant portion, of a building, structure, or site.

Demolition by neglect means the process of allowing landmarks, landmark sites, specially designated landmarks, or properties within a historic district to decay, deteriorate, become structurally defective, or otherwise fall into disrepair

Demolition permit means a document issued by the commission in response to an application in accordance with sec. 62-36(11) by or on behalf of an owner of a property that is located within a historic district, or that is a landmark, landmark site, or specially designated landmark, for permission to conduct demolition work on such property.

Historic district means an area designated by the city which contains one or more landmarks or landmark sites, or properties contributing to the historical character of such designated area, as well as those abutting parcels which the city determines should fall under the provisions of this chapter to protect the context of the area and to ensure that their appearance and development will be harmonious with such landmarks, landmark sites, or properties contributing to the historical character of the designated area.

Historical marker means the plaque or marker adopted by the commission to identify a specially designated landmark or landmark site.

Historic preservation means the research, protection, restoration and rehabilitation of historic properties.

Historic property means any building, structure, object, district, area or site, whether on or below the surface of land or water, that is significant in the history, prehistory, architecture, archeology or culture of the community, the state, or the nation.

Improvement means any structure, place, landscape, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

Landmark means any building or structure which is significant in national, state or local history, architecture, archeology, engineering or culture meeting the criteria set forth in sec. 62-2 and which has been designated as a landmark under this chapter.

Landmark site means any parcel of land of historic, geological or archeological significance which meets the criteria set forth in sec. 62-2 of this chapter and has been designated as a landmark site under this chapter; or any parcel of land, or part thereof, on which is situated a landmark.

Local register means the list of designated landmarks, landmark sites, and historic districts created and maintained by the city under this chapter.

Maintain means to keep in good repair.

Protection means treatment of materials through rust removal, caulking, application of paint or water-proofing treatments to previously unpainted or untreated materials, installation of fencing, plywood, and other temporary protective measures.

Reconstruction means reestablishment of a historical feature or execution of a new design that is compatible with the character-defining features of a historic building. The new design should always take into account the size, scale, and material of the historic building itself, and should be clearly differentiated so that a false historical appearance is not created.

Rehabilitation means the process of returning a historic building to good repair and safe condition, and may include interior improvements that are needed to support the exterior of the building, as well as repurposing or adapting the building to a new use.

Restoration means the process of returning a historic building to a previous appearance, preferably through the use of historic photographs, and other physical or documentary evidence. Introduction of hypothetical or conjectural materials should be avoided in restoration.

Specially designated landmark means any landmark or landmark site, or a structure or site contributing to the historical character of a historic district, of such significance that the owner and the commission have entered into an agreement by which the owner has conveyed to the commission a restrictive covenant for a period of years, a historic preservation easement or similar perpetual grant, or has entered into an agreement with the commission that designated features of a historic property may not be altered without the issuance of a certificate of appropriateness.

Stop work order means an order issued by the chairperson of the historic preservation commission, or in the absence of the chairperson, by another member of the commission, requiring the immediate cessation of work being performed contrary to the provisions of this chapter. A stop work order may further require the owner or person in charge of property within a historic district, a landmark, landmark site or specially designated landmark to apply for a certificate of appropriateness, an amended certificate of appropriateness, or a demolition permit.

Structure has the meaning given in sec. 130-6 of these ordinances.

Sec. 62-2. Criteria for designation of local landmarks, landmark sites and historic districts.

(a) A landmark, landmark site or historic district designation may be placed on any natural or improved site or on any area of particular historic, architectural, archeological, or cultural significance, and such designation shall cause the designated property to be placed on the local register. The quality of significance is present in landmarks, landmark sites and historic districts that possess integrity of location, design, setting, materials, workmanship, feeling and association and that satisfy any of the following conditions:

- (1) Association with events that have made a significant contribution to the broad patterns of history.
- (2) Association with the lives of persons significant in the past.
- (3) Embodiment of the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values.
- (4) Representation of a significant and distinguishable entity whose components lack individual distinction.
- (5) Yielding, or likely to yield, information important in prehistory or history.

(b) No cemetery, birthplace or grave of a historical figure, property owned by a religious institution or used for religious purposes, reconstructed historic buildings, property primarily commemorative in nature or property that has achieved significance in the last 50 years may be considered eligible for the local register unless it is an integral part of a historic district that meets the criteria of significance under par. (a) or unless it falls under at least one of the following categories:

- (1) A Religious property deriving primary significance from architectural or artistic distinction or historical importance.
- (2) A birthplace or grave of a historical figure if there is no appropriate site or building directly associated with his or her productive life in the vicinity of that birthplace or grave.
- (3) A cemetery which derives its primary significance from the grave of a person of transcendent importance, age, distinctive design features or association with historic events.
- (4) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived.
- (5) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own exceptional significance.
- (6) A property achieving significance within the past 50 years if it is of exceptional importance.

(c) The commission may adopt further specific guidelines for such designation in conformance with the provisions of this section.

Sec. 62-3. Procedure for designation of landmarks, landmark sites and historic districts.

- (1) Any person may nominate a property as a landmark or landmark site, and may nominate any defined area as a historic district, and the commission may make a nomination on its own motion. Any person may suggest rescission of a previous designation or inclusion of property on the local register. The commission may, after publication of a class 2 notice and a public hearing thereon, recommend the designation of landmarks, landmark sites and historic districts or recommend the rescission of such designation after application of the criteria provided in section 62-2, subject to the following:

(a) At least 30 days prior to such hearing, the commission shall notify in writing the owner of record of the property affected, the owner of record of property within 250 feet of the affected property and the occupants of the affected property. The commission shall also notify the city council, plan commission, building inspector and municipal services committee.

(b) At such public hearing, the commission may hear lay or expert witnesses, in addition to the persons notified, and may subpoena such witnesses and records as it deems necessary. The commission and persons in interest may be represented by an agent or attorney, and parties in interest may subpoena witnesses and records, may present witnesses and records, and the commission and the parties in interest may cross-examine witnesses. Testimony shall be given by all witnesses under oath or affirmation. An attorney issuing a subpoena on behalf of an interested party shall furnish the commission with a copy when the subpoena is issued. The hearing may be adjourned or continued in the commission's discretion to ensure a satisfactory presentation. The commission shall keep notes of the testimony and shall mark and preserve all exhibits offered throughout the hearing. The commission may, and upon request of a party in interest shall, cause the proceedings to be taken by a stenographer or a recording device, the expenses of which shall be borne by the city.

(c) Within 30 days following the completion of the hearing, and the submission of written comments from any party, and briefs of the attorneys, on a schedule to be determined by the commission prior to adjournment of the hearing, the commission shall issue its written decision. The commission may recommend designation of the property as a landmark or landmark site, may recommend that it be included in a historic district or may recommend rescission of such designation. Notice of such recommendation, including the commission's reasons for such recommendation, shall be sent to the property owner of record and to any other persons who appeared at such hearing. Notification shall be given to the city clerk-treasurer, building inspector, city assessor and plan commission.

(d) The commission may take official notice of the listing of any parcel or improvement on the Wisconsin state or national register of historic places as a landmark, landmark site or a historic district, and such listing shall establish a rebuttable presumption that such parcel or improvement meets the criteria under Sec. 62-2.

(e) A rebuttable presumption that a parcel or improvement meets the criteria under Sec. 62-2 shall be established for any parcel or improvement if any person has obtained an income tax credit related to historic preservation of such parcel or improvement.

(f) The commission's decision constitutes a recommendation to the city council that the property or district be listed on or removed from the local register, that Historic Conservation Overlay District Zoning be applied to or removed from the subject property, and that the city zoning map be amended accordingly.

(2) The commission is authorized to designate, by resolution, any city-owned property within the city listed as a landmark or landmark site on the Wisconsin state or national register of historic places as a local landmark or local landmark site, and may rescind such designation by resolution.

(3) The commission is authorized to designate, by resolution, any city-owned property within the city that is listed as a historic district on the Wisconsin state or national register of historic places as a local historic district, and may rescind such designation by resolution.

(4) Notice of such designation or rescission under subs. (2) and (3) shall be sent to the city clerk-treasurer, building inspector, city assessor, and plan commission.

The adoption of such a resolution constitutes a recommendation to the city council that the property or district be listed on the local register, that Historic Conservation Overlay District Zoning be applied to the subject property, and that the city zoning map be amended accordingly.

Sec. 62-4. Rezoning.

(a) A historic district shall be a special overlay district.

(b) Areas adjacent to or in the vicinity of a historic district, landmark or landmark site, or areas which may be seen from such historic district, landmark or landmark site, may also be recommended to the city council as a special overlay district.

(c) The provisions of subsecs. 62-36 (10), (11), and (13) are inapplicable to any particular property until the city council has listed the property on the local register.

Sec. 62-5. Historic district boundaries.

The historic district boundaries shall be shown on the city zoning map.

Sec. 62-6. Historic preservation easements.

(a) The commission and the owner of any property within a historic district, of a landmark or of a landmark site may at any time following such designation of the subject property enter into an agreement whereby the owner conveys to the commission a historic preservation easement or other perpetual grant in accordance with Wis. Stat. sec. 700.40. The commission may assist the owner in preparing such agreement and related documents in the interest of preserving the landmark or landmark site. The commission shall record such conveyance in the office of the county register of deeds and shall notify the city assessor of such agreement and the conditions thereof. The commission may furnish a historical marker to denote the significance of the specially designated landmark. The owner shall affix the historical marker to the principal façade of the landmark or other exterior portion thereof in a manner specified by the commission, but the marker shall remain the property of the commission.

(b) In lieu of such easement or other perpetual grant, or as a substitute therefor, an owner and the commission may agree that designated features of a historic property may not be altered without the issuance of a certificate of appropriateness. If a property owner and predecessors in title have not obtained income tax deductions or credits in reliance on such an easement or perpetual grant, the commission may agree to release and discharge such easement or perpetual grant to avoid an economic hardship to the owner or to facilitate a conveyance of the property.

Sec. 62-7. Maintenance of historic property.

(a) Every person in charge of a landmark or an improvement on a landmark site or in a historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of decay or disrepair. This subsection shall be in addition to all other provisions of law requiring buildings or structures to be well maintained.

(b) Insofar as it is applicable to a landmark, landmark site or improvement in a historic district, any provision of chapter 18 may be varied or waived on application by the building inspector, provided such variance or waiver does not endanger public health or safety. However, the building inspector may not waive any provision of this chapter.

(c) The building inspector is authorized to enforce the provisions of this section. Upon written official notice from the building inspector, the owner or other person in control of the property shall repair such decay, disrepair or interior defect to bring the property into compliance with this section.

(d) Violations of the provisions of this section shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500). A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1000). Each and every day during which a violation continues shall be deemed to be a separate offense.

(e) The owner of a landmark, landmark site, specially designated landmark or property in a historic district may not allow such property to undergo demolition by neglect.

1. If the building inspector believes that a property described in this subsection is undergoing demolition by neglect, the building inspector shall give written notice of that belief to the owner of such property. The building inspector shall give a copy of the notice to the community development director and to the commission.
2. Upon receiving a notice under this subsection, the commission shall issue a notice of hearing and hold a public hearing to determine whether the subject property is undergoing demolition by neglect. The commission shall hold the public hearing within ninety (90) days of receiving the notice under this subsection.
3. If, after a public hearing, the commission finds that the subject property is undergoing demolition by neglect, it shall report that finding to the owner, to any person who appeared at the hearing and requested notice of the commission's determination, to the city council, the building inspector, and the office of the city attorney. A commission finding of demolition by neglect is prima facie evidence of demolition by neglect for purposes of any administrative or civil court action, and also constitutes a determination that the structure is unlawful and that a public nuisance exists.

4. An appeal from a commission finding under this subsection may be taken to the plan commission in accordance with Wis. Stat. sec. 68.12 by the owner of the subject property or by the owners of twenty (20) per cent of the number of parcels within 250 feet of the subject property, as determined by the city clerk-treasurer. A written notice of appeal under this subsection shall be filed with the city clerk-treasurer within thirty (30) days after the commission gives notice of its determination. The notice of appeal shall contain the names and addresses of each petitioner, and shall specify the grounds for appeal. The city-clerk treasurer shall forward the notice of appeal to the plan commission.
5. The plan commission shall make a determination on the appeal in accordance with Wis. Stat. secs. 68.10 through 68.12. The plan commission may reverse or modify the determination of the historic preservation commission, with or without conditions, or may remand the matter to the historic preservation commission with or without instructions, if it finds that the determination of the historic preservation commission is contrary to applicable standards under this subsection. An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The common council may overturn such decision by a majority vote of the common council.
6. If the historic preservation commission finds under this subsection that a property described in this subsection is undergoing demolition by neglect, the building inspector or any adjacent or neighboring property owner who would be specially damaged by such condition may, in addition to other remedies, institute appropriate actions or proceedings to prevent such unlawful maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of the subject property, or to prevent any illegal act, conduct, business, or use in or about such property.
7. If the historic preservation commission finds under this subsection that a property described under this subsection is undergoing demolition by neglect, the city council may authorize the city to acquire the property under Wis. Stat. sec. 66.1111(2), if necessary through condemnation proceedings under Wis. Stat. ch. 32.

Sec. 62-8. Conditions dangerous to life, health or property.

Nothing contained in this chapter shall prohibit the construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic district pursuant to order of any governmental agency having jurisdiction or any court judgment to remedy conditions determined to be dangerous to life, health or property. In such case, no approval from the commission shall be required.

Secs. 62-9--62-30. Reserved.

ARTICLE II. HISTORIC PRESERVATION COMMISSION

Sec. 62-31. Membership.

(a) The commission shall consist of seven members, who shall be appointed, on the third Tuesday in April, by the mayor subject to confirmation by the city council. One member shall be an alderperson.

(b) Each member shall have demonstrated competence, interest or knowledge in historic preservation. In making appointments, the mayor shall make reasonable efforts to secure members with professional qualifications in the fields of history, prehistorical archeology, historical archeology, and architectural history.

Sec. 62-32. Term of members.

The term of each member of the commission other than the alderperson member shall be for two years on a staggered basis. The alderperson's term shall be for one year. The terms shall expire on the third Tuesday in April of the appropriate year.

Sec. 62-33. Vacancies.

Vacancies on the commission shall be filled for the unexpired term in the same manner as appointments for the full term.

Sec. 62-34. Officers; rules of procedure.

The commission shall elect a chairperson, vice-chairperson and secretary-treasurer and shall adopt rules and regulations for its government not inconsistent with the provisions of this chapter.

Sec. 62-35. Compensation of members.

The members of the commission shall be compensated as determined by the city council from time to time.

Sec. 62-36. Powers and duties.

The commission's powers and duties shall be to:

1. Promote public education, interest and support for the preservation and enhancement of such landmarks, landmark sites and historic districts.
2. Seek public participation in the local historic preservation program as a whole, and in the process of evaluating properties for inclusion in the local, Wisconsin state, and national registers.

3. Develop appropriate criteria and standards for identifying and evaluating neighborhoods, places, structures and improvements which might be classified as landmarks, landmark sites, historic districts or specially designated landmarks.
4. Recommend to the city council the designation of local landmarks, landmark sites and historic districts on the local register.
5. Compile a list of landmarks and landmark sites, and of properties that contribute to the historical character of a historic district. Such properties shall be eligible for specially designated landmark status. The commission may enter into and enforce agreements with owners of such properties under Sec. 62-6, and may enforce restrictive covenants pertaining to specially designated landmarks, regardless of the date of creation.
6. Cooperate with federal, state and local agencies in pursuing the objective of historic preservation. The commission may adopt procedures to assist the city in meeting its reporting requirements under Wis. Stat. sec. 66.111(4) and Wis. Stat. ch. 44 pertaining to potential effects on city-owned property that is listed on the local register, the Wisconsin state register, or the national register of historic places.
7. Develop and recommend ordinances, legislation and programs and otherwise provide information on historic preservation to the city council.
8. Take all steps necessary, including the taking and collecting of photographs, drawings, descriptions, recorded interviews, written data and documentation, to permanently record the origin, development, use and historical significance of each landmark, landmark site or historic district.
9. Review requests for conditional uses, as defined in section 130-6, within a historic district, and make recommendations thereon to the plan commission.
10. Review, subject to this subsection and subsection (11) of this section, applications for building or demolition permits; and work on a voluntary basis with the owners of landmarks, landmark sites or structures within a historic district, advising them on the benefits, problems and techniques of preservation and encouraging their participation in preservation activities.
 - a. Regardless of the amount of money expected to be expended on the project, no building permit shall be issued for new construction of any kind or extent, for a fence, a deck, or for a repair, alteration, preservation, rehabilitation, restoration, or reconstruction of the physical setting or the exterior of a structure within a historic district, or of a property designated as a local landmark, local landmark site or specially designated landmark, unless the commission has first issued a certificate of appropriateness.
 - b. Applications for a certificate of appropriateness shall be made on forms furnished by the city clerk-treasurer and shall be considered at a public hearing at the next regularly-scheduled monthly meeting of the commission for which due public notice of the application can be provided. A special meeting may be held at the call of the chairperson, or upon the request of any two members of the commission, but an applicant for consideration of

an application at a special meeting shall be responsible for the costs thereof, in accordance with city policies and procedures.

- c. The commission may require applicants to furnish information, including construction drawings, specifications, maps, photographs, samples, catalog cuts, and descriptions of the proposed work and materials, to permit evaluation of the historical appropriateness of the proposal. The commission will apply the standards of the United States Secretary of Interior for preservation, rehabilitation, restoration, and reconstruction of historic buildings and sites, as appropriate to each proposal considered by it, and the commission will be assisted in application of the standards by the guidelines of the United States Secretary of the Interior then in effect.
- d. In judging an application, the commission will evaluate the evidence and statements submitted by or on behalf of the applicant, and may consider evidence and opinions from other sources it deems to be trustworthy and relevant. The commission may seek lay and expert evidence in oral or written form, may request reports and recommendations from city staff, and may rely on the training, education, and experience of the commission members.
- e. The applicant for a certificate of appropriateness or for a demolition permit shall have the burden of production of evidence and the burden of persuasion with respect to its application.
- f. The commission shall consider whether the proposed work would have an adverse effect on the immediate site of the work, on adjacent properties, or on the entire district, as the commission believes to be appropriate.
- g. The commission will issue its decision in writing on each application for a certificate of appropriateness or for a demolition permit at or before the time of its next regular monthly meeting following the completion of the hearing on the application. The decision may include findings of fact and recommendations to the applicant, may approve or disapprove the application in whole or in part, and may condition approval on specified actions or inactions. If the commission approves an application, it may communicate such approval immediately by endorsement on the application.
- h. In its discretion, the commission may adjourn hearings on applications where it deems an application to be so incomplete or insufficient that the commission cannot readily understand the scope or nature of the proposed project, or where additional facts or opinions, including but not limited to statements of the owner, are believed to be needed to reach an informed decision.
- i. Decisions of the commission shall be by vote of the majority of the commission members present and voting on the matter. The chairperson of the commission shall have the same right to vote as any other member. A member of the commission who has a personal, family, business or financial interest in the subject of the application will not participate in the

deliberations or in the vote, and will withdraw from the meeting room while such matter is being considered.

- j. Notwithstanding the other provisions of this subsection (10), the commission may delegate to the community development director the authority to approve an application for a certificate of appropriateness without a hearing where the proposed work entails reroofing with materials of the same kind as those replaced, the routine repair of damaged or deteriorated work with materials of the same kind and adhering to the existing design, and other similar, routine work. The commission may also delegate to the community development director the authority to determine whether particular work complies with a conditional approval. The commission may issue directives to the community development director from time to time to provide guidance in the approval of routine work. In addition, the building inspector is authorized to issue a building permit without an application for a certificate of appropriateness where the request is to make emergency repairs, due to forces outside the control of the owner or occupant, and to ameliorate further damage.
- k. Once a certificate of appropriateness has been issued, the applicant and its agents may not deviate from the work approved by the commission without making an application to the commission for an amendment of the certificate of appropriateness. An application for an amendment shall be considered by the commission in the same manner as an original application.
- l. A person aggrieved by an oral decision of the commission, or by a decision that does not state in writing the reasons for the decision, may request a written statement of the decision and the reasons for the decision by submitting a written request therefor with the city clerk-treasurer, addressed to the commission, within 10 days of notice of such decision. The commission shall thereupon reduce the decision and reasons for its decision to writing and mail or deliver them to the person making the request. The reasons shall be dated and shall inform the person requesting them that a review by the commission of its initial determination may be requested by filing a written request for review with the city clerk-treasurer, addressed to the commission, within 30 days of notice to the person of the commission's initial decision.
- m. A person aggrieved by a written or oral decision of the commission may have such decision reviewed by the commission by delivering or mailing to the city clerk-treasurer, addressed to the commission, a written request for review, which shall state the ground or grounds on which the commission's initial decision should be revised or reversed.
- n. The commission shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

- o. The person aggrieved may file with the request for review or within the time agreed with the commission written evidence and argument in support of the person's position with respect to the initial determination.
 - p. The commission may affirm, reverse, or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the commission's decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved that the decision on review may be appealed to the plan commission, by mailing to or filing a written notice of appeal with the city clerk-treasurer, addressed to the plan commission, within 30 days of notice of the decision on review.
 - q. The plan commission has the power and authority to hear and determine appeals of decisions on review of the historic preservation commission under this section. Such appellate review shall be conducted in accordance with Wis. Stat. secs. 68.10 through 68.12.
 - r. An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The common council may overturn such decision by a majority vote of the common council.
11. Make recommendations or determinations on the demolition, partially or in total, of specially designated landmarks or structures located therein in accordance with the terms of a preservation easement or restrictive covenant pertaining to the property. No permit to demolish all or part of a landmark, landmark site, or structure within a historic district shall be granted by the building inspector except as follows:
- a. No owner or person in charge of a landmark, landmark site, or improvement in a historic district shall be granted a permit to demolish, partially or in total, such property without the written approval of the commission.
 - b. Upon the filing of an application with the commission, the commission shall determine whether the proposed change would destroy or adversely affect the historical features of the landmark, landmark site or historic district property in accordance with the applicable provisions of subsection (10) of this section.
 - c. If the commission determines the landmark, landmark site or property within a historic district would be adversely affected by the proposed change, it may withhold its consent to the granting of the permit. The commission shall state in writing the reasons for withholding consent and mail them to the applicant.
 - d. Prior to demolition, the commission shall be afforded the opportunity to enter the property to document, by photography, measurements, and otherwise, any historical feature or resource therein. Such opportunity may be considered as part of a plan of mitigation.

- e. A person aggrieved by a decision of the historic preservation commission with respect to the granting or denial of a demolition permit may appeal to the plan commission as provided in subsection (10) l of this section.
 - f. An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The common council may overturn such decision by a majority vote of the common council.
12. Rescind designation of landmarks, landmark sites or historic districts.
 13. Issue stop work orders to the owner or to the person in charge of a landmark, landmark site, specially designated landmark, or property within a historic district in the event work is being done:
 - a. Without the issuance of a certificate of appropriateness;
 - b. Beyond the scope of an issued certificate of appropriateness;
 - c. Contrary to a limitation or condition imposed in connection with the issuance of a certificate of appropriateness;
 - d. Contrary to a term or condition of a historic preservation easement or restrictive covenant;
 - e. Without the issuance of a demolition permit; or
 - f. Contrary to a limitation or condition imposed in connection with the issuance of a demolition permit;
 14. Acquire a fee or lesser interest, including preservation easements, in historic properties by donation, bequest, purchase, or exchange.
 15. Designate appropriate markers for specially designated landmarks and historic districts.
 16. Accept or raise funds from public and private sources.
 17. Make an annual report to the city and to the state historic preservation officer regarding its activities.
 18. Prepare and revise a historic preservation plan for the city.
 19. Make recommendations to the zoning administrator respecting signs proposed to be located on a landmark or landmark site or within a historic district.
 20. Apply for and administer Certified Local Government subgrants for historic preservation projects and programs.
 21. Engage consultants for the purpose of conducting historical, archeological, and architectural studies, surveys or inventories of properties, and for the purpose of preparing nominations of resources to the local, Wisconsin state and national registers of historic places.
 22. Adopt and publicize residential and commercial design guidelines.

23. Prepare, publish and distribute guide books, maps, tour itineraries, and similar materials in written and electronic form to inform residents and visitors about the community's historical, archeological and architectural resources.
24. Provide funds for purchase of resource materials or implementation of educational programs on historic preservation topics by local schools, museums, and libraries.
25. Take such actions as are recommended by the state historic preservation officer to obtain and retain status as a Certified Local Government.
26. Participate in professional organizations devoted to the enhancement of administration of historic preservation review activities, and support commission members in obtaining training and education.
27. Adopt procedures for considering the economic hardship of applicants for certificates of appropriateness and demolition permits, provided that self-inflicted damage or harm, and deterioration due to failure to maintain property in the manner required by sec. 62-7 shall not be grounds for a finding of economic hardship.
28. If the Historic Preservation Commission is satisfied that an economic hardship exists in a particular case, it may excuse the owner and/or parties in interest from meeting ordinance provisions that otherwise would apply to an application for a Certificate of Appropriateness, to a Stop Order, or to another enforcement action.

Appendix I.

Cross-Referenced Municipal Ordinances

Sec. 130-6 Definitions.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. The term "building" also includes any part thereof.

Structure means anything constructed or erected having location on the ground. The term "structure" also includes any part thereof.

Referenced Wisconsin Statutes

Wis. Stat. ch. 44; Wis. Stat. secs. 66.111(2), 68.10-68.12, 700.40.

Appendix II.

Standards of the United States Secretary of the Interior for preservation, rehabilitation, restoration, and reconstruction of historic buildings and sites

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time. Those changes that have acquired historical significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historical features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historical materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historical integrity of the property and its environment.
10. New additions and adjacent or new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Appendix III.

Procedures for the Evansville Historic Preservation Commission in consideration of effects on historic properties owned by the City of Evansville

The following procedures are approved by the Evansville Historic Preservation Commission pursuant to its authority under sec. 62-34 of the Evansville Municipal Code to adopt rules and regulations for its governance, and pursuant to its powers under secs. 62-36 (5) and (6) to cooperate with federal, state, and local agencies in pursuing the objective of historic preservation, and to develop and recommend ordinances, legislation, and programs and otherwise provide information on historic preservation to the city council.

1-1 Applicability. These procedures apply to any proposed acquisition, ownership, use, or disposition within the meaning of Wis. Stat. sec. 66.1111 by the City of Evansville of any “historic property” within the meaning of Wis. Stat. sec. 44.31 (3). These procedures also apply to any proposal that potentially would have an “adverse effect” within the meaning of Wis. Stat. sec. 44.31 (1) upon historic property owned by the City of Evansville.

1-2 Submission of proposals. In any case in which these procedures apply, the proponent of the activity shall furnish the Commission with the following information:

- (1) The name of the board, department, agency, or officer of the City of Evansville that is undertaking or responsible for the project.
- (2) The contact person and contact information.
- (3) The project street address or project location (including Parcel Number or Legal Description).
- (4) The project name.
- (5) The name of the property or historic district affected (as shown on the Wisconsin State or National Register of Historic Places, or as shown on the Evansville List of Local Landmarks).
- (6) A statement whether the project will change, replace, augment, add to, diminish, or otherwise alter the physical properties of the listed property itself or its setting, and whether such impact is perceived to be positive or negative.
- (7) A statement detailing the extent to which the project will constitute a ground-disturbing activity, a material-affecting activity, a setting change, or an acquisition or transfer of an interest in real estate or in personal property.

- (8) A project narrative description including an activity summary, construction drawings and specifications, current photographs (and historic photographs as available) of the affected property in general and of the specific project location in particular, a statement of the problem or needs that are addressed by the project, the options the proponent has considered, and the option the proponent has chosen to pursue, together with a cost assessment and comparison of costs of the options considered.
- (9) A map showing the space within which the project will have an immediate impact, and the space within which there may be collateral/secondary impact. (A U.S.G.S. 7.5 Minute Topographic Quadrangle is preferred, with the Area of Potential Effect identified; additional maps such as plat or GIS maps may also be submitted to assist the State Historic Preservation Officer in identifying the project location.)

1-3 Consideration of proposals. To be considered by the Commission at a regularly-scheduled meeting, proposals conforming to the requirements of sec. 1-2 of these procedures must be submitted to the City Clerk at least seven (7) days prior to such meeting. The Chair of the Commission has discretion to schedule a special meeting to consider the proposal, provided the proposal is filed at least seven (7) days before the special meeting, and the proponent agrees to bear the cost of the special meeting.

1-4 Findings and recommendations of the Commission. The Commission will make an assessment of the proposal, and may make findings of fact based upon the submission and upon such other sources of information it may consider to be reliable or helpful, including the knowledge and expertise of the Commissioners. The Commission may adjourn consideration or action to a future meeting to obtain additional input or clarification. The Commission may make a recommendation about the project to the proponent, to the city council, to the State Historic Preservation Officer, or to all of them.

Comment: The submissions required by section 1-2 of these procedures are needed to allow the City of Evansville to prepare a Request for State Historic Preservation Officer Review and Comment on a Local Unit of Government Action.

Appendix IV.

Procedures for the Evansville Historic Preservation Commission in consideration of claims of economic hardship

The following procedures are approved by the Evansville Historic Preservation Commission in claims of economic hardship, pursuant to its authority under sec. 62-34 of the Evansville Municipal Code to adopt rules and regulations for its governance.

2-1. Burden of proof. The burden of production of evidence, and the burden of persuasion, is on the party claiming economic hardship.

2-2. Relevancy.

The following factors will be considered in determining whether an economic hardship exists:

1. The nature of ownership of the property (individual, business entity, or non-profit) or legal possession, custody, or control.
2. Financial resources of the owner and/or parties in interest.
3. Cost of repairs that would be consistent with the Standards and Guidelines of the Secretary of the Department of the Interior for the Rehabilitation of Historic Properties
4. Cost of proposed alternative repairs or rehabilitation efforts.
5. Assessed value and estimated fair market value of the land and improvements.
6. Any appraisal of the property within the last two (2) years.
7. Real estate taxes and special assessments for the last two (2) years.
8. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the seller, or other means of acquisition, such as by gift or inheritance.
9. Any appraisal performed at the time of acquisition by the current owner,
10. Annual debt service, if any, for the past two (2) years.
11. Available financial incentives, including grant and loan programs.
12. Efforts to find alternative uses.
13. Efforts to rent or sell the property.
14. For income-producing property, annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and annual cash flow for the previous two (2) years.
15. Whether or not the owner or other party in possession or control of the property has permitted it to suffer deterioration, and the extent and nature of such deterioration.
16. Whether the circumstances creating the claimed hardship were within or outside the control of the owner or party in interest.

(Code 1986, § 1.145(3), Ord. 2012-21, Ord. 2015-02)

Chapter 66

HOUSING

Article I. In General

Secs. 66-1--66-30. Reserved.

Article II. Fair Housing

Sec. 66-31.	Title of article.
Sec. 66-32.	Intent of article.
Sec. 66-33.	Adoption of state law.
Sec. 66-34.	Enforcement.
Sec. 66-35.	Assistance for complainants.

ARTICLE I. IN GENERAL

Secs. 66-1--66-30. Reserved.

ARTICLE II. FAIR HOUSING

Sec. 66-31. Title of article.

The title of this article shall be Fair and Open Housing.

(Code 1986, § 9.18(1))

Sec. 66-32. Intent of article.

The city indicates its intent to recognize its responsibilities under Wis. Stats. § 106.04, and endorses the concepts of fair and open housing for all persons and prohibition of discrimination therein.

(Code 1986, § 9.18(2))

Sec. 66-33. Adoption of state law.

The provisions of Wis. Stats. § 106.04 and all subsequent amendments thereto or amendments hereafter to be enacted are adopted in their entirety.

(Code 1986, § 9.18(3))

Sec. 66-34. Enforcement.

The city shall assist in the orderly prevention and removal of all discrimination in housing within the city by implementing the authority and enforcement procedures set forth in Wis. Stats. § 106.04 in their entirety.

(Code 1986, § 9.18(4))

Sec. 66-35. Assistance for complainants.

The city clerk-treasurer shall maintain forms for complaints to be filed under Wis. Stats. § 106.04, and shall assist any person alleging a violation thereof in the city to file a complaint thereunder with the state department of industry, labor and human relations for enforcement of Wis. Stats. § 106.04.

(Code 1986, § 9.18(5))

Chapter 70

LAW ENFORCEMENT¹

Article I. In General

Secs. 70-1--70-30. Reserved.

Article II. Police Department

Division 1. Generally

Sec. 70-31. Personnel; appointment of chief of police and police officers.
Sec. 70-32. Compensation of chief and police officers; disposition of fees and deposits.
Sec. 70-33. Tenure of chief of police and police officers.
Sec. 70-34. Powers and duties of police officers.
Sec. 70-35. Fee for Responses to False Alarms.
Secs. 70-36--70-50. Reserved.

Division 2. Chief

Sec. 70-51. Powers and duties.
Secs. 70-52--70-70. Reserved.

Article III. Police Commission

Division 1. Generally

Sec. 70-71. Enabling legislation.
Sec. 70-72. Creation.
Sec. 70-73. Powers and duties.
Sec. 70-74. Rules and procedures.
Sec. 70-75. Vacancies.
Sec. 70-76. Compensation.

¹ ***Cross references:** Administration, ch. 2; civil emergencies, ch. 30; courts, ch. 34; emergency services, ch. 42; offenses and miscellaneous provisions, ch. 82; traffic and vehicles, ch. 122.

ARTICLE I. IN GENERAL

Secs. 70-1--70-30. Reserved.

ARTICLE II. POLICE DEPARTMENT

DIVISION 1. GENERALLY

Sec. 70-31. Personnel; appointment of chief of police and police officers.

The police department shall consist of the chief of police appointed by the police commission and such subordinate police officers the chief of police shall appoint subject to approval by the police commission.

(Code 1986, § 4.01(1); Ord. No. 2001-8, § 1, 12-11-2001)

Sec. 70-32. Compensation of chief and police officers; disposition of fees and deposits.

The chief and the police officers shall receive a salary as fixed by the city council and shall not be entitled to any other compensation. All fees, bail deposits and other special remuneration or funds collected or received by the department or any officers thereof shall be deposited with the clerk-treasurer not less than monthly.

(Code 1986, § 4.01(2))

Sec. 70-33. Tenure of chief of police and police officers.

(a) The tenure of the chief of police shall be during good behavior, subject to suspension or removal by the police commission for cause according to the procedures in § 62.13(3), Wis. Stats., as amended from time to time.

(b) The tenure of subordinate police officers shall be during good behavior, subject to discipline, suspension, reduction, and/or removal according to § 62.13(5), Wis. Stats., as amended from time to time.

(Code 1986, § 4.01(3); Ord. No. 2001-8, § 2, 12-11-2001)

Sec. 70-34. Powers and duties of police officers.

(a) *General powers and duties.* Each officer of the police department shall possess the powers conferred on marshals and constables by law, shall preserve the public peace, and shall enforce the laws and ordinances of the state and city subject to the orders, rules and regulations of the chief, the mayor and the council.

(b) *Power of arrest.* The chief of police and any police officer shall arrest all persons in the city found in the act of violating any law or ordinance of the city or state or aiding or abetting in such violation, and they shall arrest without warrant all persons whom they have reasonable grounds to believe have violated any law or ordinance and who will not be apprehended unless immediately arrested, shall take all arrested persons

in charge and confine them, and shall within a reasonable time bring such persons before the court having jurisdiction thereof to be dealt with according to law.

(Code 1986, § 4.03)

Sec. 70-35. Fee for Responses to False Alarms.

If the police department responds to a burglary alarm or fire alarm at a property and investigation reveals there has been no break in or fire, the owner of the property shall pay a fee to the city for the police department's response, except that there shall be no fee charged for the first two false alarms at each property each calendar year. The Common Council by resolution shall establish and from time to time may amend the amount of the fee, which shall be set forth in appendix A. Revenue from this fee shall be an unrestricted General Fund resource.

(Ord. 2004-4)

Secs. 70-36--70-50. Reserved.

DIVISION 2. CHIEF²

Sec. 70-51. Powers and duties.

(a) The chief of police shall exercise the powers and duties of city chiefs of police and other powers and duties as provided from time to time by the city council.

(b) The chief of police shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon marshals and constables.

(c) The chief of police shall obey all lawful written orders of the mayor and council.

(d) The chief of police shall cause the public peace to be preserved and see that all laws and ordinances of the city and state are enforced, and whenever any violation thereof shall come to his knowledge, he shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender.

(e) The chief of police shall exercise supervisory control over all the personnel of his department and may adopt, subject to the approval of the council, rules and regulations for the government, discipline, equipment and uniforms of police officers.

(f) The chief of police shall be solely responsible for the care and condition of the equipment used by his department.

(g) The chief of police shall keep an accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the department.

(Code 1986, § 4.02(2); Ord. No. 2001-8, § 3, 12-11-01)

Secs. 70-52--70-70. Reserved.

² Cross references: Officers and employees, Section 2-91 et seq.

ARTICLE III. POLICE COMMISSION

DIVISION 1. GENERALLY

Sec. 70-71. Enabling legislation.

As required by and pursuant to § 62.13, Wis. Stats., the common council creates a police commission for the City of Evansville.

(Ord. No. 2001-8, § 4, 12-11-2001)

Sec. 70-72. Creation.

The police commission shall consist of five citizens who are residents of the City of Evansville or Town of Union, three of whom shall constitute a quorum. The mayor shall annually, on the third Tuesday in April, appoint in writing, to be filed with the secretary of the commission, one member for a five year term. Terms shall be staggered, with one member's term expiring each year, and shall expire on the third Tuesday in April of the appropriate year. All appointments shall be subject to confirmation by the common council. No appointment shall be made which will result in more than three members of the commission belonging to the same political party.

(Ord. No. 2001-8, § 4, 12-11-2001, Ord. 2006-18, Ord 2018-12)

Sec. 70-73. Powers and duties.

The police commission shall perform such duties as are prescribed in § 62.13, Wis. Stats., excepting the optional powers prescribed in § 62.13(6), Wis. Stats.

(Ord. No. 2001-8, § 4, 12-11-2001)

Sec. 70-74. Rules and procedures.

The police commission shall keep a record of its proceedings, and shall adopt rules and procedures to carry out its duties.

(Ord. No. 2001-8, § 4, 12-11-2001)

Sec. 70-75. Vacancies.

Should a vacancy occur due to resignation, death, or removal of a member of the police commission, the mayor shall appoint, subject to confirmation by the common council, a successor who shall serve out the term of the predecessor.

(Ord. No. 2001-8, § 4, 12-11-2001)

Sec. 70-76. Compensation.

The members of the commission shall receive such compensation and reimbursement of expenses as the common council shall determine by motion from time to time,

provided, however, no additional compensation shall be paid to a member of the commission who is at the time an elected official of the city.

(Ord. No. 2001-8, § 4, 12-11-2001)

Chapter 74

LIBRARIES¹

Article I. In General

Secs. 74-1--74-30. Reserved.

Article II. Library Board

Sec. 74-31. Applicability of state law.
Sec. 74-32. Appointment of members.
Sec. 74-33. Establishment of public library.

¹ **Cross references:** Administration, ch. 2; streets, sidewalks and other public places, ch. 106.

ARTICLE I. IN GENERAL

Secs. 74-1--74-30. Reserved.

ARTICLE II. LIBRARY BOARD²

Sec. 74-31. Applicability of state law.

The establishment, maintenance and control of public libraries are in general governed by Wis. Stats. §§ 22.29(19), 42.52, 43.54, 43.58, 43.60, 43.62, 43.64(1), and 43.64(2).

(Code 1986, § 1.12(1))

Sec. 74-32. Appointment of members.

The members of the library board shall be appointed under Wis. Stats. § 43.54.

(Code 1986, § 1.12(3))

Sec. 74-33. Establishment of public library.

There is established a public library and reading room in the city. Such library and reading room shall be free to the inhabitants of the city, subject to such reasonable rules and regulations as the library board may adopt in order to render the use of such library available to the citizens of the city and such other persons as the board may designate.

(Code 1986, § 1.12(2))

² **Cross references:** Boards, commissions and committees, § 2-191 et seq.

Chapter 82

OFFENSES AND MISCELLANEOUS PROVISIONS¹

Article I. In General

- Secs. 82-1—82-2. Reserved.
Sec. 82-3. State statutes adopted.
Sec. 82-4. Penalties
Secs. 82-5--82-30. Reserved.

Article II. Offenses Against Governmental Administration

- Sec. 82-31. Resisting or interfering with city officer.
Sec. 82-32. Harboring of minor runaways.
Secs. 82-33--82-60. Reserved.

Article III. Offenses Against Morals

Division 1. Generally

- Secs. 82-61--82-80. Reserved.

Division 2. Controlled Substances

- Sec. 82-81. Marijuana and cannabis.
Sec 82-82. Synthetic cannabinoids.
Secs. 82-83--82-110. Reserved.

Article IV. Offenses Against Public Peace and Safety

Division 1. Generally

- Sec. 82-111. Throwing or shooting arrows, stones or other missiles.
Sec. 82-112. Loitering for purpose of engaging in prostitution.
Secs. 82-113--82-140 Reserved.

¹ **Cross references:** Courts, ch. 34; law enforcement, ch. 70; traffic and vehicles, ch. 122.

Division 2. Fireworks

Sec. 82-141. Adoption of state law.
Secs. 82-142--82-160 Reserved.

Division 3. Noise

Sec. 82-161. Generally.
Sec. 82-162. [Repealed]
Sec. 82-163. Use of compression brakes on motor vehicles.
Secs. 82-164--82-180 Reserved.

Division 4. Open Cisterns, Wells, Basements or Other Dangerous Excavations

Sec. 82-181. Prohibited.
Sec. 82-182. Order to fill building excavation.
Secs. 82-183--82-200 Reserved.

Division 5. Abandoned or Unattended Iceboxes and Similar Containers

Sec. 82-201. Removal of doors and locks.
Secs. 82-202--82-220 Reserved.

Division 6. Construction Materials Blowing From Construction Sites.

Sec. 82-221. Prohibited
Sec. 82-222. Penalty.

Division 7. Use of Private Receptacles

Sec. 82-223. Prohibited Use.

Division 8. Disturbance of the Peace with a Motor Vehicle

Sec. 82-224. Definitions.
Sec. 82-225. Unnecessary Noise Prohibited.
Sec. 82-226. Unnecessary Smoke Prohibited.
Sec. 82-227. Unnecessary Acceleration and Display of Power Prohibited.
Sec. 82-228. Disorderly Conduct with a Motor Vehicle Prohibited.
Sec. 82-229. Avoidance of Traffic Control Device Prohibited.

Sec. 82-230. Operation in Restricted Area Prohibited.

Article V. Minors

Division 1. Generally

Secs. 82-231--82-250 Reserved.

Division 2. Curfew

Sec. 82-251. Penalties.
Sec. 82-252. Curfew established; hours; exceptions.
Sec. 82-253. Parental responsibility.
Sec. 82-254. Detention of minors by police.
Sec. 82-255. Warning to parents on first violation.
Secs. 82-256--82-270 Reserved.

Division 3. School Truancy

Sec. 82-271. Statutory authority.
Sec. 82-272. Definitions.
Sec. 82-273. Truants.
Sec. 82-274. Habitual truants.
Sec. 82-275. Dropouts.
Sec. 82-276. Form of citation.
Sec. 82-277. Required actions by school system.
Sec. 82-278. Contributing to or causing violation.
Secs. 82-279--82-300 Reserved.

Division 4. [Repealed]

Secs. 82-301--82-320 Reserved.

Division 5. Possession of Drug Paraphernalia

Sec. 82-321. Penalty.
Sec. 82-322. Adoption of state law.
Sec. 82-323. Use or possession prohibited.

Division 6. Sale and Use of Vapor Products

Sec. 82-324. Public Health

Sec. 82-325. Definitions
Sec. 82-326. Prohibition of Sale to Minors
Secs. 82-327 Prohibition of Possession by Minors
Secs. 82-328 Prohibition of the Use of Vapor Product or Tobacco on School
Grounds
Secs. 82-329--82-350 Reserved

Article VI. Weapons

Division 1. Generally

Sec. 82-351. Discharge restricted.
Sec. 82-352. [Repealed]
Sec. 82-353. Weapons in State or Local Government Buildings
Secs. 82-354--82-370 Reserved.

Division 2. Firearms

Sec. 82-371. Definitions.
Sec. 82-372. [Repealed]
Sec. 82-373. Penalty.

ARTICLE I. IN GENERAL

Secs. 82-1 – 82.2. Reserved.

(Code 1986, §§ 9.29.288--9.951.16; Code 1986, § 9.30; Ord. 2010-09)

Sec. 82-3. State statutes adopted.

Except as otherwise specifically provided in this Code, the statutory provisions in Wis. Stat. Sections 29.601(3), 134.66, 175.25, 254.76, 254.911, 254.916, 254.92, 287.81, 940.19, and Chs. 941-961, except Wis. Stat. Section 944.21, are hereby adopted and by reference made a part of this Code as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited under this Code. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made part of this Code.

(Ord. 2005-26, Ord. 2010-09, Ord. 2014-05)

Sec. 82-4. Penalties.

(a) Wis. Stat. Section 66.0109 shall apply to any penalty imposed by any statute incorporated in this article. As such, the fine amounts set forth in the Wisconsin Statutes for violations of the offenses set forth in Section 82-3 above are adopted and incorporated herein. In addition to any penalty imposed for violation of Wis. Stats. § 943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates Wis. Stats. § 943.01(1) may also be held liable for the cost of repairing or replacing such damaged or destroyed property in accordance with Wis. Stats. § 895.035.

(b) If subsection (a) is found not to apply, the penalty for commission of offenses prohibited by this article shall be as provided in Section 1-11 of the Code.

(c) Nothing above shall prohibit the Court from making an appropriate order regarding restitution pursuant to law.

(Ord. 2010-09)

Secs. 82-5--82-30. Reserved.

ARTICLE II. OFFENSES AGAINST GOVERNMENTAL ADMINISTRATION²

Sec. 82-31. Resisting or interfering with city officer.

No person shall resist or in any way interfere with any officer of the city while such officer is doing any act in his official capacity and with lawful authority.

² **Cross references:** Administration, ch. 2.

(Code 1986, § 9.12)

Sec. 82-32 Harboring of Minor Runaways

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

Runaway means an unemancipated person under the age of 18 years who has been reported as a runaway to any law enforcement agency and whose whereabouts is or was unknown to the parents, guardian or legal custodian.

(b) **Harboring Runaways Prohibited.** It shall be unlawful for any person to knowingly harbor, allow, board or otherwise permit any runaway in his/her residence or business or other property under his/her control where such person known or should have known the minor to be a runaway from his/her parent, guardian or legal custodian.

(c) **Assisting Runaways Prohibited.** It shall be unlawful for any person to knowingly assist; aid or abet a runaway to escape apprehension or flee from his/her parents, guardian, legal custodian or public officials. This includes but is not limited to the following acts:

1. Providing transportation to the runaway;
2. Providing money, clothing or any other useful instrument to the runaway that would aid the runaway in escape;
3. Obstructing by providing false or untrue information regarding the location or plan of the runaway;
4. Refusing to provide information to law enforcement officers when questioned about the runaway, which information was known to them at the time and would assist in the apprehension of the runaway; or
5. Assisting, aiding or abetting the runaway in any other way for the purpose of hindering law enforcement officers or the parents, guardian or legal custodian of the runaway from learning the whereabouts of the child.

Exception: Section (1) of subsection (3) does not apply to persons who harbor runaways by virtue of a placement by the juvenile court intake staff or any court.

(d) **Penalty.** Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to the penalties set forth in Section 1-11 of the Municipal Code of the City of Evansville, Wisconsin.

(Ordinance 2009-03)

Sec. 82-33 Emergency Provisions.

From time to time the City may need to declare, or uphold declarations, directions and orders of Federal, State and County officials, in the interest of public safety, health and security.

(a) The City of Evansville, Wisconsin, hereby adopts section 252.25 of the Wisconsin statutes, and any future amendments thereto. As of the date of the adoption, that section of the state statute substantially states: Any person who willfully violates or obstructs the execution of any state statute or rule, county, city or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be fined not more than \$500.

(b) The City of Evansville, Wisconsin, hereby adopts section 323.28 of the Wisconsin statutes, and any future amendments thereto. As of the date of the adoption, that section of the state statute substantially states: Whoever intentionally fails to comply with an order issued by an agent of the state or of a local unit of government who is engaged in emergency management activities, including training exercises, is subject to a forfeiture of not more than \$200.

(c) In addition to the provisions of subsections (a) and (b), it shall be a violation for any person to violate or obstruct the execution of any other state, county, or city order relating to the public health, safety, or emergency response.

Secs. 82-34--82-60. Reserved

(Ord. 2020-08)

ARTICLE III. OFFENSES AGAINST MORALS

DIVISION 1. GENERALLY

Secs. 82-61--82-80. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES

Sec. 82-81. Marijuana and cannabis.

(a) *Purpose.* The people of the city specifically determine that the regulations contained in this section concerning marijuana and cannabis are necessary to serve the public interest by providing just and equitable legal treatment of the citizens of this community and to preserve the respect of such citizens for law, its process and its administration.

(b) *Definitions.* In this section, unless the context requires otherwise, the following terms shall have the following meanings:

Cannabis means the resin extracted from any part of the plant *Cannabis sativa* L., or any other nonfibrous extract from any part of the plant containing delta-9-tetrahydrocannabinol.

Casually possess means the possession of not more than 25 grams of a substance containing cannabis or marijuana.

Marijuana means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and every compound, manufacture, sale, derivative, mixture or preparation of the plant or its seeds. It does not include cannabis or any other compound, manufacture, sale, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Practitioner means:

- (1) A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.
- (2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

Public place means a place which is in public ownership or a place to which the public has access, distinguished from a private place.

(c) *Possession or production prohibited.* No person shall:

- (1) Casually possess marijuana or cannabis, unless such marijuana or cannabis was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.
- (2) Knowingly possess or produce the *Cannabis sativa* L. plant.

(d) *Penalties.* A violation of subsection (c) of this section shall be subject to the following forfeiture as provided in section 1-11.

(Code 1986, § 9.20)

Section 82-82. Synthetic Cannabinoids.

(a) *Possession, Use and Sale.* It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “fake” or “new” marijuana, or by any other name, label, or description:

- (1) *Salviadivinatorum* or *salvinorum* A; all parts of the plant presently classified botanically as *salvia divinorum*, whether growing or not, the seeds thereof; any

- extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- (2) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10 10a-tetrahydrobenzo[c] chromen-1-ol some trade or other names: HU-210;
 - (3) 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice;
 - (4) 1-Butyl-3-(1-naphthoyl) indole-some trade or other name: JWH-073;
 - (5) 1-(3 {triflouromethylphenyl}) piperazine-some trade or other name: TFMPP;
 - (6) or any similar structure analogs.

(b) Medical or Dental Use. Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) Penalties. A violation of this section shall be subject to penalty as provided in Section 1-11 of the Municipal Code.

[Ord. 2010-10]

Secs. 82-83--82-110. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

DIVISION 1. GENERALLY

Sec. 82-111. Throwing or shooting arrows, stones or other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the city.

(Code 1986, § 9.03)

Sec. 82-112. Loitering for purpose of engaging in prostitution.

(a) *Prohibited.* No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that such person is a known prostitute or panderer, repeatedly beckons to, stops or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this section unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of

violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(b) *Definitions.* As used in this section:

Known prostitute or panderer means a person who, within one year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted in this state of an offense involving prostitution prohibited under Wis. Stats. §§ 994.30--944.34, or any local ordinance adopting those sections by reference.

Public place means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings of dwellings and the grounds enclosing them.

Secs. 82-113--82-140. Reserved.

DIVISION 2. FIREWORKS³

Sec. 82-141. Adoption of state law.

The provisions of Wis. Stats. § 167.10, regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, are adopted by reference and made a part of this section as though set forth in full.

(Code 1986, § 9.05)

Secs. 82-142--82-160. Reserved.

DIVISION 3. NOISE

Sec. 82-161. Generally.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(Code 1986, § 9.07(1))

Sec. 82-162. [Repealed]

(Code 1986, § 9.07(2), Ord. 2012-24)

³ **Cross references:** Fire prevention and protection, ch. 50

Sec. 82-163. Use of compression brakes on motor vehicles.⁴

No person shall use motor vehicle brakes within the city limits which are in any way activated or operated by the compression of the engine of such motor vehicle or any unit or part thereof. There shall be an affirmative defense to prosecution under this section that the compression brakes were applied in an emergency situation requiring their use, there being no other way to stop.

(Code 1986, § 9.07(3))

Secs. 82-164--82-180. Reserved.

DIVISION 4. OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS

Sec. 82-181. Prohibited.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the cover cannot be removed by small children.

(Code 1986, § 9.14(1))

Sec. 82-182. Order to fill building excavation.

Any excavation for building purposes, whether or not completed, which is left open for more than six months without proceeding with erection of the building thereon shall be deemed in violation of section 82-181, and the building inspector shall issue an order for erection of a building on the excavation forthwith or filling of the excavation to grade. The order shall be served upon the owner of the land or his agent and the holder of any encumbrance of record. If the owner of the land fails to comply with an order for filling of a building excavation within 15 days after service upon him, the building inspector shall cause the excavation to be filled to grade and report the cost thereof to the city clerk-treasurer to be charged against the real estate and the charge shall be a lien upon such real estate and assessed and collected as a special tax as provided in Wis. Stats. § 66.0413. Orders for filling of open excavations shall be subject to a petition to the circuit court within 30 days challenging the reasonableness thereof in accordance with the procedures in Wis. Stats. § 66.0413.

(Code 1986, § 9.14(2))

Secs. 82-183--82-200. Reserved.

DIVISION 5. ABANDONED OR UNATTENDED ICEBOXES AND SIMILAR CONTAINERS

⁴ **Cross references:** Traffic and vehicles, ch. 122.

Sec. 82-201. Removal of doors and locks.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 1986, § 9.15)

Secs. 82-202--82-220. Reserved.

**DIVISION 6. CONSTRUCTION MATERIALS BLOWING FROM
CONSTRUCTION SITES**

Sec. 82-221. Prohibited.

An owner of property on which the construction of improvements is occurring is prohibited from allowing construction materials or construction-related trash to be blown off of said property by the wind onto any other property, whether publicly or privately owned, or any public right-of-way. This prohibition applies regardless of whether the property owner, agent of the owner, contractor, or employee of the contractor or any subcontractor, is performing the construction work and fails to prevent the construction materials or construction-related trash from being blown off of said property by the wind. This prohibition applies regardless of whether the property owner, agent of the owner, contractor, or any employee of the contractor or any subcontractor, is or is not present at the time the construction materials or construction-related trash are blown off of said property by the wind.

(Ord. 2005-3)

Sec. 82-222. Penalty.

A property owner who violates any provision of this division shall be subject to penalty as provided in section 1-11.

(Ord. 2005-3)

DIVISION 7. USE OF PRIVATE RECEPTACLE

Sec. 82-223. Prohibited Use.

It shall be unlawful for any person to place in or on any garbage can, dumpster or other trash receptacle any garbage, refuse, trash or waste material of any kind unless under one of the following scenarios;

1. such receptacle is designated expressly or implicitly for use by the general public, or
2. where the receptacle is privately owned and the owner or designee consents, or
3. where reasonable excuse or justification exists.

[Ord. 2010-04].

DIVISION 8. DISTURBANCE OF THE PEACE WITH A MOTOR VEHICLE

Sec 82-224. Definitions.

(a) “Disorderly conduct with a motor vehicle” shall mean the engaging in violent, abusive, unreasonably loud conduct, or disturbing or endangering the property or the safety of another’s person or property, or otherwise disorderly conduct, including but not limited to unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing the engine to backfire or causing the vehicle, while commencing to move or in motion, to raise one or more wheels off the ground.

(b) “Motor vehicle” as used in this division means a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. “Motor vehicle” includes a snowmobile or an all-terrain vehicle.

[Ord. 2012-24]

Sec. 82-225. Unnecessary Noise Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the city.

[Ord. 2012-24]

Sec. 82-226. Unnecessary Smoke Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases, or odors which are disagreeable, foul, or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the city.

[Ord. 2012-24]

Sec. 82-227. Unnecessary Acceleration and Display of Power Prohibited.

It shall be unlawful for any person to operate any motor vehicle or bicycle, in such a manner as to cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin or emit loud noises or to unnecessarily throw stones or gravel; nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the peace.

[Ord. 2012-24]

Sec. 82-228. Disorderly Conduct with a Motor Vehicle Prohibited.

No person shall, within the city, by or through the use of any motor vehicle, cause or provoke disorderly conduct with a motor vehicle, cause a disturbance or annoy one or more persons, or disturb or endanger the property or safety of another's person or property.

[Ord. 2012-24]

Sec. 82-229. Avoidance of Traffic Control Device Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official control device, sign, or signal.

[Ord. 2012-24]

Sec. 82-230. Operation in Restricted Area Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop, or travel upon or across any public or private property, parking lot, driveway, or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. The section shall specifically include but not be limited to:

- (a) Public park property;
- (b) Cemetery property;
- (c) School district property;
- (d) Medical facilities;
- (e) Funeral homes;
- (f) Service stations;
- (g) Grocery stores;
- (h) Restaurants;
- (i) Financial institutions; and
- (j) Other similar-type businesses with service driveways or drive-up or drive-through facilities.

[Ord. 2012-24]

ARTICLE V. MINORS⁵

⁵ **Cross references:** Transactions with minors by dealers, § 98-37.

DIVISION 1. GENERALLY

Secs. 82-231--82-250. Reserved.

DIVISION 2. CURFEW

Sec. 82-251. Penalties.

(a) Any parent, guardian or person having legal custody of a child described in section 82-252 who has been warned in the manner provided in section 82-255 and who thereafter violates any of the provisions of this division shall be subject to penalty as provided in section 1-11.

(b) Any child who violates this division after being detained and released under section 82-254 shall be dealt with under Wis. Stats. ch. 938.

(Code 1986, § 9.16(5))

Sec. 82-252. Curfew established; hours; exceptions.

(a) No child under the age of 18 years shall loiter, idle or remain upon any street, alley or other public place in the city between 11:00 p.m. and 6:00 a.m., unless such child is accompanied by his parent or guardian or other adult person having legal custody of such child.

(b) This section shall not apply to a child:

- (1) Performing an errand as directed by his parent or guardian or person having lawful custody.
- (2) Who is on his own premises or the areas immediately adjacent thereto.
- (3) Whose employment makes it necessary to be upon the streets, alleys, public places or any motor vehicle after such hour.
- (4) Returning home from a supervised school, church or civic function.
- (5) Traveling in interstate commerce.

(c) The exceptions in subsection (b) of this section, however, shall not permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(Code 1986, § 9.16(1))

Sec. 82-253. Parental responsibility.

No parent, guardian or other person having legal custody of a child under the age of 18 years shall permit or suffer such child to loiter, idle or remain upon any street, alley or other public place in the city between 11:00 p.m. and 6:00 a.m., unless such child is

accompanied by his parent, guardian or other adult person having legal custody of such child.

(Code 1986, § 9.16(2))

Sec. 82-254. Detention of minors by police.

A child believed to be violating the provisions of this division may be taken to the police department or the county sheriff's department for proper identification. Every law enforcement officer while on duty may detain any child violating section 82-252 until such time as the parent, guardian or person having legal custody of the child shall be immediately notified, and the person so notified shall as soon as reasonably possible thereafter report to the police station or sheriff's office for the purpose of taking the child into custody and shall sign a release for him.

(Code 1986, § 9.16(3))

Sec. 82-255. Warning to parents on first violation.

The first time a child is detained by law enforcement officers as provided in section 82-254, a parent, guardian or person having legal custody shall be advised as to the provisions of this division, and any violation of this division occurring thereafter by this child or any other child under such person's custody shall result in a penalty being imposed as provided in this division.

(Code 1986, § 9.16(4))

Secs. 82-256--82-270. Reserved.

DIVISION 3. SCHOOL TRUANCY

Sec. 82-271. Statutory authority.

This division is enacted by authority of Wis. Stats. § 118.163(1m), (2) and (2m).

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(1)), 12-8-1998)

Sec. 82-272. Definitions.⁶

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

Dropout means a child who ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. § 118.15(1)(b)--(d) or (3).

⁶ **Cross references:** Definitions generally, § 1-2.

Habitual truant means a pupil who is absent from school without an acceptable excuse as defined in Wis. Stats. § 118.15 and Wis. Stats. § 118.16(4) for a part or all of five or more days on which school is held during a school semester.

Operating privilege has the meaning given in Wis. Stats. § 340.01(40).

Truant means a pupil who is absent from school without an acceptable excuse under Wis. Stats. § 118.15 and Wis. Stats. § 118.16(4) for a part or all of any day on which school is held during a school semester.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(2)), 12-8-1998)

Sec. 82-273. Truants.

(a) *Prohibition.* Any person attending school in the city under the age of 18 years, subject to the exceptions found under Wis. Stats. § 118.15, is prohibited from being a truant.

(b) *Dispositions available to municipal court.* The municipal court shall be entitled to enforce the following dispositions for a person adjudged a truant:

- (1) An order for the person to attend school.
- (2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(3), (4)), 12-8-1998)

Sec. 82-274. Habitual truants.

(a) *Prohibition.* Any person attending school in the city under the age 18 years, subject to the exception found under Wis. Stats. § 118.15, is prohibited from being a habitual truant.

(b) *Dispositions available to municipal court.* The municipal court shall have available the following dispositions for a habitual truant:

- (1) Suspension of the person's operating privilege for not less than 30 days and not more than one year. The court shall immediately take possession of any suspended license and forward it to the state department of transportation, together with a notice stating the reason for and the duration of the suspension.
- (2) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. § 938.34(5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.

- (3) An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his home if the person is accompanied by a parent or guardian.
- (4) An order for the person to attend an educational program as described in Wis. Stats. § 938.34(7d).
- (5) An order for the state department of workforce development to revoke, under Wis. Stats. § 103.72, a permit under Wis. Stats. § 103.70 authorizing the employment of the person.
- (6) An order for the person to be placed in a teen court program as described in Wis. Stats. § 938.342(1g)(f).
- (7) An order for the person to attend school.
- (8) A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- (9) Any other reasonable conditions consistent with this division, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- (10) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(5), (6)), 12-8-1998)

Sec. 82-275. Dropouts.

(a) *Prohibition.* Any person within the city under the age of 18 years, subject to the exceptions found under Wis. Stats. § 118.15, is prohibited from being a dropout.

(b) *Dispositions available to municipal court.* The municipal court shall have available the following dispositions for a dropout:

- (1) All the dispositions contained in section 82-274(b).
- (2) For persons at least 16 years or age, but less than 18 years of age, suspension of operating privilege for any duration up until the person reaches the age of 18 years. The court shall immediately take possession of any suspended license and forward it to the state department of transportation, together with a notice stating the reason for and the duration of the suspension.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(7), (8)), 12-8-1998)

Sec. 82-276. Form of citation.

The city police department is authorized to issue a municipal citation to any person who is determined to be a truant, habitual truant or dropout under the terms of this division. Any citation issued shall be returnable to the municipal court, or any joint

municipal court of which the city is a participant, in the same manner as all other ordinance citations. The citation is to state on its face that it is a "Must Appear" citation without a forfeiture amount written on the face of the citation.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(9)), 12-8-1998)

Sec. 82-277. Required actions by school system.

(a) *Preconditions to issuance of citation.* Prior to the issuance of a city municipal citation for habitual truancy, the Evansville School District attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

- 1) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.
- 2) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under Wis. Stats. § 118.15(1)(d).
- 3) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his/her grade level.
- 4) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(b) *Proof of completion of actions.* Before a person may be found guilty of violating this section, the school district attendance officer must present evidence to the municipal court that the activities under Wis. Stats. § 118.16(5) have been completed by the school system.

(c) *Violation of procedures by school.* Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(10), (11)), 12-8-1998, Ord. 2007-2, Ord. 2008-09, Ord. 2008-20)

Sec. 82-278. Contributing to or causing violation.

(a) *Prohibition.* No person of the age of 18 or older shall commit an act of commission or omission that contributes to, or where the natural and probable

consequences of that act would cause a child to be a truant, habitual truant, or dropout, whether or not the child is adjudged guilty of a violation.

(b) *Penalty.* Any person of the age of 18 or older who contributes to or causes a child to be a truant, habitual truant, or dropout shall pay a forfeiture of not less than \$100.00 and not more than \$500.00, together with the costs of the prosecution for each offense, and upon default of the payment of these forfeitures and costs shall be imprisoned until the forfeiture and costs together with subsequent costs are paid, but not more than 60 days. Each day a violation continues shall constitute a separate offense. The standard forfeiture shall be in the sum of \$100.00 plus costs.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(12), (13)), 12-8-1998)

Secs. 82-279--82-300. Reserved.

DIVISION 4. [Repealed by Ord. 2014-05]

Secs. 82-301--82-320. Reserved.

DIVISION 5. POSSESSION OF DRUG PARAPHERNALIA

Sec. 82-321. Penalty.

A person who violates this division is subject to a forfeiture of not less than \$10.00 and not more than \$500.00, together with the costs of the prosecution.

(Code 1986, § 9.25(3))

Sec. 82-322. Adoption of state law.

The provisions of Wis. Stats. §§ 961.571 and 961.572 are hereby adopted by reference in their entirety, including any amendments thereto as may be adopted from time to time.

(Code 1986, § 9.25(2))

Sec. 82-323. Use or possession prohibited.

No person under the age of 17 years shall use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Wis. Stats. ch. 161.

(Code 1986, § 9.25(1))

DIVISION 6: SALE AND USE OF VAPING PRODUCTS

Sec. 82-324. Public Health.

In the interest of public health, the City of Evansville finds that the use of vapor products by minors poses a health risk to any person under the age of eighteen years.

(Ord. 2018-05)

Sec. 82-325. Definitions

- (a) *Vapor Products.* Vapor products shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” shall include any vapor cartridge, solution, or other container, that may or may not contain nicotine, that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- (b) *Smoking.* Smoking shall have a meaning as defined in Wisconsin Statutes §101.123, and shall also include the use of an electronic smoking device which emits an aerosol, particulates, or vapor, in any manner or in any form.
- (c) *Electronic Smoking Device.* Electronic smoking device means any product containing or delivering nicotine, or any other legal or controlled substance, whether natural or synthetic, that can be used by a person to simulate smoking through inhalation of vapor, particulates, or aerosol from the device. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-pipes, vape pens, mods, tank systems, or under any other product name or description. The term also includes any component part of such product whether or not sold separately. The term electronic smoking device does not include any product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product and is being marketed and sold solely for that purpose.

(Ord. 2018-05, Ord. 2024-10)

Sec. 82-326. Prohibition of Sale to Minors

The purchase of vapor products by any person under the age of 21 is prohibited. No retailer, direct marketer, manufacturer, distributor, jobber or sub-jobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or sub-jobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration any vapor products to any person under the age of 21. A person under 21 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer. The defenses provided in Wis. Stat. § 134.66(3)(a)—(c) shall be defenses to any prosecution hereunder.

Secs. 82-327. Prohibition of Possession by Minors

a) The possession of vapor products by any person under the age of 18 is prohibited. A person under 18-years of age may possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer. The defenses provided in Wis. Stat. § 134.66(3)(a)—(c) and § 254.92(2) shall be defenses to any prosecution hereunder.

Secs. 82-328. Prohibition of the Use of Tobacco and Vapor Products

a) The provisions of §101.123 Wisconsin Statutes, and any subsequent amendments or modifications are adapted by reference and made a part of this section as if more fully set forth herein.

b) Smoking is prohibited except as provided in Wis. Stat. § 101.123(3) in any of the following:

- i) Any place in which smoking is prohibited under Wis. Stat. § 101.123(2).
- ii) The entire grounds of any property which has an educational facility on it.
- iii) All municipal premises.

Secs. 82-329--82-350. Reserved.

ARTICLE VI. WEAPONS

DIVISION 1. GENERALLY

Sec. 82-351. Discharge restricted.

(a) *Prohibited acts.* No person shall discharge:

- (1) Any firearm within the city; or
- (2) Within the limits of the city, any BB gun, pellet gun, airgun or gas-operated gun, or make use of a bow and arrow, crossbow or slingshot or other dangerous weapon.

(b) *Exceptions.* This section shall not apply to:

- (1) Organized gun, archery or sporting clubs or ranges under written permit granted by the city council.
- (2) The use of blank cartridges by individuals and organizations approved by the chief of police.
- (3) The use of flares or torpedoes for signal purposes.
- (4) The use of firearms for rodent control.
- (5) Any use excepted under Wis. Stats. § 167.31(4)(a)-(am).
- (6) Conduct which is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stats. § 939.45.
- (7) Deer management program approved by the city council and conducted under the supervision of the chief of police.

- (8) Use of a bow and arrow or crossbow for hunting, provided that the use is not within one-hundred (100) yards of a building (permanent structure) used for human occupancy (including a manufactured home under Wisconsin Statute section 101.91(2)) located on another person's land and provided the discharge of the arrow or bolt shall be toward the ground. The distance restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within one-hundred (100) yards.

(c) *Penalty.* Any person who shall violate any provision of this section shall be subject to a penalty in accordance with section 1-11.

(Code 1986, § 9.02(2), Ord. 2012-06, Ord. 2014-03)

Sec. 82-352. [Repealed]

(Code 1986, § 9.23, Ord. 2004-14, Ord. 2012-06)

Sec. 82-353. Weapons in State or Local Government Buildings.

(a) Pursuant to Wis. Stats. § 943.13(1m)(c)4., no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying or with a firearm or other weapon.

(b) The City Administrator shall post a sign in a prominent place near all of the entrances of all buildings, or parts of buildings, owned, occupied or under the Control of the City of Evansville and any individual entering the building can be reasonably expected to see the sign providing notice that no person is to enter or remain in any such building while carrying or with a firearm or other weapon. Such signs shall be five inches by seven inches or larger.

(c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building. Notwithstanding Wis. Stats. § 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.

(d) Nothing in this section shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. §§ 941.23 or 941.235.

(e) The penalty for commission of offenses prohibited by this section shall be as provided in Section 1-11 of the Code.

[Ord. 2011-13]

Secs. 82-354--82-370. Reserved.

DIVISION 2. FIREARMS

Sec. 82-371. Definitions.⁷

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

Firearm means an instrument used in the propulsion of shot, shell or bullets by the action of gunpowder exploded within it, or any weapon which acts by force of gunpowder.

(Code 1986, § 9.02(1))

Sec. 82-372. [Repealed]

(Code 1986, § 9.02(3), Ord. 2012-06)

Sec. 82-373. Penalty.

Any person who shall violate any provision of this division shall be subject to a penalty as provided in section 1-11.

(Code 1986, Ord. 2012-06)

⁷ **Cross references:** Definitions generally, § 1-2.

Chapter 86

PARKS AND RECREATION¹

Article I. In General

- Sec. 86-1. Penalty.
- Sec. 86-2. Personnel.
- Sec. 86-3. Closing hours for parks.
- Sec. 86-4. (Repealed).
- Sec. 86-5. Permit for park use.
- Sec. 86-6. Reservation of ball diamonds and soccer field.
- Sec. 86-7. Permit for commercial activities in parks.
- Sec. 86-8. Operation of motorboats on Lake Leota.
- Secs. 86-9--86-30. Reserved.

Article II. Park and Recreation Board

- Sec. 86-31. Established.
- Sec. 86-32. Membership.
- Sec. 86-33. Qualifications of members.
- Sec. 86-34. Oath of members.
- Sec. 86-35. Compensation of members.
- Sec. 86-36. Vacancies.
- Sec. 86-37. Removal of members.
- Sec. 86-38. Powers and duties.

¹ **Cross references:** Permit for consumption of alcohol beverages in public parks, § 6-63 et seq.; flood area zoning, ch. 54; streets, sidewalks and other public places, ch. 106.

ARTICLE I. IN GENERAL

Sec. 86-1. Penalty.

Except as otherwise provided, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-11.

(Code 1986, § 19.15)

Sec. 86-2. Personnel.

(a) *Aquatic director.*

- (1) *Appointment.* The aquatic director shall be appointed annually by the city administrator in consultation with the appropriate department head and committee.
- (2) *Powers and duties.* The aquatic director shall exercise the powers and duties as authorized by the Water Safety Institute, the American Red Cross and the city administrator in consultation with the appropriate department head and committee.

(b) *Little League/softball/baseball director.*

- (1) *Appointment.* The Little League/softball/baseball director shall be appointed annually by the city administrator in consultation with the appropriate department head and committee.
- (2) *Powers and duties.* The Little League/softball/baseball director shall exercise the powers and duties as authorized by the park and recreation board. Those duties shall include responsibility for coordinating and scheduling all baseball and softball tournaments and the maintenance and preparation of the baseball diamonds for all scheduled ball games and tournaments.

(Code 1986, § 19.08, Ord. 2008-23)

Sec. 86-3. Closing hours for parks.

(a) All parks shall be closed at 10:00 p.m. each day, except as otherwise provided in this section.

(b) No person shall enter, frequent or loiter in any park between 10:00 p.m. and 6:00 a.m., except when public functions are being held in such park. For the purpose of this section, public functions shall constitute those functions for which the floodlights in the lower park have been turned on by the proper park officials for other public meetings, picnics or gatherings held pursuant to subsection (c) of this section. After all such occasions, no person shall remain in such park more than one-half hour after the termination of such functions or occasions.

(c) Persons or organizations desiring to hold public meetings, picnics or other public gatherings in any park which shall necessitate remaining in the park later than 10:00 p.m. shall apply for permission for such function to the chairperson of the park and

recreation board or such other person as the park and recreation board may designate. Such application shall state the hour at which such function shall terminate.

(d) Park hours shall be extended to 11:00 p.m. during the summer season (June through August).

(Code 1986, § 19.02; Ord. No. 1998-8, § 1, 7-14-1998)

Sec. 86-4. (Repealed)

(Repealed by Ord. 2008-23).

Sec. 86-5. Permit for park use.

(a) Any individual, group or organization that wishes to reserve for use any public park or park facility for any non-commercial activity, except a city ball diamond or soccer field, should make a reservation with the office of the city clerk and pay all applicable fees at least 72 hours before the event. Reservations are issued on a first come, first served basis beginning January 1 of each year. All reservations fees shall be paid in full, in advance, to consider the park or park facility reserved and are non-refundable. A deposit of \$100.00 shall be paid to the city clerk at the time of paying the reservation fee. The deposit shall be held until the park areas used are cleaned up and restored to prior condition to the satisfaction of the city at the conclusion of the event. Upon satisfactory inspection by the city designee, the deposit shall be returned. Should the area require cleanup or restoration by the city, the deposit shall be forfeited and any additional expenses incurred by the city shall be the responsibility of the individual, group or organization.

(Code 1986, § 19.07, Ord. 2004-15, Ord. 2008-23, Ord. 2016-07)

Sec. 86-6. Reservation of ball diamonds and soccer fields.

(a) Any Evansville group or organization, including public school athletic programs, the city, youth and adult baseball softball leagues, and the Evansville Soccer Club, wishing to reserve on a seasonal basis any city ball diamond or soccer field for any non-commercial activity in any city park shall make a reservation with the office of the city clerk in writing at least 30 days before the first scheduled event. The various groups or organizations may coordinate schedules between themselves prior to making reservation with the office of the city clerk; however, reservations shall be made on a first come first served basis.

(b) Any Evansville resident, Evansville group or Evansville organization wishing to reserve any city ball diamond or soccer field for any non-commercial activity in any city park shall make a reservation with the office of the city clerk not more than 29 days but at least 48 hours before the event, except as provided in paragraph (a) & (c). Any other individual, group or organization wishing to reserve any city ball diamond or soccer field for any activity in any city park shall obtain approval from the park and recreation board chairperson not more than 29 days but at least 48 hours before the event, who shall promptly communicate her or his approval of the reservation to the office of the city

clerk. Reservations are made on a first come, first served basis, and the reservation should be only for the hours needed.

(c) The Evansville group or organization coordinating the annual Fourth of July Celebration shall have precedence over all other individuals, groups or organizations for reservation of ball diamonds and soccer fields at Leonard Park during the days of the Fourth of July Celebration, provided the reservation is submitted to the office of the city clerk by April 15 of any given year.

(d) Any individual, group or organization that has reserved a ball diamond or soccer field shall pay a nonrefundable fee to the office of the city clerk at time of reservation. The amount of such fees shall be as established by the council from time to time by resolution and as set forth in appendix A.

(e) Upon payment of the fees, the city will furnish the use of the ball diamond or soccer field, ball diamond lights and properly maintained accessories and bases. The fees are to cover the cost of field maintenance, the cost of ball diamond preparation and utility costs.

(f) The use of the press box/concession stand and scoreboard shall require a deposit fee of \$100.00 payable upon Park Board and/or Public Safety approval to the office of the city clerk, along with the rental fee. Seasonal reservations made for use of the press box/concession stand and scoreboard requires one deposit fee and will include the use of the Oscar Dietzch shelter (when reserved with the upper ball diamond only). The deposit will be returned, provided the area is restored to its prior condition to the satisfaction of the city after inspection by the city designee.

(g) All public school functions and public school athletic programs of the city school district, the city, the city's youth baseball and youth softball leagues, and the youth Evansville Soccer Club shall be exempt from the fees and deposit requirements under this section.

(Code 1986, § 19.04, Ord. 2004-15, Ord. 2008-23)

Sec. 86-7. Permit for commercial activities in parks.

(a) No person shall offer any merchandise for sale or operate any stand or place of business within any of the parks in the city unless he shall first have obtained a permit for such operation.

(b) Application for such permit, stating the dates and hours of operation and type of merchandise to be sold, shall be filed with the city clerk not less than 72 hours prior to the first effective date of the permit sought.

(c) Such permit may be issued by the park and recreation board, which may delegate its authority to issue permits to its chairperson.

(d) No permit shall be authorized contrary to the city's contractual obligations with the operator of the city-owned park store in Leota Park.

(e) The provisions of this section shall not apply to the sale of fermented malt beverages for which a license has been issued for a particular picnic or similar gathering pursuant to Wis. Stats. § 125.26(6).

(Code 1986, § 19.05, Ord. 2008-23)

Sec. 86-8. Operation of motorboats on Lake Leota.

No person shall operate a boat propelled by a motor other than an electric motor on Lake Leota.

(Code 1986, § 19.03, Ord. 2008-23)

Secs. 86-9--86-30. Reserved.

ARTICLE II. PARK AND RECREATION BOARD²

Sec. 86-31. Established.

There is created a park and recreation board of the city.

(Code 1986, § 19.01(1))

Sec. 86-32. Membership.

(a) The park and recreation board shall consist of seven members, one of whom shall be an alderperson. The alderperson member shall be appointed by the mayor, subject to confirmation by the council, annually on the third Tuesday of April or as soon thereafter as may be practiced. The six citizen members shall be appointed by the mayor, subject to confirmation by the city council. Two citizen members shall be appointed annually on the third Tuesday of April for a term of three years. The terms shall expire on the third Tuesday in April of the appropriate year.

(b) When the board meets and conducts business, a quorum or majority shall be four members present and four affirmative votes.

(Code 1986, § 19.01(2), Ord. 2006-18)

Sec. 86-33. Qualifications of members.

All citizen members of the park and recreation board shall be persons with recognized experience and qualifications and shall hold office until their respective successors are selected and qualified.

² **Cross references:** Boards, commissions and committees, § 2-191 et seq.

(Code 1986, § 19.01(4))

Sec. 86-34. Oath of members.

Citizen members of the park and recreation board shall take the official oath required by Wis. Stats. § 19.01, which shall be filed with the city clerk-treasurer.

(Code 1986, § 19.01(5))

Sec. 86-35. Compensation of members.

The members of the park and recreation board shall be compensated as determined by the city council.

(Code 1986, § 19.01(6))

Sec. 86-36. Vacancies.

All vacancies on the park and recreation board shall be filled for the unexpired term in the same manner as appointment for a full term.

(Code 1986, § 19.01(7))

Sec. 86-37. Removal of members.

Any member of the park and recreation board shall be removed by the mayor for cause.

(Code 1986, § 19.01(8))

Sec. 86-38. Powers and duties.

The park and recreation board shall supervise the management and operation of the parks, lakes and streams in the city as they are now or may hereafter be provided by ordinance. The park and recreation board shall also supervise the management of the city recreation department, Veteran's Memorial Pool, city Little League programs, the park store and the park maintenance department.

(Code 1986, § 19.01(3))

Chapter 90

SOLICITORS¹

Sec. 90-1.	Registration Required
Sec. 90-2.	Definitions.
Sec. 90-3.	Exemptions.
Sec. 90-4.	License application requirements.
Sec. 90-5.	Investigation, Issuance & Denial.
Sec. 90-6.	Appeal
Sec. 90-7.	Revocation
Sec. 90-8.	Bond.
Sec. 90-9.	Regulations.

¹ **Cross references:** Businesses, ch. 22; streets, sidewalks and other public places, ch. 106.

SOLICITORS

Sec. 90-1 Registration Required

It shall be unlawful for any solicitor to engage in direct sales or solicitation activities within the City of Evansville without first obtaining a license therefor in compliance with the provisions of this division.

(Ord 2021-13)

Sec. 90-2. Definitions².

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:

(a) **“Business”** includes all vocations, occupations, services, professions, enterprises, establishments and all other kinds of activities and matters intended to generate revenue or conduct for private profit or benefit, either directly or indirectly, located within the City’s jurisdiction.

(b) **“Solicitor”** is defined as follows:

- (1) Any person, both principals and agents, as well as employers and employees, who intend to sell, offer for or expose for sale, or who shall trade, deal or traffic in, any property or services in the city by going from house to house or from place to place or by indiscriminately approaching individual, whether on foot or by vehicle.
- (2) Person seeking to obtain orders, prospective customers or subscriptions for the purchase of goods, publication or services of any kind, character whatsoever, for any consideration whatsoever;
- (3) Any person, while offering for sale any goods, wares, merchandise, services or anything of value, stands in a doorway or uses any building, structure, vehicle, unenclosed vacant lot, parcel of land or any other place not used by such person as a permanent place of business; or
- (4) Persons seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any association, organization, corporation or project, not otherwise exempt under this chapter.

(c) **“Registered Solicitor”** means and includes a person or business that has obtained a solicitor’s permit as provided in this chapter.

(d) **“Residence”** means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

² **Cross references:** Definitions generally, § 1-2.

(e) **“Police Chief or Chief of Police”**. Shall mean the City Police Chief and/or their designated representative.

(f) **“City Clerk or Clerk”**. Shall mean the City Clerk and/or their designated representative.

(Code 1986, § 12.07(1), Ord 2021-13)

Sec. 90-3. Exemptions.

No license shall be required under this chapter of the following:

- (1) Officers or employees of the City, County, State or Federal Government, or any subdivision thereof, when on official business.
- (2) Persons selling personal property at wholesale to dealers in such articles.
- (3) Merchants or their employees delivering goods to regular customers on established routes; items to include but not limited to newspapers, fuel, dairy products
- (4) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.
- (5) A veteran holding a special state license under Wis. Stats. § 440.51, but he/she shall comply with sections 90-9.
- (6) Any person soliciting for charitable, religious, patriotic or philanthropic purposes where the proceeds thereof are devoted solely to the purposes of the organization.
- (7) Sales required by statute or order of a court.
- (8) Bona fide auction sales conducted pursuant to law.
- (9) Minors under the age of eighteen (18) who are residents of the City of Evansville conducting “fundraisers” for youth programs, such as athletics, scouting or school programs, or youth sales such as lemonade stands.
- (10) Candidates for local political office, campaign workers, members and representatives of political organizations campaigning on behalf of local elections for petitions to be submitted to the City of Evansville.

(Code 1986, § 12.07(2), Ord 2021-13)

Sec. 90-4. License application requirements.

(a) **Application information**- The application for a Solicitor’s Permit shall include the following information:

- (1) Name, permanent address and telephone number, and temporary address, if any.

- (2) Height, weight, color of hair and eyes, and the date of birth.
- (3) Name, address and telephone number of the person that the peddler represents or is employed by, or whose merchandise is being sold.
- (4) Temporary address and telephone number from which business will be conducted, if any.
- (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered.
- (6) Proposed method of delivery of merchandise, if applicable.
- (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business.
- (8) Last cities, villages, towns, not to exceed three, where applicant conducted similar business just prior to making this registration.
- (9) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.
- (10) Attached to the application form shall be two recent photographs of the applicant, which pictures shall be not less than two inches by two inches and showing the face and shoulders of the applicant in a clear and distinguishing manner
- (11) Any other information the deemed necessary

(b) Identification and Certification-Applicants shall present to the City Clerk for examination

- (1) A driver's license or other proof of identity as may be reasonably required.
- (2) A state certified certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities.
- (3) Any application for a solicitor to engage in the sale of food or beverages shall be referred to the Rock County Health Department for approval and issuance on a certificate of health inspection. The applicant's equipment shall be subject to inspections by the Rock County Health Department at the time of application and at periodic intervals thereafter.

(c) Application fees

- (1) At the time of filing application, the applicant for a license under this chapter shall pay to the City Clerk a fee as established by the Council from time to time by resolution and as set forth in appendix A to cover the cost of investigation of the facts stated in the application.
- (2) Solicitors of funds or donations for charitable or other organizations shall comply with all provisions in this chapter, but shall be exempt from the application fee;

such applicants, however, shall pay an amount equal to the CIB investigation fee currently charged by the Department of Justice.

- (3) Upon payment of the fee and pending completion of the investigation in sec. 90-5, the City Clerk shall register the applicant as a solicitor and issue the license. The license shall be valid for a period no more than one (1) year expiring on December 31st, subject to subsequent refusal as provided in Sec 90-5 below.
- (4) All fees paid under this chapter are non-refundable.

(d) License Reprint

- (1) If a license reprint is needed the applicant shall pay to the City Clerk a fee as established by the Council from time to time by resolution as set forth in appendix A.
- (2) If a reprint is requested two additional recent photographs of the applicant, which pictures shall be not less than two inches by two inches and showing the face and shoulders of the applicant in a clear and distinguishing manner must be provided.

(Code 1986, § 12.07(3), Ord 2021-13)

Sec. 90-5. Investigation, Issuance and Denial.

(a) Background Check

- (1) Upon receipt of a completed application form and fee, the City Clerk shall indicate upon the face of the form whether the fee has been paid and then refer it to the Police Chief who may make and complete an investigation of the statements made upon the application form, the applicant or both.
- (2) The Police Chief shall review the application and either recommend or not recommend issuance of a licenses then return it to the City Clerk.

(b) Recommended

- (1) In the event that the Police Chief recommends such application, the City Clerk shall issue a Solicitor's License to the applicant.

(c) Non Recommend

- (1) In the event the Police Chief does not recommend issuance of such application, the City Clerk shall not issue a solicitor license to the applicant.
- (2) A Solicitor's license may be denied if the Police Chief or the City Clerk find anyone or a combination of the following:
 - (a) The application contains any material omission or any inaccurate, false, or misleading statement.
 - (b) The applicant violated any provisions of any similar or related state, federal, or local ordinance or law anywhere in the previous five years.

- (c) That there is a reason to believe that the applicant or the company violated any provision of any similar or related state, federal or local ordinance or law anywhere in the previous five years.
- (d) The applicant failed and/or fails to comply with any provisions in this chapter.
- (e) Within the previous 10 years, committed any act consisting of fraud or misrepresentation directly related to the occupation of solicitor.
- (f) Within the previous 10 years, been convicted of a misdemeanor or felony involving moral turpitude or assault.
- (g) Committed any offense for which registration as a sex offender is a legal requirement of conviction for that offense.
- (h) The Chief of Police finds that the applicant's proposed activity and/or issuance to the applicant of a Solicitor's license might not be consistent with, or might be contrary to, or might not be in the best interest of, or otherwise not in the furtherance of, the health, safety or welfare of the community.

Sec. 90-6 Appeal

(a) Any person denied approval of a Solicitor's License may appeal such decision to the Public Safety Committee at one of its regularly scheduled meetings but submitting a written request with the City Clerk's office within five days of receiving notice of denial and permit non-issuance.

(b) The Public Safety Committee will review the appeal request and any recommendations from the Police Chief. The Public Safety Committee shall decide by majority of those voting whether to grant or deny a Solicitor's License to the applicant.

Sec. 90-7 Revocation

License may be revoked by The police Chief, Public Safety Committee or City Clerk if the applicant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(Code 1986, § 12.07(4), Ord 2021-13)

Sec. 90-8. Bond.

Every applicant for a license under this chapter who is not a resident of the county or who represents a firm whose principal place of business is located outside of the state shall file with the city clerk a surety bond in the amount of \$500.00, approved by the clerk, conditioned that the applicant will comply with all provisions of the ordinances of

the city and state laws regulating solicitors, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee, and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on such bond may be brought by any person aggrieved.

(Code 1986, § 12.07(5), Ord 2021-13)

Sec. 90-9.Regulations.

(a) Prohibited Practices

- (1) No person licensed under this chapter shall, in hawking his wares, create such noise as is annoying to a person of ordinary sensibilities. (Code 1986, § 12.07(6), Ord 2021-13)
- (2)³ No licensee under this chapter shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks. (Code 1986, § 12.07(7), Ord 2021-13)
- (3) A solicitor shall be prohibited from: calling at any dwelling or other place between the hours of eight o'clock (8:00) p.m. and nine o'clock (9:00) a.m., except by appointment;
- (4) Calling at any dwelling of other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors", or words of similar meaning.
- (5) Calling at the rear door of any dwelling place, or remaining on any premise after being asked to leave by the owner, occupant, or other person have authority over such premises.
- (6) Litter, accumulate, or allow the littering or the accumulation of any litter, refuse, or rubbish in or around the area in which such solicitor is conducting business.
- (7) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or character of any goods offered for sale, the purpose of his/her visit, his/her identity, or the identity of the organization he/she represents.
- (8) In the event that the person is acting on behalf of a charitable, benevolent, educational or non-profit organization or corporation, refuse to specifically and accurately disclose, as a percentage of the sale or donation price of the goods or services, the portion of the sale or donation price of the goods or services offered which shall actually be used for the charitable, benevolent, educational or non-profit purpose for which the solicitation is being made.

³ **Cross references:** Streets, sidewalks and public places, ch. 106.

(9) Violate any other ordinance or law.

(b) Disclosure Requirements

- (1) After the initial greeting and before any other statement is made to a prospective customer, a peddler shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.
- (2) If any sale of goods is made by a peddler, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit of more than twenty-five dollars, or is a cash transaction, in accordance with the procedure as set forth in Section 423.203 of the Wisconsin Statutes; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3) of the Wisconsin Statutes.
- (3) If the solicitor takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided, and, if so, the terms thereof.
- (4) Possession/Display of License. Solicitor shall at all times when engaging in direct sales activities, have on their person and visibly display to the public, the license issued pursuant to this section, as well as photo identification. Solicitors shall show their license to sell issued by the City of Evansville, as well as photo identification upon request.

(Ord. 2021-13)

Chapter 94
PLANNING¹

Article I. In General

Secs. 94-1--94-30. Reserved.

Article II. Plan Commission

Sec. 94-31. How constituted.
Sec. 94-32. Term of office.
Sec. 94-33. Reserved.
Sec. 94-34. Oath of members.
Sec. 94-35. Compensation of members.
Sec. 94-36. Officers; rules of procedure.
Sec. 94-37. Vacancies.
Sec. 94-38. Removal of members.
Sec. 94-39. Meetings.
Sec. 94-40. Quorum.
Sec. 94-41. Matters to be referred to commission.
Sec. 94-42. Powers and duties.
Secs. 94-43--94-70. Reserved.

Article III. Economic Development Committee

Sec. 94-71. Membership.
Sec. 94-72. Term of members.
Sec. 94-73. Qualifications of members.
Sec. 94-74. Oaths of members.
Sec. 94-75. Compensation of members.
Sec. 94-76. Officers; rules of procedure.
Sec. 94-77. Vacancies.
Sec. 94-78. Removal of members.
Sec. 94-79. Meetings.
Sec. 94-80. Quorum.
Sec. 94-81. Powers and duties.
Secs. 94-82—94-100 Reserved.

Article IV. Comprehensive Plan

Sec. 94-101. Application fee.

¹ **Cross references:** Administration, ch. 2; buildings and building regulations, ch. 18; flood area zoning, ch. 54; historic preservation, ch. 62; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110; utilities, ch. 126; zoning, ch. 130; manufactured homes and trailers, § 130-1241.

ARTICLE I. IN GENERAL

Secs. 94-1--94-30. Reserved.

ARTICLE II. PLAN COMMISSION²

Sec. 94-31. How constituted.

The plan commission shall consist of seven members, to include the mayor as presiding officer, two alderpersons and four citizens appointed by the mayor. Citizen members shall be persons of recognized experience and qualifications.

(Code 1986, § 17.14(1); Ord. No. 2001-3, § 1(17.14(1)), 4-10-2001, Ord. 2007-5)

Sec. 94-32. Term of office.

The term of each member of the commission other than the mayor and alderpersons shall be for three years on a staggered basis. The mayor's term shall be for two years. The alderpersons' terms shall be for one year. The terms shall expire on the third Tuesday in April of the appropriate year.

(Code 1986, § 17.14(2); Ord. No. 2001-3, § 2(17.14(2)), 4-10-2001, Ord. 2006-18, Ord. 2007-5)

Sec. 94-33. Reserved³.

Sec. 94-34. Oath of members.

Citizen members of the plan commission shall take the official oath required by Wis. Stats. § 19.01, which shall be filed with the city clerk-treasurer.

(Code 1986, § 17.14(4))

Sec. 94-35. Compensation of members.

The members of the plan commission shall be compensated as determined by the city council.

(Code 1986, § 17.14(5))

Sec. 94-36. Officers; rules of procedure.

The city plan commission shall organize annually at its first meeting in May by the election of a vice-chairperson, secretary and such other officers as may, in their judgment, be necessary. The commission may also formulate any lawful rules for its operation and procedures in accordance with city council rules.

(Code 1986, § 17.14(6))

² **Cross references:** Boards, commissions and committees, § 2-191 et seq.

³ **Editor's note:** Ord. No. 2001-3, § 3, adopted April 10, 2001, repealed § 94-33, which pertained to qualifications for members of the planning commission and derived from the Code of 1986, § 17.14(3).

Sec. 94-37. Vacancies.

All vacancies on the city plan commission shall be filled for the unexpired term in the same manner as appointment for the full term.

(Code 1986, § 17.14(7))

Sec. 94-38. Removal of members.

Any member of the plan commission shall be removed by the mayor for cause upon written charges and after a public hearing.

(Code 1986, § 17.14(8))

Sec. 94-39. Meetings.

Regular meetings of the plan commission shall be held at least monthly as specifically determined by the plan commission. Special meetings may be called by the presiding officer or upon written request of two committee members. Notice of special meeting shall be given by personal service to all members at least 24 hours prior to the called special meeting. Minutes shall be kept by the secretary and filed with the city clerk-treasurer.

(Code 1986, § 17.14(9))

Sec. 94-40. Quorum.

Four members of the plan commission shall constitute a quorum to transact any business, but all actions shall require the affirmative approval of a majority of all of the members of the plan commission.

(Code 1986, § 17.14(10))

Sec. 94-41. Matters to be referred to commission.

The city council or other public body or officer of the city having authority thereon shall refer to the city plan commission, for its consideration and report before final action is taken by the city council or public body or officer, the following matters:

- (1) The location and architectural design of any public building.
- (2) The location of any statue or other memorial.
- (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for, or lease of land for any street, alley or other public way, park, playground, airport, area for parking facilities or other memorial or public grounds.
- (4) The location, extension, abandonment or authorization for any public utility, whether public or privately owned.
- (5) All plats of land in the city or within the territory over which the city is given platting jurisdiction by Wis. Stats. ch. 236.

- (6) The location, character and extent or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief of congestion or vacation camps for children.
- (7) The amendment or repeal of any ordinance adopted pursuant to chapter 130. Unless such report is made within 30 days or such longer period as may be stipulated by the city council, the council or other public body or officer may take final action without it.

(Code 1986, § 17.14(11))

Sec. 94-42. Powers and duties.

The plan commission shall exercise such powers and have such duties as are provided in Wis. Stats. § 62.23 and this Code.

(Code 1986, § 17.14(12))

Secs. 94-43--94-70. Reserved.

ARTICLE III. ECONOMIC DEVELOPMENT COMMITTEE⁴

Sec. 94-71. Membership.

The economic development committee shall consist of seven members, two of whom shall be members of the city council, who shall be appointed, on the third Tuesday of April, by the mayor subject to the confirmation by the common council.

(Code 1986, § 1.146(1), Ord. 2006-18)

Sec. 94-72. Term of members.

(a) *Aldersperson members.* The aldersperson members of the economic development committee shall be appointed for a one-year term expiring on the third Tuesday of April of each year.

(b) *Citizen members.* The citizen members shall be appointed for staggered terms of three years. Citizen members shall be appointed on the third Tuesday in April, for terms which shall expire on the third Tuesday in April of the appropriate year.

(Code 1986, § 1.146(2), Ord. 2006-18)

Sec. 94-73. Qualifications of members.

⁴ **Cross references:** Boards, commissions and committees, § 2-191 et seq.

All citizen members of the economic development committee shall be persons with recognized experience and qualifications and shall hold office until their respective successors are selected and qualified.

(Code 1986, § 1.146(3))

Sec. 94-74. Oaths of members.

Citizen members of the economic development committee shall take the official oath required by Wis. Stats. § 19.01, which shall be filed with the city clerk-treasurer.

(Code 1986, § 1.146(4))

Sec. 94-75. Compensation of members.

The members of the economic development committee shall be compensated as determined by the city council.

(Code 1986, § 1.146(5))

Sec. 94-76. Officers; rules of procedure.

The economic development committee shall organize annually at its first meeting in May by the election of a chairperson, who shall be one of the two city council members, a secretary and such other officers as may, in the committee's judgment, be necessary. The committee shall also formulate any lawful rules for its operation and procedures in accordance with city council rules.

(Code 1986, § 1.146(6))

Sec. 94-77. Vacancies.

All vacancies on the economic development committee shall be filled for the unexpired term in the same manner as appointment for the full term.

(Code 1986, § 1.146(7))

Sec. 94-78. Removal of members.

Any member of the economic development committee shall be removed by the mayor for cause.

(Code 1986, § 1.146(8))

Sec. 94-79. Meetings.

Regular meetings of the economic development committee shall be held at least monthly as specifically determined by the economic development committee. Special meetings may be called by the presiding officer or upon written request of two committee members. Notice of special meetings shall be given by personal service to all members at least 24 hours prior to the called special meeting. Minutes shall be kept by the secretary and filed with the city clerk-treasurer.

(Code 1986, § 1.146(9))

Sec. 94-80. Quorum.

Four members of the economic development committee shall constitute a quorum to transact any business, but all actions shall require the affirmative approval of a majority of all of the members of the economic development committee.

(Code 1986, § 1.146(10))

Sec. 94-81. Powers and duties.

The mission of the economic development committee is determined to be as follows:

- (1) Develop a regional business environment conducive to the retention and expansion of existing business and attraction of new business community members.
- (2) Develop appropriate criteria and standards for identifying and evaluating industrial and business sites and make recommendations for development of those sites.
- (3) Develop and compile information for business promotion literature.
- (4) Organize and carry out business attraction presentations.
- (5) Cooperate with federal, state and local agencies in pursuing the objective of business retention and expansion.
- (6) Develop and recommend ordinances, legislation and programs and otherwise provide information on economic development to the city council.
- (7) Promote public education, interest and support for business retention and expansion.
- (8) Carry out such other duties as may be directed by the city council.

(Code 1986, § 1.146(11))

Secs. 94-82--94-100. Reserved.

ARTICLE IV. COMPREHENSIVE PLAN

Sec. 94-101. Application fee for submitting an application to amend a future land use map.

For all amendments to a future land use map that are not initiated by the Evansville Plan Commission, the Mayor, or the Common Council, an application fee, as set by the Common Council by resolution, shall be submitted at the time of the application. The

Common Council by resolution shall establish and from time to time may amend the amount of the fee, which shall be set forth in appendix A. Revenue from this fee shall be an unrestricted General Fund Source.

(Ord. 2006-17)

Chapter 98

SECONDHAND GOODS¹

Article I. In General

Secs. 98-1--98-30. Reserved.

Article II. Dealers

Sec. 98-31. Definitions.
Sec. 98-32. License required.
Sec. 98-33. Application for license.
Sec. 98-34. License fee.
Sec. 98-35. Change of business location.
Sec. 98-36. Record of transactions.
Sec. 98-37. Transactions with minors.

¹ **Cross references:** Businesses, ch. 22.

ARTICLE I. IN GENERAL

Secs. 98-1--98-30. Reserved.

ARTICLE II. DEALERS

Sec. 98-31. Definitions².

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

Secondhand article dealer means any person, other than an auctioneer, who primarily engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

- (1) Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.
- (2) Any transaction entered into by a person while engaged in a business for which the person is licensed under Wis. Stats. § 134.71(2) or (4) or while engaged in the business of junk collector, junk dealer or scrap processor as described in Wis. Stats. § 70.995(2)(x).
- (3) Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
- (4) Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
- (5) Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
- (6) Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

Sec. 98-32. License required.

No person shall do business as a dealer in secondhand goods, wares or merchandise, secondhand furniture excepted, without having obtained a license therefor.

(Code 1986, § 12.05(2))

² **Cross references:** Definitions generally, § 1-2

Sec. 98-33. Application for license.

Any person desiring to obtain a license as a secondhand article dealer shall file with the city clerk-treasurer his application. The information required on the application shall be that as required by Wis. Stats, § 134.71(5).

(Code 1986, § 12.05(4))

Sec. 98-34. License fee.

The fee for a secondhand article dealer shall be as established by the council from time to time and as set forth in appendix A.

(Code 1986, § 12.05(3), (8))

Sec. 98-35. Change of business location.

Any licensee under this article shall maintain only one place of business and shall obtain the approval of the chief of police before changing his place of business.

(Code 1986, § 12.05(5))

Sec. 98-36. Record of transactions.

Each secondhand article dealer shall maintain the records required by Wis. Stats. § 134.71(8)(c) and keep the records available for inspection as provided in such statute.

(Code 1986, § 12.05(6))

Sec. 98-37. Transactions with minors³.

No secondhand article dealer shall engage in a transaction involving a secondhand article with a minor except as permitted under Wis. Stats. § 134.71(8)(b).

(Code 1986, § 12.05(7))

³ **Cross references:** Minors, § 82-231 et seq.

Chapter 100

SHORELAND-WETLAND ZONING¹

Article I. In General

Secs. 100-1--100-30. Reserved.

Article II. Administration

Division 1. Generally

Sec. 100-31. Statutory authority.
Sec. 100-32. Findings of fact; purpose of article.
Sec. 100-33. Definitions.
Sec. 100-34. Violations; penalties.
Sec. 100-35. Compliance with applicable regulations.
Sec. 100-36. Applicability of article to governmental agencies.
Sec. 100-37. Effect of article on existing ordinances and property restrictions.
Sec. 100-38. Interpretation of article.
Sec. 100-39. Annexed areas.
Sec. 100-40. Administration.
Secs. 100-41--100-70 Reserved.

Division 2. Permits

Sec. 100-71. Conditional use permit.
Sec. 100-72. Certificate of compliance.
Sec. 100-73. Authority to place restrictions on conditional uses.
Sec. 100-74. Fees.
Sec. 100-75. Records of permits.
Sec. 100-76. Revocation of permits.
Secs. 100-77-100-100 Reserved.

Division 3. Appeal

Sec. 100-101. Board of appeals.
Sec. 100-102. Amendments.
Secs. 100-103-100-130 Reserved.

¹ **Cross references:** Zoning, ch. 130.

Article III. Shoreland-Wetland Zoning District

Division 1. Generally

- Sec. 100-131. Zoning maps.
- Sec. 100-132. Boundaries.
- Secs. 100-133-100-160 Reserved.

Division 2. Permitted and Prohibited Uses

- Sec. 100-161. Permitted uses.
- Sec. 100-162. Prohibited uses.
- Secs. 100-163-100-190 Reserved.

Division 3. Nonconforming Structures and Uses

- Sec. 100-191. Generally.
- Sec. 100-192. Repair, remodeling or expansion of nonconforming structure.
- Sec. 100-193. Discontinuance of use.
- Sec. 100-194. Nonconforming uses not involving structure.
- Sec. 100-195. Nonconforming boathouses.
- Sec. 100-196. Nuisances.

ARTICLE I. IN GENERAL

Secs. 100-1--100-30. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 100-31. Statutory authority.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 62.23, 62.231, 87.30 and 281.31.

(Code 1986, § 22.01)

Sec. 100-32. Findings of fact; purpose of article.

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the city would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of the state has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;
- (2) Maintain the stormwater and floodwater storage capacity of wetlands;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earthmoving activities.

(Code 1986, § 22.02)

Sec. 100-33. Definitions².

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All distances, unless otherwise specified, shall be measured horizontally.

² **Cross references:** Definitions generally, § 1-2.

Accessory structure or use means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

Boathouse, as defined in Wis. Stats. § 30.01(1d), means a structure used for the storage of watercraft and associated materials which has one or more sides or walls.

Class 2 public notice means publication of a public hearing notice under Wis. Stats. ch. 985 in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

Conditional use means a use which is permitted by this article provided that certain conditions specified in this article are met and that a permit is granted by the board of appeals or, where appropriate, the planning agency designated by the city council.

Department means the state department of natural resources.

Development means any manmade change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

Drainage system means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Environmental control facility means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

Fixed houseboat, as defined in Wis. Stats. § 30.01(1r), means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

*Navigable waters*³ means Lake Superior, Lake Michigan, all natural inland lakes within the state, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which

³ **Editor's note:** Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differential from adjacent uplands and levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis (*Muench v. Public Service Commission*, 261 Wis. 492 (1952) and *DeGaynor and Co., Inc. v. Department of Natural Resources*, 70 Wis. 2d 936 (1975)). For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.

are navigable under the laws of this state. Under Wis. Stats. § 144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. § 61.351 or 62.231, and Wis. Admin. Code ch. NR 117, do not apply to lands adjacent to farm drainage ditches if:

- (1) Such lands are not adjacent to a natural navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of territorial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Planning agency means the city plan commission created under Wis. Stats. § 62.23(1), or a committee of the city council which acts on matters pertaining to planning and zoning.

Shorelands means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage, and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Shoreland-wetland district means the zoning district, created in this article, composed of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this article.

Unnecessary hardship means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this article.

Variance means an authorization granted by the board of appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this article.

Wetland alteration means any filling, flooding, drainage, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

Wetlands means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(Code 1986, §§ 22.70, 22.71)

Sec. 100-34. Violations; penalties.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of the ordinance from which this article is derived in

violation of the provisions of this article, by any person (including building contractors or their agents), shall be deemed a violation. The zoning administrator shall refer violations to the city planning agency and the district attorney, corporation counsel or city attorney, who shall prosecute such violations. Any person who violates or refuses to comply with any of the provisions of this article shall be subject to a forfeiture as provided in section 1-11. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the city, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30(2).

(Code 1986, § 22.60)

Sec. 100-35. Compliance with applicable regulations.

The use of wetlands and the alteration of wetlands within the shoreland area of the city shall be in full compliance with the terms of this article and other applicable local, state or federal regulations. (However, see division 4 of this article for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a conditional use permit unless otherwise expressly excluded by a provision of this article.

(Code 1986, § 22.10)

Sec. 100-36. Applicability of article to governmental agencies.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.12(4)(a) applies.

(Code 1986, § 22.11)

Sec. 100-37. Effect of article on existing ordinances and property restrictions.

(a) This article supersedes all the provisions of any city zoning ordinance enacted under Wis. Stats. § 61.35, 62.23 and 87.30, which relate to floodplains and shoreland-wetlands, except that, where another city zoning ordinance is more restrictive than this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this article imposes greater restrictions, the provisions of this article shall prevail.

(Code 1986, § 22.12)

Sec. 100-38. Interpretation of article.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, and shall be liberally construed in favor of the city, and shall not be deemed a limitation or repeal of any other powers granted by the state statutes. Where a provision of this article is required by a standard in Wis. Admin. Code ch. NR 117, and where the provision of this article is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 117 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Code 1986, § 22.13)

Sec. 100-39. Annexed areas.

The county shoreland zoning provisions in effect on the date of annexation remain in effect, administered by the city, for all areas annexed by the city after May 7, 1982, unless any of the changes as allowed under Wis. Stats. § 59.692(7) occurs. These annexed lands are described on the city's official zoning map. The county shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city zoning administrator.

(Code 1986, § 22.15)

Sec. 100-40. Administration.

(a) *Designated.* The zoning administrator shall administer and enforce this article.

(b) *Powers and duties.* The zoning administrator shall have the following duties and powers:

- (1) Advise applicants as to the provisions of this article and assist them in preparing conditional use applications and appeal forms.
- (2) Issue permits and certificates of compliance and inspect properties for compliance with this article.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (5) Submit copies of decisions on variances, conditional use permits, appeal for a map or text interpretation, and map or text amendments, within ten days after they are granted or denied, to the appropriate district office of the department.
- (6) Investigate and report violations of this article to the appropriate city planning agency and the district attorney, corporation counsel or city attorney.

(Code 1986, § 22.40, Ord. 2013-01)

Secs. 100-41--100-70. Reserved.

DIVISION 2. PERMITS

Sec. 100-71. Conditional use permit.

(a) *Required.* Unless another section of this article specifically exempts certain types of development from this requirement, a conditional use permit shall be obtained from the zoning administrator before any new development, as defined in section 100-33, or any change in the use of an existing building or structure is initiated.

(b) *Application.* An application for a conditional use permit shall be made to the zoning administrator upon forms furnished by the city and shall include, for the purpose of proper enforcement of this article, the following information:

(1) *General information.*

- a. Name, address, and telephone number of the applicant, property owner and contractor, where applicable.
- b. Legal description of the property and a general description of the proposed use or development.
- c. Whether or not a private water supply or sewerage system is to be installed.

(2) *Site development plan.* The site development plan shall be submitted as a part of the permit application and shall contain the following information, drawn to scale:

- a. Dimensions and area of the lot;
- b. Location of any structures, with distances measured from the lot lines and centerline of all abutting streets or highways;
- c. Description of any existing or proposed on-site sewage systems or private water supply systems;
- d. Location of the ordinary high-water mark of any abutting navigable waterways;
- e. Boundaries of all wetlands;
- f. Existing and proposed topographic and drainage features and vegetative cover;
- g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
- h. Location of existing or future access roads; and
- i. Specifications and dimensions for areas of proposed wetland alteration.

(c) *Expiration.* All permits issued under the authority of this article shall expire 12 months from the date of issuance.

(Code 1986, § 22.41)

Sec. 100-72. Certificate of compliance.

(a) *Generally.* Except where no conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this article.
- (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
- (3) The certificate of compliance shall be issued within ten days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this article.

(b) *Temporary certificate.* The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the city council.

(c) *Existing uses.* Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of adoption of the ordinance from which this article is derived, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this article.

(Code 1986, § 22.42)

Sec. 100-73. Authority to place restrictions on conditional uses.

(a) Any use listed as a conditional use in this article shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the board of appeals following the procedures in subsections (b) through (d) of section 100-101.

(b) Upon consideration of the permit application and the standards applicable to the conditional uses designated in subsection (3) of section 100-161, the board of appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in section 100-32. Such conditions may include specifications for, without limitation because of specific enumeration, type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the board of appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article.

(Code 1986, § 22.43)

Sec. 100-74. Fees.

The city council may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Public hearings.
- (4) Legal notice publications.
- (5) Conditional use permits.
- (6) Rezoning petitions.

(Code 1986, § 22.44)

Sec. 100-75. Records of permits.

Where a zoning permit or conditional use permit is approved under this article, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

(Code 1986, § 22.45)

Sec. 100-76. Revocation of permits.

Where the conditions of a zoning permit or conditional use permit issued under this article are violated, the permit shall be revoked by the board of appeals.

(Code 1986, § 22.46)

Secs. 100-77--100-100. Reserved.

DIVISION 3. APPEAL

Sec. 100-101. Board of appeals.

(a) *Membership; adoption of rules and procedure.* The mayor shall appoint a board of appeals under Wis. Stats. § 62.23(7)e), consisting of five members, subject to confirmation by the city council. The board of appeals shall adopt rules for the conduct of its business as required by Wis. Stats. § 62.23(7)(e)(3).

(b) *Powers and duties.* The board of appeals:

- (1) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
- (2) Shall hear and decide applications for conditional use permits.
- (3) May authorize upon appeal a variance from the dimensional standards of this article where an applicant convincingly demonstrates that:
 - a. Literal enforcement of the terms of this article will result in unnecessary hardship for the applicant;
 - b. The hardship is due to special conditions unique to the property, and is not self-created or based solely on economic gain or loss;
 - c. Such variance is not contrary to the public interest as expressed by the purpose of this article; and
 - d. Such variance will not grant or increase any use of property which is prohibited in the zoning district.

(c) *Appeal procedure.* Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal, specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the board all the papers constituting the record on the matter appealed.

(d) *Public hearings.*

- (1) Before making a decision on an appeal or application, the board of appeals shall, within a reasonable period of time, hold a public hearing. The board shall give public notice of the hearing by publishing a class 2 notice under Wis. Stats. ch. 985, specifying the date, time and place of the hearing and the matters to come before the board. At the public hearing, any party may present testimony in person, by agent or by attorney.
- (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the department at least ten days prior to all public hearings on issues involving shoreland-wetland zoning.

(e) *Decisions.*

- (1) The final disposition of an appeal or application for a conditional use permit before the board of appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the board chairperson. Such decision shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the

appeal for lack of jurisdiction or prosecution, or grant the application for a conditional use.

- (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the department within ten days after the decision is issued.

(Code 1986, § 22.47)

Sec. 100-102. Amendments.

The city council may alter, supplement or change the district boundaries and the regulations contained in this article in accordance with the requirements of Wis. Stats. § 62.23(7)(d)2, Wis. Admin. Code ch. NR 117, and the following:

- (1) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the city planning agency.
- (2) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the city planning agency, and a public hearing shall be held after class 2 notice as required by Wis. Stats. § 62.23(7)(d)2. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
- (3) In order to ensure that this article will remain consistent with the shoreland protection objectives of Wis. Stats. § 144.26, the city council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - a. Stormwater and floodwater storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (4) Where the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection (3) of this section, the department shall so notify the city of its

determination either prior to or during the public hearing held on the proposed amendment.

- (5) The appropriate district office of the department shall be provided with:
 - a. A copy of the recommendation and report, if any, of the city planning agency on a proposed text or map amendment, within ten days after the submission of those recommendations to the city council.
 - b. Written notice of the action on the proposed text or map amendment within ten days after the action is taken.
- (6) If the department notifies the city planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (3) of this section, that proposed amendment, if approved by the city council, shall not become effective until more than 30 days have elapsed since written notice of the city approval was mailed to the department, as required by subsection (5)b of this section. If, within the 30-day period, the department notifies the city that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the city as provided by Wis. Stats. §§ 62.231(6) and 61.351(6). The proposed amendment shall not become effective until the ordinance adoption procedure under Wis. Stats. § 62.231(6) or 61.351(6) is completed or otherwise terminated.

(Code 1986, § 22.50)

Secs. 100-103--100-130. Reserved.

ARTICLE III. SHORELAND-WETLAND ZONING DISTRICT⁴

DIVISION 1. GENERALLY

Sec. 100-131. Zoning maps.

The following maps are hereby adopted and made part of this article and are on file in the office of the city clerk-treasurer:

- (1) Wisconsin Wetland Inventory maps stamped "FINAL" on May 3, 1994.
- (2) Floodplain zoning maps titled "Flood Insurance Rate Map" and dated May 4, 1992.
- (3) United States Geological Survey maps entitled "Evansville Quadrangle," photo inspected 1981.

(Code 1986, § 22.20)

Sec. 100-132. Boundaries.

⁴ **Cross references:** Zoning, ch. 130.

(a) *Generally.* The shoreland-wetland zoning district includes all wetlands in the city which are five acres or more and are shown on the final wetland inventory map that has been adopted and made a part of this article and which are:

- (1) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the city shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article.
- (2) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article. Floodplain zoning maps adopted in section 100-131 shall be used to determine the extent of floodplain areas.

(b) *Determination of navigability and high-water mark.* Determination of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the department for a final determination of navigability or ordinary high-water mark.

(c) *Correction of maps.* When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the department to determine if the shoreland-wetland district boundary, as mapped, is in error. If department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in subsections (d) and (e) of this section, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

(d) *Filled wetlands.* Wetlands which were filled prior to May 3, 1994, the date on which the city received the final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this article.

(e) *Wetlands landward of bulkhead line.* Wetlands located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982, under Wis. Stats. § 30.11 are not subject to this article.

(Code 1986, § 22.21)

Secs. 100-133--100-160. Reserved.

DIVISION 2. PERMITTED AND PROHIBITED USES

Sec. 100-161. Permitted uses.

The following uses are permitted in the shoreland-wetland zoning district subject to the provisions of Wis. Stats. chs. 30 and 31 and the provisions of other local, state and federal laws, if applicable:

- (1) Activities and uses which do not require the issuance of a conditional use permit, provided that no wetland alteration occurs, as follows:
 - a. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
- (2) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations, only to the extent specifically provided in this subsection:
 - a. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - b. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - c. The maintenance and repair of existing drainage systems to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
 - d. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - e. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - f. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such

installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in subsection (3) of section 100-102; and

- g. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations, only to the extent specifically provided in this subsection:
- a. The construction and maintenance of roads which are necessary for the continuity of the city street system, for the provision of essential utility and emergency services, or to provide access to uses permitted under this section, provided that:
 - 1. The road cannot, as a practical matter, be located outside the wetland;
 - 2. The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in subsection (3) of section 100-102;
 - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - 4. Road construction activities are carried out in the immediate area of the roadbed only; and
 - 5. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - b. The construction and maintenance of nonresidential buildings, provided that:
 - 1. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - 2. The building cannot, as a practical matter, be located outside the wetland;
 - 3. The building does not exceed 500 square feet in floor area; and
 - 4. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 - c. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - 1. Any private development allowed under this subsection shall be used exclusively for permitted purpose;

2. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 3. The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in subsection (3)a of this section; and
 4. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- d. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines, provided that:
1. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 2. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 3. Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in subsection (3) of section 100-102.

(Code 1986, § 22.22)

Sec. 100-162. Prohibited uses.

(a) Any use not listed in section 100-161 is prohibited in the shoreland-wetland zoning district, unless the wetland or a portion of the wetland has been rezoned by amendment of this article in accordance with section 100-102.

(b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

(Code 1986, § 22.23)

Secs. 100-163--100-190. Reserved.

DIVISION 3. NONCONFORMING STRUCTURES AND USES

Sec. 100-191. Generally.

The lawful use of a building, structure or property which existed at the time this article, or an applicable amendment to this article, took effect, and which is not in conformity with the provisions of this article, including the routine maintenance of such a building or structure, may be continued, subject to the conditions stated in this division.

(Code 1986, § 22.30(1))

Sec. 100-192. Repair, remodeling or expansion of nonconforming structure.

The shoreland-wetland provisions of this article authorized by Wis. Stats. § 62.231 shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the ordinance from which this article is derived, or of any environmental control facility in existence on May 7, 1982, related to such a structure. All other modifications to nonconforming structures are subject to Wis. Stats. § 62.23(7)(h), which limits total lifetime structural repairs and alterations to 50 percent of current fair market value.

(Code 1986, § 22.30(1)(a))

Sec. 100-193. Discontinuance of use.

If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this article.

(Code 1986, § 22.30(1)(b))

Sec. 100-194. Nonconforming uses not involving structure.

Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of adoption of the ordinance from which this article is derived or at the time of a subsequent amendment of this article adopted under Wis. Stats. § 61.351 or 62.231 may be continued although such use does not conform with the provisions of this article. However, such nonconforming use may not be extended.

(Code 1986, § 22.30(1)(c))

Sec. 100-195. Nonconforming boathouses.

The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121.

(Code 1986, § 22.30(1)(d))

Sec. 100-196. Nuisances.

Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(Code 1986, § 22.30(1)(e))

Chapter 102

SOLID WASTE¹

Sec. 102-1.	Definitions.
Sec. 102-2.	Enforcement; penalty.
Sec. 102-3.	Separation of recyclables.
Sec. 102-4.	Duties of operators of multi-unit residential and nonresidential facilities.
Sec. 102-5.	Collection regulations.
Sec. 102-6.	[Reserved]
Sec. 102-7.	Handling of uncollectible materials.
Sec. 102-8.	Access for unusual pickup points.
Sec. 102-9.	Adjustment of collection schedule for holidays.
Sec. 102-10.	Use of garbage disposals.
Sec. 102-11.	Prohibited disposal.
Sec. 102-12.	Payment of costs of collection.
Sec. 102-13.	Solid waste district.

¹ **Cross references:** Buildings and building regulations, ch. 18; health and sanitation, ch. 58; utilities, ch. 126; performance standards for liquid or solid wastes, § 130-235; manufactured homes and trailers, § 130-1241.

SOLID WASTE²

Sec. 102-1. Definitions³.

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:

a) *Appliance* means a residential air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, or similar equipment.

b) *Bulky item* means any item of solid waste which can be handled by one person but because of its size, shape or weight, will not fit into a solid waste container. This would include but not be limited to couches, mattresses, furniture, carpeting, and similar items.

c) *Chipboard* means packaging normally utilized in lightweight boxes. Examples of current uses are cereal boxes, potato chip boxes, 12-pack beverage boxes and small toy packaging.

d) *Collection point* means any individual dwelling place or any discrete commercial, business, industrial or governmental establishment as determined by the number of water meters within the city by the municipal services committee.

e) *Contractor* means the person under contract with the city to collect and dispose of solid waste and curbside recyclables.

f) *Curbside recyclables* means those recyclables designated by the city council under section 102-5(4) b to be collected on a bi-weekly basis by the city or its contractor.

g) *Dumpster* means a large mechanical container provided by the property owner or collector. Such device must be adaptable to the mechanical dumping device currently in use on the refuse truck and kept clean and in a workable condition by the owner of the mechanical container.

h) *Electronic waste* or *e-waste* means a device that requires an electric current or electromagnetic fields to function and that contains a circuit board including but not limited to televisions, computers, computer accessories, microwave ovens, fax machines, DVD players, and cell phones. E-waste is banned from disposal in Wisconsin landfills and incinerators.

i) *Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- 1) Is designed for serving food or beverages.
- 2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- 3) Consists of rigid material shaped to hold and cushion the packaged article in a shipping container.

² **Cross references:** Buildings and building regulations, ch. 18; health and sanitation, ch. 58; utilities, ch. 126; performance standards for liquid or solid wastes, § 130-235; manufactured homes and trailers, § 130-1241.

³ **Cross references:** Definitions generally, § 1-2.

j) *Garbage* means all organic refuse resulting from the preparation of food, and ordinary kitchen waste, including discarded, decayed or spoiled food products.

k) *Household* means a dwelling within the city where a single family resides.

l) *Lead acid battery* means an automotive battery that is designed to produce or store direct current electricity and is no longer suitable for its original purpose.

m) *Magazines and catalogs* means any item produced on high-grade printing stock, usually multi-colored and glossy in appearance.

n) *Newspaper* means newsprint type paper normally received as an ordinary newspaper, advertising circular or supplement. Magazines are not included in this definition.

o) *Office paper* means white and colored paper, both regular and legal size, computer paper and similar papers.

p) *Recyclable* means any item of solid waste which is prohibited by law or ordinance from being disposed of in a solid waste disposal facility (landfill), and includes but is not limited to the following:

- 1) Corrugated paper or cardboard.
- 2) A glass bottle or jar.
- 3) Newspaper or other material printed on newsprint.
- 4) Plastics, types 1 through 7.
- 5) An aluminum, tin, or ferrous metal can.
- 6) Lead acid batteries.
- 7) Appliances.
- 8) Yard refuse material.
- 9) Chipboard.
- 10) Office paper.
- 11) Magazines and catalogs.
- 12) Aseptic packaging.

q) *Recycling container* means a container specifically provided by the contractor to be used exclusively for the storage and pickup of curbside recyclables by the contractor.

r) *Refuse from the remodeling or reconstruction of a home or building* means that part of the home or building that is usually considered a permanent part of the home or building, including doors, windows, screens, cabinets, roofing materials, boards, plaster, lath, drywall, paneling and similar materials.

s) *Rubbish* means any inorganic waste material which is being discarded. The term "rubbish" does not include any waste material under the definitions of the terms "garbage," "recyclable," "uncollectible materials," "yard refuse material" or "refuse from the remodeling or reconstruction of a home or building."

t) *Solid waste* means any item of garbage or rubbish, recyclable or other discarded or salvageable material, including but not limited to waste materials resulting from industrial, commercial, agricultural, office, governmental, domestic use, and construction or public service activities.

u) *Solid waste container* means a container specifically provided by the contractor to be used exclusively for the storage and pickup of garbage and rubbish by the contractor.

- v) *Uncollectible materials* means earth, sod, rock, concrete, blacktop or refuse from the remodeling or reconstruction of a home or building.
- w) *Waste oil* means automotive engine oil after it has been used and removed from the crankcase of a motor vehicle and contains no other contaminating substance.
- x) *Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- y) *Yard refuse bag* means any product designed to decompose within a reasonable time when exposed to weather elements, and so labeled by the manufacturer.
- z) *Yard refuse material* means grass clippings, weeds, garden waste, leaves, bushes, branches, tree parts or similar material.

(Code 1986, § 11.03(1), Ord. 2013-10, Ord. 2014-02)

Sec. 102-2. Enforcement; penalty.

Violations of this chapter shall be subject to a penalty per Section 1-11.

- (1) The contractor shall have the authority to monitor compliance with this chapter and record violations for purposes of enforcement. The contractor may maintain such records as documentation of violations within the city.

(Code 1986, § 11.03(13), Ord. 2013-10)

Sec. 102-3. Separation of recyclables.

(a) No person may dispose of or participate in the disposal of recyclables generated from within the city in a solid waste disposal facility (landfill).

(b) No person shall, within the city, set out for collection and disposal to a solid waste disposal facility (landfill) any recyclables. This subsection does not apply to recyclables placed in recycling containers exclusively used for storing recyclables to be delivered to a recycling facility or otherwise collected pursuant to this chapter.

(Code 1986, § 11.03(2))

Sec. 102-4. Duties of operators of multi-unit residential and nonresidential facilities.

(a) The owner or occupant of a building with five or more household units and the owner or occupant of every commercial, retail or industrial unit within the city shall comply with the following:

- (1) Provide an adequate dumpster for solid waste to be collected for disposal in a solid waste disposal facility (landfill).
- (2) In addition to the dumpster described in subsection (a) (1) of this section, provide an adequate dumpster for recyclables. The volume of such a dumpster shall not be less than 25 percent of the volume of the dumpster provided under subsection (a)(1) of this section for the same unit or set of units.

- (3) Notify all tenants, users and occupants of the facilities or buildings of the requirements of this section and procedures promulgated under this section. In the case of a residential dwelling unit, such notice shall be given at the time the tenant first leases or rents the unit and semiannually thereafter.
- (4) Provide for the collection of recyclables separated from the solid waste by the tenants, users or occupants of the facility or building and delivery of the recyclables to a recycling facility.
- (5) Provide for the collection of solid waste, except as specified in subsection (a)(4) of this section, generated by the tenants, users or occupants of the facility or building and dispose of the materials collected in an approved manner.

(b) Residences with four or less household units and every governmental unit shall and commercial or retail collection points which generate no more than one (1) solid waste containers of nonrecyclable solid waste per week may be included with the city collection program, provided that they conform to all the recycling provisions of this chapter.

(Code 1986, § 11.03(3), Ord. 2013-10)

Sec. 102-5. Collection regulations.

Collection within the city shall be according to the following:

- (1) Standards for containers. Every person producing or accumulating solid waste or recyclable materials on premises under his charge or control shall use and renew, when necessary, one (1) solid waste and one (1) recycling containers to hold the materials without overloading. All containers shall be maintained in a good, clean and sanitary condition. Any defective container having ragged or sharp edges or any other defect which may injure or hamper the person collecting or handling the container shall be replaced by a new container.
- (2) Placement of containers. Solid waste and recycling containers as described in this section shall be placed within two feet of the curb or edge of the pavement not earlier than 5:00 p.m. on the day preceding the scheduled collection and not later than 6:00 a.m. of the scheduled day of collection and shall be returned by the occupant to the point of storage within 12 hours after the material in the container is emptied.
- (3) Collection schedule. Solid waste and curbside recyclables shall be collected according to the schedule set by the municipal services committee in strict conformity with the provisions of this chapter and with such additional rules and regulations as may be made from time to time. However, any time the need for more or less frequency is indicated, such change in collections may be made by the superintendent of municipal services with the approval of the municipal services committee and the collector.
- (4) Preparation of solid waste and recyclables.
 - a. Garbage. To keep garbage containers reasonably clean and sanitary and to facilitate the dumping of the containers, all garbage shall be drained of excess

water and then wrapped or enclosed in paper or plastic before depositing it in a container. The owner of the container shall be responsible for keeping the container reasonably clean and sanitary.

- b. Curbside Recyclables. Curbside recyclables may be commingled and placed in the recycling containers, provided they have been prepared as follows:
 - 1. All glass bottles and jars shall be rinsed clean and the caps removed. No type of glass other than glass bottles shall be included.
 - 2. All metal cans shall be rinsed clean. Miscellaneous metal shall not be included.
 - 3. Plastic, types 1 through 7. Plastic bottles and containers shall be rinsed clean and the labels and caps removed.
 - 4. Newspaper and anything that comes with it may be included.
 - 5. Corrugated paper and cardboard may be included.
 - 6. Chipboard may be included.
 - 7. Office paper may be included.
 - 8. Magazines and catalogs may be included.
 - 9. Aseptic packaging shall be rinsed clean.
 - c. Bulky items. Bulky items shall be picked up once per month as scheduled by the city and contractor. Bulky items shall be placed on the ground near the household unit's collection point.
- (5) Appliances. All appliances will be collected by the contractor with the city upon such terms and conditions as the contractor shall establish. Any person having an appliance to be removed shall arrange with the contractor for such removal. The city shall make available to any person the appropriate contact at the contractor for removal of the appliance.
 - (6) Yard refuse material. Yard refuse material will be collected by city personnel on a frequency not to exceed once per month. The collection day will be set by the superintendent of municipal services with the approval of the municipal services committee. Any yard refuse material placed in a bag for collection must be placed in a yard refuse bag, and the manufacturer's label is to be visible to the collector.
 - (7) Ashes. All ashes shall be placed in an acceptable plastic container and securely closed.
 - (8) Tire waste. Automotive tires may be placed at curbside for collection during regularly scheduled recycling pickups. Each household is limited to the collection of eight (8) automotive tires per year.
 - (9) Oil waste. Waste oil may be collected during scheduled recycling pickup, provided it is placed at curbside in a sealed container not to exceed five (5) gallons.

(Code 1986, § 11.03(4), Ord. 2013-10, Ord. 2014-02)

Sec. 102-6. [Repealed].

(Code 1986, § 11.03(5), Ord. 2013-10)

Sec. 102-7. Handling of uncollectible materials.

Uncollectible materials shall be removed by and at the expense of the owner or occupant, and such removal shall be arranged directly with the contractor.

(Code 1986, § 11.03(6))

Sec. 102-8. Access for unusual pickup points.

Where it is more economical and advisable to the city due to extreme building, where the property owners sign a waiver or release releasing the collector from property damage liability, the collector may go on private property with a vehicle to pick up solid waste and curbside recyclables.

(Code 1986, § 11.03(7), Ord. 2013-10)

Sec. 102-9. Adjustment of collection schedule for holidays.

The collection schedule will be adjusted to accommodate legally designated holidays.

(Code 1986, § 11.03(8), Ord. 2013-10)

Sec. 102-10. Use of garbage disposals.

Any person may dispose of garbage into the sanitary sewer system by the use of a garbage grinding device, provided that such device or discharge does not hamper or destroy the sanitary sewer system or the operation of the sanitary sewer wastewater treatment facility or in any way pollute the watercourse into which the wastewater treatment facility discharges and is installed in compliance with the Wisconsin Plumbing Code, latest edition.

(Code 1986, § 11.03(9))

Sec. 102-11. Prohibited disposal.

No material which may be collected as provided in this chapter shall be dumped or otherwise disposed of at any place within the city. No person shall bury or cause to be buried any solid waste within the corporate limits of the city. No person shall deposit any solid waste created, generated or collected outside of the city upon any premises owned either by him or others within the corporate limits of the city.

(Code 1986, § 11.03(10))

Sec. 102-12. Payment of costs of collection.

The expense of collecting solid waste from residences with four or less household units and from commercial or retail establishments participating in the city collection

program shall be paid by a special charge pursuant to Wisconsin Statutes section 66.0627, except as noted in this chapter for appliance recycling.

(Code 1986, § 11.03(11), Ord. 2013-10)

Sec. 102-13. Solid waste district.

A solid waste district is hereby established, which shall include all the territory within the corporate limits of the city.

(Code 1986, § 11.03(12))

Chapter 104

Storm Water Management

- Sec. 104-1. Authority and administration.
- Sec. 104-2. Findings of fact.
- Sec. 104-3. Purpose and intent.
- Sec. 104-4. Jurisdiction, Applicability and Waivers.
- Sec. 104-5. Technical standards.
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Chapter 104. Storm Water Management

Section 104-1. Authority and administration.

1. This chapter is adopted under authority granted by secs. 62.231 and 62.234, Wisconsin State Statutes. This chapter supersedes all conflicting and contradictory storm water management regulations previously adopted by the city under sec. 62.23, Wisconsin State Statutes. Except as specifically provided for in secs. 62.231 or 62.234, sec. 62.23 applies to this chapter and to any amendments to this chapter.
2. The requirements of this chapter do not preempt more stringent storm water management requirements that may be imposed by the Wisconsin Department of Natural Resources (“DNR”).
3. The provisions of this chapter are not intended to limit any other lawful regulatory powers of the city.
4. The city council designates the city engineer to administer and enforce the provisions of this chapter. The city engineer will be responsible for the administration and enforcement of this chapter. The municipal services committee may review the city engineer’s decisions upon written request by an applicant or permit holder to the committee chair.

(Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Section 104-2. Findings of fact.

1. The city council finds that uncontrolled, post-construction runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community, and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can—
 - a. Degrade physical stream habitat by increasing stream bank erosion and stream bed scour, diminishing groundwater recharge and stream base flows and increasing stream temperature;
 - b. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
 - c. Alter wetland communities by changing wetland hydrology and increasing pollutant loads;
 - d. Reduce the quality of groundwater by increasing pollutant loading;

- e. Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes and overtaxing storm sewers, drainage ways, and other minor drainage facilities;
 - f. Undermine floodplain management efforts by increasing the incidence levels of flooding.
2. The city council finds that properly planned, implemented, and maintained storm water control best management practices (BMPs) can significantly reduce these impacts.

(Ord. 2005-27).

Section 104-3. Purpose and intent.

1. The general purpose of this chapter is to promote the health, safety, and general welfare of the people, preserve the natural resources, and protect the quality of the waters of the state in and near the city, to the extent practicable. Specific purposes are to—
- a. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; preserve ground cover and scenic beauty; promote sound economic growth; control the exceeding of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
 - b. Foster consistent, statewide application of post-construction performance standards developed by the DNR under sec. 281.16 (2), Wisconsin State Statutes.
 - c. Assist the city in becoming an "Authorized Local Program" as described in NR 216, Subchapter III, Wisconsin Administrative Code.
 - d. Promote cooperation among other governmental units to manage storm water in an effective, cost-efficient, and equitable manner.

The intent of this chapter is to establish long-term, post-construction runoff management requirements that require the use of BMPs to reduce the amount of post-construction storm water and associated pollutants reaching waters of the state or adjacent property. It is intended that permit holders be able to choose the most cost-effective BMPs meeting the performance standards required under this chapter. This

chapter is not intended to limit activity or division of land permitted under the applicable zoning and land division ordinances.

The city council recognizes that while this chapter is generally applied on a site-by-site basis, the preferred method of achieving the post-construction storm water runoff performance standards set forth in this chapter is through the preparation and implementation of comprehensive, system-level storm water management plans that cover hydrological units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans conform with the provisions authorized by sec. 281.16 (2), Wisconsin State Statutes for regional storm water management measures, and have been approved by the city council as an element of the city's comprehensive plan, it is the intent of this chapter that the approved plan be used to establish the post-construction runoff management performance standards required for a permit under this chapter for sites located within the area of the plan.

(Ord. 2005-27, Ord. 2009-05)

Section 104-4. Jurisdiction, Applicability and Waivers.

1. *Jurisdiction.* The provisions of this chapter shall apply in all lands within the jurisdictional boundaries of the city.
2. *Applicability.*
 - a. This chapter applies to the following land disturbing construction activities unless documentary evidence establishes that the project bids were advertised, contracts signed where no bids were advertised, or substantial, on-site, work on the project had been completed before the effective date of this chapter:
 - i. A construction site that has one or more acres of land disturbing construction activity.
 - ii. Activities under (2) which are less than one acre but are part of a larger construction site that in total disturbs more than one acre are subject to this chapter.
 - iii. Land disturbing construction activities, on a site of any size, that have been observed to cause, or have been determined likely to result in, runoff in excess of the safe capacity of the existing drainage facilities or receiving body of water, undue channel erosion, increased water pollution by scouring or the transportation of particulate matter, or endangerment of property

or public safety. The city engineer shall make this determination after review by the Technical Review Committee.

3. *Exemptions.*

- a. This chapter does not apply to the following:
- b. Non-point discharges from agricultural facilities and practices;
- c. Non-point discharges from silviculture (forestry) activities;
- d. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility;
- e. Land disturbing construction activities conducted, or contracted by, any state agency, as defined under sec. 227.01 (1), Wisconsin State Statutes, but also including the office of district attorney which are subject to the state storm water management plan promulgated or a memorandum of understanding entered into under sec. 281.33 (2), Wisconsin State Statutes;
- f. Redevelopment post-construction sites with no increase in exposed parking lots or roads;
- g. Post-construction sites with less than 10 percent connected imperviousness, based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre;
- h. Underground utility construction such as water, sewer, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction;
- i. Any land disturbing construction activity that is designed and/or certified by the Rock County Land Conservation Department or the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture as part of a soil conservation or water pollution control project shall comply with all of the requirements of this chapter, but shall be exempted from obtaining a permit, providing a financial guarantee, or paying fees under sec. 104-8.
- j. Any land disturbing construction activity that is conducted by or for the city shall comply with all of the requirements of this chapter, including obtaining a permit and submitting a storm water management plan, but shall be exempted from providing a financial guarantee, or paying fees under sec.104-8. At the discretion of the city engineer, for land disturbing construction activity that is conducted by or for the city, a qualified

employee of the city department, or contracted agent, undertaking the construction activity may administer the permit.

- k. Any land disturbing construction activities conducted on sites which were included as part of a previously completed storm water management plan that was approved under this chapter shall be exempt from obtaining a permit, provided:
 - l. new activities do not render the existing storm water BMPs less effective, or
 - m. new site development exceeds the assumptions made in the calculations used in development of the previous plan.

4. *Waivers.*

- a. The city engineer may waive any or all of the requirements of this chapter if the city engineer determines that:
 - i. A requirement is not necessary for a particular site to ensure compliance with the intent of this chapter; or
 - ii. Storm water runoff from the construction site activities will have no appreciable off-site impact.
- b. The Technical Review Committee shall be responsible for making recommendations to the city engineer concerning all waiver applications.

(Ord. 2005-27, Ord. 2009-05)

Section 104-5. Technical standards.

- 1. All BMPs required to comply with this chapter shall meet the design criteria, standards and specifications identified, developed or disseminated by the DNR under subchapter V of Chapter NR 151, Wisconsin Administrative Code.
- 2. Where technical standards have not been identified or developed by the DNR, other technical standards may be used provided that the methods have been approved by the city engineer.
- 3. The city engineer shall develop a “Design Guidelines and Standards” manual to supplement this chapter. This manual will assist landowners, developers, and consultants to comply with the provisions of this chapter. The manual will include approved best management practices (BMPs), either within the manual or by reference, which may be used to meet the performance standards of this chapter.

However, other BMPs that meet the performance standards of this chapter may be approved for use.

(Ord. 2005-27, Ord. 2009-05)

Section 104-6. Performance Standards.

1. GENERAL CONSIDERATIONS.

a. Planning Principles.

- i. A storm water management plan shall maintain as nearly as possible, the natural drainage patterns of the site. Current topography and land cover features such as drainage swales, depressions, kettles, soil infiltrating capacity, and groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section. The use of native prairie grasses as ground cover is encouraged.
- ii. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- iii. A storm water management plan shall maintain as nearly as possible, the calculated pre-development peak flows of the site.
- iv. The maximum controlled storm water runoff storage release shall not exceed the safe storm water drainage capacity of the downstream drainage pattern.
- v. Discharges from new construction must have a stable outlet capable of carrying designed flow at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This applies to both the site outlet and the ultimate outlet to a storm water conveyance or water body.
- vi. Changes to the function of wetlands shall be minimized to the maximum extent practical. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using standard methods appropriate to the affected wetland that are acceptable to the DNR, as defined by NR 103, Wisconsin Administrative Code.

2. STORM WATER RUNOFF PEAK DISCHARGE RATE AND VOLUME. Unless otherwise provided for in this chapter, all land development activities subject to this chapter shall establish onsite management practices to control the peak flow rates of storm water discharged from the site as described in this chapter. Infiltration of storm water runoff from driveways, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

- a. The proposed land development shall, by design, not increase peak flow rates of storm water runoff from that which would have resulted from the

same storm occurring over the site with the land in its pre-developed conditions for the two (2), ten (10), and one-hundred (100) year, twenty-four (24) hour storms.

- b. All runoff and flow calculations required for peak flow design shall use a hydrograph-producing method such as described in the most recent version of TR-55. The city engineer retains approval of the methods used to determine runoff volume. Calculations for determining peak runoffs and volumes must incorporate the following assumptions.
 - i. The design rainfall storm accumulation for different storm intensities in the city shall be based on the following data.
 1. Rainfall Accumulation for 24 hour Rainfall:
 - i. 2-Year Storm 2.9 Inches
 - ii. 10-Year Storm 4.1 Inches
 - iii. 100-Year Storm 6.0 Inches
 2. The rainfall distribution for the storms shall be based on the NRCS Type II storms with an antecedent moisture condition of two (2), which are described in TR-55. 2. In this chapter the following year and location has been selected as average annual rainfall: Madison, 1981 (Mar. 12 - Dec. 2).
 3. The estimated engineering properties of the soils may be obtained from the Soil Survey of Rock County, Wisconsin, dated July 1974. Onsite soil investigation may be required to verify the Soil Survey information.
 4. Runoff Curve Numbers for on-site areas shall be based on pre-developed and proposed developed land use conditions. Runoff Curve Number for off-site areas shall be based on the pre-developed or proposed land use, which ever results in the highest peak flows. Runoff Curve numbers are described in TR-55.
 - c. Determination of volume of runoffs shall be determined using standard hydrology methods and procedures described the most recent version of TR-55 that are appropriate to site conditions. These volumes can be determined manually or with computer programs such as the HEC-1 program, NRCS TR-20 program, HEC-HMS program, P8, or HydroCad. The models must incorporate the assumptions listed in this chapter. The city engineer retains approval of the methods used to determine runoff volume.
 - d. All storm water storage facilities, conveyance systems within the proposed development, and receiving surface runoff from the proposed development, shall be designed to completely contain peak storm discharge and volume as described in the following subsections.
 - i. For storage facilities, the design storage for the 100-year, 24-hour storm shall be contained within the top of the storm water embankment.
 - ii. For open channel conveyance systems, such as open channels or grassed drainage swales, the peak flow from the 25-year, 24-hour

- storm shall be completely contained within the channel bottoms and banks.
- iii. For culverts under rural town roads the peak flow from the 10-year, 24-hour storm shall be completely contained within the pipe with no surcharging or pressurized flow.
 - iv. For storm sewer systems the peak flow from the 2-year, 24-hour storm shall be completely contained within the pipe with no surcharging or pressurized flow.
 - e. The storm water runoff peak discharge rate and volume requirements of this section of this chapter does not apply to any of the following:
 - i. A post-construction site where the change in hydrology due to development does not increase the existing adjacent surface water elevation of rivers streams or lakes by more than 0.01 foot for the 100-year, 24-hour storm.
 - ii. A redevelopment post-construction site.
 - iii. An in-fill development of less than 5 acres.
 - f. A determination as to whether the exceptions listed in e. above apply to a particular post-construction site must be made as part of the waiver process described in sec. 104-7.3of this chapter.
3. **STORM WATER RUNOFF DISCHARGE QUALITY - TOTAL SUSPENDED SOLIDS.** BMPs shall be designed, installed or applied, and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
- a. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this section.
 - b. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this section.
 - c. For in-fill development under 5 acres that occurs within 10 years after August 18, 2005, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this section.
 - d. For in-fill development that occurs 10 or more years after August 18, 2005, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this section.
 - e. Notwithstanding paragraphs a. through d., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water

management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

4. INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in paragraphs e. through h.
 - a. For residential developments one of the following shall be met:
 - i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - ii. Infiltrate 25% of the post-development runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - b. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - ii. Infiltrate 10% of the runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - c. Pre-development conditions shall be the same as in paragraph (2).
 - d. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with paragraph (H). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
 - e. Exclusions. The runoff from the following areas is prohibited from meeting the requirements of this section. A determination as to whether

these exclusions apply to a particular post-construction site must be made as part of the waiver process described in sec. 104-7.3of this chapter.

- i. Areas associated with tier 1 industrial facilities identified in NR 216.21 (2) (a), Wisconsin Administrative Code, including storage, loading, rooftop and parking.
 - ii. Storage and loading areas of tier 2 industrial facilities identified in NR 216.21 (2) (b), Wisconsin Administrative Code.
 - iii. Fueling and vehicle maintenance areas.
 - iv. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - v. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this paragraph does not prohibit infiltration of roof runoff.
 - vi. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - vii. Areas within 400 feet of a community water system well as specified in NR 811.16 (4) (d) 3., Wisconsin Administrative Code, or within 100 feet of a private well as specified in NR 812.08 (4), Wisconsin Administrative Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 - viii. Areas where contaminants of concern, as defined in NR 720.03 (2), Wisconsin Administrative Code are present in the soil through which infiltration will occur.
 - ix. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10 percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This paragraph does not prohibit infiltration of roof runoff.
- f. Exemptions. The following are not required to meet the requirements of this section. A determination as to whether these exceptions apply to a particular post-construction site must be made as part of the waiver process described in sec. 104-7.3of this chapter.
- i. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - ii. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - iii. Redevelopment post-construction sites.
 - iv. In-fill development areas less than 5 acres.
 - v. Infiltration areas during periods when the soil on the site is frozen.

- vi. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- g. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
- h. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with NR 140, Wisconsin Administrative Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- i. Notwithstanding paragraph (h), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

5. PROTECTIVE AREAS.

- a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
 - i. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in NR 103.04, 75 feet.
 - ii. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - iii. For lakes, 50 feet.
 - iv. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - v. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible

wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

- vi. In paragraphs i., iv., and v., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in NR 103.03. 7. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 - b. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to paragraph (D).
 - c. The following requirements shall be met:
 - i. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction. No waivers may be granted by the city engineer for this requirement.
 - ii. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur, subject to any required approval by the DNR.
 - iii. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
 - d. This paragraph does not apply to:
 - a. Redevelopment post-construction sites.
 - b. In-fill development areas less than 5 acres.
 - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - d. Structures constructed in accordance with 59.692 (1v), Wisconsin State Statutes.
 - e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
5. **FUELING AND VEHICLE MAINTENANCE AREAS.** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed,

installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

6. SWALE TREATMENT FOR TRANSPORTATION FACILITIES.

- a. Applicability. Except as provided in paragraph (B), transportation facilities that use swales for runoff conveyance and pollutant removal shall meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - i. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - ii. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.
- b. Exemptions. The city engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - i. An outstanding resource water.
 - ii. An exceptional resource water.
 - iii. Waters listed in sec. 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.
 - iv. Waters where targeted performance standards are developed under NR 151.004, Wisconsin Administrative Code, to meet water quality standards.

7. LOCATION AND REGIONAL TREATMENT OPTION.

- a. No storm water facility shall be located closer to an existing or planned well than the distances prescribed in NR 811 and NR 812 as minimum separation distances between wells from storm water facilities listed as possible sources of contamination.
- b. The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- c. Post-construction runoff within non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in non-navigable surface waters.
- d. Except as allowed under paragraph (E), post-construction runoff from new development shall meet the post-construction performance standards prior to entering navigable surface water.

- e. Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this chapter if:
 - i. The BMP was constructed prior August 18, 2005 and the BMP either received a permit issued under Chapter 30, Wisconsin State Statutes, or the BMP did not require a Chapter 30, Wisconsin State Statutes, permit; and
 - ii. The BMP is designed to provide runoff treatment from future upland development.
 - f. Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - i. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - ii. Post-construction BMPs for such runoff may be located in navigable surface water if allowable under all other applicable federal, state and local regulations such as Chapter NR 103, Wisconsin Administrative Code and Chapter 30, Wisconsin State Statutes.
 - g. The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
 - h. The city engineer may approve off-site management measures provided that all of the following conditions are met:
 - i. The city engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the municipal services committee and that contains management requirements consistent with the purpose and intent of this chapter.
 - ii. The off-site facility meets all of the following conditions:
 - 1. The facility is in place.
 - 2. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that would be afforded by on-site practices meeting the performance standards of this chapter.
 - 3. The development includes means to convey storm water to the offsite storage facility.
 - 4. The facility has a legally obligated entity responsible for its long- term operation and maintenance.
 - i. Where a regional treatment option exists such that the city engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the city engineer. In determining the fee for post-construction runoff, the city engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
8. ALTERNATE REQUIREMENTS.

- a. The city engineer may establish storm water management requirements more stringent than those set forth in this section if the city engineer determines that an added level of protection is needed to protect sensitive resources.
- b. The Technical Review Committee shall make recommendations to the city engineer concerning any storm water requirements more stringent than those set forth in this section.

(Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Section 104-7. Permits and Waivers.

1. **PERMIT OR WAIVER REQUIRED.** No responsible party may undertake a land disturbing construction activity subject to this chapter without receiving a permit from the city engineer, or a waiver as provided in sec.104-4.4, prior to beginning the proposed activity.
2. **PRELIMINARY REVIEW LETTER.**
 - a. A preliminary review letter provides a potential permit applicant with a simple initial evaluation of whether storm water management performance standards can be met for a proposed site, lot layout, or construction design. With the exception of the conditions under sec. 104-7.2.b.vthis review is voluntary and intended to assist applicants to obtain a permit. A preliminary review letter does not guarantee that a plan will be approved, or that a permit will be issued. Permit applications and plans must meet all applicable standards and criteria for approval.
 - b. **Preliminary Review Letter Procedure:**
 - i. Any responsible party may apply for a preliminary review letter by submitting an application using a form provided by the city engineer.
 - ii. The city engineer will evaluate completed applications and may consult other governmental departments or agencies. The city engineer may request additional information from the applicant to better evaluate the application.
 - iii. The city engineer will provide the applicant with the preliminary review letter within 10 working days from the date the last information concerning the application is received.
 - iv. The fee for preliminary review letters shall be determined according to sec. 104-8of this chapter. The amount of this fee shall be deducted from an application fee for a storm water management permit for the site reviewed.
 - v. The city engineer may require a preliminary review letter prior to accepting an application for a building permit or conditional use permit under applicable chapter(s) or for a certified survey map under applicable county or local land division chapter(s) where any of the following apply:

1. The proposal would involve one or more acres within either the current or proposed boundaries of a commercial zoning district;
 2. Proposed lot or rezone area configuration would necessitate driveways, access roads, or other construction that would clearly require a storm water management plan under this chapter;
 3. Natural features of the site, including but not limited to, slope, soils, wetlands, or hydrology are such that, in the opinion of the city engineer, substantial risk of erosion, flooding, or other environmental or public safety hazard exists; or, in the opinion of the city engineer, consultation with the city engineer is necessary to determine land suitability requirements under local subdivision chapters.
- vi. Unless expressly waived by the applicant, decisions by the city engineer to require a preliminary review letter shall be made in writing and shall detail the reasons why the city engineer determines there to be a substantial risk of erosion, flooding, or hazard.
3. PERMIT / WAIVER APPLICATION.
- a. Any responsible party desiring a permit or waiver shall submit an application to the city engineer using a form provided by the city engineer.
 - i. A permit application shall consist of a completed application form, including a waiver application for relief from any requirement deemed not necessary to ensure compliance with the intent of this chapter, as provided for in sec. 104-4two copies of a storm water management plan, a maintenance agreement and a non-refundable application review and administration fee.
 - ii. Permit applications shall be considered active until a permit has been issued or all reviews or appeals have been exhausted, as provided for in sec. 104-7or sec. 104-10. Further applications for the site by an applicant who has had a permit denied, or has exhausted their appeals will be considered a new application, as provided for in sec.104-7.
 - b. The permit application form shall contain, at a minimum:
 - i. The name, address, and telephone number for the following or their designees:
 1. Landowner,
 2. Developer,
 3. Agent, Project Manager or Supervisor who will oversee the land disturbing construction activities.
 4. Person and/or company responsible for BMP design,
 5. Person(s) responsible for installation of storm water management BMPs practices,

- 6. Person(s) responsible for maintenance of storm water BMPs management practices prior to the transfer, if any, of maintenance responsibility to another party.
- ii. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and a lot numbers within a recorded land subdivision plat.
- iii. If the application is from a land user, the permit application form must be signed by the landowner of the site where the land disturbing construction activities are to take place. A notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent shall also be accepted, provided that it binds the landowner to the terms of this chapter and any permit issued to the permit holder, including the enforcement actions set forth in sec.104-9. Submission of an application by one of several landowners or land users of a particular site shall constitute an affirmation by the applicant of authority to act on behalf of the other landowners or land users to apply for, receive, and abide by the provisions of a permit. The city shall be under no obligation to ascertain the legal authority of the applicant to so act.
- iv. Each permit application form shall contain an agreement by the applicant that:
 - 1. Authorizes the city engineer to enter the site to obtain information required for the review of the application; and
 - 2. Any land disturbing construction activity shall be conducted in accordance with the provisions of an approved or amended permit.
- v. A waiver application, as provided for in sec. 104-4.4 , shall consist of a completed waiver application form, including a written justification and a conceptual development plan.

4. STORM WATER MANAGEMENT PLANS

- a. **PLAN REQUIREMENTS.** The storm water management plan required under this chapter shall contain any information the city engineer requires to evaluate the environmental characteristics of the area affected by post-construction runoff land development and land redevelopment activity, the potential impacts of the proposed development upon the quality and quantity of storm water runoff discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this chapter. Unless specified otherwise by this chapter, storm water management plans shall contain a narrative, construction drawings, maps, or tables that, at a minimum, contain the following information.
 - i. Pre-development site conditions, including:
 - 1. One or more site maps at a scale of either 1-inch equals 50 feet or 1-inch equals 100 feet, whichever is appropriate to the site size. The site maps shall show the following:

- a. site location, address, and legal property description;
 - b. adjoining property and names of adjoining property owners;
 - c. predominant soil types and hydrologic soil groups;
 - d. existing cover type and condition;
 - e. topographic contours, using the best available data, of the site at a scale not to exceed 2 feet;
 - f. topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site;
 - g. watercourses, on or off-site, that may affect or be affected by runoff from the site;
 - h. flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each;
 - i. watershed boundaries used in hydrology determinations to show compliance with performance standards;
 - j. lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site;
 - k. limits of the 100-year floodplain;
 - l. location of public, private, or municipal wells located within 600 feet of proposed storm water detention, retention, or infiltration basins;
 - m. wellhead protection areas covering the project area and delineated pursuant to NR 811.16, Wisconsin Administrative Code.
2. Peak flow discharge rates, discharge volumes and pollution loading computations. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- ii. Post-development site conditions, including:
 1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 2. Explanation of any restrictions on storm water BMPs in the development area imposed by wellhead protection plans and chapters.
 3. One or more site maps at a scale of either 1 inch equals 50 feet or 1 inch equals 100 feet, whichever is appropriate to the site size, showing the following:

- a. post-construction pervious land use including vegetative cover type and condition;
 - b. impervious land use including all buildings, structures, and pavement;
 - c. post-construction topographic contours of the site at a scale not to exceed 2 feet;
 - d. post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from site;
 - e. locations and dimensions of drainage easements;
 - f. locations of maintenance easements specified in the maintenance agreement;
 - g. flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each;
 - h. location and type of all storm water conveyance and treatment BMPs, including the on-site and off-site tributary drainage area;
 - i. location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as curbed street, storm drain, or natural drainage way;
 - j. watershed boundaries used in hydrology and pollutant loading calculations;
 - k. any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site
4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development. The geographic areas used in making the calculations shall clearly cross-referenced to the required map(s).
 5. Computation of the inches of initial runoff that will be infiltrated across the site in comparison to the requirements set forth in sec. 104-6.4
 6. Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
 7. Results of impact assessments on wetland functional values.
 8. Design computations and all applicable assumptions for the storm sewer system.
 9. Design computations and all applicable assumptions for storm water quality practices as needed to show that

practices are appropriately sized to meet the performance standards of this chapter.

10. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
 - iii. A description and installation schedule for the storm water BMPs needed to meet the performance standards in sec.104-6.
 - iv. A maintenance plan developed for the life of each storm water BMP including the required maintenance activities and maintenance activity schedule.
 - v. Cost estimates for the construction, operation, and maintenance of each storm water BMP.
 - vi. Assessment of possible public safety threats posed by planned storm water management BMPs practices and risk minimization provisions.
 - vii. Other information requested in writing by the city engineer to determine compliance of the proposed storm water BMPs with the provisions of this chapter.
- b. All site investigations, plans, designs, computations, and drawings shall be prepared in accordance with accepted engineering practices and requirements of this chapter.
- c. DRAINAGE EASEMENTS.
 - i. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road right-of-ways, perpetual unobstructed easements with a minimum of 30 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. For drainage easements for pipes the minimum width shall be 20 feet. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 - ii. When a proposed drainage system will carry water across private land outside the project area, appropriate drainage rights must be secured and filed with the county register of deeds. Drainage shall be designed to avoid concentration of storm and drainage water from each lot to adjacent lots.
 - iii. The applicant shall either dedicate to the public as a parkland dedication or a drainage easement the land on both sides of existing watercourses, to a distance to be determined by the city engineer and also dedicate proposed and natural retention and detention basins.
- d. ALTERNATIVE REQUIREMENTS. The city engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under sec. 104-6 of this chapter.
- e. REGIONAL STORM WATER MANAGEMENT PLANS. In lieu of submitting a preliminary or final storm water management plan for an individual site, an applicant may submit documentation of the following:

- i. A regional storm water management plan, that includes the entire area of the proposed land development activity, that was prepared in accordance with the requirements of sec. 104-7.4 and the regional storm water management planning guidelines adopted by the city engineer.
 - ii. A registered professional engineer's certification that all regional BMPs planned to convey and manage the runoff from the area of the proposed land development have been constructed in accordance with the performance standards and specifications under sec.104-6. For regional facilities built, owned, or maintained by a city, village, or town, certification from that entity shall be sufficient to meet the requirements of this paragraph.
 - iii. Documentation that there is an entity with the legal obligation for operation and maintenance of the storm water management facility.
- 5. MAINTENANCE AGREEMENT. The maintenance agreement required under sec. 104-7 for storm water management BMPs shall be an agreement between the city engineer and the permittee to provide for maintenance of storm water BMPs beyond the duration period of this permit. The maintenance agreement shall be recorded, at the permittee's expense, with the Rock County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of land served by the storm water management BMPs. The maintenance agreement shall contain the following information and provisions:
 - a. Identification of the storm water facilities and designations of the drainage area served by the facilities;
 - b. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan;
 - c. Identification of the responsible person(s), organization, or city, county, town or village responsible for long term maintenance of the storm water management BMPs identified in the storm water plan;
 - d. Requirements that the responsible person(s), organization, or city, county, town or village shall maintain storm water management BMPs in accordance with the schedule included in paragraph (B);
 - e. Authorization for the city engineer to access the property to conduct inspection of storm water BMPs as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - f. Requirements on the city engineer to maintain public records of the results of site inspections, inform the landowner responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management BMPs into proper working condition.
 - g. Agreement that the city engineer notify the responsible party designated under the maintenance agreement of maintenance problems which require correction. The specified corrective actions shall be taken within a maximum of 45 working days of notification.
 - h. Authorization of the city engineer to perform the corrective actions identified in the inspection report if the responsible party does not make the

required corrections within a maximum of 45 working days of notification. The city engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subchapter VII of Chapter 66, Wisconsin State Statutes.

6. EVALUATION AND APPROVAL OF APPLICATIONS. Within three working days of receipt, the city engineer shall review applications to insure they are complete. Any application found to be incomplete shall be returned to the applicant for completion. Upon receiving a complete application, the city engineer shall use the following approval/disapproval procedure:
 - a. Cities, villages, and towns containing waters or lands directly affected by the storm water management plan described within the application will receive notification of the application and be invited to participate in the application review process.
 - b. Completed applications will be evaluated for compliance with the requirements of this chapter. Other governmental departments or agencies may be consulted during application evaluation.
 - c. Additional substantive information may be requested from the applicant to better evaluate the application.
 - d. Within 15 working days from the receipt of a complete permit application, or 10 working days from the receipt of additional information requested in accordance with paragraph C, whichever is later, the applicant shall be informed whether the application has been approved or disapproved. The city engineer shall base the decision on the requirements of this chapter.
 - e. Within 20 working days from the receipt of a complete waiver application, or 10 working days from the receipt of additional information requested in accordance with paragraph C, whichever is later, the applicant shall be informed whether the application has been approved or disapproved. The city engineer shall base the decision in consideration of the recommendations of the Technical Review Committee and the requirements of this chapter.
 - f. Failure to inform an applicant of a decision within the applicable time specified in paragraph (D) or (E) shall constitute approval of the application. If the application was for a permit, the applicant may then proceed in accordance with the provisions of the submitted plan, including any waivers requested in accordance with sec. 104-4.4.A. If the application was for a waiver under sec. 104-4.4.B., the waiver shall be deemed granted.
 - g. If the application is approved the city engineer shall issue the permit or waiver.
 - h. An application for a permit may be approved with conditions determined by the city engineer to be needed to meet the requirements of this chapter.
 - i. If the application is disapproved, the city engineer shall notify the applicant by certified mail and provide a written statement of the reasons for disapproval.
 - j. If the application is disapproved, or if the applicant does not agree with the permit conditions, the applicant may request a review by the Technical Review Committee. This request must be made in writing within 30

calendar days from the date of the applicant was notified of the city engineer decision. The schedule and procedure for a waiver described in paragraph (E) above will be followed for this review.

7. PERMIT CONDITIONS. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The city engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the permit holder. An action by the City engineer to suspend or revoke a permit may be appealed in accordance with sec. 104-10. Permits issued under this subsection may include conditions established by the city engineer in addition to the requirements needed to meet the performance standards in sec. 104-6or a financial guarantee as provided for in paragraph (11). Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state and local laws and regulations. All permits shall require the permit holder to:
 - a. Design and install all structural and non-structural storm water BMPs in accordance with the approved storm water management plan and this permit;
 - b. Notify the city engineer within 2 working days before beginning any work in conjunction with the storm water management plan, and upon completion of the storm water BMPs. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the city engineer so that practice installations can be inspected during construction;
 - c. Certify "as built," all BMP installations required as part of this chapter. Completed storm water BMPs must pass a final inspection by the city engineer to determine if they are in accordance with the approved storm water management plan and chapter. The city engineer shall notify the permit holder in writing of any changes required in such BMPs to bring them into compliance with the conditions of this permit;
 - d. Maintain all storm water BMPs in accordance with the storm water management plan until they either become the responsible of a municipality, or are transferred to subsequent private owners as specified in the approved maintenance agreement;
 - e. Authorize the city engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan;
 - f. Consent to a special assessment or charge against the property as authorized under subchapter VII of chapter 66, Wisconsin State Statutes, for costs incurred under paragraph (E), or to charging such costs against the financial guarantee posted under paragraph (11);
 - g. Repair at the permit holder's own expense all damage to adjoining municipal facilities and drainageways caused by storm water runoff, where such damage is caused by non-compliance with the approved storm water management plan, if so directed by the city engineer;

the storm water BMPs during the period which the designated party in the maintenance agreement has maintenance responsibility.

- b. The financial guarantee shall give the city engineer authorization to use the funds to complete the plan if the permit holder defaults, or does not properly implement the required BMPs in accordance with the approved plan. The city engineer shall notify the permit holder in writing as provided for in sec. 104-9 of this chapter.
 - c. The city engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the city engineer to complete installation of BMPs, upon approval of the "as built" plans. The city engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - d. The city engineer shall release the portion of the financial guarantee established to assure the maintenance of storm water BMPs, less any costs incurred by the city engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.
12. PERMIT DURATION. Permits issued under this chapter shall be valid for one year or until the city engineer notifies the permit holder that all storm water BMPs have passed the final inspection required in sec.104-7. After one year permits shall be renewed monthly until all storm water BMPs have passed final inspection. The city engineer may require additional BMPs as a condition of the extension if necessary to meet the requirements of this chapter. In the case where the land disturbing construction activities do not begin within two years after the issuing of a permit, that permit shall become void.

(Ord. 2005-27, Ord. 2009-05)

Section 104-8. Fee Schedule.

1. The city council, as part of the annual budget, shall determine the fees referenced in other sections of this chapter.
2. Fees paid under this section shall equal as closely as possible the city engineer costs of administrating the provisions of this chapter, including applicant consultations, application evaluation and approval, permit holder consultations and site inspections.
3. All fees shall be doubled if work is started before a permit is applied for and issued. Such doubled fees shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

(Ord. 2005-27, Ord. 2009-05)

Section 104-9. Enforcement and Penalties

1. Any land disturbing construction activities or post-construction runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to the provisions of this chapter shall be deemed a violation unless conducted in compliance with the requirements of this chapter.
2. Every violation of this chapter is a public nuisance. Compliance with this chapter may be enforced by injunctive order at the suit of the city pursuant to sec. 62.23(7)(f), 62.23(7a)(g) and/or 62.23(8), Wisconsin State Statutes. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
3. The city engineer shall notify the permit holder by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken. Non-complying activities include, but are not limited to:
 - a. Any land disturbing construction activity or post-construction runoff regulated under this chapter being undertaken without a permit or waiver;
 - b. The plan not being implemented;
 - c. The conditions of the permit not being met.
4. Upon receipt of written notification from the city engineer under paragraph (3) (A) the permit holder shall comply with the remedial actions described in the notice.
5. Upon receipt of written notification from the city engineer under paragraphs (3) (B) or (3) (C), the permit holder shall correct work that does not comply with the plan, or other provisions of the permit as necessary to meet the specifications and schedule set forth in the notice.
6. If a permit holder does not comply with the provisions of a notice of non-compliance, the city engineer may revoke the permit.
7. If non-compliance with this chapter is determined by the city engineer as likely to result in damage to adjacent property, public facilities, or waters of the state, the city engineer may post a stop-work order at the time of notification.

8. If the permit holder does not comply with the provisions of a notice of non-compliance, or violates a stop-work order, the city engineer may request the city attorney to obtain a cease and desist order in any court with jurisdiction.
9. Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the city engineer, board of appeals, or by a court with jurisdiction.
10. If non-compliance with this chapter is determined by the city engineer as likely to result in damage to adjacent property, public facilities, or waters of the state, the city engineer may issue to the permit holder or landowner a notice of intent to perform specific work necessary to comply the requirements of an approved plan, or to protect property, public facilities, or waters of the state.
11. After 5 working days from issuing the notice of intent, the city engineer may enter upon the land and perform work, or other operations necessary to bring the condition of said lands into conformance with an approved plan, or to protect adjacent property, public facilities, or waters of the state.
 - a. The city engineer shall keep a detailed account of the costs and expenses of performing this work. These costs, plus legal and staff costs incurred by the city, shall be billed to the owner of title of the property.
 - b. In the event a permit holder or landowner fails to pay the amount due, the amount shall be deducted from any financial guarantee posted pursuant to sec.104-7.11 of this chapter. Where such a financial guarantee has not been established, or is insufficient to cover these costs and expenses, the amount shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon pursuant to subchapter VII of chapter 66, Wisconsin State Statutes, for the year in which the work is completed.
12. Upon the receipt of assurances deemed sufficient by the city engineer, the permit holder may be authorized by the city engineer to resume responsibility for the BMPs undertaken under paragraph (11).
13. Any person, firm, association, or corporation violating any of the provisions of this chapter shall be subject to a forfeiture of no less than 500 dollars, nor more than 5,000 dollars, and the costs of prosecution, including staff time, per offense. Each day a violation exists shall constitute a separate offense.

(Ord. 2005-27, Ord. 2009-05)

Section 104-10. Appeals.

1. **BOARD OF APPEALS.** The board of appeals:
 - a. Shall hear and decide appeals where it is alleged that there is an error in any order, decision, or determination made by the city engineer in administering this chapter, except for cease and desist orders obtained under sec.104-9.8;
 - b. Shall use the rules, procedures, duties, and powers authorized by statute, in hearing and deciding appeals and authorizing variances; and
 - c. Upon appeal, may authorize variances from the provisions of this chapter that are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.
2. **WHO MAY APPEAL.** Any applicant, permittee, or landowner may appeal within 30 calendar days of the date of any order, decision, or determination made by the city engineer in administering this chapter, relative to sites in which such person has an interest.

(Ord. 2005-27, Ord. 2009-05)

Section 104-11. Severability.

If a court of competent jurisdiction judges any section, clause, provision, or portion of this chapter unconstitutional or invalid, the remainder of the chapter shall remain in force and not be affected by such judgment.

(Ord. 2005-27, Ord. 2009-05)

Section 104-12. Definitions.

Agency means the city engineer and the municipal services committee.

Agricultural Facility means a structure associated with an agricultural practice.

Agricultural Practice means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

Application Review Fee means money paid to the city by the permit applicant for recouping the expenses incurred by in administering the provisions of this chapter.

Average Annual Rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

Bank Erosion means the removal of soil particles from a bank slope primarily caused by water action, such as fluctuations in water volume and velocity, but also by climatic conditions, ice and debris, chemical reactions, and changes in land and stream use.

Best Management Practice or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Cease and Desist Order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit, or in violation of the terms of a permit.

Combined Sewer System means a system for conveying both sanitary sewage and storm water runoff.

Connected Imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Construction Site **means** an area upon which one or more land disturbing construction activities are occurring, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Design Storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

Detention Basin means a type of storm water basin that has a direct outlet and serves to reduce water velocity and volumes by releasing water at designed flow rates to temporarily detain water flows.

Development means residential, commercial, industrial, or institutional land uses and associated roads.

Discharge Volume means the quantity of runoff discharged from the land surface as the result of a rainfall event.

Division of Land means the division of an existing lot or land parcel; the creation of a condominium unit; an interest in real property (including land for a public facility) by the owner thereof for the purpose of sale or building development.

DNR means the Wisconsin Department of Natural Resources.

Effective Infiltration Area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms, or pre-treatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice, or gravity.

Exceptional Resource Waters means waters listed in sec. NR 102.11, Wisconsin Administrative Code.

Extraterritorial means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final Site Stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial vegetative cover has been established with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Financial Guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city clerk by the permit holder to assure that requirements of the chapter are carried out in compliance with the storm water management plan.

Hydrologic Soil Group means a group of soils having similar runoff potential under the same storm and cover conditions. Major hydrologic soil groups are group A for sand, loamy sand or sandy loam; group B for silt loam or loam; group C for sandy clay loam; group D for clay loam, silty clay loam, sandy clay, silty clay or clay.

Impervious Surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that typically are impervious.

In-fill Area means an undeveloped area of land located within existing development.

Infiltration means the entry of precipitation or runoff into or through the soil.

Infiltration System means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Infiltration Basin means a type of storm water basin that has no direct outlet and empties mainly by infiltration of water into the soil.

Karst Feature means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

Kettle means a naturally occurring, glacially derived, depression with no surface water outlet, commonly identified by internal tick marks on contour maps.

Land Development Activity means any construction or residential or other urban or suburban development resulting from the conversion of previously undeveloped or agricultural land uses.

Land Disturbing Construction Activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative and non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural land use or silviculture activities.

Land Redevelopment Activity means development that is replacing older development.

Land User means any person operating upon, leasing, or renting land, or having made any other arrangements with the landowner by which the land user engages in uses of land that are subject to this chapter.

Landowner means person holding title to or having an interest in a parcel of land that includes a site subject to this chapter.

Maintenance Agreement means a legal document which provides for long-term maintenance of storm water management BMPs practices that is filed with the Rock County Register of Deeds as a property deed restriction, so that it is binding upon all subsequent owners of land served by the storm water management BMPs practices.

Maximum Extent Practicable means a level of implementing BMPs in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. "Maximum extent practicable" allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

Municipality means a town, county, village, or city.

New Development means development resulting from the conversion of previously undeveloped land or agricultural land uses.

Non-Residential Development means development that is not residential. This includes the following land uses: commercial, industrial, government and institutional, recreation, transportation, communication, and utilities.

Non-Structural Storm Water Management Measure means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in storm water that does not require the design or installation of fixed storm water management facilities.

NRCS means the Natural Resources Conservation Service a division of the United States Department of Agriculture.

Off-site means located outside the property boundary described in the permit application for land development or land redevelopment activity.

On-site means located within the property boundary described in the permit application for the land development or land redevelopment activity.

Ordinary High Water Mark means has the meaning given in sec. NR 115.03(6), Wisconsin Administrative Code.

Outstanding Resource Waters means waters listed in sec. NR 102.10, Wisconsin Administrative Code.

Peak Flow Discharge Rate means the maximum unit volume of storm water discharged during a specific unit of time.

Percent Fines means the percentage of a given sample of soil that passes through a #200 sieve.

Performance Standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the city engineer to an applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pervious Surface means an area that releases as runoff a small portion of the rainfall that falls on it. Lawns, gardens, parks, forests, or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant means has the meaning given in sec. 283.01(13), Wisconsin State Statutes.

Pollution means has the meaning given in sec. 281.01(10), Wisconsin State Statutes.

Post-Construction means following the completion of land disturbing construction activity and final site stabilization.

Post-Construction Storm Water Runoff Discharge means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.

Post-Development Site Condition means the extent and distribution of land cover types anticipated to occur under conditions of full development that will influence rainfall runoff and infiltration.

Pre-Development Condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Pre-Treatment means the treatment of storm water prior to its discharge to the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

Preventive Action Limit means has the meaning given in sec. NR 140.05(17), Wisconsin Administrative Code.

Quasi-Public means essentially public, as in services rendered, although under private ownership or control.

Reconstruction means has the meaning given in sec. 84.013(1) (c), Wisconsin State Statutes.

Redevelopment means areas where development is replacing older development.

Responsible Party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

Resurfacing means has the meaning given in sec. 84.013(1) (d), Wisconsin State Statutes.

Residential Development means that which is created to house people, including the residential dwellings as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartments, and trailer parks.

Retention Basin means a type of storm water basin that has no direct outlet and empties by infiltration or evaporation.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Runoff Curve Number means a parameter that combines effects of soils, watershed characteristics and land use to estimate the amount of runoff from land surfaces.

Sedimentation Basin means a type of storm water basin for the purpose of capturing and retaining any sedimentation flowing off of sites as a result of land developing or land disturbing construction activities.

Separate Storm Sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria: Is designed or used for collecting water or conveying runoff, Is not part of a combined sewer system, Is not draining to a storm water treatment device or system, Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on a permit application on which the land disturbing construction activity is proposed or has occurred.

Site Visit means an in-person observation of the site by the city engineer to determine compliance with this chapter. The costs of site visits are generally included in the permit fee. However, the cost of site visits as the result of enforcement actions will be billed to the permit holder.

Site Restriction means any physical characteristic that limits the use of a storm water BMP or management measure.

Shoreland Overlay District means an area within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages, or within 300 feet of the ordinary high water mark of navigable rivers or streams, or to the landward of the floodplain, whichever distance is greater, as defined in Chapter 100 Shoreland-Wetland Zoning, City of Evansville Code of Ordinances.

Source Area means a component of land use from which storm water pollutants are generated during periods of snowmelt and rainfall runoff. Source areas include rooftops, sidewalks, driveways, parking lots, storage areas, streets and lawns.

Stop-Work Order means an order issued by the city engineer that requires that all construction activity on the site be stopped.

Storm Water means precipitation runoff, snows melt runoff, surface runoff, and drainage.

Storm Water Basin means an artificially created catchment for the purposes of retaining, detaining, or infiltrating storm water. A storm water basin may also be designed to collect sedimentation.

Storm Water Management Plan means a comprehensive plan designed to reduce the discharge of runoff and pollutants from storm water after a site has under gone final stabilization following the completion of the construction activity.

Storm Water Management System Plan means a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Storm Water System means waters of the state, drainage swales, storm water basins, storm sewers and pipes, storm drains, pumps, and lift stations, roads with drainage systems, streets, curbs, gutters, ditches, constructed channels, culverts and all other appurtenances now and hereafter existing, used or useful in connection with the collection, control, transportation, treatment, or discharge of storm water.

Structural Storm Water Management Measure means source area BMPs practices, conveyance measures, and end-of-pipe treatment that are designed to control storm water runoff pollutant loads, discharge volumes, and peak flow discharge rates.

Technical Review Committee means the City of Evansville Municipal Services Committee. If groundwater concerns are among issues the committee must address, the Rock County Public Health Department may be invited to participate as a member of the committee for that application.

Technical Standard means a document that specifies design, predicted performance and operation and maintenance specification for a material, device or method.

Top of the Channel means an edge, or point on the landscape, landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

TR-55 means the National Resources Conservation Service, Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Transportation Facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail and also includes any other public work for transportation purposes such as harbor improvements under sec. 85.095(1) (b), Wisconsin State Statutes. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Wisconsin Department of Commerce pursuant to sec. 101.1205, Wisconsin State Statutes.

Type II Distribution means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the State means all lakes, bays, rivers, streams, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private within Wisconsin, or its jurisdiction.

Wetland Functional Value means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.

Wetlands means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions. These wetlands include natural, mitigation, and restored wetlands.

Working Day means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding any such day officially observed by the city as a legal holiday.

(Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Chapter 106

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹

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Sec. 106-2. Vehicles or equipment damaging streets or bridges.
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Secs. 106-53--106-80 Reserved.

Article III. Sidewalks

Division 1. Generally

- Sec. 106-81. Construction.
Sec. 106-82. Use.
Secs. 106-83-106-100 Reserved.

¹ **Cross references:** Any ordinance for the establishment of grades, curblines and widths of sidewalks in the public streets and alleys saved from repeal, § 1-10(2); any ordinance for the lighting of streets and alleys saved from repeal, § 1-10(5); any ordinance for the establishment of the grade of a street saved from repeal, § 1-10(6); any ordinance for the naming and changing of names of streets, alleys, public grounds and parks saved from repeal, § 1-10(8); buildings and building regulations, ch. 18; cemeteries, ch. 26; libraries, ch. 74; parks and recreation, ch. 86; peddlers and solicitors, ch. 90; use of streets and sidewalks by peddlers and solicitors, § 90-7; planning, ch. 94; vehicles or equipment damaging streets or bridges, § 106-2; subdivisions, ch. 110; design and layout standards for sidewalks, § 110-160; telecommunications, ch. 118; traffic and vehicles, ch. 122; operation of vehicles on one-way streets, § 122-63; repair of vehicles on street, § 122-125; riding bicycles on sidewalks, § 122-233; trains blocking streets, § 122-291; utilities, ch. 126; zoning, ch. 130; manufactured homes and trailers, § 130-1241.

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ARTICLE I. IN GENERAL

Sec. 106-1. Penalty.

(a) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-11.

(Code 1986, § 8.20)

Sec. 106-2. Vehicles or equipment damaging streets or bridges.²

(a) No person shall operate any vehicle or equipment over the streets, alleys or bridges which could reasonably be expected to damage such streets, alleys or bridges.

(Code 1986, § 8.03)

Sec. 106-3 Implements of Husbandry and Agricultural Commercial Vehicles

(a) The City, without revoking its rights under 106-2, authorizes operation on all streets implements of husbandry as defined in Sec. 340.01 (24) (see Act 377) and agricultural commercial vehicles as defined in Sec. 340.01 (1o) (see Act 377) to operate in excess of any length and weight limitations imposed by Chapter 348 of Wis. Statutes. However, all implements of husbandry and agricultural commercial vehicles are still bound to follow seasonal and special postings and any postings on highway bridges or culverts under Sec. 349.16 of Wis. Statutes. *Sec. 348.27 (19)(b)5.a. of Wis. Statutes (as provided by 2013 Wis. Act 377)*

² **Cross references:** Streets, sidewalks and other public places, ch. 106.

(Ord. 2015-05)

Secs. 106-4--106-30. Reserved.

ARTICLE II. STREETS

DIVISION 1. GENERALLY

Sec. 106-31. Width of improved roadways; construction standards.

(a) On all four-rod streets, the improved roadway shall be not less than two rods wide from curb to curb.

(b) On all three-rod streets, the improved roadway shall be not less than 28 1/2 feet.

(c) All streets constructed in the city shall be constructed according to the construction standards and policies adopted by the Common Council on October 10, 1989, or as may be amended thereafter. A copy of the construction standards and policies shall be maintained in the office of the City Clerk and at such other locations as the Common Council may designate for inspection by interested parties.

(Code 1986, § 8.01(1))

Sec. 106-32. Use of right-of-way by abutting property owner.

(a) Any property owner may use that portion of the street right-of-way not included in the roadway for planting of trees, building of sidewalks and making a terrace provided such improvements shall be confined to within one rod of the property line on all four-rod streets where there is no curblin and within 10 1/2 feet of the property line on all three-rod streets where there is no curblin.

(Code 1986, § 8.01(2))

Sec. 106-33. Grades.

(a) Street grades shall be established by ordinance on file with the City Clerk.

(Code 1986, § 8.015(1))

Sec. 106-34. Burning material in street.

(a) No person shall burn any material in any street in the city.

(Code 1986, § 8.04)

Sec. 106-35. Pushing of snow into right-of-way.

(a) For the safety of the public during snow events, persons or entities engaged in snow and ice removal shall not push, plow, or blow the same onto or across City streets. Snow and ice shall be placed or deposited upon the private property of the owner or resident causing such placement or deposit, or upon the right-of-way abutting the same property from which it was removed.

(Ord. 2018-04)

Sec. 106-36. Pushing of yard waste into right-of-way.

(a) In the public's interest, to reduce flooding caused by storm water system blockage and reduce costs to clear such blockage, persons or entities engaged in gathering leaves and yard waste shall not place or blow the same onto or across City streets. Yard waste includes but is not limited to lawn clippings, leaves, dirt, straw, ashes, rubbish, debris, litter or other refuse matter. Yard waste shall be placed or deposited upon the private property of the owner or resident causing such placement or deposit, or upon the right-of-way abutting the same property from which it was removed. Yard waste gathered for collection by the City or other service provider shall be contained in bags or containers so as to not cause yard waste debris to be blown or spilled onto or across City streets. This subsection shall not apply when leaves and yard waste are blown from the originating property of placement by wind or when placed as instructed by the City for seasonal collection.

(Ord. 2018-04)

Secs. 106-37--106-50. Reserved.

(Ord. 2018-04)

DIVISION 2. STREETLIGHTS

Sec. 106-51. Installation in new developments.

(a) Streetlights and streetlight easements shall be planned and recorded before final approval of a land division map or certified survey. Streetlights shall be placed two (2) at each intersection and every 250' or mid-block, whichever is greater.

(Code 1986, § 8.12(1), Ord. 2023-12)

Sec. 106-52. Installation in existing developments.

(a) The City should prioritize installing streetlights during roadway upgrades to meet the standards in 106-51. Approval for streetlight installation in existing areas will be as follows:

- (1) The applicant will make a request to the City.
- (2) The Municipal Services and Community Development Department will help plan the location and provide an application form with a list of neighboring properties that the new streetlight affects.
- (3) The applicant shall get neighbors' approval and secure any necessary easements.
- (4) The completed application form will be submitted to the Water and Light Foreperson for approval.
- (5) All streetlights shall be of a color and type as called out in P.W. standards.
- (6) Restoration of excavations for trenches needed for the installation of streetlights is to be done by the applicant.

(Code 1986, § 8.12(2), Ord. 2014-02, Ord 2023-12)

Secs. 106-53--106-80. Reserved.

ARTICLE III. SIDEWALKS

DIVISION 1. GENERALLY

Sec. 106-81. Construction.

(a) Adoption of state law. The provisions of Wis. Stats. § 66.0907 and any amendments thereto are adopted by reference and made a part of this section.

(b) Specifications.

- (1) All sidewalks constructed in the city shall be constructed according to the sidewalk specifications found in the City of Evansville Construction Standards and Policies Manual created by the City Engineer and approved by the municipal services committee. A copy of the sidewalk specifications and Construction Standards and Policies Manual shall be maintained at City Hall for inspection by interested parties.

- (2) No exceptions to or variations from the sidewalk specifications will be permitted except by action of the City Administrator.
- (c) Permit required. No person shall lay, construct, remove, repair or replace any sidewalk in any public right-of-way within the city unless he/she is under contract with the city or has obtained a building permit therefor from the city building inspector at least seven days before the work is proposed to be undertaken. Such a permit shall be issued by the city at a cost as determined by appendix A fee schedule of the municipal code.
- (d) Inspection required.
 - (1) Any sidewalk work undertaken pursuant to a permit issued under subsection (c) of this section, or undertaken by any person under contract with the city, shall be inspected by the city inspector prior to placing of any concrete. If the city inspector finds any items of foundation, forms, depth, line or grade unsatisfactory, the work shall be corrected, to the satisfaction of the city inspector, to conform to the sidewalk specifications before placing any concrete.
 - (2) After placing, finishing and curing of the concrete, the finished sidewalk shall be inspected by the city inspector. No sidewalk work shall be considered to be complete or acceptable until such work has received such final inspection and received the approval of the city inspector.
- (e) Removal and replacement of unapproved or defective work. Any sidewalk work which is done without the required permit or without the required inspections, or which is determined by the building inspector not to be in conformance to the sidewalk specifications, shall be removed and replaced. Such removal and replacement shall be completed within 14 days of written notice to do so issued by the Building Inspector or Public Works Foreperson. If such removal or replacement is not completed within 14 days, such removal and replacement may be undertaken by the city, with all direct and indirect costs therefor charged to the abutting property owner.
- (f) *Sidewalk repair, replacement, and removal.* All sidewalks must be maintained and repaired to prevent a tripping hazard. No person may remove sidewalk without approval of the municipal services committee and common council. If any sidewalk is deemed to need repair, replacement, or removal, up to 100% of the costs shall be assessed to the abutting property owner.
- (g) Required Location.
 - (1) *New developments and areas.* Sidewalks shall be required in all new developments and areas as per Sec. 110-160.
 - (2) *Existing developments and areas.* Sidewalks shall be required in all existing developments and areas as per Sec. 110-160, under the following conditions:

- a. The addition or continuation of sidewalks improves the safety and mobility of pedestrians in areas surrounding schools, other public buildings, and residential neighborhoods. Including roads defined as primary local, collector, and arterial on the City's *Transportation Plan Map*.
- b. Any repair, reconstruction, rehabilitation, addition, or improvement of a principal building, the cost of which has a value of 25% or greater than the assessed land value of the subject property.
- c. During the repair and replacement of roadway and other public works projects.
- d. The requirements for existing developments and areas under subsection (f) of this section do not apply to one-way streets, listed under Sec. 122-63 (b), when the existing right-of-way is less than 30 feet in width. The City Engineer shall determine the side of the street for construction of sidewalk.

(Code 1986, § 8.02(1), Ord. 2014-02, Ord. 2016-04)

Sec. 106-82. Use.

(a) No person shall, except when crossing at a constructed driveway:

- (1) Obstruct a sidewalk so as to prevent or impede its use for pedestrian purposes.
- (2) Use a sidewalk for selling merchandise without a permit obtained from the City Clerk, who shall grant such permit only to the abutting property owner for not more than one-half of the width of the sidewalk during normal business hours.
- (3) Place goods, wares or merchandise on a sidewalk, except the abutting property owner may use not more than one-half of the width for such purpose.
- (4) Obstruct a sidewalk with goods, wares or merchandise being loaded or unloaded for more than two hours and within three feet of the roadway line along the edge of the sidewalk.

(Code 1986, § 8.02(2))

Secs. 106-83--106-100. Reserved.

DIVISION 2. SNOW AND ICE REMOVAL

Sec. 106-101. Penalty.

(a) If it is necessary to serve a notice of violation under this division, the owner or occupant shall be subject to punishment as provided in section 1-11, in addition to the cost prescribed in this division.

(Code 1986, § 8.08(5))

Sec. 106-102. Removal required.

(a) Every occupant of a lot or parcel of land and every owner of an unoccupied lot or parcel of land having a sidewalk abutting thereon shall keep such walk and the crosswalks connecting therewith free from snow and ice, but 24 hours shall be allowed after each snowfall for the removal of snow which fell during such snowfall. When ice is formed on any sidewalk so that it cannot be removed, the ice shall be sprinkled with ashes, salt or sand within 24 hours after such formation. Removal of snow or ice or sprinkling with ashes, salt or sand as required under this section shall require removal or sprinkling from edge to edge of the paved surface.

(Code 1986, § 8.08(1))

Sec. 106-103. Removal by city authorized; payment of costs.

(a) Whenever the occupant or owner fails to remove the snow or sprinkle the ice as required in this division, such work shall be caused to be done by the Municipal Services Department by contract or by written notice and the expense of so doing in front of any lot or parcel of land shall be reported by the Municipal Services Director to the City Clerk. The City shall bill within 15 days of such expenditure. If not paid, the City shall add such amount to the tax roll as a special tax against such lot or parcel of land, which shall be collected in all respects like any other tax upon real estate.

(Code 1986, § 8.08(2), Ord. 2014-02, Ord. 2023-12)

Sec. 106-104. Determination of expense for work done by city.

(a) The expense chargeable to the landowner or occupant as established by the council from time to time by resolution and set forth in appendix A shall be the city's actual cost as determined by the Municipal Services Director.

(Code 1986, § 8.08(3), Ord. 2014-02, Ord. 2023-12)

Sec. 106-105. Notice of violation.

(a) It shall be sufficient notice under this division if the municipal services department leaves notice of the violation with a person of the household of suitable age and discretion or, if such person is unavailable, by leaving a tag prominently displayed at a readily observable location on the premises.

(Code 1986, § 8.08(4), Ord. 2014-02)

Secs. 106-106--106-130. Reserved.

ARTICLE IV. EXCAVATIONS

Sec. 106-131. Definitions.³

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

Person includes individuals, firms, partnerships and corporations.

Right-of-way includes the traveled portion of the highway, the curb and gutter, the sidewalk and the terrace.

(Code 1986, § 8.06(1))

Sec. 106-132. Permit required.

(a) No person, except the city, its agents, employees and contractors, shall excavate, open or cut any right-of-way within the city without first obtaining a permit from the City Clerk and paying the required fee.

(Code 1986, § 8.06(2) , Ord. 2023-12)

Sec. 106-133. Application for permit; bond.

(a) The application for a permit required by this article shall state the purpose for which the permit is desired and the location of the proposed excavation, opening or cut, including the estimated square footage, and shall contain an agreement that the applicant will pay all damages to person or property, public or private, caused by the applicant, agents, employees or servants in doing of the work for which the permit is granted. The

³ **Cross references:** Definitions generally, § 1-2

applicant shall be required as a condition to the granting of a permit to pay to the City Clerk as a bond the greater of the minimum bond fee set forth in appendix A or the rate per square foot of proposed excavation set forth in appendix A. Upon satisfactory restoration by the applicant and inspection by the city, all but a minimum fee, in such amount as established by the council from time to time by resolution and as set forth in appendix A, shall be refunded to the applicant.

(Code 1986, § 8.06(3), Ord 2022-01)

Sec. 106-134. Insurance.

(a) The applicant for a permit under this article shall provide to the city a certificate of insurance in such an amount as the municipal services committee may determine, naming the city as an insured, to protect the city from all damages, costs and charges that may accrue from the applicant's use of the right-of-way.

(Code 1986, § 8.06(4), Ord. 2014-02)

Sec. 106-135. Limitation on rights granted by permit.

(a) No permit for an excavation, opening or cut shall be deemed to convey or grant any privilege to occupy the space within or below the right-of-way.

(Code 1986, § 8.06(5))

Sec. 106-136. Restoration of surface.

(a) The applicant shall restore the right-of-way in conformity with the construction standards and policies adopted by the Common Council on October 10, 1989, or as may be amended thereafter. In addition, in refilling the excavation, opening or cut, all earth, stone and screening shall be thoroughly and properly tamped and the surface left in as good condition as the surface was in before the excavation, opening or cut was made. Whenever it is necessary to break into a sidewalk to make any excavation, opening or cut, the entire stones so broken shall be removed and replaced, it being the intent to prohibit the mere patching of stones of a sidewalk. In addition, the surface of the right-of-way shall be maintained in good repair by the applicant for one year following the completion of the project.

(Code 1986, § 8.06(6))

Sec. 106-137. Notice to police department.

(a) Before any excavation, opening or cut in any right-of-way is made by any person, 48 hours' advance notice shall be given by the contractor or the person to the police department, except in case of emergency.

(Code 1986, § 8.06(7))

Sec. 106-138. Repair by city.

(a) If the contractor or person neglects to perform any portion of the work required by this article, the city shall cause the repairs to be done, and the expense thereof shall be certified to the city clerk or designee by the municipal services committee for collection from the contractor or person. The clerk or designee shall give written notice to the contractor, person and property owner for which the work was done of the charges to be paid to the city and of the bond forfeiture. If the amount is not paid within 30 days, the unpaid amount shall be carried into the tax roll as a special tax against the abutting property.

(Code 1986, § 8.06(8), Ord. 2014-02, Ord. 2023-12)

Sec. 106-139. Inspection of sewer connections.

(a) Before connection is made to any main or lateral of the sanitary sewer system of the city, such connection shall be inspected by such official as designated by the city for the purpose of ensuring the proper connection.

(Code 1986, § 8.06(9))

Secs. 106-140--106-160. Reserved.

ARTICLE V. OBSTRUCTIONS

Sec. 106-161. Prohibited.

(a) Except as provided in section 106-162, 106-163, or 130-568, no person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the city in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress to or egress from any place of business or amusement, church, public hall or meeting place.

(Code 1986, § 9.06, Ord. 2005-32, Ord. 2005-51)

Sec. 106-162. Closure by order of chief of police.

(a) The Chief of Police or the Chief's designee, without prior notice, may order the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, or part thereof for city purposes or in case of emergency.

(Ord. 2005-51)

Sec. 106-163. Closure by application.

(a) **Temporary placement on right-of-way.** Upon written application and review by Municipal Services and the Police Chief, the City Clerk may issue a temporary placement license authorizing the, obstruction, encroachment, occupation or physical encumbrance of the parking area of any street, highway, alley, and sidewalk, except federal or state highways, for a period of no more than 30 days. No fee shall be charged for such permit.

1. A temporary obstruction shall cover only that portion of the public grounds as set forth in the permit.
2. The obstructions shall be adequately barricaded and lighted so as to be in full view of the public from all directions.
3. If sidewalk use by pedestrians is interrupted, temporary sidewalks, guarded by a fence or other structure, may be required during the period of occupancy.
4. The process of moving any building or structure shall be as continuous as practicable until completed, and if ordered by the Municipal Services Director or designee, shall continue during all hours of the day and night.
5. No building or structure shall remain overnight on any street-crossing or intersection or where it prevents access to any building by emergency vehicles.
6. Upon termination of the work necessitating such obstruction, all parts of the public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions; restored to a condition reasonably similar to that prior to the permittee's occupancy, but in all cases placed in a safe condition for use by the public, at the expense of the permittee.

(b) **Short-Term Closure,** four (4) hours or less. Submitted applications shall be referred by the City Clerk to the Municipal Services Director and the Police Chief for review and recommendation. Upon approval the City Clerk may issue a Street Use License authorizing the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, except federal or state highways, for a period of no more than four (4) hours in a 24 hour time period. A Street Use License does not authorize the serving or consumption of alcoholic beverages in the area of the closed street; such a license may be obtained separately under section 6-43.

(c) **Long-Term Closure**, over four (4) hours. Excluding City sponsored activities and repairs, all closures of the traveled portion of a right-of-way for more than four (4) hours in a 24 hour time period shall require a license. Submitted applications shall be referred by the City Clerk to the Municipal Services Director and the Police Chief for review and recommendation. Upon receiving the recommendations the application must go before the Public Safety Committee for a public hearing. After a public hearing, the Public Safety Committee may authorize the City Clerk to issue a Street Use License authorizing the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, except federal or state highways. The person or an authorized representative of the organization making the application for a Street Use License shall be present at the meeting at which the Public Safety Committee considers authorizing the issuance of the Street Use License, and failure to attend may be ground for denial of the application. A Street Use License does not authorize the serving or consumption of alcoholic beverages in the area of the closed street; such a license may be applied for separately under section 6-43.

(d) Any person or organization desiring to obtain a license under paragraph (a),(b) or (c) shall submit to the City Clerk the application the applicable fees, and the deposit required under paragraph (e) at least 35 days prior to the proposed use of the street. The application form shall contain a statement that the applicant agrees to indemnify the city as provided in paragraph (i) of this section and require the applicant to provide the following information:

1. The name, address and telephone number of the applicant or applicants;
2. The name address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street if different than the applicant(s);
3. The date and duration of time for which the requested use of the street is proposed to occur;
4. An accurate description of the portion of the street proposed to be used;
5. The proposed use, described in detail, for which the Street Use License is requested and a description of the security measures, if any, the applicant will provide during the use of the street.
6. Any other information deemed necessary.

(e) The Common Council shall by resolution establish and may from time to time amend a fee for a Street Use License, which shall be set forth in appendix A. The applicant must submit this fee with the application for a Street Use License. In addition, the council shall by resolution establish and may from time to time amend a clean-up deposit for a Street Use License, which shall be set forth in appendix A. The applicant must submit the clean-up deposit with the application for a Street Use License. Upon completion of the use of the street, the municipal services department shall inspect the portion of the street subject to the Street Use License to determine if the area has been cleaned and restored by the applicant to its pre-use condition, in which event the deposit

shall be refunded to the applicant; otherwise, the deposit shall be forfeited to defray the clean-up cost incurred by the city.

(f) If the applicant submits with the application for a Street Use License a petition on a form provided by the City Clerk and signed by at least one resident or business owner from at least two-thirds of the addresses on the portion of the street to be used, no additional fees are required for mailing notices under paragraph (h).

(g) Upon receiving a Street Use License application and a petition under paragraph (f), if any, the City Clerk shall review the application and petition and determine if they have been properly completed. If either the application or petition has not been properly completed, the City Clerk shall promptly inform the applicant of the deficiency.

(h) If the City Clerk receives a properly completed application for a Street Use License under paragraph (c) with a properly completed petition under paragraph (f), the City Clerk shall cause to be published a notice of public hearing on the application at least 14 days before the public hearing. If the City Clerk receives a properly completed application for a Street Use License under paragraph (c) without a properly completed petition under paragraph (f), the City Clerk shall cause to be published a notice of public hearing on the application and mail a copy of the public hearing notice to each owner of a parcel that is adjacent to the portion of the street proposed to be used at least 14 days before the public hearing.

(i) By applying for and receiving a Street Use License, the applicant agrees to indemnify, defend and hold the city and its employees and agents harmless against all claims, liability, loss, damage or expense asserted against or incurred by the city on account of any injury or death of any person or damage to any property caused by or resulting from the activities for which the license is granted. As evidence of the applicant's ability to perform the conditions of the license, the Public Safety Committee may require the applicant to furnish a certificate of comprehensive general liability insurance with the city and its employees and agents as an additional insured. The insurance shall include coverage for a contractual liability with minimum limits in an amount as required by the Public Safety Committee. The certificate of insurance shall provide 30 days written notice to the city upon cancellation, non-renewal or material change in policy. The Municipal Services Department in collaboration with the Police Department will organize the set-up, take-down, and signage prior to the closure of the right-of-way and after.

(j) The City, through the Police Department, Municipal Services Department or other agents, may terminate, without prior notice, any use authorized by a Street Use License if the health, safety or welfare of the public appears to be endangered by activities generated by or associated with the use or if there are activities that violate any condition specified by the Public Safety Committee when authorizing the issuance of the Street Use License.

Following the conclusion of the street closure, any traffic control materials shall be collected and inventoried by the Municipal Services Department. (Ord. 2005-51, Ord. 2013-03, Ord. 2014-02, Ord 2016-21, Ord 2022-04, Ord 2023-12)

Secs. 106-164--106-190. Reserved.

ARTICLE VI. STREET TREES

Sec. 106-191. City Forester.

(a) *Appointment.* Appointment of the City Forester shall be as provided in section 2-161.

(b) *Powers and duties.* The City Forester shall have jurisdiction and control over all trees and shrubs upon all streets, public parks, cemeteries and other public grounds in the city. The City Forester shall enforce all ordinances pertaining to trees and shrubs.

(c) *Interference.* No person shall prevent, delay or interfere with the City Forester or designee while they are engaged in the performance of duties imposed by subsection (b) of this section.

(Code 1986, § 8.07(1))

Sec. 106-192. Authority to make additional regulations.

(a) The City Forester may, subject to the approval of the council, make rules and regulations for planting, pruning, caring for, treating and controlling trees and shrubs upon any street or on other public grounds in the city. After publication in the official city newspaper, such rules shall have the force and effect of ordinances, including penalty for violation.

(b) Street Trees are required in all new and exiting areas pursuant to Sec 130-265

(Code 1986, § 8.07(2) , Ord. 2023-12)

Sec. 106-193. Trimming of trees overhanging street or sidewalk.

(a) All trees standing in the streets of the city or upon private property shall be trimmed and pruned so that no branch thereof grows or hangs lower than 14 feet above the level of the street or lower than nine feet above the sidewalk. No trees shall be permitted to stand or grow in such a manner as to obstruct the proper diffusion of light from any streetlight.

(Code 1986, § 8.07(3))

Sec. 106-194. Authority of city to trim trees.

(a) The City Forester authorized agent may prune or trim any tree standing in the streets of the city so that it conforms to this article. If trees standing upon private property are in conflict with this article, the forester shall notify the owner of the premises upon which such trees are located to immediately prune and trim the trees so that they conform to this article. If the trees are not trimmed within five days after such notice, the forester shall cause the trees to be trimmed and pruned so as to comply with the provisions of this article, and the cost thereof shall be charged to the property owner.

(Code 1986, § 8.07(4), Ord 2023-12)

Sec. 106-195. Planting permit.

(a) Any person wishing to plant upon any city street (terrace) any tree shall obtain a permit therefor from the City Forester and shall abide by all rules and regulations concerning the planting of such trees.

(Code 1986, § 8.07(5))

Sec. 106-196. Injuring trees or obstructing growth.

(a) No person shall allow any gas or other harmful substance to come into contact with the soil surrounding the roots of any tree or shrub in the public right-of-way in such a manner as to injure such tree or shrub, nor shall any person construct any structure in such manner as to retard or interfere with the growth of any such tree or shrub.

(Code 1986, § 8.07(6))

Sec. 106-197. Attaching objects to trees or supports.

(a) No person shall attach to any tree in any public right-of-way in the city, or to the guard or stake intended for the protection of such tree, any rope, wire, sign or other device except for the purpose of protecting such tree or the public.

(Code 1986, § 8.07(7))

Sec. 106-198. Hedges.

(a) No hedge or shrubbery shall be planted closer than 18 inches to the sidewalk, and all hedges and shrubbery shall be kept trimmed so that no part thereof projects over the sidewalk. No shrub or hedge shall be permitted to grow so as to obstruct the view of pedestrian or vehicular traffic.

(Code 1986, § 8.07(8))

Sec. 106-199. Trimming or removal of trees in terraces and tree courts.

(a) The city may trim or remove any tree or part thereof in any terrace or tree court in the city that it deems dead or hazardous to the public or where it is in the best interest of the public or the city. If the city elects to do this work, it shall be performed by city personnel

(Code 1986, § 8.07(9) , Ord. 2023-12)

Sec. 106-200. Responsibility of property owner for trees on private property.

(a) The owner of real estate shall be solely responsible for the care, maintenance, trimming and removal of all trees located on the real estate of such owner, except as provided in sections 106-199.

(Code 1986, § 8.07(10))

Sec. 106-201. Public nuisances.

(a) Any tree or part thereof, whether alive or dead, which the Municipal Services Director or designee thereof shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the city or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The director of public works or designee thereof shall give written notice to such owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days as determined by the director of public works or designee thereof on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim such tree within the time limited, the director of public works or designee thereof shall cause the tree to be removed, treated or trimmed and shall report the full cost as a special charge against the property.

(b) Obstruction of view at intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk are public nuisances and may be abated as such.

(c) Tree limbs overhanging street or sidewalk. All limbs of trees which project over and less than 14 feet above any public street or nine feet above any public sidewalk or other public place are public nuisances and may be abated as such.

(Code 1986, § 8.07(12) , Ord. 2023-12)

Secs. 106-202--106-230. Reserved.

ARTICLE VII. PUBLIC WORKS⁴

DIVISION 1. GENERALLY

Secs. 106-231--106-250. Reserved.

DIVISION 2. ASSESSMENTS GENERALLY

Sec. 106-251. Sanitary sewers.

(a) *Assessment rate.* The assessment rate for the installation of sanitary sewers shall be on a front foot basis based upon the total cost of the project, including but not limited to engineering, inspection, grading and the necessary resurfacing.

(b) *Intersections.* All intersections shall be paid for by the city on the same front foot basis.

(c) *Corner lots.* Corner lots shall be assessed for the entire frontage of the first side improved by the installation of a sanitary sewer. At such time as the second side thereof is improved by such installation, the lot shall be assessed upon one-third of footage on such side.

(Code 1986, § 8.09(1))

Sec. 106-252. Sewer mains and lift stations.

(a) *Generally.* The cost of sewage lift stations and force mains shall be assessed to the areas served by such facility. The total area served or which may be served in the future shall be computed. The pro rata share of the cost of areas immediately to be served shall be assessed to such areas. The city shall carry the remaining cost of the project until additional areas are assessed as provided in subsection (b) of this section.

(b) *Lands added to service area.* Whenever additional land which will be served by such facility is developed so as to be so served or is platted, the pro rata share of the cost of the facility shall be assessed to such land. Should the area which may eventually be served include land lying outside the city limits, the pro rata share of the cost of the facility shall likewise be assessed to such area when it is annexed, developed and platted.

⁴ **Cross references:** Utilities, ch. 126.

(Code 1986, § 8.09(2))

Sec. 106-253. Curbs and gutters.

(a) *Original construction.* The assessment rate on original construction of curb and gutter shall be 100 percent of the cost per front foot of property benefited, including both sides of corner lots.

(b) *Replacement.* When existing curb and gutter is to be replaced in all cases where there is no unusual damage, the assessment shall be determined by the Common Council based on benefit received, from zero to 100 percent of the actual cost.

(Code 1986, § 8.09(3))

Sec. 106-254. Water mains.

(a) The water utility will extend water mains for new customers and will decide whether the extension is to be a six-inch or larger pipe where fire protection service is needed, or a two-inch pipe as a minimum size or larger where only general service is needed, on the following basis:

(1) Where the cost of the extension is to be immediately assessed against abutting property, the procedure set forth under Wis. Stats. § 66.60 will apply. Present practice is to assess two-thirds of the cost of the extension against abutting properties. Corner lots are assessed only for the frontage from which the service is connected.

(2) Where the city is unwilling to make a special assessment because of low density of prospective consumers or for some other reason, extensions will be made on a customer-financed basis as follows:

a. *Definitions.* For purposes of this subsection, the following definitions shall apply:

1. *Customer* means the owner of premises to which water is now or is to be furnished, unless specific written agreements specify otherwise. The customer at all times means the property owner at the time the contribution is to be made or a refund becomes available.

2. *Contributor* means the owner of property at the time of a contribution or refund unless otherwise specified by written agreement.

b. *Basis for determining contributions from original customer.* The applicant (or applicants, pro rata) will advance the amount that would have been assessed under subsection (1) of this section. The contribution must be paid in advance of construction.

- c. *Additional customers; refunds.* When additional customers are connected to a water main that was originally financed in part by customers, the utility will require a contribution from each new customer equal to the existing average contribution. When the amount of customer contribution computed under subsection (2) of this section is less than would have been assessed under subsection (1) of this section, the applicant for service shall pay an amount equivalent to the assessment. This amount shall then be refunded pro rata to all contributors along the extension whose remaining contribution still exceeds what would have been assessed under subsection (1) of this section. When refunds have reduced the contribution of any contributor to the applicable assessment per front foot, no further refund will be made to that individual. After all refunds have been made, the remaining premises that may connect will be charged at the rate per front foot established for the extension.
 - d. *Limit of extension.* When an extension beyond an existing extension is required to serve a new customer, and the cost for a customer exceeds the average remaining contribution in the original extension, the new extension will be considered as an entirely new project, without refunds, or other connection with the original extension.
- (3) When customers connect to a transmission main or connecting loops laid at utility expense, there will be a contribution of an amount equivalent to the applicable assessment as determined under subsection (1) of this section.
- (4) The development period during which refunds shall be made will be limited to 20 years.

(Code 1986, § 8.09(4))

Sec. 106-255. Sidewalks.

(a) *Original construction.* The total cost involved in the original construction of sidewalks shall be assessed on the basis of 100 percent of the cost per front foot of property benefited, including both sides of corner lots.

(b) *Replacement.* When the city determines that existing sidewalks are to be repaired or because they are no longer serviceable they must be completely replaced, the cost thereof shall be assessed in full as though it were original construction. When existing sidewalks which have remaining useful life must be replaced, the cost thereof shall be assessed in the manner as the council in its discretion directs.

(Code 1986, § 8.09(5))

Sec. 106-256. Method of assessment; payment.

(a) Total cost of all improvements shall be assessed equally on a front foot basis unless otherwise specified in this article or in such instances as the council determines to be of such an unusual nature that they would involve expenditures which would be exorbitant or in excess of that which would ordinarily be expected. In all such instances the council may review the situation or project and may in such unusual or exceptional cases modify the assessments if in its opinion the facts and conditions warrant.

(b) All such special assessments shall be paid to the City in cash or in not to exceed ten annual installments. No such annual installment, except the final one, shall be less than \$50.00. Defaulted payments shall bear interest on unpaid balances at a rate of interest to be determined at the time the assessments are levied. Installments or assessments not paid when due shall bear additional interest on the amount past due at the rate of 0.8 percent per month.

(Code 1986, § 8.09(6) , Ord. 2023-12)

Sec. 106-257. Deferred special assessments.

(a) Except when cost advancement is ordered by the Common Council under section 106-254(2), any special assessment levied against a property abutting on or benefited by construction of sanitary sewers or sanitary sewer facilities, water mains or water system facilities, storm sewers, street grading and base construction, bituminous surfacing or concrete pavement shall be deferred on the following terms and conditions until the property assessed or any portion thereof is sold, developed or connected to the improvement:

- (1) *Interest.* The principal balance of the assessment shall accrue interest during the period of deferment at the rates prescribed in the final resolution, not to exceed the interest rate paid by the city upon any loan secured to finance the construction of the improvement plus one percent per annum. Interest shall start to accrue from the first day of the year succeeding the date of approval of the final schedule of assessments by the Common Council, but shall be deferred on the same terms as the principal assessment balance.
- (2) *Termination of deferment.* When any property against which a deferred special assessment under this section is outstanding is sold, subdivided or connected to the improvement for which the assessment is levied, the assessment and the accrued interest shall become due and payable in not more than ten equal annual installments, the first installment to be entered on the next tax roll succeeding sale of the property, approval of the final plat or connection to the improvement. Interest shall continue to accrue on the outstanding principal balance of the assessment at the same rate prescribed in the final resolution levying the assessment, but no interest shall be charged on the interest portion of a deferred installment except such as may be chargeable under the laws of the state for delinquent property tax payments.

- (3) *Development or connection of part of benefited property.* Whenever a portion less than all of the property against which a deferred special assessment is outstanding is sold, subdivided or connected to the improvement for which the assessment was levied, the Common Council shall determine that portion of the outstanding deferred assessment and deferred interest which is fairly and properly apportionable to the portion sold, subdivided, surveyed or connected and direct the city clerk or designee to enter these amounts on the tax roll in ten equal annual installments commencing with the next succeeding roll. Interest shall be charged on such installments as provided in subsections (1) and (2) of this section.
- (3) *Notice of deferment option.* Whenever the Common Council adopts a final resolution levying special assessments for public improvements described in this article, the city clerk or designee shall attach the following statement to each final special assessment notice mailed to the property owner:

Option to Defer Special Assessment

You are hereby notified that if the property against which this assessment is levied is vacant or undeveloped land or will not presently use the improvement, you may elect to defer this assessment until such time as your property or a portion thereof is sold, developed or connected to the improvement. Interest will be charged during the deferral at a rate of _____% for each full year of deferment, but no payment of principal or interest will become due or payable during such deferment period.

If your property is eligible and you wish to defer this special assessment or any portion thereof, please notify the city clerk-treasurer immediately. Unless a notice is received within 30 days, the first installment of your assessment will be placed on the _____ tax roll for collection in the same manner as real estate taxes.

(Code 1986, § 8.09(7) , Ord. 2023-12)

Secs. 106-258--106-280. Reserved.

DIVISION 3. ASSESSMENT PROCEDURES

Sec. 106-281. Alternative procedure created.

(a) Pursuant to the authority vested in it by Wis. Stats. § 66.62, the council provides that, in addition to other methods provided by law or ordinance, special assessments for the city's costs of public works or improvements, including street or sidewalk improvements

constructed, reconstructed or improved with state or federal aid or any current service, may be levied in accordance with the provisions of this division.

(Code 1986, § 8.091(1))

Sec. 106-282. Initial resolution.

(a) Whenever the council shall determine to finance or defray the cost of any public work or improvement or any current service undertaken by the city, any portion of the cost of which is borne by the city, in whole or part, by special assessments under this division, it shall adopt a resolution setting forth such intention, the amount or percentage of the cost to be financed by assessments, and whether the assessment shall be determined and levied before or after completion of the work or improvement, rendition of the service or letting of the contract therefor.

(Code 1986, § 8.091(2))

Sec. 106-283. Determination and levy of assessment.

(a) The provisions of Wis. Stats. §§ 66.54 and 66.60 shall apply to the determination and levy of special assessments under this division, except that when the council determines by resolution, as provided in subsection 106-282, that the assessments shall be levied subsequent to completion of the work or improvement, rendition of the service, or letting of a contract therefor, the report required by Wis. Stats. § 66.60(3) shall contain a statement of the final or city cost of the work, improvement or service in lieu of an estimate of such costs.

(Code 1986, § 8.091(3))

Sec. 106-284. Notice of hearing.

(a) Notice of the time and place of the public hearing on any special assessments proposed to be levied and notice of the final assessment and terms of payment thereof shall be given by the clerk or designee in accordance with the provisions of Wis. Stats. §§ 66.60(7), 66.60(8)(d) and 106-283, by publication of a class 1 notice under Wis. Stats. ch. 985 in the assessment district and by mailing to every person whose property is affected by such special assessment and whose mailing address is known or can be determined with reasonable diligence.

(Code 1986, § 8.091(4) , Ord. 2023-12)

Sec. 106-285. Lien.

(a) Any special assessment levied under this division shall be a lien against the property assessed from the date of the final resolution determining the amount of such levy.

(Code 1986, § 8.091(5))

Sec. 106-286. Appeals.

(a) The provisions of Wis. Stats. §§ 66.60(12) and 66.62(2) relating to appeals shall apply to any special assessment levied under this division.

(Code 1986, § 8.091(6))

Secs. 106-287--106-310. Reserved.

DIVISION 4. CONSTRUCTION BY CITY

Sec. 106-311. Authorized.

(a) Any class of public construction or any part thereof may be done directly by the city and its employees pursuant to Wis. Stats. § 62.15(1), without submitting the work for bids.

(Code 1986, § 8.10)

Secs. 106-312--106-340. Reserved.

ARTICLE VIII. NUMBERING SYSTEM

Sec. 106-341. Numbering of buildings required.⁵

(a) The owner, agent or person in possession of every building in the city shall number such building in the manner provided in this article.

(Code 1986, § 8.11(1))

Sec. 106-342. Assignment of numbers.

(a) The city shall assign or cause to be assigned to each lot, parcel of land or building its proper number, based on a system designated by the council, and shall inform the owner,

⁵ **Cross references:** Buildings and building regulations, ch. 18.

agent or person in possession of such premises as to the number thereof at any time upon demand.

(Code 1986, § 8.11(2))

Sec. 106-343. Size, color and location of numbers.

(a) All numbers placed on houses and buildings shall be not less than three inches in height, including background, shall be distinctly legible, of a color which contrasts with the background, and shall be posted in a conspicuous place on the front of each house, building or premises, so as to be easily seen and read from the public way. The number proper, where a background is used, shall be not less than two inches in height.

(Code 1986, § 8.11(3))

Sec. 106-344. Altering assigned number.

(a) Whenever any building has been numbered or renumbered in accordance with the provisions of this article, such number shall not be changed or altered without the consent of the clerk or designee.

(Code 1986, § 8.11(4))

Sec. 106-345. Reassignment or correction of numbers.

(a) The clerk or designee shall adjust and reassign such building numbers as may be required from time to time. Where there is a mistake or conflict in numbers, the clerk-treasurer shall direct and make the proper adjustment of the numbers.

(Code 1986, § 8.11(5))

Secs. 106-346 – 106-379. Reserved

**ARTICLE IX. WIRELESS TELECOMMUNICATIONS FACILITIES IN THE
RIGHT-OF-WAY**

Sec. 106-380: Definitions

(a) For the purposes of this Chapter, the terms below shall have the following meanings:

Administrator means the Municipal Services Director or designee.

Application means a formal request, including all required and requested documentation and information, submitted by an applicant to the City of Evansville for a permit.

Applicant means a person or entity filing an application for a permit under this Article.

Base Station, consistent with 47 C.F.R. § 1.6100(b)(1), means a structure or wireless equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers or any equipment associated with a tower.

Eligible Facilities Request, consistent with 47 C.F.R. § 1.6100(b)(3), means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

FCC means the Federal Communications Commission.

Governmental Pole, consistent with Wis. Stat. § 66.0414(1)(n), means a utility pole that is owned or operated by the City of Evansville in the right-of-way.

Historic District, consistent with Wis. Stat. § 66.0414(3)(c)5, means a right of way adjacent to, or an area designated as historic by the City of Evansville, listed on the national register of historic places in Wisconsin, or listed on the state register of historic places.

Right-of-Way means the surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, public sidewalk, or public utility easement over which the City of Evansville exercises any rights of management and control or in which the City of Evansville has an interest.

Small Wireless Facility, consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:

- (1) The structure on which antenna facilities are mounted, measured from ground level:
 - i. is 50 feet or less in height, or
 - ii. is no more than 10 percent taller than other adjacent structures, or
 - iii. is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;

- (2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration under 47 C.F.R. part 17;
- (5) The facility is not located on Tribal land as defined in 36 C.F.R. § 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

Support Structure means any structure in the right-of-way (other than an electric transmission structure) capable of supporting wireless equipment, including a utility pole, a wireless support structure as defined in Wis. Stat. § 66.0414(1)(zp), or a base station.

Tower, consistent with 47 C.F.R. § 1.6100(b)(9), means any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

Transmission Equipment, consistent with 47 C.F.R. § 1.6100(b)(9), means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Underground District, consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated by the City of Evansville in which all pipes, pipelines, ducts, wires, lines, conduits, or other equipment, which are used for the transmission, distribution, or delivery of electrical power, heat, water, gas, sewer, or telecommunications equipment, are to be located underground.

Utility Pole, means a pole that is used in whole or in part by a communications service provider; used for electric distribution, lighting, traffic control, signage, or a similar function; or used for the collocation of small wireless facilities. “Utility pole” does not include a wireless support structure or an electric transmission structure.

Utility Pole for Designated Services means a utility pole owned or operated in a right-of-way by the City of Evansville that is designed to, or used to, carry electric distribution lines, or cables or wires for telecommunications, cable, or electric service.

Wireless Equipment means an antenna facility at a fixed location that enables wireless services between user equipment and a communications network, and includes all of the following: (a) equipment associated with wireless services; (b) radio transceivers, antennas, or coaxial, metallic, or fiber-optic cable located on, in, under, or otherwise adjacent to a support structure; (c) regular and backup power supplies; (d) equipment that is comparable to equipment specified in this definition regardless of technical configuration. “Wireless Equipment” does not include (a) the structure or improvements on, under, or within which the equipment is collocated; (b) wireline backhaul facilities; or (c) coaxial, metallic, or fiber-optic cable that is between utility poles or wireless support structures or that is not adjacent to a particular antenna. The definition of “Wireless Equipment” in this ordinance is consistent with the definition of “wireless facility” in Wis. Stat. § 66.0414(1)(z).

Wireless Facility or Facility means an installation at a fixed location in the right-of-way consisting of wireless equipment and the support structure, if any, associated with the wireless equipment.

Wireless Infrastructure Provider means any person or entity, other than a wireless services provider, that builds or installs wireless communications transmission equipment, antenna equipment, or wireless support structures.

Wireless Permit or Permit means a permit issued pursuant to this Article and authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless facility is proposed to be attached.

Wireless Provider means a wireless infrastructure provider or a wireless services provider.

Wireless Regulations means those regulations adopted pursuant to Section 160-384(b)(1) to implement the provisions of this Article.

Wireless Services means any service using licensed or unlicensed wireless spectrum, including the use of a Wi-Fi network, whether at a fixed location or by means of a mobile device.

Wireless Service Provider means a person or entity that provides wireless services.

Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002 and Wis. Stat. § 66.0414. In the event that any referenced statutory section is amended, creating a conflict between the definition as set forth in this Article and the amended language of the referenced statutory section, the definition in the referenced statutory section, as amended, shall control.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-381: Purpose

(a) In the exercise of its police powers, the City of Evansville has priority over all other uses of the right-of-way. The purpose of this Article is to provide the City of Evansville with a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the right-of-way consistent with the City of Evansville's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless facilities. The City of Evansville recognizes the importance of wireless facilities to provide high-quality communications and internet access services to residents and businesses within the City of Evansville. The City of Evansville also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, Wis. Stat. § 196.58, and Wis. Stat. § 66.0414, as amended, and this Article shall be interpreted consistent with those provisions.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-382: Scope

(a) **Applicability.** Unless exempted by subsection (b), below, every person who wishes to place a wireless facility in the right-of-way or modify an existing wireless facility in the right-of-way must obtain a wireless permit under this Article.

(b) **Exempt Facilities.** The provisions of this Article (other than Sections 160-139 thru 160-392) shall not be applied to applications for the following:

- (1) Installation, maintenance, operation, or replacement of a small wireless facility strung on cables between two existing utility poles in compliance with the National Electrical Safety Code, provided that the small wireless facility does not exceed 24 inches in length, 15 inches in width, and 12 inches in height and has no exterior antenna longer than 11 inches.
- (2) Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (3) Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the City of Evansville. See Section 13 of this Chapter.

- (3) Placement or modification of a wireless facility by City of Evansville staff or any person performing work under contract with the City of Evansville.
- (4) The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.
- (5) Routine maintenance of a wireless facility.

(c) **Placement on City of Evansville-Owned or –Controlled Support Structures.**

Any applicant who wishes to place wireless equipment on a support structure owned or controlled by the City of Evansville, including governmental poles and utility poles for designated services, must obtain a wireless permit under this Article and enter into an agreement with the City of Evansville. The agreement shall include provisions regarding make-ready work and specify the compensation to be paid to the City of Evansville for use of the support structure in accordance with the standards set out in Wis. Stat. § 66.0414(4), as amended. Unless prohibited by state or federal law, the person or entity seeking the agreement shall reimburse the City of Evansville for all costs the City of Evansville incurs in connection with its review of and action upon the request for an agreement.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-383: Nondiscrimination

(a) In establishing the rights, obligations, and conditions set forth in this Article, it is the intent of the City of Evansville to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

(Ord. 2019-11, Ord. 2021-01, Ord 2021-02)

Sec. 106-384: Administration

- (a) **Administrator.** The Administrator is responsible for administering this Article.
- (b) **Powers.** As part of the administration of this Article, the Administrator may:
 - (1) Recommend for approval wireless regulations governing the placement and modification of wireless facilities in addition to but consistent with the requirements of this Article, including regulations governing collocation, the resolution of conflicting applications for placement of wireless facilities, and aesthetic standards. The regulations must be adopted by Common Council.

- (2) Interpret the provisions of the Article and the wireless regulations.
- (3) Develop forms and procedures for submission of applications for wireless permits consistent with this Article.
- (4) Collect any fee required by this Article.
- (5) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations.
- (6) Issue notices of incompleteness or requests for information in connection with any wireless permit application.
- (7) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
- (8) Coordinate and consult with other City of Evansville staff, committees, and governing bodies to ensure timely action on all other required permits under Section 160-385(b)(11) of this Article.
- (9) Negotiate agreements for the placement of wireless equipment on governmental poles or utility poles for designated. Such agreement shall be approved by Common Council.
- (10) Subject to appeal as provided in Section 160-387(e) of this Article, determine whether to grant, grant subject to conditions, or deny an application.
- (11) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(Ord. 2019-11, Ord. 2021-01, Ord 2021-02)

Sec. 106-385: Application

(a) **Format.** Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.

- (b) **Content.** In order to be considered complete, an application must contain:
- (1) All information required pursuant to the wireless regulations.
 - (2) A completed application cover sheet signed by an authorized representative of the applicant.

- (3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative and of all duly authorized representatives and consultants acting on behalf of the applicant with respect to the filing of the application. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless facility must also be provided.
- (4) A statement of which state or federal deadline(s) apply to the application.
- (5) A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.
- (6) A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- (7) A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.97 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.
- (8) A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.13, as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
- (9) A structural report performed by a professional engineer registered in the State of Wisconsin evidencing that the support structure on which the wireless equipment will be mounted will structurally support the equipment, or that the structure may and will be modified to meet structural requirements, in accordance with applicable codes, including the National Electric Safety Code and the National Electric Code.

- (10) If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. This is not required if the support structure is a governmental pole or a utility pole for designated services, as permission will be evidenced by the executed attachment agreement referenced in Section 160-382(c).
- (11) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.
- (12) Payment of all required fees.
- (c) **Waivers.** Requests for waivers from any requirement of this Section 160-385 shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the City of Evansville will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.
- (d) **Eligible Facilities Requests.** If the applicant asserts in writing that its application is an eligible facilities request, the City of Evansville will only require the applicant to provide that information set forth in subsection (b) above to the extent reasonably related to determining whether the request meets the definition of “eligible facilities request” under 47 C.F.R. § 1.6100(b)(3). The applicant will be required to submit evidence that the application relates to an existing tower or base station that has been approved by the City of Evansville. Before and after 360-degree photo simulations must be provided with detailed specifications demonstration that the modification does not substantially change the physical dimensions of the existing approved tower or base station.
- (e) **Fees.** Applicant must pay an application fee in an amount set by the common council to allow recovery of the City of Evansville’s direct costs of processing the application, subject to the limits contained in state and federal law, including Wis. Stat. § 66.0414(3)(d), as amended.
- (f) **Public Records.** Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the City of Evansville shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and the Administrator’s determination that the applicant’s request for confidential or proprietary

treatment of the application materials is reasonable. The City of Evansville shall not be required to incur any costs to protect the application from disclosure.

(Ord. 2019-11, Ord. 2021-01, Ord 2021-02)

Sec. 106-386: General Standards

(a) **Generally.** Wireless facilities shall meet the minimum requirements set forth in this Article and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) **Regulations.** The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Article are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Article and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) **Standards.**

(1) Wireless facilities shall be installed and modified in a manner that:

- (A) Minimizes risks to public safety;
- (B) Ensures that placement of wireless equipment on existing support structures is within the tolerance of those structures;
- (C) Ensures that new support structures will not be installed when the applicant has the right to place its wireless facility on an existing structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;
- (D) Avoids installation or modification of a utility pole that would exceed the height limits set forth in Wis. Stat. § 66.0414(2)(e)2, as amended;
- (E) Avoids placement of aboveground wireless facilities in historic districts and underground districts (except for placing equipment on or replacing pre-existing support structures, so long as the collocation or replacement reasonably conforms to the design aesthetics of the original support structure);
- (F) Avoids placement of wireless facilities in residential areas when commercial or industrial areas are reasonably available;
- (G) Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;

- (H) Ensures that the City of Evansville bears no risk or liability as a result of the installations; and
 - (I) Ensures that applicant's use does not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare; inconvenience the public; interfere with the primary uses of the right-of-way; or hinder the ability of the City of Evansville or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.
- (2) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.
 - (3) Wireless facilities and equipment shall minimize visual impacts, and ensure compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law:
 - (A) A new wireless facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, dark greens, dark browns, or other muted colors, earth tones, and subdued hues shall be used.
 - (B) Wireless equipment placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts.
 - (C) Wiring and cabling shall blend with the support structure or and concealed to the greatest extent possible.
- (d) **Standard Permit Conditions.** All wireless permits, whether granted under this Article or deemed granted by operation of state or federal law, are issued subject to the following minimum conditions:
- (1) **Compliance.** The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.
 - (2) **Construction Deadline.** The permit holder shall commence the activity authorized by the permit no later than 365 days after the permit is granted and shall pursue work on the activity until completion.
 - (3) **Contact Information.** The permit holder shall at all times maintain with the City of Evansville accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

(4) **Emergencies.** The City of Evansville shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

(5) **Indemnification.** The permit holder, by accepting a permit under this Article, agrees to indemnify and hold harmless the City of Evansville, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the “Indemnified Parties”) from and against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Article, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.

(6) **Adverse Impacts on Adjacent Properties.** The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.

(7) **General Maintenance.** The wireless facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

(8) **Graffiti Removal.** All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the City of Evansville.

(9) **Relocation.** At the request of the City of Evansville pursuant to Section 160-389 of this Article, the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.

(10) **Abandonment.** The permit holder shall promptly notify the City of Evansville whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section 160-390 of this Article.

(11) **Restoration.** A permit holder who removes or relocates a facility from the right-of-way or otherwise causes any damage to the right-of-way in connection with its activities under this Article must restore the right-of-way in accordance with Section 160-391 of this Article.

(12) **Record Retention.** The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the City of Evansville cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder’s files, any ambiguities or uncertainties that would be

resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

(13) **Radio Frequency Emissions.** Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(14) **Certificate of Insurance.** A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-387: Application Processing and Appeal

(a) **Rejection for Incompleteness.** Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d) and Wis. Stat. § 66.0414(3)(c), as amended.

(b) **Processing Timeline.** Wireless permit applications (including applications for other permits under Section 160-385(b)(11) necessary to place or modify the facility) and appeals will be processed in conformity with the deadlines set forth in state, local, and federal law, as amended, unless the applicant and the City of Evansville agree to an extension.

(c) **Public Hearing.** Prior to the approval or denial of an application, a public hearing shall be held for public comment. The public hearing will be held at a City of Evansville Plan Commission meeting that allows for the issuing of a timely decision on the application pursuant to the terms of this article and pursuant to Wisconsin Statutes. The Administrator shall give public notice at least seven days prior to public hearing by publication of a class 1 notice under Wis. Stat. § ch. 985. In addition, at least ten days before the public hearing, the public notice shall be mailed to all property owners within 250 feet.

(d) **Written Decision.** In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section 160-386(d), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record. If the permit is for a small wireless facility, the applicant may cure the deficiencies identified in the written decision denying the permit and re-submit the application no later than 30 days after receipt without being required to pay an additional application fee.

(e) **Appeal to Common Council.** Any person adversely affected by the decision of the Administrator may appeal that decision to the Common Council, which may decide the issues de novo, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. If an applicant contends that

denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the documentation accompanying the appeal must include that contention and provide all evidence on which the applicant relies in support of that claim.

(f) **Deadline to Appeal.**

- (1) Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.
- (2) All other appeals not governed by Subsection(f)(1), above, must be filed within seven business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

(g) **Decision Deadline.** All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable deadline.

(Ord. 2019-11, Ord. 2021-01, Ord 2021-02)

Sec. 106-388: Revocation

(a) **Revocation for Breach.** A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the facilities for which the permit has been revoked must be removed within 30 days of receipt of written notice from the City of Evansville. All costs incurred by the City of Evansville in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.

(b) **Failure to Obtain Permit.** Unless exempted from permitting by Section 160-382(b) of this Article, a wireless facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the City of Evansville. All costs incurred by the City of Evansville in connection with the notice, removal, and right-of-way restoration shall be paid by the entities who own or control any part of the wireless facility.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-389: Relocation

(a) Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the City of Evansville, permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future City of Evansville use of the right-of-way; a public improvement undertaken by the City of Evansville; an economic development project in which the City of Evansville has an interest or investment; when the public

health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Sec. 106-390: Abandonment

(a) **Cessation of Use.** In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City of Evansville and do one of the following:

- (1) Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Article have been lawfully assumed by another permit holder
- (2) Submit to the Administrator a proposal and instruments for dedication of the facilities to the City of Evansville. If a permit holder proceeds under this section, the City of Evansville may, at its option:
 - (A) Accept the dedication for all or a portion of the facilities;
 - (B) Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section 160-391; or
 - (C) Require the permit holder to post a bond or provide payment sufficient to reimburse the City of Evansville for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section 160-391.
- (3) Remove its facilities from the right-of-way within one year and perform the required restoration under Section 160-391, unless the Administrator waives this requirement or provides a later deadline.

(b) **Abandoned Facilities.** Facilities of a permit holder who fails to comply with Section 160-390(9) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City of Evansville may, at its option:

- (1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
- (2) take possession of the facilities; and/or
- (3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

(Ord. 2019-11, Ord. 2021-01, Ord 2021-02)

Sec. 106-391: Restoration

(a) In the event that a permit holder removes or is required to remove a wireless facility from the right-of-way under this Article (or relocate it pursuant to Section 160-389), or otherwise causes any damage to the right-of-way in connection with its activities under this Article, the permit holder must restore the right-of-way to its prior condition in accordance with City of Evansville specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this section, the City of Evansville at its option may do such work after providing 15 days' written notice to the permit holder. In that event, the permit holder shall pay to the City of Evansville, within 30 days of billing therefor, the cost of restoring the right-of-way.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Section 106-392: Severability

(a) If any section, subsection, clause, phrase, or portion of this Article is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Article, which shall remain in full force and effect.

(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

Chapter 110

SUBDIVISIONS AND OTHER LAND DIVISIONS¹

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¹ **Cross references:** Buildings and building regulations, ch. 18; flood area zoning, ch. 54; planning, ch. 94; streets, sidewalks and other public places, ch. 106; utilities, ch. 126; zoning, ch. 130; manufactured homes and trailers, § 130-1241.

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ARTICLE I. IN GENERAL

Sec. 110-1. Intent and purpose of chapter.

This chapter is intended to guide the development of land within the corporate limits and extraterritorial plat approval jurisdiction of the city in order to promote the public health, safety and general welfare, to encourage the most appropriate use of land, to provide the best possible living environment for people and to conserve prime agricultural land and the value of buildings placed upon land by:

- (1) Furthering the orderly layout and use of land.
- (2) Ensuring proper legal description and proper monumenting of land.
- (3) Preventing overcrowding of land and avoiding undue concentration of population.
- (4) Lessening congestion in the streets and highways.
- (5) Securing safety and protecting publicly and privately owned structures from fire, panic, flooding and other dangers.
- (6) Providing adequate light and air.
- (7) Facilitating adequate provision for transportation (including motor vehicle, bicycle and pedestrian transportation), water, sewerage, schools, parks, playgrounds, open space, stormwater drainage, the conservation of land, natural resources, scenic and historic sites, energy and other public requirements.
- (8) Facilitating further resubdivision of larger parcels into appropriate smaller parcels of land.
- (9) Ensuring enforcement of the development concepts and standards delineated in the city's comprehensive plan, official map and chapters 18 and 130, including the prevention of locating incompatible land uses adjacent to each other.
- (10) Minimizing the public costs of providing necessary services to the people who will live or work in the new development.

(Code 1986, § 18.01, Ord. 2005-27)

Sec. 110-2. Definitions.²

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:

² **Cross references:** Definitions generally, § 1-2.

Certified survey map means a map of a land division which is not a subdivision, including a map that combines a greater number of existing parcels into a lesser number of parcels.

Condominium plat means a plat of a condominium as defined in Wis. Stats. § 703.04(2).

Developer and divider mean any person requesting review or approval of a proposed certified survey map, subdivision plat or condominium plat.

Extraterritorial plan approval jurisdiction means the jurisdiction of the city beyond its corporate limits as defined in Wis. Stats. § 236.02(5). As of the date of enactment of the ordinance from which this chapter is derived, such jurisdiction extended 1 1/2 miles from the city limits.

Final plat means a map or plan of a subdivision prepared for recording and any accompanying material as required by Wis. Stats. ch. 236, or a map or plan of a condominium and any accompanying material as required by Wis. Stats. ch. 703.

Land division means the division of a lot, parcel, tract or interest in land by the owner or owner's agent for the purpose of transfer of ownership or building development or which creates the need for a public dedication or reservation of land or for public facilities or improvements. For purposes of compliance with this chapter other than survey requirements, land division includes condominium plats.

Major street means any street designated as an arterial or collector on the city master plan.

Parcel means contiguous land under the control of a divider, not separated by streets, highways or railroad rights-of-way.

Plat means a map of a subdivision or a condominium.

Preliminary plat or map means a map delineating the salient features of a proposed land division submitted to the city clerk for preliminary consideration and review by the plan commission and city council.

Redivide, replat and resubdivide mean the process of changing the boundaries of a recorded certified survey map, plat, lot or outlot within a recorded plat or certified survey map. The legal division of a larger block, lot or outlot within a recorded plat without changing the exterior boundaries of such block, lot or outlot is not a replat or resubdivision, but is a land division, subdivision or condominium plat if it falls within the definition of the term "condominium plat," "land division" or "subdivision."

Street means a public way for vehicular and pedestrian traffic, however designated, and includes, without limitation because of enumeration, a street, highway, thoroughfare, parkway or throughway.

Subdivision means a land division which creates five or more parcels or building sites, or successive land divisions which create five or more parcels or building sites within a period of five years.

(Code 1986, § 18.02, Ord. 2005-27)

Sec. 110-3. Compliance with chapter.

(a) *Generally.* Except as specifically provided in sections 110-4, 110-31 and 110-32, no person shall divide, redivide, subdivide, file or record a plat or replat or resubdivide land within the city or its extraterritorial plat approval jurisdiction without complying with the applicable provisions of Wis. Stats. chs. 236 and 703, which are incorporated in this chapter as if fully set forth, all applicable city ordinances, including the city master plan, official map, chapters 18 and 130, and all applicable ordinances of other municipalities having jurisdiction over the area and the applicable rules and regulations of the state departments of transportation, natural resources and workforce development relating to safety of access to state trunk highways and connecting streets, plumbing or sanitary sewer facilities and land divisions adjacent to public waters.

(b) *Survey requirements.* Except when a variance is granted under section 110-51, land divisions shall comply with the survey requirements of Wis. Stats. § 236.34 relating to certified survey maps, or of Wis. Stats. § 703.11 relating to condominium plats, as applicable. Subdivision plats shall comply with all of the requirements of Wis. Stats. ch. 236, including survey requirements.

(c) *Number of principal structures on lot; condominiums.* No person shall construct more than one principal structure on a lot, except as permitted under section 130-675(1) or chapter 30, article VIII, division 18. No person shall record a condominium plat, an amendment to a condominium plat or a declaration of condominium as defined in Wis. Stats. ch. 703 without first complying with the provisions of this chapter. It shall not be necessary to file or record a separate certified survey map or subdivision plat for a condominium development which complies with this chapter, Wis. Stats. ch. 703, and chapters 18 and 130 if such condominium development does not involve the division of a lot, parcel or tract of land.

(Code 1986, § 18.03)

Sec. 110-4. Exceptions.

The following are not subject to the provisions of this chapter, insofar as this chapter may apply to divisions of less than five parcels:

- (1) Transfers by will or pursuant to city order.
- (2) Leases for a term of ten years or less.
 - (3) Mortgages.
 - (4) Easements.
 - (5) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by Wis. Stats. ch. 236, this chapter or chapters 18 and 130.

(Code 1986, § 18.30)+

Secs. 110-5--110-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT³

DIVISION 1. GENERALLY

Sec. 110-31. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to section 1-11.

(Code 1986, § 18.33)

Sec. 110-32. Land divider's agreements.

(a) *Generally.* Developers shall reimburse the city for all administrative, planning, engineering and legal service costs incurred in map or plat review and shall execute the agreements and file the securities required in this section. This section shall not apply to an application for approval of a plat or map of territory located outside of the city limits but within the area of the city's jurisdiction to review and approve extraterritorial land divisions.

(b) *Preliminary land divider's agreement.*

- (1) *Execution and contents.* At the time of filing a preliminary application under section 110-82, the developer shall execute for the benefit of the city an agreement agreeing to pay and providing adequate security guaranteeing payment of the cost of review of the preliminary application and the final plat or map by the plan commission and council, including, without being limited by enumeration, legal, engineering, planning and general administrative costs.
- (2) *Evidence of agreement.* No preliminary application shall be processed by the city until a preliminary land divider's agreement is executed and filed with the city clerk and the required security, approved by the city administrator or his or her designee, is provided.
- (3) *Adoption of model agreement.* The council may from time to time adopt a model preliminary developer's agreement. A copy of the model agreement shall be kept on file in the office of the city clerk.

(c) *Final land divider's agreement.*

- (1) *Execution and contents.* At the time of submission of the final map or plat under section 110-121, the developer shall execute a final developer's agreement agreeing to pay and providing adequate security guaranteeing payment to the city of the costs of required public improvements described in section 110-193,

³ **Cross references:** Administration, ch. 2.

including, without limitation by enumeration, the legal, engineering, general administrative and construction costs.

- (2) *Utility easement policy.* Before any development or subdivision is given approval by the city, any utility easements required by the municipal services department shall be shown on a land division map and copies given to the municipal services department for review. The municipal services department will sign the copies of the land division map to show its approval and return copies to the developer and to the plan commission. Until signed copies are returned from the municipal services department, there is no approval. The certified survey map is to show all easements as approved on the land division map and a copy of the certified survey maps supplied to the municipal services department as soon as it is recorded. Should any changes be made by the developer, engineer or city, this entire process shall start over. Any and all costs involved shall be paid by the developer. The municipal services department shall be contacted directly by the developer to be given any and all needed forms, paperwork, and drawings for review. Signed copies will be returned to the developer, which will constitute receipt by water and light department. Should any changes be made by the developer, engineer or city, this entire process shall start over. Any and all costs involved shall be paid by the developer.
- (3) *Evidence of agreement.* No final map or plat shall be reviewed or processed until the city clerk states on the face of the proposed final map or plat that the contract required by this section has been executed and the required security provided.
- (4) *Adoption of model agreement.* The council may from time to time adopt a model final land divider's agreement. A copy of the model agreement shall be kept on file in the office of the city clerk.

(Code 1986, § 18.08, Ord. 2005-27, Ord. 2014-02)

Secs. 110-33--110-50. Reserved.

DIVISION 2. VARIANCES

Sec. 110-51. Authorized; restrictions.

When in the judgment of the city council it would be inappropriate to apply literally a provision of this chapter because the development is located outside the corporate limits or because extraordinary hardship would result, it may waive or vary such provision so that substantial justice may be done and the public interest secured, provided the requirement of filing and recording of a subdivision or condominium plat or certified survey map shall not be waived.

(Code 1986, § 18.31)

Secs. 110-52--110-80. Reserved.

ARTICLE III. PLATS

DIVISION 1. GENERALLY

Sec. 110-81. Preapplication conference.

Prior to filing of an application for approval of a preliminary plat or certified survey map, the land divider shall consult with the city administrator, zoning administrator, and superintendent of municipal services and may consult with the municipal services committee and plan commission for advice and assistance. A preliminary plat or map shall not be submitted for review at the preapplication conferences, but the developer shall present a general development plan of the total undeveloped land area which he owns or controls for development purposes, showing approximate locations of all existing or proposed public streets and approximate lot sizes on a topographical map drawn to the scale of one inch equals 100 feet with contours at intervals of two feet. If the proposed development was included on a previously submitted general development plan, part of which has been recorded as a final subdivision plat or certified survey map, the development map shall designate the areas so approved and identify any changes in street or lot sizes or locations made necessary or desirable by such changes. This step does not require formal application, a fee or filing of a plat or map, but is intended to inform the subdivider of the objectives of this chapter and the master plan and official map and to assist the city and the land divider to informally reach mutually satisfactory conclusions regarding the general program and objectives of development of the entire area owned or controlled by the applicant. This section shall not apply to an application for approval of a plat or map of territory located outside of the city limits but within the area of the city's jurisdiction to review and approve extraterritorial land divisions.

(Code 1986, § 18.15, Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Sec. 110-82. Form of preliminary application.

Before filing an application for approval of a final subdivision plat or certified survey map, the owner or the owner's agent shall file with the city clerk an application clearly marked "Preliminary Certified Survey Map" or "Preliminary Plat." The application shall be made on official forms available at the city clerk's office and shall include all land which the applicant proposes to divide and the name and address of the owner. The application shall be accompanied by a minimum of ten copies of the proposed preliminary plat or map prepared by a licensed land surveyor at a convenient scale of not more than one inch equals 100 feet. Plats or maps shall be numbered in sequence if more than one sheet is used. At the time of submission of the application, the applicant shall pay a fee in the amount that the city council shall establish and may from time to time modify by resolution, as set forth in appendix A. This section shall not apply to an

application for approval of a plat or map of territory located outside of the city limits but within the area of the city's jurisdiction to review and approve extraterritorial land divisions.

(Code 1986, § 18.16, Ord. 2005-27)

Sec. 110-83. Attachments to preliminary application.

(A) In addition to the plat or map described in section 110-82, the following attachments shall accompany the preliminary application:

- (1) The environmental assessment checklist. See section 110-222.
- (2) A list of development projects for which the applicant has received approval in the last five years and any outstanding obligations on such projects (subdivisions and condominiums only).
- (3) The preliminary land divider's agreement. See section 110-32(b).
- (4) The overall development plan if required under section 110-223.
- (5) A traffic impact report if required under section 110-106.

(B) This section shall not apply to an application for approval of a plat or map of territory located outside of the city limits but within the area of the city's jurisdiction to review and approve extraterritorial land divisions.

(Code 1986, § 18.17(2); Ord. No. 2003-12, § 1, 10-14-2003, Ord. 2005-27, Ord. 2006-31)

Sec. 110-84. Land divisions created by successive divisions.

When it is not practicable to require that a final plat or map of a land division created by successive divisions be filed in accordance with this chapter, the city council may, in lieu thereof, order an assessor's plat to be made under Wis. Stats. § 70.27, and may assess the cost thereof as provided in such section or to the divider. Any such land division by assessor's plat shall comply with all provisions of this chapter to the extent that they may reasonably be applied.

(Code 1986, § 18.32)

Secs. 110-85--110-100. Reserved.

DIVISION 2. PRELIMINARY PLAT

Sec. 110-101. Preliminary Plat.

(A) Contents. The preliminary certified survey map or subdivision plat shall include, at a minimum, the following information:

- (1) Location of the property and adjacent properties, with street addresses and current and proposed zoning.
- (2) Names and approximate location and width of all existing adjoining streets.
- (3) Location and dimension of all boundary lines of the property, expressed in feet.
- (4) Two-foot contour intervals (subdivision plats).
- (5) Existing easements, water bodies, regional floodplain, wetlands, railroads, cemeteries, drainage ditches, bridges, rock outcroppings, areas in excess of 20 percent slope and other information required by the plan commission or its designee.
- (6) Approximate location and width of all proposed streets, alleys and other public ways and proposed street rights-of-way, including proposed names.
- (7) Approximate location of existing buildings.
- (8) Approximate location, dimensions and areas of all proposed or existing lots and outlets. All lots and blocks shall be numbered for reference.
- (9) Approximate location and dimensions of all property proposed to be set aside for park or playground use or other public or private reservation.
- (10) The location of proposed easements for utilities, drainageways, pedestrian ways, etc.
- (11) Name and address of the owner of land to be divided, the name and address of the developer if other than the owner, and the name, address and telephone number of the land surveyor.
- (12) Proposed name of the land division and signature of the owner or agent.
- (13) Date of the map or preliminary plat, scale and north arrow.
- (14) Name and location of any existing or proposed lake, pond or stream.
- (15) Proposed use of lots other than single-family residential use.

(B) Preparation. A land use planner, professional engineer, or professional land surveyor shall prepare the preliminary certified survey map or subdivision plat.

(C) Format. The preliminary plat shall be prepared according to the following format:

- (1) The sheet plan size shall be 24 inches by 36 inches or 18 inches by 24 inches (overall dimensions) with a 1 ½ inch margin on the binding (left) side and ½ inch margins on the other sides.
- (2) Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included.
- (3) The plat shall be legible showing all required information.
- (4) The plat shall be prepared using a scale necessary to show the required information. In most cases, a scale of 1 inch equal to 50 feet is appropriate.

Sec. 110-102. Preliminary review.

(a) *Determination of completeness.* Upon receiving an application, the city clerk shall immediately forward a copy of the application, including the plat or map, to the zoning administrator who shall determine if the application is complete or incomplete. If the application is deemed incomplete, the zoning administrator shall notify the applicant of the deficiencies and the applicant has six (6) months to submit the missing information to the zoning administrator or forfeit the application fee. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied.

(b) *Referrals.* Upon a determination of completeness, the zoning administrator shall immediately forward a copy of the application and plat or map to the municipal services committee, the city administrator, the city engineer, the superintendent of municipal services and other appropriate city departments, officers and agents. The application shall be referred first to the municipal services committee, unless it is an extra-territorial plat or map, and then to the plan commission for review and recommendation to the city council.

(c) *Recommendations by reviewing officials.* If the preliminary plat or map is submitted on or before the first Monday of a month (or the first Tuesday of a month in which the first Monday is a holiday) and determined to be complete, the municipal services committee will review the preliminary application at its regular meeting in such month, or else the committee will review the preliminary application at its subsequent regular meeting. Before such regular meeting of the municipal services committee, the reviewing officials shall review the proposed development with the applicant and be prepared to provide information and advice to the municipal services committee or plan commission as appropriate. Among the issues the reviewing officials and municipal services committee shall analyze is (1) whether existing municipal utility infrastructure can be extended to serve the subject property or additional utility infrastructure, such as a sanitary sewer lift station, must be upgraded or constructed, (2) the extent to which the plat or map allows for street access and, if appropriate, utility service to be extended in the future to any adjacent, undeveloped properties, and (3) the extent to which the plat or map adequately addresses regional storm water management.

(d) *Municipal services committee and plan commission recommendation to council.* The municipal services committee and plan commission shall review the preliminary application, obtain input from the reviewing officials, and recommend approval, conditional approval or denial to the council. After the mailing and publication of the notice under paragraph (d) and before making its recommendation to the council, the plan commission shall hold a public hearing on the preliminary application.

(e) *Property owner notification.* Except for extraterritorial land division reviews, the zoning administrator shall, at least ten days before the public hearing, mail notices to owners of all property within the city that is within 250 feet and to the clerk of any town or municipality that is within 250 feet of the perimeter of the proposed subdivision or certified survey map. Failure to mail such notices, provided it is unintentional, shall not invalidate proceedings under this section.

(f) *Notice of public hearing.* Except for extraterritorial land division reviews, the zoning administrator shall publish a notice of public hearing regarding a preliminary application that meets all of the notice requirements for an application to amend the official zoning map and/or zoning classification.

(g) *General basis for plan commission's recommendation and city council's decision.* The plan commission's recommendation and the city council's decision to approve, conditionally approve, or deny an application shall be based on whether the application, preliminary plat, environmental assessment and public hearing, plan commission recommendation, if applicable, or additional information demonstrates that the proposed land division meets the following objectives:

1. Compliance with the standards of this chapter and the Wisconsin Statutes 236.45(1);
2. Consistent with the city's zoning regulations;
3. Consistent with the city's comprehensive plan;
4. Consistent with the city's official map;
5. Consistent with the city's floodplain management regulations;
6. Consistent with any adopted neighborhood or small-area plan applicable to the territory of the land division;
7. Consistent with any covenants on the territory of the land division; and
8. In the public interest.

(h) *Review criteria.* To determine whether the proposal would be in the public interest, the plan commission and city council shall weigh and make findings regarding each of the following criteria:

1. Effects on local services, including: public road system, police and fire protection, utilities, and public schools;
2. Effects on the natural environment, including: riparian/wetland areas, soil erosion, vegetation and air pollution;
3. Effects on wildlife and wildlife habitat, including fisheries and mammals; and
4. Effects on public health and safety, including police and fire protection, traffic safety, and the presence of other known hazards (on-site and off-site) such as high-pressure natural gas lines, airports, railroads, overhead power lines, industrial activities, and nonmetallic mining activities.

(i) *Mitigation of negative effects of land division.* The city council may, as a condition of approval, require the applicant to mitigate potentially adverse impacts. An unmitigated adverse impact of a proposed land division may be grounds to deny approval of such land division. Conditions to minimize identified adverse impacts may include the following:

1. Reduce the number of lots to allow an acceptable amount of impact,

2. Reduce the territory included in the land division to allow an acceptable amount of impact;
3. Relocate or redesign a street(s),
4. Reconfigure a lot line(s),
5. Relocate or redesign an access point(s),
6. Redesign other elements as appropriate,
7. Require the applicant to pay for the construction of appropriate infrastructure (on- and off-site) or acquisition of municipal equipment to support the development, and
8. Other actions as appropriate.

(Code 1986, § 18.18, Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Sec. 110-103. Action by council.

(a) *Time for deciding preliminary application.* After reviewing the recommendations of the municipal services committee and plan commission and any negotiations by the city administrator or the city administrator's designee with the developer on changes deemed advisable and the kind and extent of public improvements, facilities or dedications which will be required, the council shall, within 90 days of the date on which the zoning administrator determines that a complete application has been submitted, approve, approve conditionally or reject the plat or map.

(b) *Content of Approval or Conditional Approval.* If the preliminary plat or map is approved, the zoning administrator shall prepare for the mayor's signature a decision letter that shall include, at a minimum, the following information:

1. A statement that the preliminary plat or map is approved or conditionally approved;
2. The date on which the zoning administrator determined that a complete application had been submitted;
3. A description of the project, including acreage and number of lots;
4. A statement of the conditions on approval of the plat or map, if any;
5. Findings for the public interest assessment and any findings that support the required mitigation;
6. Findings stating the consistency of the plat or map with the city's comprehensive plan, official map, floodplain management regulations, neighborhood or small-area plans, zoning, and covenants, if any;
7. A statement of the deadline for submitting the final plat or map and the consequences of failing to meet such deadline;
8. A list of all materials that must be submitted for review of the final plat or map.

9. Specifications for the final plat or map, including any requirements for the survey in a digital format;
10. A list of special features/statements, if any, that must be shown on the face of the final plat or map;
11. The amount, if any, of parkland being dedicated to the city;
12. The procedures and requirements when there is a deviation from the approved plat or map;
13. The procedure for filing the final plat or map;
14. A statement specifying under what conditions the city council may withdraw its approval;
15. A statement that amendments to this chapter enacted after the approval of the plat or map shall not affect the approval and that no additional conditions shall be imposed as a prerequisite to approval of the final plat or map;
16. A statement that the city's decision to approve the final plat or map may be appealed to a court of competent jurisdiction;
17. The date of the decision;
18. A signature block for the mayor.

(c) *Content of Denial.* If approval of a preliminary plat or map is denied, the zoning administrator shall prepare for the mayor's signature a decision letter that shall include the following information:

1. A statement that approval of the preliminary plat or map is denied;
2. The date on which the zoning administrator determined that a complete application had been submitted;
2. A description of the project, including acreage and number of lots;
3. Findings for the public interest assessment that support the decision;
4. Findings regarding the consistency or inconsistency of the project with the city's comprehensive plan, neighborhood or small-area plans, zoning, and covenants, if any;
5. Deficiencies in the proposal;
6. A statement that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
7. A statement that the city's decision may be appealed to a court of competent jurisdiction;
8. The date of the decision;
9. A signature block for the mayor.

(Code 1986, § 18.19, Ord. 2005-27, Ord. 2009-05, Ord. 2014-02)

Sec. 110-104. Effect of approval.

Preliminary plat or map approval shall entitle the developer to approval of the final plat or map if it conforms substantially to the approved preliminary plat or map or approved portion thereof, all conditions of approval have been met and all applicable laws, ordinances and regulations are complied with.

(Code 1986, § 18.20)

Sec. 110-105. Overall development plan.

When a proposed land division does not cover the entire parcel and the remainder has development potential, the applicant shall prepare and submit an overall development plan for the entire parcel as an attachment to the preliminary land division application. The submittal of an overall development plan does not bind future development of the remainder. The purpose of the overall development plan is to provide sufficient information to ensure that the development of the entire property will be coordinated and well conceived.

(Ord. 2005-27)

Sec. 110-106. Traffic impact report.

(a) *When required.* A traffic impact report shall be prepared when the number of trips per day of the proposed development at build-out is 750 or more. When the number of trips is 300 or more but less than 750, the city may require a traffic impact report when circumstances warrant such review.

(b) *Preparation.* When a traffic impact report is required, the applicant shall hire an engineer as approved by the city to prepare the report. The approved engineer shall have expertise in transportation planning.

(c) *Trip generation rates.* Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions.

(d) *Form and content.* The traffic impact report shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements:

- (1) existing traffic circulation conditions and patterns
- (2) anticipated traffic circulation conditions and patterns, including truck movements
- (3) effects of the project on traffic safety and efficiency
- (4) recommendations/alternatives to alleviate negative effects

(5) an executive summary
(Ord. 2006-31)

Secs. 110-107--110-120. Reserved.

DIVISION 3. FINAL PLAT

Sec. 110-121. Time limit for submission; referral to plan commission.

The final plat or certified survey map and such copies as shall be required shall be submitted to the city clerk within six months of approval of the preliminary plat or map. However, if approval of the preliminary map or plat must be obtained from another approving authority subsequent to preliminary approval by the city, the final map or plat shall be submitted within six months of such approval. The council may waive failure to comply with this requirement. The clerk shall immediately refer the final plat or map to the plan commission.

(Code 1986, § 18.21(1))

Sec. 110-122. Attachments; developer's letter of credit.

(a) In addition to the final plat or map, the following attachments shall accompany the final application:

- (1) The environmental assessment and supporting or additional data if required by the plan commission pursuant to section 110-222(d).
- (2) If the proposed development is not located within the city's urban service area, written approval of the appropriate county authorities for installation of the necessary water and sanitary sewage disposal facilities.
- (3) The developer's final agreement. See section 110-32(c).
- (4) Any other documents or information required by the plan commission or city council at the time of approval of the preliminary plat or map as a condition of approval of the final plat or map.

(b) The developer shall agree to prepay the engineering, inspection, administration and legal fees and the developer's share of the construction cost of the project by providing an irrevocable letter of credit for an amount equal to 100 percent of the estimated cost of the developer's share of the required improvements as determined by the city engineer. This letter of credit shall permit the city to draw thereon upon the signature of the city mayor and the city clerk only if a developer fails to make payment to the city or contractor as specified in the land divider's final agreement, and shall be approved by the city attorney. The letter of credit shall not be drawn on by the developer during the course of construction. The letter of credit shall be in effect for one year after

the acceptance of the project or whenever the developer can prove that all contractors, material suppliers and landowners have been paid in full and upon acceptance of the project to turn ownership and control of the improvements over to the city. The irrevocable letter of credit shall be in place before the developer embarks on any land disturbing activities. The developer shall provide the city with a list of all of its contractors at the construction drawing phase and shall update the list at the time of the release of the letter of credit.

(Code 1986, § 18.21(2); Ord. No. 2003-12, § 2, 10-14-2003)

Sec. 110-123. Review by plan commission.

The plan commission shall review the final plat or map and report its recommendations to the council within 40 days of its submission.

(Code 1986, § 18.21(3))

Sec. 110-124. Action by council.

(a) If public improvements, such as streets, sidewalks, sanitary sewers, water mains, or storm sewers will be constructed and dedicated to the city within the territory of the land division, the city council shall take no action on a final plat or map until the city engineer has approved or approved with conditions the construction plans for the subdivision or development. The city engineer shall submit a letter to the subdivider or developer and city clerk indicating the engineer's approval, approval with conditions, or disapproval of the construction plans, and if disapproved the reasons for such disapproval, with 30 days of receiving the construction plans from the subdivider or developer.

(b) If the city engineer approves or approves with conditions the construction plans or the city engineer's approval is not required because public improvements will not be constructed and dedicated to the city within the territory of the land division, the council shall approve or reject the final plat or map within 60 days of submission of the city engineer's letter or the date on which the zoning administrator determines that a complete application has been submitted, whichever is later, unless the time is extended by agreement with the subdivider or developer. Reasons for rejection shall be stated in the minutes of the council meeting and a copy thereof or a written statement of such reasons shall be given to the subdivider or developer.

(Code 1986, § 18.21(4), Ord. 2005-27, Ord. 2009-05)

Sec. 110-125. Inscription of approval.

If the original of the final subdivision plat or certified survey map has been filed with another approving authority, the divider may file a true copy of such land division in lieu of the original. However, before approval of the council will be inscribed on the original of the final plat or map, the surveyor or the developer shall certify the respects in which the original of the final land division differs from the true copy, and all modifications

must be first approved by the city council. Any additional security required by the council shall be posted prior to inscribing of approval by the city clerk. When the final plat or map has been approved by the council and all conditions imposed under this chapter have been met, the city clerk shall inscribe the city's approval on the final plat or map or true copy thereof.

(Code 1986, § 18.22)

Sec. 110-126. Appeal.

The applicant or an aggrieved person may appeal a final decision made pursuant to this chapter by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

(Ord. 2005-27)

Sec. 110-127. Payment of real estate taxes required before recording a certified survey map.

Prior to recording a certified survey map with the Rock County register of deeds, the county treasurer shall certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in the certified survey map.

(Ord. 2006-43)

Secs. 110-128--110-150. Reserved.

ARTICLE IV. DESIGN AND LAYOUT STANDARDS

Sec. 110-151. Applicability of article and design principles.

(a) *Applicability of article.* Except when a variance is granted in accordance with section 110-51, the design and layout standards set forth in this section shall apply to all land divisions, whether accompanied by plat or certified survey map.

(b) *General design principles.* Land divisions shall be designed to avoid adverse impacts. If avoidance of an adverse impact is not possible, then such adverse impact shall be minimized to an acceptable level, if possible, and mitigated as appropriate. An unmitigated adverse impact of a proposed land division may be grounds to deny approval of such land division.

(c) *Building sites.* Each buildable parcel shall include a satisfactory building site, which is properly related to topography and shall, to the extent possible, preserve the natural terrain, natural drainage, existing trees, and other existing vegetation. Lots not intended for building purposes shall be noted on the face of the plat or map along with the intended use.

(d) *Design objectives.* Land divisions shall be designed to attain the following objectives:

1. Minimize the amount of impervious surface;
2. Preserve the character of the surrounding area;
3. Preserve natural features, including wetlands, riparian habitat, and drainage ways;
4. Promote a walkable and bicycle-friendly community;
5. Create street continuity and an interconnected street network;
6. If the land division will include residential development, accommodate the housing needs of current and potential city residents by providing a variety of housing options, and include space for neighborhood-scale commercial development;
7. Include passive, traffic-calming features;
8. Promote other purposes in the city's comprehensive plan;
9. Promote other purposes in any approved neighborhood or small-area plan.

(Code 1986, § 18.10, Ord. 2005-27)

Sec. 110-152. Streets generally.

(a) *General layout.* Streets shall be designed and located in relation to existing and planned streets, topographical conditions and natural terrain features, such as streams and existing tree growth, public convenience and safety, and shall be appropriate for the proposed uses of the land to be served.

(b) *Width.* All streets shall be dedicated as shown on the official map. Existing public roads shall be considered as local streets with a street right-of-way of 66 feet and a half width of 33 feet. Half width dedication shall only be used when a land division abuts an existing public street that is not indicated as a collector or arterial. Table I in section 110-153 details minimum roadway design standards.

(c) *Additional right-of-way on existing streets.* Developments that adjoin existing streets that have a right-of-way of less than the minimum standard of the roadway as classified in the master plan and official map shall dedicate additional rights-of-way to meet those minimum standards.

(d) *Temporary turnarounds.* Where a street is terminated temporarily at the edge of a development and the street is longer than 240 feet or two lot widths, a temporary turnaround shall be provided by one of the following methods:

- (1) If the adjacent land is owned by the subdivider, a temporary turnaround can be provided through a restriction (temporary easement) on such land. Such a turnaround shall be constructed to city standards.

- (2) The subdivider may provide the required turnaround on one of the last lots fronting on the temporary dead-end street through use of a temporary easement running to the city. Such a turnaround shall be constructed to city standards.
- (e) [No change to the text of this paragraph.]
- (f) All streets shall be dedicated as shown on the official map. Existing public roads shall be considered as local streets with right-of-way of 66 feet and half width of 33 feet. Half width dedication shall only be used when a land division abuts an existing public street that is not indicated as a collector or arterial in the comprehensive plan. Table I in section 110-153 details minimum roadway design standards, except that upon request of the subdivider or developer, the plan commission may permit a narrower pavement width on a two-way local street.

(Code 1986, § 18.10(1), Ord. 2005-27)

Sec. 110-153. Minimum roadway design standards.

Minimum roadway design standards are as follows:

TABLE I. MINIMUM ROADWAY DESIGN STANDARDS

Standard Description															
Roadway Type											Cul-de-Sac			Temporary Dead End ⁴	
	ROW (Ft.)	Pavement Width E-E ¹ (Ft.)	Lane Width (Ft.)	Parking (Sides)	Sidewalks (Sides) ⁵	Min. Return Radius (Ft.)	Min. Radius (Ft.)	Min. Reverse Curve Tang. (Ft.)	Max Grade ³	Max Length (Ft.)	ROW (Ft.)	Dis. (Ft.)	Pavement Width E-E ¹ (Ft.)	Max. Length (Ft.)	Pavement Width E-E (Ft.)
Arteri	100	48	12	--	2	30	450	150	6%	--	--	--	--	1,000	44
Collector	80	36	12	2	2	20	450	150	6%	--	--	--	--	1,000	36
Local	66	32	10	2	2	20	200	100	9%	600	140	94	32	1,000	32

	One	48	18	10	1	2	20	200	50	9%	--	--	--	--	--	--
	Alley	24	18	--	--	--	10	--	--	--	--	--	--	--	--	--

1. Pavement width without curb and gutter (edge of pavement to edge of pavement).
2. If a vertical curve is under 500 feet radius, the maximum grade allowed is five percent minus 0.5 percent for each 50 feet of radius under 500 feet.
3. Minimum street grade 0.5 percent; shall not exceed standards, unless necessitated by topography and approved by the city council upon recommendation by the city engineer.
4. "T" type turnaround may be used. Turnarounds shall extend a minimum of 20 feet behind the back of the curb on the permanent street and be 20 feet wide. Turnarounds shall be paved.
5. The requirements for existing developments do not apply to one-way streets, listed under Sec. 122-63 (b), when the existing right-of-way is less than 30 feet in width. The City Engineer shall determine the side of the street for construction of sidewalk.

(Code 1986, ch. 18, table I, Ord. 2005-2, Ord. 2016-03)

Sec. 110-154. Intersections.

(a) *Alignment of streets.* Streets shall have continuous alignment at intersections, and street jogs or off-center intersections shall be avoided. Street jogs with centerline offsets of less than 150 feet shall not be allowed. On collectors and arterials, offsets of less than 600 feet shall not be allowed.

(b) *Angle of intersection.* Streets shall intersect as nearly as possible at right angles. No street shall intersect another street at less than an 80-degree angle.

(c) *Two-street maximum.* No more than two streets shall intersect at one point, unless approved by the city council subject to a fee established and from time to time amended by resolution, as set forth in appendix A.

(Code 1986, § 18.10(2), Ord. 2005-27)

Sec. 110-155. Alleys.

Alleys shall be continuous through blocks. Alleys in residential areas shall not be maintained by the city, unless the city agrees to do so in a written agreement approved by the city council.

(Code 1986, § 18.10(3))

Sec. 110-156. Easements.

(a) *Location and width of utility easements.* When necessary, easements for the installation of utilities shall be provided across lots or centered on rear or side lot lines. Easements shall be continuous from block to block. When an easement is centered on a rear or side lot line, the width of the easement in each lot shall be a minimum of eight feet. Easements across lots shall have a minimum width of ten feet.

(b) *Grading of utility easements; disturbing monuments.* Where the electric and communications facilities are to be installed underground, the utility easements shall be graded to within six inches of the final grade by the subdivider prior to the installation of such facilities, and earth fill, piles or mounds of dirt shall not be stored on such easement areas. Utility facilities, when installed on utility easements, whether overhead or underground, shall not disturb any monumentation in the plat. In cases where monumentation is disturbed, the utility shall bear the cost of the replacement. Failure to comply will be subject to a penalty as provided in Wis. Stats. § 236.32.

(c) *Plat restriction regarding utility easements.* Where the electric and communications facilities are to be installed underground, a plat restriction shall be recorded with the final plat or certified survey map stating that the final grade established by the subdivider on the utility easements shall not be altered by more than six inches by the subdivider or his agent or by subsequent owners of the lots, except with written consent of the utilities involved. The purposes of this restriction shall be to:

- (1) Notify initial and future lot owners of the underground facilities at the time of purchase.
- (2) Establish responsibility in the event of damage to such facilities.
- (3) Establish the need to alter such facilities. When the utility company uses a service application, such application should also notify the initial and subsequent lot owners of their responsibility regarding such underground facilities.

(d) *Drainage and greenway/environmental corridor easements.* Drainage and greenway/environmental corridor easements shall be established where a subdivision is traversed by a waterway, drainageway, channel or stream or mapped greenway/environmental corridor as required by the plan commission conforming substantially with the line of such watercourse. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the plan commission. Parallel streets or parkways may be required. Stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to accommodate the flow resulting from the 100-year rainfall event of any duration, such sizes and design details to be subject to review and approval by the city engineer and the park board.

(Code 1986, § 18.10(4))

Sec. 110-157. Blocks.

- (a) *Generally.* Blocks shall be designed based on the following principles:
1. Create street continuity and an interconnected street network;
 2. Foster bicycle and pedestrian travel;

3. Assure traffic safety;
4. Accommodate the special needs of the use contemplated; and
5. Take advantage of the opportunities or constraints posed by topography or natural features.

(b) *Single- and double-tier blocks.* Blocks with one tier of lots may be located on the perimeter of the subdivision or within the interior of the subdivision when the backs of such lots abut a green space or similar feature. Elsewhere, blocks shall consist of two tiers of lots.

(c) *Block dimensions.* A double-tier block shall not be longer than 1,500 feet or less than 240 feet between the nearest street right-of-way boundaries, except where necessary due to topography or other natural feature. The length of a single-tier block on the perimeter of the subdivision shall conform to the standards of a double-tier block, except where the street network from a previously developed area cannot be carried over into the proposed land division or when a street from the proposed land division cannot be carried over into the abutting vacant land due to topography and other similar factors. Where the backs of the lots on a single-tier block abut a linear green space that is narrower than three times the average width of the lots in the block, the block length shall not exceed 1,600 linear feet. There is no limitation on the length of a single-tier block where the backs of the lots on the block abut a non-linear green space (e.g., park, open space).

(d) *Mid-block sidewalks and paths.* If the length of a double-tier block exceeds 900 feet, the applicant may propose or the city council may require a mid-block sidewalk, paved bicycle/pedestrian path or unpaved pedestrian path within an easement or public right-of-way. The city council may require other mid-block sidewalks, paved bicycle/pedestrian paths or unpaved pedestrian path to provide bicycle/pedestrian access to public amenities, commercial or employment centers, or other areas that would attract bicyclists or pedestrians. If a mid-block sidewalk, paved bicycle/pedestrian path or unpaved pedestrian path crosses a street, the crossing shall be marked with cross walks and warning signs and shall be well lit to provide visibility.

(e) For purposes of this section, *single-tier block* means a block consisting of a row of lots that does not have another row of lots behind it, and *double-tier block* means a block consisting of two rows of lots back to back.

(Code 1986, § 18.10(5), Ord. 2005-27)

Sec. 110-158. Lots.

- (a) *Lot design standards.* Lots shall conform to the following standards:
1. No lot shall be divided by another parcel, by a public street right-of-way, or by a private road easement;
 2. No lot shall be divided by a municipal boundary;
 3. Each lot shall abut a public or private street that meets the standards of this chapter and provides legal and physical access;

4. Side lot lines shall be at substantially right angles to straight road lines and radial to curved road lines;
5. Each lot shall have an area sufficient to meet all design and development standards in this chapter and shall meet the lot size requirements of chapter 130.
6. Flag lots shall be avoided, and under no circumstances shall the stem of the parcel exceed 150 feet. For purposes of this clause, *flag lot* means a lot that consists of a larger area that is of a size and shape typical of a buildable lot and a narrow area protruding from the larger area.
7. Double-frontage lots may only be used to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography or orientation. Physical and legal access to a double-frontage lot shall only be provided off of the street with the least traffic-intensive street classification.

(b) *Buildable area.* Each lot intended to accommodate a building shall contain a suitable site for the intended use. For a lot intended for a single-family dwelling, the minimum building area is 1,600 square feet configured to accommodate a minimum building footprint of 900 square feet. Lots not intended for building purposes shall be so noted on the face of the plat or map along with the intended use.

(Code 1986, § 18.10(6), Ord. 2005-27)

Sec. 110-159. Coordination of street layout with streets in adjoining tracts.

Proposed streets shall be extended to the boundary lines of the tract to be platted or mapped. The arrangement of rights-of-way shall provide for the continuation of existing and proposed streets in adjoining tracts. Temporary culs-de-sac may be utilized if recommended by the plan commission.

(Code 1986, § 18.10(7))

Sec. 110-160. Sidewalks⁴

(a) *Required in residential developments and areas.* All public streets in new residential developments and areas shall have sidewalks constructed on both sides of the street.

(b) Reserved.

⁴ **Cross references:** Streets, sidewalks and public places, ch. 106.

(c) *Authority to require additional sidewalks.* The plan commission has the authority to require sidewalks for the safety of pedestrians in areas surrounding schools and other public buildings.

(d) *Payment of costs.* Sidewalks shall be constructed and paid for by the subdivision developer at the time of street construction, or the developer may choose to escrow funds to the city. Should the developer choose to escrow funds with the city, the city shall have the sidewalk installed when the plat reaches 50 percent buildout or within 18 months from the start of construction or total buildout, whichever comes first. The amount of required escrowed funds shall be derived from two separate bids from qualified contractors for installing the sidewalk 18 months into the future. Any amount remaining in the escrow account in excess of construction costs shall be refunded to the developer. If these construction costs exceed the amount in the account, that additional amount shall be paid by the developer.

(e) Reserved.

(f) *Culs-de-sac.* Sidewalks on culs-de-sac shall be constructed from the street corner to the beginning of the cul-de-sac bulb.

(g) *Construction specification.* Detailed specifications for sidewalk construction will be established by the city engineer. Unless the city engineer specifies otherwise, the general standards shall be as follows:

1. Five feet in width, except that if a block face has existing sidewalk that is less than five feet in width the new sidewalk on such a block face may match the width of the existing sidewalk, or as specified in the Construction Standards and Policies Manual.
2. At least four inches in depth, or as specified in the Construction Standards and Policies Manual.
3. Perpendicular curb ramps must be constructed at street intersections, or as specified in the Construction Standards and Policies Manual.
4. Drive apron, including the sidewalk sections behind the drive apron, is at least six inches in depth, or as specified in the Construction Standards and Policies Manual.

(h) *Required in commercial and office developments and areas.* For any land division that receives preliminary approval after March 31, 2006, sidewalk is required on the entire width of the side of each lot that faces the street if the lot is located in the local business district (B-1), central business district (B-2), community business district (B-3), regional business district (B-4), or planned office district (O-1). In the case of a corner lot, sidewalk is required on the entire widths of both sides of the lot that face the street, unless the plan commission allows sidewalk on only one side. Nothing in this section shall preclude the city from installing sidewalks in land divisions that received preliminary approval before April 1, 2006, nor shall the city be precluded from levying special assessments on benefited properties for the installation of sidewalks in such land divisions.

(i) *Required in industrial developments and areas.* Sidewalks are required on the entire length of the side of each lot that faces the street if the land use is listed as commercial, as per Sec.130-302. Sidewalks may be required for industrial uses if the plan commission deems it necessary for safety and mobility of pedestrians.

(Code 1986, § 18.10(8), Ord. 2005-27, Ord. 2005-37, Ord. 2014-02, Ord. 2016-03)

Sec. 110-161. Erosion control.⁵

The subdivider shall employ erosion control measures to prevent erosion, siltation, sedimentation and washing and blowing of dirt and debris from excavation, grading, open cuts, side slopes and related activities of the subdivider or the contractors. Such measures shall include but not be limited to seeding, sodding, mulching, watering, ponding and the construction of berms. The subdivider shall submit an erosion control plan to the plan commission along with the construction drawings. The erosion control plan shall address the standards and requirements found in the Rock County Drainage and Erosion Control Guidelines, February 1982.

(Code 1986, § 18.10(9))

Sec. 110-162. Intra-block drainage.

(a) *Drainage plan.* Two weeks prior to submittal of the final plat for review and approval, the subdivider shall submit to the city engineer a surface water drainage plan for the plat. The plan shall indicate, but not be limited to, the elevation of streets, existing topography of the block, proposed drainage swales and indication of the direction of drainage.

(b) *Notation on final plat.* Upon approval of the plan, the developer shall place on the final plat arrows to indicate the direction of drainage swales required for intra-block drainage and the following note: "Arrows indicate direction of drainage swale construction during grading and such swales shall be maintained by the lot owner, unless modified with approval of the City Engineer."

(c) *Easements.* A minimum ten-foot-wide drainage easement (five feet on each side of the property line) shall be retained along all joint property lines on the plat. Such easement shall be designated as a stormwater drainage easement and shall conform to the drainage plan.

(d) *High groundwater areas.* Where a subdivider's subsoil investigation indicates potential for groundwater less than ten feet from the proposed street centerline elevation, the subdivider shall so note on the face of the plat and indicate the lots affected.

⁵ **Cross references:** Environment, ch. 46.

(Code 1986, § 18.10(10))

Sec. 110-163. Regional stormwater management.⁶

Section deleted and replaced by Chapter 104, Stormwater Management.

(Code 1986, § 18.10(11), Ord. 2005-27)

Secs. 110-164--110-190. Reserved.

ARTICLE V. REQUIRED IMPROVEMENTS AND DEDICATIONS

Sec. 110-191. Adequate public facilities required.

A preliminary or final plat or certified survey map shall not be approved unless adequate public facilities as described in section 110-193 are available to meet the needs of the proposed development or sufficient funds are provided in the current municipal budget to meet such needs. Where one or more public facilities or services are not adequate for the proposed development, but a portion of the area can be served adequately by careful phasing, only such portions as will be adequately served shall be approved.

(Code 1986, § 18.05)

Sec. 110-192. Dedications and reservations of land.

(a) *Streets and easements.* All or part of a street, highway, greenway, parkway, watercourse or drainage or utility easement designated in the comprehensive plan or official map or as required by the city council shall be platted or mapped and dedicated in the location and width indicated.

(b) *Public sites and open space.*

- (1) When designated on the comprehensive plan or official map or otherwise where such locations would be appropriate, the plan commission shall require the subdivider/developer to dedicate to the public sufficient land area to provide adequate park, playground, recreation area and open space in whole or in part within the proposed land division.
- (2) The minimum dedication for a single-family dwelling shall be 2,000 square feet for each proposed residential dwelling unit within the development or

⁶ **Cross reference:** Chapter 104, Stormwater Management.

subdivision. In multifamily or high density residential developments, the minimum dedication shall be 1,000 square feet for each proposed residential dwelling unit, and the plan commission shall be authorized to determine additional acreage for dedication based on the number of dwelling units planned to occupy the site or permitted by chapter 130.

- (3) Each dedication shall be of suitable size, dimension, topography and general character and shall have a minimum of a 20-foot-wide service access. The area shall be shown and marked on the plat, "Dedicated to the Public for Park and/or Recreation Purposes." The developer shall dedicate all such recreation areas to the local government as a condition of the final subdivision plat approval. Land dedicated for park and recreation purposes shall not be used to fulfill any land dedication or moneys in lieu of requirements for stormwater management. The area dedicated shall be seeded according to city specifications.
- (4) The plan commission shall not require land or moneys in lieu of land to be dedicated to a public agency for park and recreation purposes where there is an existing residential dwelling.
- (5) In general, land dedicated for recreation purposes shall have an area of at least two acres. The plan commission may require that the dedication be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided.
- (6) When the plan commission determines that the dedication of land would not be consistent with the comprehensive plan or the amount of land available for dedication is less than what is required, the developer shall pay a fee in lieu of land dedication proportional to the need for acquisition or initial improvement of land for public parks. For a single-family development, the sum as established by the council from time to time by resolution, and on a multifamily or high density development the sum as established by the council from time to time by resolution, shall be paid by the developer to the city clerk prior to final approval, less any credit for the amount of land actually dedicated, if any. All moneys received by the city under this subsection shall be placed in a nonlapsing fund to provide for the acquisition or initial improvement of land for public parks and for no other purpose. Thereafter, the plan commission shall annually recommend to the common council a resolution to adjust the moneys in lieu of land fee each year, and such fee will be in effect until adjusted in a following year.
- (7) The city council may reduce the fee or area dedication requirements pursuant to section 110-51 if it finds that such requirements are discriminatory or create a hardship as approved to the particular development.

(c) *Alterations after plat approval.* Once a final plat or certified survey map is approved, land proposed for public use shall not be altered without approval of the city council.

(Code 1986, § 18.06, Ord. 2006-5, Ord. 2008-03)

Sec. 110-193. Public improvements.

(a) *Streets and utilities.* Before a final plat of a subdivision located within the city is approved for recording, the subdivider or developer shall either install the following facilities in accordance with construction plans approved by the city engineer or file with the city clerk-treasurer a surety bond guaranteeing installations of such utilities within the time required by the council or, if the council has not set a deadline for the installation of such utilities, an irrevocable letter of credit for the value of such utilities:

- (1) Sanitary sewer collector lines, laterals to lot lines, manholes, force mains, lift stations, if required, and appurtenances.
- (2) Water mains, valves, hydrants, water services and appurtenances.
- (3) Storm sewer lines, manholes, catchbasins, catchbasin leads and appurtenances.
- (4) Streets as shown on the functional classification established by the city's comprehensive plan, fully constructed and surfaced as required by construction plans approved by the city engineer, including, but not limited to, curbs, gutters and sidewalks if required.
- (5) Off-road, off-sidewalk paved bicycle/pedestrian paths if the city's comprehensive plan shows such a path crossing through the territory of the subdivision.
- (6) Streetlights.
- (7) Other public improvements when deemed necessary by the city council upon recommendation of the plan commission.

(b) *Monuments.* All subdivision plats shall be monumented as required by Wis. Stats. § 236.15. All certified survey maps shall comply with Wis. Stats. § 236.34.

(c) *Street trees.* The subdivider or developer shall require all purchasers of lots to plant at least one street tree in the terrace of each lot of a variety and caliper size approved by the City's superintendent of municipal services in the fall or spring immediately following completion of the house on each lot and shall plant any and all street trees required by this paragraph if any purchasers of lots fail to do so in a timely fashion.

(Code 1986, § 18.07, Ord. 2005-27, Ord. 2014-02)

Sec. 110-194. Issuance of building permits prior to completion of improvements.

The plan commission may authorize the issuance of building permits prior to the completion, inspection and acceptance of all required improvements where:

- (1) All fees and assessments imposed or levied pursuant to this chapter have been paid.
- (2) All outstanding charges due against the lands for local sewers, interceptors, force mains and lift stations previously installed by the city have been paid.

- (3) The building is situated within 500 feet of a fire hydrant having a minimum flow of 500 gpm at 20 psi residual pressure, provided that this requirement shall not apply in areas which are not served by a public water supply system. The plan commission may waive this requirement if the builder/owner agrees to hold the city harmless for fire protection until such time that the developer has completed and placed into operation the water distribution system.
- (4) Curb and gutter has been installed on the street on which the lot has frontage and the subdivider or developer or his contractor provides and maintains temporary roads sufficient to permit access by emergency vehicles.
- (5) The subdivider provides and maintains barricades and takes such other precautions as may be necessary to restrict entry to authorized emergency vehicles and to the vehicles and equipment of contractors, materialmen and workers actually engaged in or supplying materials for construction of improvements within the subdivision or comprehensive development.
- (6) The contract entered pursuant to section 110-32:
 - a. Contains a provision whereby the subdivider agrees to indemnify and save the city harmless from any and all claims, actions, demands or judgments for personal injuries or property damages, together with the actual expenses incurred in connection therewith, arising out of or in any way related to the issuance of such building permits, construction within the subdivision, or access to or egress from the subdivision, including any such claim, action, demand or judgment premised upon the negligence of the city or any of its officers, agents, servants or employees.
 - b. Has been recorded in the office of the register of deeds for the county.

(Code 1986, § 18.23, Ord. 2005-27)

Secs. 110-195--110-220. Reserved.

ARTICLE VI. ENVIRONMENTAL CONSIDERATIONS*

Sec. 110-221. Land unsuitable for development.

No land shall be divided which is unsuitable for development of the proposed use by reason of flooding or potential flooding, soil limitations, inadequate drainage, incompatible surrounding land use, inconsistency with the city master plan or any other condition likely to be harmful to the health, safety or welfare of present or future residents or users of the area or the community, unless the developer agrees to limit the land to a use acceptable to the city council and such agreement is recorded by separate instrument or noted on the face of the map or plat.

(Code 1986, § 18.25)

Sec. 110-222. Environmental assessment.

(a) *Purpose.* An environmental assessment facilitates orderly, systematic review of the effects of a new land division upon the community environment in accordance with the principles and procedures of Wis. Stats. § 236.45(1). The goals of the city in requiring this assessment are to eliminate or reduce pollution and siltation to an acceptable standard, ensure ample living space, preserve open space and parks for recreation, preserve prime agricultural lands, provide adequately for stormwater control, maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of its citizens, provide for the effective and efficient flow of goods and services and provide for development that is consistent with the city master plan.

(b) *Applicability.* An environmental assessment checklist is required for all proposed subdivision plats, condominium plats or certified survey maps. The plan commission may require a complete or partial environmental assessment if it determines the public interest requires a more comprehensive review.

(c) *Submission of checklist.* At the time of submission of the preliminary application, the developer shall complete and submit the environmental assessment checklist furnished by the city.

(d) *Review of checklist.* The plan commission shall review the environmental assessment checklist and may require supporting or additional data and department or committee reviews necessary to determine the suitability of the land for the proposed development.

(e) *Finding by plan commission.* Before recommending approval of a plat or map of a land division, the plan commission shall make a finding that the proposed land division is environmentally sound and will meet the goals enumerated in subsection (a) of this section.

(Code 1986, § 18.26)

Secs. 110-223--110-229. Reserved.

**Article VII. Land Divisions in the City's Extraterritorial Plan Approval
Jurisdiction.**

**Sec. 110-230. Land Divisions in the City's Extraterritorial Plan Approval
Jurisdiction.**

(a) Generally. Except as set forth in section 110-230 (b), all land divisions within the city's extraterritorial plan approval jurisdiction require approval of the city in accordance with the procedures of this chapter as applicable to land divisions within the city, as contained in section 110-81 through section 110-125 and must not create a lot less than 35 acres in size.

(b) Exceptions. The requirements of section 110-230 (a) do not apply to the following:

- (1) Land divisions of agriculturally zoned property which create a new lot for an existing residential structure, provided that the parcel from which the new lot is created is no less than 35 acres following said land division.
- (2) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by the ordinances of the town in which the lots are located.
- (3) Land divisions creating no more than 5 lots with a minimum lot size of 10 acres. For all land divisions allowed under this exception, the subdivider must provide a preliminary plat or map for future replatting at higher density. No more than one land division created under this option may be created in a 20 year period from an original parcel or from contiguous parcels owned by the same land owner.
- (4) Cluster land divisions creating no more than 7 lots averaging less than 2 acres per lot where the lots are contiguous and at least 10 acres per lot of undivided and undeveloped land is reserved for future development. For all land divisions allowed under this exception, the subdivider must provide a preliminary plat or map for future replatting at higher density. No more than one land division created under this option may be created in a 20 year period from an original parcel or from contiguous parcels owned by the same land owner.

(Ord. 2011-05, Ord. 2020-12)

Chapter 114

TAXATION¹

Article I. In General

Sec. 114-1. Statement of tax rates on tax receipts.
Secs. 114-2--114-30. Reserved.

Article II. Board of Review

Sec. 114-31. Membership; appointment and term of members.
Sec. 114-32. Compensation of members.
Sec. 114-33. Procedures.

Article III. Room Tax

Secs. 114-46 --114-49. Reserved.
Sec. 114-50. Definitions.
Sec. 114-51. Imposition of Tax.
Sec. 114-52. Collection of Tax.
Sec. 114-53. Recordkeeping.
Sec. 114-54. Confidentiality.
Sec. 114-55. Penalties.
Secs. 114-56 -- 114-100. Reserved.

Article IV. Local Motor Vehicle Registration Fee

Sec. 114-101. - Authority.
Sec. 114-102. - Purpose.
Sec. 114-103. - Definitions.
Sec. 114-104. - Imposition of Motor Vehicle Registration Fee.
Sec. 114-105. - Administrative costs.
Sec. 114-106. - Exemptions.
Sec. 114-107. - Replacements.
Sec. 114-108. - Deposit of fee revenues—Administration.

¹ **Cross references:** Any ordinance for the tax and special assessment levies saved from repeal, § 1-10(11); any ordinance for the budget ordinances, resolutions and actions saved from repeal, § 1-10(15); administration, ch. 2; finance, § 2-241 et seq.; businesses, ch. 22.

Sec. 114-101. - Authority.

This chapter is adopted pursuant to the authority granted by Wis. Stats. § 341.35, as from time to time amended or renumbered.

Sec. 114-102. - Purpose.

The purpose of this article is to provide the City of Evansville a source of revenue in addition to other revenue sources currently being utilized to maintain public streets, highways, and for all other transportation-related purposes.

Sec. 114-103. - Definitions.

In this article, a "motor vehicle" means an automobile or motor truck registered under Wis. Stats. § 341.25(1)(c) at a gross weight of not more than 8,000 pounds.

Sec. 114-104. - Imposition of Motor Vehicle Registration Fee.

Pursuant to Wis. Stats. § 341.35, an annual flat city registration fee in the amount of \$40.00 is hereby imposed upon all registered motor vehicles in the State of Wisconsin that are customarily kept in the city. Council shall review this fee annually.

1. This fee shall be paid by the registration applicant at the time that a motor vehicle is first registered and at each time of registration renewal.
2. The city registration fee shall be paid as provided in Wis. Stats. § 341.35(5).
3. The City registration fee shall be in addition to all other state and local registration fees.

Sec. 114-105. - Administrative costs.

Before remitting funds to the city pursuant to their rules, the Wisconsin Department of Transportation (WisDOT) shall retain a portion of the moneys collected equal to the actual administrative costs related to the collection of these fees. The method for computing the administrative costs will be reviewed annually by the WisDOT, as provided in Wis. Stats. § 341.35.

Sec. 114-106. - Exemptions.

The following motor vehicles are exempt from the annual Evansville vehicle registration fee:

1. All vehicles exempted by Wis. Stats. § 341 from payment of a state vehicle registration fee.
2. All vehicles registered by the State under Wis. Stats. § 341.26 for a fee of \$5.00.

Sec. 114-107. - Replacements.

No city vehicle registration fee may be imposed on a motor vehicle which is a replacement for a motor vehicle for which a current city vehicle registration fee has been

paid.

Sec. 114-108. - Deposit of fee revenues—Administration.

1. All moneys under this application statute and this chapter remitted to the city by the WisDOT or other applicable agency shall be deposited into the city's general or capital fund.
2. The Treasurer shall be responsible for the administration of this chapter and funds.

(Ord 2017-11, Ord 2022-09)

ARTICLE I. IN GENERAL

Sec. 114-1. Statement of tax rates on tax receipts.

Pursuant to Wis. Stats. § 74.08(1), in lieu of entering on each tax receipt the several amounts paid respectively for state, county, school, local and other taxes, the aggregate amount of such taxes shall be combined in a single column on the tax receipt issued by the clerk-treasurer. The clerk-treasurer shall cause to be printed or stamped on the tax receipt the separate proportion or rate of taxes levied for state, county, school, local or other purposes.

(Code 1986, § 3.01(2))

Secs. 114-2--114-30. Reserved.

ARTICLE II. BOARD OF REVIEW²

Sec. 114-31. Membership; appointment and term of members.

The board of review shall consist of five residents of the city, none of whom shall occupy any public office or be publicly employed. Such members shall be appointed by the mayor subject to confirmation by the city council. Such members shall hold office for five years or until their successors are appointed and qualified. One member shall be appointed each year.

(Code 1986, § 1.10(1))

Sec. 114-32. Compensation of members.

² **Cross references:** Boards, commissions and committees, § 2-191 et seq.

Members of the board of review shall receive such salary or compensation as the council may from time to time provide.

(Code 1986, § 1.10(3))

Sec. 114-33. Procedures.

The provisions of Wis. Stats. §§ 70.47 and 70.48 shall govern the proceedings of the board of review.

(Code 1986, § 1.10(2))

Article III. Room Tax.

Secs. 114-46-49. Reserved.

Section 114-50. 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.

Bed and Breakfast Establishment. Any place of temporary lodging that provides four (4) or fewer rooms for rent, which is open for rental more than ten (10) nights in a twelve (12) month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

Gross Receipts. Has the meaning as defined in Wisconsin Statutes, Section 77.51(4)(a), (b) and (c), insofar as applicable.

Hotel or Motel. A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings or group of buildings in which accommodations are available to the public.

Exempt from this definition are mobile homes as defined in Wisconsin Statutes, Section 66.058(1)(d), and accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospitals, sanitoriums or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Transient. Any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

[Ordinance 2008-06].

Section 114-51. Imposition of Tax.

1. Pursuant to Wisconsin Statutes, Section 66.0615(1m), a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Said tax shall be at the rate of seven percent (7.0%) of gross receipts from such furnishing of rooms or lodging. Said tax shall not be subject to the selective sales tax imposed by Wisconsin Statutes, Section 77.52(2)(a)1.
2. Sales to the United States federal government and sales to persons listed under Wisconsin Statutes, Section 77.54(9a), shall be exempt from this tax when the following conditions occur:
 - a. The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity; and
 - b. The lodging establishment must receive from the exempt entity:
 - i. In the case of federal and Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or
 - ii. In the case of nonprofit religious, charitable, scientific or educational organizations, the organization's certificate of exempt status number.So long as Subparagraphs 2.a. and 2.b. are met, the exemption still applies when the transient employed by the exempt entity pays with his or her own funds.

[Ordinance 2008-06].

Section 114-52. Collection of Tax.

1. **Administration.** The tax shall be administered by the City Treasurer, who shall, at City expense, provide the necessary application and reporting forms at no cost to the taxpayer.
2. **Quarterly Returns.** Each person liable for the tax imposed by this Article shall submit to the City Treasurer a tax return for each calendar quarter no later than the end of the month following the close of each calendar quarter. Said return shall include the gross receipts of the preceding calendar quarter from such retail furnishing of room or lodging, the amount of taxes imposed for such period and such other information as the City Treasurer deems necessary. No person may file an intentionally false or fraudulent return. All such returns shall be signed by the person required to file a return or duly authorized agent.
3. **Failure to File Return.**

- a. If any person fails to file a return as required under this Article, the City Treasurer shall make an estimate of the amount of the gross receipts under Sections 114-51 and 114-52.
- b. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the City Treasurer's possession or may come into his or her possession.
- c. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at interest as set forth in Section 114-52, Paragraph 7.

4. Determination of Tax by Audit.

- a. The City Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this Article. Said determination may be made upon the basis of any other information within the City Treasurer's possession that meets the criteria set forth in Wisconsin Statutes, Section 66.0615(2). One or more such office audit determination may be made of the amount due for any one or for more than one period.
- b. The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Article. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. The City Treasurer is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time.

5. Delinquent Tax Payments. The tax imposed by this article shall be deemed delinquent if not paid by the due date of the return.

6. Interest on Unpaid Taxes.

- a. All unpaid taxes imposed by this Article shall bear interest at the rate of twelve percent (12.0%) per annum.
- b. Interest shall be imposed from the due date of the tax payment until the day on which the tax is paid or deposited with the City Treasurer.
- c. All refunded taxes shall bear interest at the same rate computed from the date of receipt of the tax payment until the day on which said taxes are refunded. If the City Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a properly completed return, or if information requested was not provided within the time set forth above, no interest shall be allowed upon the refund of the overpaid tax.

7. Successor's Responsibility for Tax Payment.

- a. If any person, liable for any amount of tax imposed by this Article, in any manner, in whole or in part, terminates, transfers, conveys, sells, gifts or divides his or her business stock of goods, his or her successor(s) or assign(s) shall withhold sufficient sums from the purchase price to fully and completely satisfy the tax imposed by this Article.
- b. Such withheld sum(s) shall be due and payable in full to the City Treasurer upon demand.
- c. Each such assignee and successor shall be personally liable and responsible to the City of Evansville for the full amount of such transferor's unpaid tax.

[Ordinance 2008-06].

Section 114-53. Recordkeeping.

Every person liable for the tax imposed by this Article shall keep or cause to be kept adequate financial and other records, receipts, invoices and related papers and documents sufficient to accurately establish revenues and tax liabilities imposed by this Article. Such records shall be retained and made available to the City Treasurer for a period of three (3) years from the date of a filing period.

[Ordinance 2008-06].

Section 114-54. Confidentiality.

1. All returns, schedules, exhibits, writing or audit reports relating to such returns on file with the City are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others: persons using the information in the discharge of duties imposed by law or the duties of their office or by order of a court.
2. No person having an administrative duty under this Article or having access, lawfully or unlawfully, to information provided to the City under this Article shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this Article, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or permit any return, or copy thereof to be seen or examined by any person except as provided in Section 114-54, Paragraph 1.

[Ordinance 2008-06].

Section 114-55. Penalties.

Any person who is subject to the tax imposed by this Article that fails or refuses to permit the inspection of his or her records by the City Treasurer after such inspection has

been duly required by the City Treasurer or that fails to file a return as provided in this Article, or any person that violates any other provision of this Article, shall be subject to a forfeiture penalty pursuant to Section 1-11. Each day, or portion thereof, that such violation continues shall be deemed to constitute a separate offense.

[Ordinance 2008-06].

Secs. 114-56--114-100. Reserved.

Article IV. Local Motor Vehicle Registration Fee

Sec. 114-101. - Authority.

This chapter is adopted pursuant to the authority granted by Wis. Stats. § 341.35, as from time to time amended or renumbered.

Sec. 114-102. - Purpose.

The purpose of this article is to provide the City of Evansville a source of revenue in addition to other revenue sources currently being utilized to maintain public streets, highways, and for all other transportation-related purposes.

Sec. 114-103. - Definitions.

In this article, a "motor vehicle" means an automobile or motor truck registered under Wis. Stats. § 341.25(1)(c) at a gross weight of not more than 8,000 pounds.

Sec. 114-104. - Imposition of Motor Vehicle Registration Fee.

Pursuant to section 341.35, Wis. Stats., an annual flat city registration fee in the amount of \$20.00 is hereby imposed upon all registered motor vehicles in the State of Wisconsin that are customarily kept in the city.

4. This fee shall be paid by the registration applicant at the time that a motor vehicle is first registered and at each time of registration renewal.
5. The city registration fee shall be paid as provided in Wis. Stats. § 341.35(5).
6. The City registration fee shall be in addition to all other state and local registration fees.

Sec. 114-105. - Administrative costs.

Before remitting funds to the city pursuant to their rules, the Wisconsin Department of Transportation (WisDOT) shall retain a portion of the moneys collected equal to the actual administrative costs related to the collection of these fees. The method for computing the administrative costs will be reviewed annually by the WisDOT, as provided in Wis. Stats. § 341.35.

Sec. 114-106. - Exemptions.

The following motor vehicles are exempt from the annual Evansville vehicle registration fee:

3. All vehicles exempted by Wis. Stats. ch. 341 from payment of a state vehicle registration fee.
4. All vehicles registered by the State under Wis. Stats. § 341.26 for a fee of \$5.00.

Sec. 114-107. - Replacements.

No city vehicle registration fee may be imposed on a motor vehicle which is a replacement for a motor vehicle for which a current city vehicle registration fee has been paid.

Sec. 114-108. - Deposit of fee revenues—Administration.

3. All moneys under this application statute and this chapter remitted to the city by the WisDOT or other applicable agency shall be deposited into the city's general or capital fund.
4. The city clerk/treasurer shall be responsible for the administration of this chapter and funds.

(Ord 2017-11)

Chapter 118

TELECOMMUNICATIONS¹

Article I. In General

Secs. 118-1--118-30. Reserved.

Article II. Cable Television Franchising Regulations

- Sec. 118-31. Definitions.
- Sec. 118-32. Violations by grantee; penalty; interruption of service.
- Sec. 118-33. Rights granted by franchise.
- Sec. 118-34. Conditions of franchise.
- Sec. 118-35. Transfer or sale of franchise.
- Sec. 118-36. Franchise term, review and renewal.
- Sec. 118-37. Revocation, termination or expiration of franchise.
- Sec. 118-38. Subscriber rates and charges.
- Sec. 118-39. Franchise fee.
- Sec. 118-40. Technical standards.
- Sec. 118-41. Subscriber complaints.
- Sec. 118-42. Liability insurance; indemnification of city.
- Sec. 118-43. Quality of service.
- Sec. 118-44. Compliance with state and federal regulations.
- Sec. 118-45. Subscriber privacy.
- Sec. 118-46. Switching device and channel lock.
- Sec. 118-47. Provision of service to government buildings.
- Sec. 118-48. Unauthorized connections to or modifications of system.
- Sec. 118-49. City's right of intervention.
- Sec. 118-50. Preferential or discriminatory practices prohibited.
- Sec. 118-51. Compliance with applicable regulations.

Article III. WIRELESS COMMUNICATION FACILITIES AND MOBILE TOWER SITING²

- Sec. 118-52. Mobile Tower Siting Permit Ordinance.
- Secs. 118-53--118-80. Reserved.
- Sec. 118-81. Mobile Tower Siting Permit

ARTICLE I. IN GENERAL

¹ **Cross references:** Businesses, ch. 22; streets, sidewalks and other public places, ch. 106; utilities, ch. 126; zoning, ch. 130

² **Cross references:** Utilities, ch. 126.

Secs. 118-1--118-30. Reserved.

ARTICLE II. CABLE TELEVISION FRANCHISING REGULATIONS³

Sec. 118-31. Definitions⁴.

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

Additional and auxiliary service means service other than service provided by the grantee to the subscriber on a monthly basis and for which the subscriber pays a set fee.

Basic service means subscriber services provided by the grantee, including the delivery of broadcast signals and programming originating over the cable system, covered by the regular monthly charge paid by all subscribers.

Board means the city and any legally appointed or elected successor or agency.

Cable television channel means a frequency band six MHz in width within which a standard television broadcast signal is delivered by cable to a subscriber terminal.

Cable television system, cable system and *system* mean any network of cables or optical, electrical or electronic equipment used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog or digital, for sale or use by the inhabitants of the city.

City and *grantor* mean the City of Evansville or the area within the boundaries constituting the City of Evansville.

Discrete cable television channel means a signaling path provided by a cable television system to transmit signals of any type to specified subscriber terminals within the cable television system.

FCC means the Federal Communications Commission and any legally appointed or elected successor.

Franchise area means the city or the area within the boundaries constituting the city.

³ **Cross references:** Utilities, ch. 126.

⁴ **Cross references:** Definitions generally, § 1-2.

Grantee means any person to whom a franchise is granted by the city under this article, and the lawful successor or assignee of such person.

Gross subscriber receipts means any and all compensation received by a grantee for the provision of basic service and pay television service, excluding any and all tax on such revenue, including sales tax.

Headend means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable television system, excluding a studio.

Reasonable notice, unless otherwise specified, means the provision of notice of contemplated action delivered at least 72 hours prior to such action.

Street includes all streets, roadways, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the city which have been or may hereafter be dedicated and open to public use, or such other public property as designated by law.

Subscriber means a purchaser of any service delivered by a grantee as basic service and/or additional and auxiliary service pursuant to a franchise and subscriber fee, and shall also include all persons who are not required to pay a fee but legally receive any service delivered by a grantee pursuant to a franchise granted under this article.

(Code 1986, § 15.01)

Sec. 118-32. Violations by grantee; penalty; interruption of service.

(a) After notice and hearing, the city may subject a grantee under this article to a forfeiture if such grantee fails to provide the service, obligations and/or duties specified in this article or comply with any applicable city regulation. A grantee under this article is not responsible for failure to provide service, obligations and/or duties when caused by acts of God, strikes, governmental or military action or other conditions beyond its control.

(b) Upon interruption of service, except for acts of God, strikes, governmental or military action or with express prior permission of the city, the following shall apply:

- (1) Over 48 and less than 72 hours, a ten percent rebate of one month's fees for all affected subscribers.
- (2) Over 72 hours, a 20 percent rebate of one month's fees for all affected subscribers.
- (3) A full month's rebate for any month in which one-half or more of the service is interrupted.

(c) If a grantee under this article violates any provision of this article, it shall forfeit, together with the costs of prosecution, a sum of not less than \$50.00 and not more than \$500.00 for each violation.

(Code 1986, § 15.25)

Sec. 118-33. Rights granted by franchise.

(a) Any franchise granted under this article shall give to a grantee the right and privilege to construct, erect, operate, modify and maintain in, upon, along, across, above, over and under streets which have been or may hereafter be dedicated and open to public use in the city, towers, antennas, poles, cables, electronic equipment and other network appurtenances necessary for the operation of a cable television system in the city, utilizing, wherever possible, existing facilities, with the right upon application to the superintendent of municipal services to set such poles or other equipment on new facilities constructed by the grantee. The superintendent of municipal services will not unreasonably refuse permission for such construction, however, a nonproliferation of poles policy for aesthetic purposes may be considered.

(b) Any franchise granted under this article shall apply to all areas currently serviced by a grantee and also include any areas to be serviced by a grantee in the future which are within the boundaries constituting the city.

(c) The city shall require all developers of future subdivisions, when making provisions for or restrictions of utilities in the subdivision plat, to include cable television services. It is intended by this subsection to include cable television in the same class of public utilities for the limited purpose of ensuring access to a grantee's cable television services for the inhabitants of such future subdivision.

(Code 1986, § 15.02, Ord. 2014-02)

Sec. 118-34. Conditions of franchise.

A grantee under this article shall be subject to the following restrictions and conditions with regard to the operation of the system, which conditions and restrictions shall be in addition to any other sections of this article or this Code:

- (1) Cables, wires and other equipment in connection with a grantee's system shall be installed and operated under the public rights-of-way in underground conduit and equipment of the existing utilities within the city and its successors or assigns where conduits exist and where space in installed conduits is available. Installation of any additional poles, conduit or other equipment for the installation of cables, wires and other overhead equipment and underground equipment in public rights-of-way in connection with a grantee's system shall be subject to the authorization of the city or its designated representative. In reaching a decision as to such additional poles or equipment, the suggestions, if any, of the utility companies servicing or planning to serve such area may be considered. Underground installations shall always be preferred, provided,

however, the grantee may construct its plant aerially so long as there is one utility aerial.

- (2) All wires, cables and other underground or overhead equipment shall be located as may be required of telephone companies or power lines by the public service commission. All equipment shall be grounded in the same manner as required by the state electrical code for electrical services existing on the date of installation of any equipment.
- (3) A grantee under this article shall pay all costs incurred by the city in the event of the necessity of restoration of the public rights-of-way as a result of a grantee's construction of its system or its operation. Each grantee and the city shall coordinate the restoration of the public rights-of-way if it becomes necessary for a grantee to open or otherwise disturb such public rights-of-way.
- (4) A grantee under this article shall at its own expense protect, support, temporarily or permanently disconnect, relocate in the same public right-of-way or remove from any public right-of-way any property owned or used by such grantee if required by the city for reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines and tracks or any other type of structures or improvements by governmental agencies when acting in the reasonable exercise of its police powers. The city shall provide a grantee notice of its intentions to make changes which might otherwise cause such grantee expense pursuant to this subsection and such grantee shall have the opportunity to be heard at a public hearing in such regard.
- (5) A grantee under this article shall, upon the request of any person holding a building moving permit issued by the city, temporarily raise or lower its lines or disconnect or take them down to permit the moving of buildings. The expense of such removal, raising or lowering of wires shall be paid by the person requesting such removal, raising or lowering of wires, and such grantee shall be given reasonable notice to arrange for such temporary wire changes.
- (6) All installations by a grantee of cables and incidental equipment shall comply in all respects with all laws, ordinances, rules and regulations of the Federal Communications Commission, the state or any agency or department thereof and of the city or any agency or department thereof now or hereafter in effect.
- (7) A grantee under this article shall provide and maintain equipment in such condition and of such quality so that none of its service will adversely affect radio and television reception.
- (8) Installation and maintenance of equipment shall be such that standard color signals shall be transmitted with reasonable fidelity to all subscribers.

- (9) A grantee under this article shall not directly or indirectly require or solicit of any subscriber the patronage of any designated person or company engaged in the servicing or repair of television receivers. This subsection shall not apply to the sale, repair or adjustment of equipment which is part of the system of such grantee or which is necessary to receive the services of such grantee.
- (10) A grantee under this article shall submit to technical inspections by authorized personnel of the city and shall make available to such inspectors or authorized personnel its facilities and equipment, wherever situated. The city reserves the right to enact in the reasonable exercise of its police powers further regulations regarding the installation and maintenance of the facilities of such grantee.
- (11) A pole lease rate schedule with the city power utility will apply for the term of the agreement.
- (12) A grantee under this article shall have the authority to trim trees upon and overhanging the public rights-of-way of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of such grantee, except that, at the option of the city, such trimming may be done by it or under its supervision and direction and at its expense. Before a grantee trims any trees, reasonable notice shall be given to the city.
- (13) Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the reasonable exercise of any governmental right or police power of the city.
- (14) The city reserves the right, during the life of any franchise granted under this article, to inspect all construction or installation work performed subject to the provisions of this article and to perform network measurements to ensure compliance with the terms of this article.
- (15) Reasonable written notice shall be given to the city prior to the date of any construction work by a grantee under this article, which notice shall specify the location and extent of such construction and the type of facilities to be installed; provided, however, that this provision shall not apply to the installation of basic service to individual customers.
- (16) No privilege or exemption shall be inferred from the granting of any franchise under this article, unless it is specifically prescribed.
- (17) A grantee under this article shall at all times make and keep at an office maintained by such grantee a list of all complaints and interruptions or degradation of service received or experienced during the preceding year. The records maintained pursuant to this subsection shall also include the complaint response time and service restoral period and shall be continuously open to inspection, examination or audit by any authorized representative of the city.

(18) The city reserves the right, during the life of any franchise granted under this article, to have access at all normal business hours, and upon the giving of reasonable notice, to a grantee's engineering plans and service records relating to the operations of a grantee within the city, and to other appropriate records, including accounting and financial data, to the extent such access is required to verify the accuracy of franchise fee payments made pursuant to section 118-39, required to be kept under this article. Nothing contained in this subsection shall permit the city's review of documents relating to proprietary interests not related to a grantee's operation under this article.

(19) While any franchise granted under this article grants operational rights to a grantee covering the entire area within the boundaries of the city, a grantee shall provide notice to the city whenever an expansion of the system beyond the franchise area at the date of this article is contemplated. A grantee is not required to expand services to areas with a residential dwelling unit density of less than 30 units per mile. However, should dwelling unit density levels reach the 30 units per plant mile requirement, the city may request that a grantee extend services to the areas meeting the density requirements and a grantee must then honor such requests.

(Code 1986, § 15.03)

Sec. 118-35. Transfer or sale of franchise.

A franchise granted under this article may not be transferred, assigned or sold, except among entities owned or controlled by a grantee, without the written consent of the city. Such consent will be given only if the transferee, assignee or purchaser agrees in writing to be subject to all the terms and conditions of this article. A grantee shall notify the city at least 60 days before a subject proposed transfer, assignment or sale is to take effect. Such a notice must be in the form of a written request to the city clerk-treasurer, stating the reasons why such an assignment is contemplated and detailing the expected changes in the operation of the system. Information regarding the legal, character, financial, technical and other qualifications of the party to whom a franchise is to be transferred, assigned or sold and/or operated shall also be provided. This section shall apply to any transfer, assignment or sale of 50 percent or greater of the ownership, operation or management of a grantee's system. The city shall not withhold approval or consent regarding the transfer, assignment or sale without cause and unless it is shown that the operation or management of the system will be affected to the detriment of the public by approving such transfer, assignment or sale. This provision shall not apply to either the mortgage or hypothecation of the system in respect to any mortgages or the remedies therein.

(Code 1986, § 15.04)

Sec. 118-36. Franchise term, review and renewal.

(a) The term of any franchise granted under this article shall be for a period of 15 years and the franchise shall be in full force and effect for such term subject to the provisions of this article.

(b) Every two years from the commencement of operations, during the month of January, at a regular or special meeting of the city, the city and a grantee under this article, at either party's option, may meet to discuss application of new technologies, system performances, customer complaints and judicial and FCC rulings affecting the operation of the system.

(c) At the beginning of the 12th year, a franchisee or, if mutually agreed by the city and the grantee during one of the review sessions described in subsection (b) of this section, the city and the grantee shall consider extension of the franchise for 15 additional years. The purpose of this provision is to allow for maximum flexibility in financial planning on the part of a grantee and for the city in anticipating future services. It is further the purpose of this provision to encourage the city to examine a grantee's performance and to plan for the future in providing cable television services as well as to reward the satisfactory performance of a grantee. The city may at any time reward a grantee for satisfactory performance by the extension of the franchise for five-year increments. This authority is granted so as to provide incentive to a grantee for satisfactory performance and maximum service. The city shall within 90 days of the conclusion of such review session provide a determination as to whether the franchise should be extended as to a grantee. If the city decides not to extend the franchise, a grantee, upon request, will receive a report as to why the franchise was not extended. This subsection shall not serve as a waiver of any other extension or renewal procedures or standards otherwise available to a grantee or the city pursuant to applicable federal, state or local law, statute or precedent.

(Code 1986, § 15.05)

Sec. 118-37. Revocation, termination or expiration of franchise.

(a) *Circumstances under which franchise may be terminated.* The city reserves the right to revoke or terminate any franchise granted under this article and rescind all rights and privileges associated with the franchise in the following circumstances:

- (1) If a grantee should default in the performance of any of its material obligations under the franchise and fails to cure the default within 30 days after receipt of written notice of the default from the city.
- (2) If a petition is filed by or against the grantee under the Bankruptcy Act or any other insolvency or creditor's rights law, state or federal, and a grantee shall fail to have it dismissed within a reasonable time.
- (3) If a receiver, trustee or liquidator of a grantee is applied for by a grantee or appointed for all or part of its assets.
- (4) If a grantee makes an assignment for the general benefit of creditors.

- (5) If a grantee should violate any orders or ruling of any regulatory body having jurisdiction over a grantee, unless such violation is for the provision of additional service or unless the grantee is lawfully contesting the legality or applicability of such order or ruling.
- (6) If a grantee fails to receive any required governmental certifications, unless such cause is directly attributable to an action or condition imposed by the city.

(b) *Hearing; notice to remedy cause.* Upon the occurrence of any of the events listed in subsection (a) of this section, the city may, after hearing, upon 30 days' written notice to a grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which a grantee must remedy the cause. If during the 30-day period the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If a grantee fails to remedy the cause within the time specified, the city may revoke the franchise. In any event, before a franchise may be revoked or terminated, a grantee must be provided with an opportunity to be heard before the city.

(c) *Removal of grantee's property.*

- (1) Should a grantee's franchise be revoked, terminated or expire and there is no judicial or administrative review of the revocation, termination or expiration taking place, such grantee shall begin removal within 90 days of revocation, termination or expiration of all property owned by it and/or placed on a public right-of-way, unless permitted by the city to abandon such property in place or unless proceedings begin to transfer such property to a purchaser.
- (2) In removing its plant, structures and equipment, a grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the grantee's removal of equipment and appliances, without affecting electric or telephone cables, wires or attachments. The city shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal.
- (3) If a grantee fails to comply with the removal of its system required by this subsection following revocation, termination or expiration of its franchise or to complete any work required by city law or ordinance within the time established and to the satisfaction of the city, the city may cause such work to be done and such grantee shall reimburse the city the costs thereof within 30 days after receipt of an itemized list of such costs.

(Code 1986, § 15.06)

Sec. 118-38. Subscriber rates and charges.

(a) Monthly rates set by a grantee under this article for services shall be fair and reasonable and calculated to offset all necessary costs for provision of the service,

including a fair rate of return on its investment devoted thereto under efficient and economical management.

(b) A grantee under this article agrees that monthly rates imposed on the City of Evansville subscribers will never be higher than those imposed on the City of Janesville subscribers. A grantee further agrees to abide by 47 USC 542 and all other federal laws and/or other federal agency rules and regulations regarding monthly rates.

(c) For the sole purpose of customer information, a grantee agrees to give the city reasonable notice of any rate, fee and/or charge modification.
(Code 1986, § 15.07)

Sec. 118-39. Franchise fee.

A grantee under this article shall pay to the city an annual franchise fee of five percent of the grantee's gross subscriber receipts from the operation of the cable communications system within the city boundaries. Such annual sum shall be paid within 45 days of the end of the calendar year or other applicable fiscal year; provided, however, that such grantee shall have provided the city with notice of any change in its fiscal year. When a grantee makes payment, it shall also provide certified financial statements prepared by a certified public accountant or an independent auditor retained by a grantee at its own cost. Such verification shall also be subject to the reservations of rights contained in section 118-34(18). The purpose of the requirement of a certified financial statement is to verify the amount of gross subscriber receipts. Such fee shall be used to offset the administrative and regulatory cost incurred by the city with respect to the system and shall be in lieu of all other city permits and fees, but shall not be in lieu of municipal property taxes, other state, county or local taxes or any other payment owed to the city.

(Code 1986, § 15.08)

Sec. 118-40. Technical standards.

(a) The cable television system permitted to be installed and operated under this article shall be operated in minimum conformance with the FCC's technical standards as stated in 47 CFR 76.601 et seq., and all other relevant federal, state or local regulations.

(b) A grantee under this article shall continue throughout the term of the franchise to maintain the technical standards and quality of service set forth in this section. Should the city reasonably find by resolution that a grantee has failed to maintain these technical standards and quality of service and should it by resolution specifically enumerate improvements to be made, such grantee shall make such improvements.

(c) The cable system shall initially carry and deliver to the subscribers all of the signals as provided for in a grantee's application, subject to the reasonable availability of such signals at time of launch or activation of the system.

(Code 1986, § 15.09)

Sec. 118-41. Subscriber complaints.

A grantee under this article shall investigate all complaints within 24 hours of their receipt and shall in good faith attempt to resolve them within 48 hours after notice. A grantee shall maintain a record of each complaint and shall maintain such record as provided for in this article. A grantee shall maintain a toll free telephone listing for the city subscribers for such purposes.

(Code 1986, § 15.10)

Sec. 118-42. Liability insurance; indemnification of city.

(a) A grantee under this article shall maintain and by its acceptance of any franchise granted under this article agrees that it will maintain throughout the term of the franchise a general comprehensive liability insurance policy against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of such grantee under any franchise granted under this article, in the amounts of:

- (1) Five hundred thousand dollars for bodily injury or death to any one person, within the limit, however, of \$1,000,000.00 for bodily injury or death resulting from any one accident.
- (2) Five hundred thousand dollars for property damage resulting from any one accident.

(b) It shall be expressly understood and agreed by and between the city and any grantee under this article that such grantee shall save the city and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorneys' fees, sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever arising out of, but not limited to, copyright infringements, and all other damages arising out of the installation, operation or maintenance of the cable television system authorized under this article, whether or not any act or omission complained of is authorized, allowed or prohibited by this article and any franchise granted under this article. This provision shall not apply to acts of the city, its agents or employees.

(c) The insurance policies mentioned in subsection (a) of this section shall contain endorsements stating that the policies are extended to cover the liability assumed by such grantee under the terms of this article and shall contain the following endorsement: "It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until 30 days after receipt by the City Clerk of the City of Evansville by registered mail of a written notice of such intent to cancel or reduce the coverage."

(d) All written evidence of payment of required premiums shall be filed and maintained with the city during the term of any franchise granted under this article or renewal thereof.

(Code 1986, § 15.11)

Sec. 118-43. Quality of service.

(a) The system of any grantee under this article shall be operated and maintained so that all subscribers will receive signals of good technical quality and access to the full range of services available from such grantee in the city. Any complaints as to the quality of the signals or services shall be promptly investigated by such grantee and adjustments required to correct situations disclosed by such investigations shall be made as provided for in this article.

(b) All installations shall be of a durable nature and installed in accordance with good engineering practices and comply with all existing and future ordinances, resolutions, regulations and orders of the grantor so as not to interfere in any manner with the rights of the public or individual property owners. The system shall not interfere with travel on and use of public places or facilities by the public and during the construction, repair, or removal thereof shall not obstruct or impede traffic.

(c) The system and any facilities utilized in connection therewith, either on public or private property, shall be installed and operated in such a manner as not to cause interference with the operation of any public safety radio station or systems operated by the city. Should any such interference develop, the city may require that any such interfering operations of a grantee under the franchise be immediately suspended and not resumed until the cause of interference has been corrected to the satisfaction of the city.

(d) The technical standards, including measurements of the construction and system to be operated in the city, shall comply with the minimum standards established by the Federal Communications Commission.

(Code 1986, § 15.12)

Sec. 118-44. Compliance with state and federal regulations.

A grantee under this article shall comply with all conditions imposed by the FCC and/or by the state. Failure to obtain required licenses or to comply with all such conditions shall be grounds for revocation of the franchise. Such revocation will occur without liability assigned to the city.

(Code 1986, § 15.13)

Sec. 118-45. Subscriber privacy.

A grantee under this article, the city or any other person shall not initiate or use any form, procedure or device for procuring information or data unrelated to the operation or maintenance of the system or distribution of services from subscribers' terminals by use of the cable system without prior authorization from each subscriber so affected. Valid authorization shall mean approval from the subscriber for a period of time not to exceed one year, and such authorization shall not have been obtained from the subscriber as a condition of service.

(Code 1986, § 15.14)

Sec. 118-46. Switching device and channel lock.

A grantee under this article shall make available switching devices as are necessary to permit a subscriber to use the subscriber's own antenna. A grantee shall also provide a channel lock to enable the subscriber to control viewing. A grantee may charge for such devices.

(Code 1986, § 15.15)

Sec. 118-47. Provision of service to government buildings.

If the service is provided within 300 feet of such building or facility, a grantee under this article shall provide a free one-time connection to the following government buildings and/or facilities: all public schools and all municipal buildings.

(Code 1986, § 15.16)

Sec. 118-48. Unauthorized connections to or modifications of system.

(a) No person, without the expressed consent of a grantee under this article, shall make any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of such grantee's cable system. It shall further be illegal for any person, without the expressed consent of such grantee, to possess or receive any signals or transmissions of such grantee's cable system through the use of other facilities, devices or appurtenances used for the purpose of avoiding payment of fees for such transmissions, including specifically the transmission of messages or programming over the cable system on a pay channel or pay-per-program basis. This shall include, but is not limited to, tampering with cable converters.

(b) No person shall sell or solicit for sale any facilities, devices or appurtenances used for the purpose of any or all acts unlawful as provided by subsection (a) of this section.

(c) No person shall willfully interfere with, tamper with, remove or obstruct or damage any part, segment or content of a cable television system for any purpose whatsoever.

(d) Any person convicted of a violation of this section shall for each offense forfeit a sum not less than \$100.00 and not more than \$500.00, together with costs of such prosecution; provided, however, that the minimum and maximum sums are adjustable pursuant to any state and/or federal law or regulations covering such matters. Violation of this section shall be considered a separate offense for each 24-hour period the violation continues following notification or discovery.

(Code 1986, § 15.17)

Sec. 118-49. City's right of intervention.

The city shall have the right to intervene and a grantee under this article specifically agrees by its acceptance of a franchise not to oppose such intervention by the city in any suit or proceeding to which such grantee is a part.

(Code 1986, § 15.18)

Sec. 118-50. Preferential or discriminatory practices prohibited.

(a) A grantee under this article shall establish and maintain a nondiscriminatory policy providing that no individual shall be discriminated against with respect to compensation, terms, conditions or other privileges or employment because of race, color, marital status, religion, sex, national origin, handicap or age.

(b) A grantee under this article shall not refuse cable television service to any person who requests such service for lawful purposes if the grantee has legal access to the premises to be served.

(Code 1986, § 15.19)

Sec. 118-51. Compliance with applicable regulations.

This article and any franchise granted pursuant to this article shall at all times be subject to and the parties shall comply with applicable federal, state and local laws, statutes and/or the precedents of courts of competent jurisdiction.

(Code 1986, § 15.20)

ARTICLE III. WIRELESS COMMUNICATION FACILITIES AND MOBILE TOWER SITING⁵

Sec. 118-52. Mobile Tower Siting Permit Ordinance.

Secs. 118-53--118-80. Reserved.

Sec. 118-81. Mobile Tower Siting Permit

(1) **Purpose.** The purpose of this Ordinance is to regulate by permit, (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to Class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a Class 2 collocation, the collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(2) **Authority.** The Common Council has specific authority under sec. 60.61 and 66.0404, Wis. Stats., to adopt and enforce this Ordinance.

⁵ **Cross references:** Utilities, ch. 126.

- (3) **Definitions.** All definitions contained in sec. 66.0404(1) are hereby incorporated by reference.
- (4) **Building Permit.** No owner shall, within the City of Evansville, construct any new or collocation Class 1 or Class 2 mobile service transmission tower until a permit shall have first been obtained from the City.
- (5) **Class 2 Collocation.**
- (1) **Application.** A Class 2 collocation is a permitted use. If an applicant submits to the City an application for a permit to engage in a class 2 collocation, the application shall contain the following: (1) name and business address of, and the contact individual for, the applicant, (2) the location of the affected support structure, and (3) the location of the proposed mobile service facility. A fee as set by resolution of the Common Council but not to exceed five-hundred dollars (\$500.00) or other monetary amount as set by sec. 66.0404(4)(d), Wis. Stat., shall also be submitted with the application. After such information is obtained, the application shall be considered complete. If any of the required information is not in the application, the City shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (2) **Determination.** A Class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject in the City Zoning Ordinances. Within forty-five (45) days of its receipt of a complete application, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree in writing to an extension of the forty-five (45) day period:
1. Make a final decision whether to approve or disapprove the application.
 2. Notify the applicant, in writing, of its final decision.
 3. If the application is approved, issue the applicant the relevant permit.
 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (3) A party who is aggrieved by the final decision of the City may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.
- (6) **Class 1 Collocation and New Construction.**

- (1) **Conditional use permit.** A conditional use shall be allowed only after approval by the City and issuance of a conditional use permit (hereafter “CUP”), in accordance with the procedures listed in (2)-(6).
- (2) **Application.** An applicant shall submit to the City Clerk, a Conditional Use Permit application, or similarly named document, as available at the office of the City Clerk, along with the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - v. If the application is to construct a mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment to be placed on or around the new mobile service support structure.
 - vi. If the application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the mobile service provider.
 - vii. An application fee as set by resolution of the Common Council but not to exceed three thousand dollars (\$3,000.00), or other monetary amount as set by sec. 66.0404(4)(d), Wis. Stat.
- (3) **Application Complete.** The City shall provide written notice to the applicant as to the completeness of the application within ten (10) days of receipt of said application by the City. If the application is deemed incomplete by the City, said notice shall specifically describe additional

application materials required by the City. The applicant may resubmit an application as often as necessary until it is complete.

(4) Application Review.

- a. Upon receipt of the CUP application from the applicant, the Clerk shall provide notification by postal mail to the parties of interest, and all land owners and the clerk of any local government unit within one thousand (1,000) feet of the lot identified for the conditional use in the application, and shall publish a Class 2 Legal Notice, in accordance with Sec. 985, Wisconsin Statutes, listing the time and place of a public hearing at which the CUP application will be reviewed by the Planning Commission, and the proposed conditional use and its location, with said postal mail notification post marked fourteen (14) days prior to said hearing.
- b. The Plan Commission shall review a CUP application for compliance with this Ordinance, at a public hearing within ninety (90) days of receipt of a complete application in accordance with subsection (c) above, to ensure said application is in accordance with all applicable aspects of the City's Building Code and Zoning Ordinances. A Class 1 collocation or new structure is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject in the City's Zoning Ordinances.

(5) Recommendation and Action. After review, the Planning & Zoning Committee shall take action at a public hearing no later than ninety (90) days from the date which the applicant was notified that the application was complete to approve, approve with conditions, or deny with substantial evidence the CUP application. However, the applicant and the City may agree in writing to an extension of the ninety (90) day period.

(6) Issuance or Denial Notification.

- (a) The applicant shall be notified, in writing, of the final decision of the Plan Commission. If the Plan Commission's decision is to disapprove the application, a written notification with substantial evidence which supports such decision shall be sent to the applicant.
- (b) The Plan Commission may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described in subsection (7)(b)vi.

- (c) If an applicant provides the City with an engineering certification showing that a mobile service structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in the Zoning Ordinances, then the Zoning Ordinance does not apply to such a structure unless the City provides the applicant with substantial evidence that the engineering certification is flawed.
- (d) A party who is aggrieved by the final decision of the Plan Commission may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.
- (7) **Violation.** Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall be subject to the penalties in the City's Zoning Ordinance.
- (8) **Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

(Ord. 2016-06)

Chapter 122

TRAFFIC AND VEHICLES¹

Article I. In General

Sec. 122-1. State statutes and administrative code adopted.
Secs. 122-2--122-30. Reserved.

Article II. Administration and Enforcement

Sec. 122-31. Penalties.
Sec. 122-32. Enforcement procedure.
Sec. 122-33. Deposits.
Sec. 122-34. Petition to reopen judgment.
Sec. 122-35. Parking citations and forfeitures.
Secs. 122-36--122-60. Reserved.

Article III. Operation of Vehicles

Division 1. Generally

Sec. 122-61. Through highways designated.
Sec. 122-62. Stop signs.
Sec. 122-63. One-way streets.
Sec. 122-64. School bus warning lights.
Sec. 122-65. Use of vehicles with lugs.
Sec. 122-66. Heavy traffic routes designated.
Sec. 122-67. Heavy traffic prohibited.
Sec. 122-68. Signs and maps for heavy traffic routes.
Sec. 122-69. Additional penalties.
Sec. 122-70. Special or seasonal weight restrictions.
Secs. 122-71--122-90. Reserved.

Division 2. Speed

Sec. 122-91. Speed limits.
Secs. 122-92--122-120. Reserved.

Article IV. Stopping, Standing and Parking

Sec. 122-121. Designation of parking.
Sec. 122-122. Temporary suspension of parking regulations.

¹ **Cross references:** Vehicles at cemeteries, § 26-10; courts, ch. 34; junked vehicles, § 46-31 et seq.; law enforcement, ch. 70; offenses and miscellaneous provisions, ch. 82; operation of motor vehicles, § 82-162; use of compression brakes on motor vehicles, § 82-163; streets, sidewalks and other public places, ch. 106.

- Sec. 122-123. Parking of commercial vehicles generally.
- Sec. 122-124. Parking of commercial vehicles in residential areas.
- Sec. 122-125. Repair of vehicles on street.
- Sec. 122-126. Winter parking restrictions.
- Sec. 122-127. Parking between 2:00 a.m. and 6:00 a.m.
- Sec. 122-128. Two-hour parking zones.
- Sec. 122-129. No parking zones.
- Sec. 122-130. Restricted parking during specified hours.
- Sec. 122-131. Parking for emergency vehicles only.
- Sec. 122-132. Municipal Parking Lots Restrictions.
- Sec. 122-133. Permit for overnight parking in public parking lots.
- Sec. 122-134. Parking or standing on private property limited or prohibited.
- Sec. 122-135. Parking of campers and trailers.
- Sec. 122-136. Unregistered Vehicles
- Secs. 122-137--122-160. Reserved.

Article V. Traffic Control Signs, Signals and Devices

- Sec. 122-161. Installation and maintenance.
- Sec. 122-162. Removal of unofficial devices.
- Secs. 122-163--122-190. Reserved.

Article VI. Abandoned Vehicles

- Sec. 122-191. Forty-eight (48) hour parking prohibited.
- Sec. 122-192. Removal and impoundment authorized.
- Sec. 122-193. Disposition of impounded vehicles.
- Sec. 122-194. Payment of costs of impoundment and sale.
- Sec. 122-195. Notice to state division of motor vehicles of disposition of vehicle.
- Secs. 122-196--122-220. Reserved.

Article VII. Bicycles

- Sec. 122-221. Penalty.
- Sec. 122-222. Registration and license required.
- Sec. 122-223. Application for license.
- Sec. 122-224. Inspection prior to licensing.
- Sec. 122-225. Issuance of license.
- Sec. 122-226. Cancellation of license.
- Sec. 122-227. Notification of change in ownership; transfer of license.
- Sec. 122-228. Warning device required.
- Sec. 122-229. Operating with feet removed from pedals.
- Sec. 122-230. Trick riding.
- Sec. 122-231. Parking.
- Sec. 122-232. Pedestrian right-of-way.
- Sec. 122-233. Riding on sidewalk.

Secs. 122-234--122-260. Reserved.

Article VIII. Snowmobiles

Sec. 122-261. Adoption of state law.
Sec. 122-262. Restrictions on operation.
Sec. 122-263. Snowmobile trails and routes.
Secs. 122-264--122-290. Reserved.

Article IX. Railroads

Sec. 122-291. Trains blocking streets.

Article X. Neighborhood Electric Vehicles

Sec. 122-300. Definition of neighborhood electric vehicle.
Sec. 122-301. Operation of neighborhood electric vehicle.

Article XI. Taxicabs

Sec. 122-310. Vehicle license required.
Sec. 122-311. Vehicle license application.
Sec. 122-312. Vehicle license conditions.
Sec. 122-313. Operator license required.
Sec. 122-314. Operator license application.
Sec. 122-315. Operator license conditions.
Sec. 122-316. Suspension or revocation.
Sec. 122-317 -- Sec.122-340. Reserved.

Article XII. ATV/UTV Routes

Sec. 122-341. Authority and Purpose.
Sec. 122-342. Applicability and Enforcement; Designation of Routes.
Sec. 122-343. Rules of Operation.
Sec. 122-344. Operation.
Sec. 122-345. Operators.
Sec. 122-346. Route Signs.
Sec. 122-347. Penalties.
Sec. 122-348. Severability.
Sec. 122-349. Copies to be Distributed to Law Enforcement.
Sec. 122-350 -- Sec. 122-380. Reserved.

ARTICLE I. IN GENERAL

Sec. 122-1. State statutes and administrative code adopted.

(a) *State traffic laws.* Except as otherwise specifically provided in this Code, the statutory provisions in Wis. Stats. §. 340--348, as amended, describing and defining regulations with respect to vehicles and traffic, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment, are hereby adopted and by reference made a part of this Code as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made part of this Code in order to secure uniform statewide regulation of traffic on the highways, streets and alleys of the state.

(b) *State standards for motor vehicle equipment.* The administrative provisions describing and defining standards for motor vehicle equipment in Wis. Admin. Code ch. TRANS 305, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made a part of this chapter as if fully set forth in this section.

(Code 1986, § 7.00)

Secs. 122-2--122-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT²

Sec. 122-31. Penalties.

(a) *Generally.* The penalty for violation of any provision of this chapter shall be a forfeiture and penalty assessment if required by Wis. Stats. § 165.87, a jail assessment if required by Wis. Stats. § 302.46, plus any applicable fees prescribed in Wis. Stats. ch. 814.

(b) *State forfeiture statutes.* Forfeitures for violation of section 122-1 shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.

(c) *State fine statutes.* The forfeiture for violation of any statute adopted by reference under this chapter for which the penalty is a fine shall not exceed the maximum fine permitted under such statute.

(d) *Local regulations.* The penalty for violation of this chapter, except for section 122-1, shall be as provided in section 1-11.

(Code 1986, § 7.15)

² **Cross references:** Administration, ch. 2.

Sec. 122-32. Enforcement procedure.

(a) This chapter shall be enforced according to Wis. Stats. § 23.33, 66.12, and 345.11-345.61, and Wis. Stats. §. 800.

(Code 1986, § 7.16(1))

Sec. 122-33. Deposits.

(a) Any person arrested for a violation of this chapter may make a deposit of money as directed by the arresting officer at the police station or at the office of the Clerk of Court or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

- (1) If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation and the person will be deemed to have tendered a plea of no contest and submitted to a forfeiture and penalty assessment if required by Wis. Stats. § 165.87, a jail assessment if required by Wis. Stats. § 302.46, plus any applicable fees prescribed in Wis. Stats. § 814, not to exceed the amount of the deposit that the court may accept as provided in Wis. Stats. § 345.26. For municipal ordinance violations, persons failing to appear will be dealt with in accordance with Wis. Stats. § 800.09(2)(b).
- (2) If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense and/or issue a warrant for their arrest.

(b) The amount of the deposit shall be determined in accordance with the deposit schedule established by the Wisconsin Judicial Conference and shall include the penalty assessment established under Wis. Stats. § 165.87, a jail assessment if required under Wis. Stats. § 302.46, and court costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit the forfeiture established by the police chief, which shall include the penalty assessment established under Wis. Stats. § 165.87. Deposits for moving violations shall not include the penalty assessment.

(c) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by Wis. Stats. § 345.26(3)(b).

(Code 1986, § 7.16(2))

Sec. 122-34. Petition to reopen judgment.

(a) Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required

under Wis. Stats. § 345.27(1) and (2), the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant them an opportunity to defend on the merits. If the court finds that the petitioner was not informed as required under Wis. Stats. § 345.27(1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privilege.

(Code 1986, § 7.16(3))

Sec. 122-35. Parking citations and forfeitures.

(a) Citations for all nonmoving traffic violations under this chapter shall conform to Wis. Stats. § 345.28, and shall permit direct mail payment of the forfeiture to the Police Department within five days of the issuance of the citation in lieu of court appearance. The amount of the applicable forfeiture shall be as established by the Common council from time to time.

(Code 1986, § 7.16(4))

Secs. 122-36--122-60. Reserved.

ARTICLE III. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

Sec. 122-61. Through highways designated.

(a) In the interest of public safety and pursuant to Wis. Stats. § 349.07, the following streets or portions thereof are declared to be through highways, and traffic signs or signals giving notice thereof shall be erected by the Municipal Services Department:

Madison Street from Union Street the south City limits, except vehicles entering from Union Street, which need not stop, except when traffic on Madison Street is controlled by a mechanically operated sign or a police officer and except for stop signs at Main Street and at Union Street.

Main Street from Fourth Street to the east City limits, except for stop signs at Madison Street and Union Street.

North Fourth Street from West Main Street to the west City limits.

(Code 1986, § 7.02, Ord. 2006-12, Ord. 2014-02, Ord. 2023-13)

Sec. 122-62. Stop signs.

(a) *Authorized.* In the interest of public safety and pursuant to Wis. Stats. § 349.07(8), the locations designated in this section, being streets or portions thereof, are declared to be subject to a stop sign, requiring traffic approaching the sign to stop before proceeding.

(b) *Locations.* At each of the following enumerated locations there shall exist a stop sign:

- First Street and Garfield, northeast side.
- First Street and Garfield, northwest side.
- First Street and Garfield, southeast side.
- First Street and Garfield, southwest side.
- First Street and Grove Street, southeast side.
- First Street and Liberty Street, northeast side.
- First Street and Liberty Street, northwest side.
- First Street and Liberty Street, southeast side.
- First Street and Liberty Street, southwest side.
- First Street and Main Street, northwest side.
- First Street and Main Street, southeast side.
- Second Street and Lincoln Street, northwest side.
- Second Street and Lincoln Street, southeast side.
- Second Street and Lincoln Street, southwest side.
- Third Street and Church Street, northeast side.
- Third Street and Church Street, northwest side.
- Third Street and Church Street, southeast side.
- Third Street and Church Street, southwest side.
- Third Street and Liberty Street, northeast side.
- Third Street and Liberty Street, northwest side.
- Third Street and Liberty Street, southeast side.
- Third Street and Liberty Street, southwest side.
- Third Street and West Main Street, southeast side.
- Fourth Street and Badger Drive, northwest side.
- Fourth Street and Badger Drive, southeast side.
- Fourth Street and Badger Drive, southwest side.
- Fourth Street and Garfield Avenue, northeast side.
- Fourth Street and Garfield Avenue, southwest side.
- Fourth Street and Kinsey Court, northeast side.
- Fourth Street and Liberty Street, northeast side.
- Fourth Street and Liberty Street, northwest side.
- Fourth Street and Liberty Street, southeast side.
- Fourth Street and Liberty Street, southwest side.
- Fourth Street and Lincoln Street, northeast side.
- Fourth Street and Lincoln Street, northwest side.
- Fourth Street and Lincoln Street, southeast side.
- Fourth Street and Lincoln Street, southwest side.
- Fifth Street and Badger Drive, northeast side.
- Fifth Street and Badger Drive, northwest side.
- Fifth Street and Badger Drive, southeast side.
- Fifth Street and Badger Drive, southwest side.

- Fifth Street and Fourth Street, southeast side.
- Fifth Street and Garfield Avenue, northeast side.
- Fifth Street and Garfield Avenue, southwest side.
- Fifth Street and Meadow Lane, northeast side.
- Fifth Street and Porter Road, northwest side.
- Fifth Street and Porter Road, southeast side.
- Fifth Street and Porter Road, southwest side.
- Fifth Street and Vision Drive, southwest side.
- Fifth Street and West Main Street, northeast side.
- Fifth Street and West Main Street, northwest side.
- Fifth Street and West Main Street, southeast side.
- Fifth Street and West Main Street, southwest side.
- Sixth Street and Porter Road, intersection, four-way stop signs.
- Sixth Street and Vision Drive, northeast side.
- Sixth Street and Vision Drive, northwest side.
- Sixth Street and Vision Drive, southeast side.
- Sixth Street and West Main Street intersection, four-way stop signs.
- Abey Drive and Fifth Street, southwest side.
- Abey Drive and Sixth Street, northeast side.
- Almeron Street and South Water Street, southeast side.
- Almeron Street and Walker Street, northwest side.
- Badger Drive and Hickory Street, northwest side
- Badger Drive and Hickory Street, southeast side
- Braeburn Way and North Orchard View, southeast side.
- Braeburn Way and Cortland Drive, northeast side.
- Brown School Road and J. Lindemann Drive, northeast side.
- Brown School Road and J. Lindemann Drive, southeast side.
- Brown School Road and J. Lindemann Drive, southwest side.
- Champion Drive and Garfield Avenue, northwest side.
- Champion Drive and Garfield Avenue, southeast side.
- Cemetery Road and East Main Street, northwest side.
- Cherry Street and South Water Street, southeast side.
- Cherry Street and Walker Street, northwest side.
- Chestnut Street and Badger Drive, southeast side.
- Chestnut Street and Prairie View Drive, northwest side
- Church Street and First Street, northeast side.
- Church Street and First Street, northwest side.
- Church Street and First Street, southeast side.
- Church Street and First Street, southwest side.
- Church Street and Maple Street, northeast side.
- Church Street and Maple Street, northwest side.
- Church Street and Maple Street, southeast side.
- Church Street and Maple Street, southwest side.
- Church Street and Second Street, northeast side.

- Church Street and Second Street, northwest side.
- Church Street and Second Street, southeast side.
- Church Street and Second Street, southwest side.
- Church Street and South Madison Street, northeast side.
- Church Street and South Madison Street, southwest side.
- Cortland Drive and Orchard View Drive, southeast side.
- Countryside Drive and East Main Street, northwest side.
- County Highway M and East Countryside Drive, southwest corner.
- Deanna Drive and East Countryside Drive, southeast corner.
- Debbie Drive and Windsor Lane, northwest side.
- Debbie Drive and Countryside Drive, southeast side.
- East Main Street and Union Street, northeast side.
- East Main Street and Union Street, south side.
- Elijah Court and Abey Drive, southeast side.
- Enterprise Street and Church Street, southeast side.
- Enterprise Street and South Water Street, northwest side.
- Fair Street and Second Street, southeast side
- Fair Street and Second Street, southwest side.
- Fair Street and Second Street, northwest side.
- Francis Street and Cherry Street, northeast side.
- Franklin Street and South Union Street, northeast corner.
- Garfield Avenue and Clifton Street, northwest side.
- Garfield Avenue and Eager Court, northwest side.
- Garfield Avenue and Joshua Drive, northwest side.
- Garfield Avenue and North Third Street, northwest side.
- Garfield Avenue and Sherman Avenue, northwest side.
- Garfield Avenue and Sixth Street, northeast side.
- Garfield Avenue and Sixth Street, southwest side.
- Garfield Avenue and North Second Street, northeast side.
- Garfield Avenue and North Second Street, southwest side.
- Gold Coast Lane and Abey Drive, southeast side.
- Gold Coast Lane and Fifth Street, northwest side.
- Greenview and Countryside Drive, southeast side.
- Greenview and North Water Street, southeast side.
- Gunther Drive and East Countryside Drive, southeast side.
- Gunther Drive and Windsor Lane, northwest side.
- Hancock Lane and East Countryside Drive, southeast side.
- Hancock Lane and Windsor Lane, northwest side.
- Higgins Drive and Badger Drive, northeast side.
- Higgins Drive and Badger Drive, northwest side.
- Higgins Drive and Badger Drive, southeast side.
- Higgins Drive and Badger Drive, southwest side.
- Higgins Drive and Fifth Street, northeast side.
- Highland Street and South 1st Street, southwest side.

- Highland Street and South 2nd Street, northeast side.
- Jackson Street and East Main Street, southeast side.
- Joshua Drive and Sixth Street, northeast side.
- Liberty Street and Second Street, northeast side.
- Liberty Street and Second Street, northwest side.
- Liberty Street and Second Street, southeast side.
- Liberty Street and Second Street, southwest side.
- Liberty Street and South Madison Street, northeast side.
- Liberty Street and South Madison Street, southwest side.
- Lincoln Street and Third Street, northeast side.
- Lincoln Street and Third Street, northwest side.
- Lincoln Street and Third Street, southeast side.
- Lincoln Street and Third Street, southwest side.
- Longfield Street and Fair Street, northwest side.
- Longfield Street and Lincoln Street, southeast side.
- Madison Street and Union Street, west side.
- Maple Street and East Main Street, southeast side.
- Maple Street and South Water Street, northwest side.
- Millard Court at West Main Street, southeast side.
- Mill Street and North Madison Street, northeast side.
- Montgomery Court and North Madison Street, northeast side.
- Noahs Arc Court and North Water Street, northeast side.
- North Second Street and Grove Street, west side.
- North Second Street and West Main Street, northwest side.
- North Second Street and West Main Street, southeast side.
- North Madison Street and Main Street, northeast side.
- North Madison Street and Main Street, northwest side.
- North Madison Street and Main Street, southeast side.
- North Madison Street and Main Street, southwest side.
- North Madison Street and Union Street, southwest side.
- North Water Street and East Countryside Drive, southeast side.
- North Water Street and East Main Street, northwest side.
- North Water Street and East Countryside Drive, northeast side.
- North Water Street and East Countryside Drive, northwest side.
- North Water Street and East Countryside Drive, southwest side.
- North Water Street and Genesis Drive, southwest side.
- North Water Street and Noahs Arc Court, northeast side.
- North Water Street and Hosanna Heights Circle, southwest side.
- Old 92 and South 1st Street, northwest side.
- Old Highway 92 and South Madison Street, southwest side.
- Orchard View Drive and County Road M, northeast side.
- Park Street and Grove Street, northeast side.
- Park Street and Grove Street, northwest side.
- Park Street and North Madison Street, southwest side.

- Parkview Blvd and South 6th Street, southwest side.
- Prairie View Drive and South 6th Street, southwest side.
- School Street and South First Street, northeast side.
- School Street and South Madison Street, southwest side.
- South Sixth Street and Prairie View Drive, southwest side
- S Seventh St and Badger Northeast side
- S Seventh St and Badger Northwest side
- S Seventh St and Badger Southeast side
- S Seventh St and Badger Southwest side
- S Seventh St and Westfield Ave Northeast side
- S Seventh St and Porter Rd Southeast side
- S Seventh St and Prairie View Dr Northeast side
- S Seventh St and Locust La Northeast side
- South Union Street and South Water Street, northwest side
- South Water Street and East Main Street, southeast side.
- Stonewood Ct and Locust La Southwest side
- Union Street and East Main Street, northwest side.
- Union Street and East Main Street, northeast side
- Union Street and East Main Street, southeast side
- Union Street and East Main Street, southwest side
- Walker Street and South Madison Street, northeast side.
- Water Street and South Madison Street, northeast side.
- West Main Street and Fourth Street, northeast side.
- West Main Street and Fourth Street, northwest side.
- West Main Street and Fourth Street, southeast side.
- West Main Street and Fourth Street, southwest side.
- West Main Street and Prentice Street, northwest side.
- West Main Street and Prentice Street, southeast side.
- West Main Street and Spencer Drive, northwest side.
- Westfield Avenue and Badger Drive, northwest side.
- Windsor Lane and North Water Street, northeast side.

(c) *Traffic Signal Locations.* In the interest of public safety, the following intersections are declared controlled intersections and official traffic control signals shall be installed thereon in conformity with the Wisconsin Official Traffic Control Device Manual at the following locations:

County Highway M and Highway 14

(d) *Installation of signs.* The Municipal Services Committee and the Municipal Services Department shall procure and erect stop signs at each of the locations enumerated in subsection (b) of this section.

(e) *Enforcement and penalties.* Enforcement of the stop sign requirements shall be pursuant to article II of this chapter.

(Code 1986, § 7.12; Ord. No. 1999-4, § 1, 4-13-1999; Ord. No. 1999-12, § 1, 8-10-1999; Ord. No. 1999-19, § 1(7.12), 11-9-1999; Ord. No. 2000-16, § 1, 10-10-2000; Ord. No. 2001-10, § 1, 1-8-2002; Ord. No. 2002-3, § 1, 4-9-2002; Ord. No. 2003-8, § 1, 8-12-2003, Ord. 2004-27, Ord. 2005-11, Ord. 2005-30, Ord. 2006-12, Ord. 2006-13, Ord. 2006-14, Ord. 2006-15, 2006-26, 2006-45, Ord. 2011-10, Ord. 2014-02, Ord. 2016-05, Ord 2018-02, Ord. 2021-11)

Sec. 122-63. One-way streets.³

(a) *Authorized.* In the interest of public safety and pursuant to Wis. Stats. § 349.10(1)(a), the locations designated in this section, being streets, alleys, driveways, or parking lots or portions thereof under the control and authority of the city, are declared to be subject to one-way direction of travel or parking.

(b) *Locations.* On each street, alley, driveway, parking lot, or portion thereof enumerated in this subsection, the direction of travel and parking shall be as shown:

- Montgomery Court between North Madison Street and First Street, travel and parking from east to west.
- Railroad Street between East Main Street and Mill Street, travel and parking from south to north.
- Mill Street between Railroad Street and North Madison Street, travel and parking from east to west.

(c) *Installation of signs.* The Municipal Services Committee and the Municipal Services Department shall procure and erect one-way direction signs and direction parking signs, as needed, for each location enumerated in subsection (b) of this section.

(d) *Enforcement and penalties.* Enforcement of the one-way travel and parking requirement shall be pursuant to article II of this chapter.

(Ord. No. 1999-15, § 1(7.13), 10-12-1999, Ord. 2008-21, Ord. 2014-02)

Sec. 122-64. School bus warning lights.

(a) Pursuant to Wis. Stats. §349.21, school bus operators may use flashing red warning lights in a residence or business district in locations where there are no crosswalks or traffic signals when pupils or other authorized persons must cross the street or highway before being loaded or after being unloaded.

(Ord. No. 2002-8, § 1, 11-22-2002)

Sec. 122-65. Use of vehicles with lugs.

(a) No person shall drive, operate, propel or haul any machine or vehicle whatsoever having wheels with spikes, lugs, or ridges, or having the wheels on such machine or vehicle tied, chained or locked, upon, across or along any street paved with asphalt, asphaltic macadam, asphaltic concrete, macadam, or other material susceptible to injury by such wheels; provided, however, that if the reasonable use or operation of such

³ **Cross references:** Streets, sidewalks and other public places, ch. 106.

machine or vehicle is impossible without crossing or passing along any such street, the City administrator may authorize the use of such street or portion thereof in writing, but only upon condition that the pavement shall be planked or otherwise covered to prevent injury from such wheels.

(Ord. 2005-5)

Sec. 122-66. Heavy traffic routes designated.

(a) The following streets and highways are declared to be heavy traffic routes pursuant to Wis. Stat. § 349.17(1):

- Madison Street from Union Street to the south City limits.
- West Main Street from Fourth Street to Madison Street.
- East Main Street from Union Street to the east City limits.
- North Fourth Street from West Main Street to the west City limits.
- Union Street from East Main Street to the north City limits.
- South Union Street from Water Street to East Main Street.
- Water Street from South Madison Street to East Main Street.

(Ord. 2005-5, Ord. 2010-06)

Sec. 122-67. Heavy traffic prohibited.

(a) Heavy traffic, which for purposes of this section means any vehicle with a gross weight (as defined in Wis. Stat. § 340.01) in excess of 12,000 pounds, is prohibited from using any street or highway in the City not designated a heavy traffic route under section 122-66, except as follows:

- (1) A person operating a vehicle with a gross weight (as defined in Wis. Stat. § 340.01) in excess of twelve thousand pounds but equal to or less than thirty thousand pounds may travel to a business or residence not on a heavy traffic route for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from such business or residence, provided that such person causes the vehicle leave and return to a heavy traffic route at a point nearest to such business or residence, unless such person will travel to another business or residence not on a heavy traffic route for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from such destination and the driving distance between this next destination and the current destination is less than the distance between the current destination and the nearest heavy traffic route.
- (2) A person operating a vehicle with a gross weight in excess of thirty thousand pounds shall be subject to the requirements of clause (1) of paragraph (a) of this section, and in addition thereto shall travel to only one business or residence not on a heavy traffic route for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from such destination on each deviation. A “deviation” is defined as an interval in which a vehicle leaves and returns to a heavy traffic route by the shortest possible route.

- (3) The Chief of Police may grant temporary permits to allow heavy construction equipment to use streets or highways not designated heavy traffic routes. Such permits shall be in writing. Such permits may be granted only when use of a non-designated street or highway is necessary for equipment to reach a construction site, and no permit shall be granted unless the person or corporation owning the equipment pays a fee to the City and agrees in writing to reimburse and hold the City harmless for any damage done to the non-designated street or highway by the equipment and any personal injury or property damage cause in part or in whole by such damage to the street or highway. The Common Council by resolution shall establish and may from time to time amend the fee required by this paragraph, which shall be set forth in appendix A.
- (4) Vehicles owned by federal or state governments, or political subdivisions thereof shall not be restricted as set forth in this section.
- (5) This section does not apply to streets or highways over which are routed state trunk highways.
- (6) Any lesser gross weight established as a special or seasonal weight limitation under section 122-70 shall supersede any limitations or exceptions under this section.

(Ord. 2005-5, Ord. 2010-06, Ord. 2023-13)

Sec. 122-68. Signs and maps for heavy traffic routes.

(a) Appropriate signs shall be posted giving notice of section 122-67 and of the heavy traffic routes designated in section 122-66. Yellow sign posts may also be used to designate heavy traffic routes. Maps of the City showing heavy traffic routes shall be prepared and shall be available upon request at City hall and the police department headquarters.

(Ord. 2005-5)

Sec. 122-69. Additional penalties.

(a) In addition to the penalties provided in section 122-31, any person or corporation that owns or operates a vehicle or equipment that damages any street or highway in the City while such vehicle or equipment is being operated in violation of section 122-65, 122-67 or 122-70 shall be liable and required to pay the City the cost of repair or replacement of the damaged street or highway.

(Ord. 2005-5, Ord. 2010-06)

Sec. 122-70, Special or Seasonal Weight Limitations.

(a) Pursuant to procedures and limitations of Wis. Stats. § 349.16, the of Municipal Services Director may:

- (1) Impose special weight limitations on any highway maintained by the City or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition,

would likely be seriously damaged or destroyed in the absence of such special limitations;

- (2) Impose special weight limitations on bridges or culverts when in its judgment such bridge or culvert cannot safely sustain the maximum weights permitted by statute;
- (3) Order the owner or operator of any vehicle being operated on a highway to suspend operation if in its judgment such vehicle is causing or likely to cause injury to such highway or is visibly injuring the permanence thereof or the public investment therein, except when Wis. Stats. § 84.20, is applicable or when the vehicle is being operated pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the highway. Traffic officers also may order suspension of operation under the circumstances and subject to the limitations stated in this paragraph c.

(Ord. 2010-06, Ord. 2014-02, Ord. 2023-13)

Secs. 122-71--122-90. Reserved.

DIVISION 2. SPEED

Sec. 122-91. Speed limits.

(a) The Common Council determines the statutory speed limits on the following streets or portions thereof are unreasonable, unsafe or imprudent and modifies such speed limits under Wis. Stats. § 346.57 and 349.11, all streets are Twenty-Five miles per hour unless listed below:

- (2) *Thirty-five miles per hour:*
Cemetery Road, County Trunk M from the north City limit to the south City limit, and Union Street from North Madison Street to the north City limit.
- (3) *Fifteen miles per hour.*
Antes Drive, Burr W. Jones Circle, Leonard Park Drive, and Westside Park Service Road.

(Code 1986, § 7.01; Ord. No. 1998-15, § 1, 10-13-1998, Ord. 2005-6, Ord. 2007-22; Ord. 2008-16, Ord. 2023-13)

Secs. 122-92--122-120. Reserved.

ARTICLE IV. STOPPING, STANDING AND PARKING

Sec. 122-121. Designation of parking.

(a) The Municipal Services Director or other designated person shall, by striping or otherwise, designate parking spaces (either horizontal, diagonal or otherwise) upon such City streets, parking lots or other public places as the Common Council or Municipal Services committee may from time to time designate or prescribe.

(b) The Municipal Services Director or other designated person shall also, by the erection of appropriate signs, painting of curb lines or other clearly understood means, designate areas upon City streets, parking lots or other public places where parking is prohibited pursuant to order of the Common Council or Municipal Services Committee.

(c) No person shall park any vehicle in such areas contrary to the manner indicated by such signs or markings.

(d) No person shall park any vehicle, trailer or other motorized equipment on lawns.

(Code 1986, § 7.03(5), Ord. 2014-02, Ord 2020-15)

Sec. 122-122. Temporary suspension of parking regulations.

(a) Upon request, for special events, the Public Safety Committee may suspend on a temporary basis the parking regulations. The applicant must make request in writing to the Chief of Police and public safety committee. The request must include the place, date and times for which parking regulation suspension is to be made.

(Code 1986, § 7.03(12))

Sec. 122-123. Parking of commercial vehicles generally.

(a) No commercial vehicles over 17 feet in length shall be parked on the streets of the city, except where parking parallel to the curb is permitted, unless loading or unloading, in which case parking is permitted in diagonal parking spaces, only if the front of such vehicle is headed toward the center of the street and one of the rear wheels thereof rests on the curb of the street, and then only for a reasonable time in which to accomplish such unloading or loading.

(Code 1986, § 7.03(1))

Sec. 122-124. Parking of commercial vehicles in residential areas.

(a) No person shall park or leave standing or unattended any commercial vehicle more than 20 feet in length for more than two consecutive hours, or while the motor is running, on any City street or alley where abutting property is zoned R-1 or R-2, except to make deliveries, pickups, or similar commercial operations in the immediate vicinity or while engaged in the actual process of loading or unloading.

(Code 1986, § 7.03(10))

Sec. 122-125. Repair of vehicles on street.⁴

(a) No person shall remodel, repair, or alter any motor vehicle on any street in the city. This section shall not apply to emergency repairs performed on any street in the City within 12 hours after such motor vehicle becomes inoperable which are necessary for the purpose of making such motor vehicle operable.

⁴ **Cross references:** Streets, sidewalks and other public places, ch. 106.

(Code 1986, § 7.03(9))

Sec. 122-126. Winter parking restrictions.

(a) *Parking restrictions during and after snow emergencies.* A snow emergency is defined based upon forecasted information or observed conditions, and that the accumulation of ice, snow, whether from snowfall or drifting, necessitates snowplowing, snow removal or pavement treatments. Any vehicle parking or left standing in violation of this section may be ticketed a minimum ticket fine of \$100 and/or removed under the direction of the City of Evansville Police Department or Municipal Services Department. The expense of any such removal may be charged to the owner of the vehicle. Removal of said vehicle shall not prevent prosecution under this section.

(b) *Signs and posting.* The Municipal Services Department shall procure, erect and maintain appropriate traffic signs or markers giving notice of the provisions of this section at or reasonably near the corporate limits on all state and county trunk highways informing motorists when winter parking regulations are in effect.

(c) *Notification.* Notifications shall be made via a press release issued by the Police Department or Municipal Services Department. Failure to receive such notifications shall not excuse any person from the provisions of this subsection.

(Code 1986, § 7.03(2), Ord. 2012-27, Ord 2021-10)

Sec. 122-127. Parking between 2:00 a.m. and 6:00 a.m.

(a) When signs have been erected at or reasonably near the corporate limits of the City as provided in Wis. Stats. § 349.13, no person shall park any vehicle in the City on Main Street from its intersection with First Street to its intersection with Union Street, on Madison Street from its intersection with Mill Street to its intersection with Church Street, and on Maple Street from its intersection with Main Street to its intersection with Church Street, at any time between 2:00 a.m. and 6:00 a.m., except physicians on emergency calls.

(Code 1986, § 7.03(3))

Sec. 122-128. Two-hour parking zones.

(a) *Established.* The following described streets and parts of streets in the City are hereby designated and established as two-hour parking zones:

- Madison, from Church Street to Mill Street.
- Main Street, from the corner of First Street to the middle of the intersection of Maple Avenue.
- Maple Street, from East Main Street to the north line of the alley running east and west through Block 9, original plat of the city.

(b) *Parking time limit.* The parking limit in all two-hour parking zones shall be two hours.

(c) *Hours and days when applicable.*

- (1) The limited parking in such zones and on such streets shall apply from 9:00 a.m. to 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday.
- (2) On Sunday and on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day the restricted parking shall not be in force.

(d) *Violations.* When any person shall park any vehicle in a two-hour parking zone, they shall park the vehicle within the space designated for such parking and in the manner of parking indicated as proper. No person shall park any vehicle in excess of such two-hour limit. No person shall cause or permit any vehicle registered in their name to be unlawfully parked as set out in this section.

(Code 1986, § 7.03(4))

Sec. 122-129. No parking zones.

(a) No person shall stop or leave any vehicle standing in any of the following places except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers and while the vehicle is attended by a licensed operator so that it may promptly be moved in case of an emergency or to avoid obstruction of traffic:

- (1) In a loading zone.
- (2) In an alley in a business district.
- (3) Within 10 feet of a fire hydrant, unless a greater distance is designated per Evansville Municipal Code Sec. 122-121.
- (4) Within 4 feet of the entrance to an alley, a private road or driveway unless a greater distance is designated per Evansville Municipal Code Sec. 122-121.
- (5) Closer than 15 feet to the near limits of a crosswalk unless otherwise designated under Evansville Municipal Code 122-121.
- (6) As an obstruction to United States Postal Service delivery to mailboxes.

(b) *Designated.* The following described streets and parts of streets in the City are hereby designated and established as no parking zones:

- Church Street, both sides from South Madison Street to the westerly property line of 11 West Church Street, for temporary 15-minute parking only, with parking spots to be outlined in white for individual cars.
- Church Street, both sides from the westerly property line of 11 West Church Street to the westerly property line of 22 West Church Street, for emergency personnel parking only.
- College Drive, both sides, from South Fourth Street to West Church Street.
- East Church Street, south side, from Enterprise Street to Allen Creek.
- East Church Street, south side, from South Madison Street to Maple Street.
- East Main Street, both sides, from Union Street to the east City limits.

- Leonard Park Drive, both sides, from North Second Street to Grove Street.
- Mill Street, from North Madison Street to Railroad Street on the southeast corner.
- Montgomery Court, south side, from North First Street to North Madison Street.
- North Fourth Street, southwest side, from West Main Street to the west City limit.
- North Madison Street, both sides, from Allen Creek to Union Street.
- North Madison Street, west side, from Montgomery Court to Allen Creek.
- Railroad Street, east side, from East Main Street to Mill Street.
- Railroad Street, west side, from East Main Street to the alley.
- South Fourth Street, both sides, from Badger Drive to its south end.
- South Madison Street, west side, from Church Street to the south City limit.
- South Union Street, east side, from East Main Street to Water Street.
- Union Street, both sides, from the north City limits to Main Street.
- Walker Street, both sides, from Cherry Street to east end of Walker Street.
- Water Street, south and east sides, from Allen Creek to East Main Street.
- Water Street, south side from Madison Street to Allen Creek
- West Main Street, north side, from First Street to Fourth Street.
- Cemetery Street, west side 50 feet from Main Street

(c) *Violations.* No person shall park any vehicle in the no parking zones at any time. This subsection does not, however, prohibit temporary stopping of a vehicle for the purpose of receiving or discharging passengers or loading or unloading, provided the vehicle is attended by a licensed operator.

(d) *Installation of signs.* Official traffic signs or markers giving notice of such no parking zones shall be placed or erected by the Municipal Services Committee.

(Code 1986, § 7.03(7), Ord. 2005-7, Ord. 2005-52, Ord. 2010-05, Ord. 2011-11, Ord. 2011-18, Ord. 2012-25, Ord. 2013-05, Ord. 2014-02, Ord 2016-20, Ord. 2018-13)

Sec. 122-130. Restricted parking during specified hours.

(a) No person shall park or leave standing any motor vehicle on Third Street from Lincoln Street south to the end of Third Street between 7:30 a.m. and 4:00 p.m. on school days.

(b) Reserved.

(c) Reserved.

(d) No person shall park or leave standing any motor vehicle on the north side of Fair Street from Second Street to the school limits between the hours of 7:30 a.m. and 4:00 p.m. on school days.

(e) Reserved.

(f) No person shall park or leave standing any motor vehicle on School Street from Madison to South First Street between the hours of 7:30 a.m. and 4:00 p.m. on school days.

(g) No person shall park or leave standing any motor vehicle on Fourth Street from Badger Drive to Lincoln Street between the hours of 7:30 a.m. and 4:00 p.m. on school days.

(h) Parking shall be permitted in one stall at 115 East Main Street for a period of no more than ten minutes. The ten-minute parking shall apply from 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday.

(i) Parking shall be permitted along the north side of Brown School Road, starting from approximately the Southwest corner of parcel 6-27-959.3 (720 Brown School Road) running east 160 feet, for a period of no more than ten minutes. Exact location and distance shall be designated under Evansville Municipal Code 122-121.

(Code 1986, § 7.03(8); Ord. No. 2002-13, § 1, 1-14-2003, Ord. 2007-13, Ord. 2018-13, Ord. 2019-09, Ord. 2020-15)

Sec. 122-131. Parking for emergency vehicles only.

(a) Church Street, both sides from the westerly property line of 11 West Church Street to the westerly property line of 22 West Church Street shall be designated as authorized emergency vehicle parking only. No person shall park any vehicle not an authorized emergency vehicle or personal vehicle of responding emergency services personnel in that designated location.

(Ord. No. 1999-13, § 1(7.03(13)), 8-10-1999, Ord. 2012-05)

Sec. 122-132. Parking restrictions in public parking lots.

(a) On Monday through Friday of each week, no person shall park or leave standing any unoccupied vehicle in any public parking lot in the City for more than 12 continuous hours in one calendar day. Merely moving the vehicle from one location to another within the same parking lot shall not interrupt the running of the 12-hour period.

(b) From Monday through Friday of each week, no person shall park or leave standing any unoccupied vehicle in any public parking lot in the City between the hours of 2:00 a.m. and 6:00 a.m., except in those areas designated for overnight parking by an annual or temporary residential parking permit and windshield sticker.

(c) No vehicle shall be parked at designated electric charging stations unless the vehicle is connected to the charging station and the charging station is active.

(d) The Chief of Police shall issue parking lot residential parking permits and windshield stickers pursuant to section 122-133.

(e) Notwithstanding the preceding provisions of this subsection, residents may park vehicles in the City of Evansville parking lots for no more than 48 consecutive hours while snow is being cleared from City streets during a snow emergency.

(Code 1986, § 7.03(6), Ord. 2004-11, Ord 2019-09, Ord. 2021-10)

Sec. 122-133. Permit for overnight parking in public parking lots.

(a) *Eligibility; issuance.* Residents of the City may obtain from the Chief of Police a permit permitting overnight vehicle parking in designated areas of the City parking lots. Only one permit per resident of driving age shall be allowed. The applicant shall complete such form as required by the Chief of Police. The resident shall receive a sticker to be displayed on the vehicle windshield.

(b) *Temporary permit.* Temporary visitors to the City may obtain from the Chief of Police a temporary seven-day parking permit permitting overnight vehicle parking in designated areas of the parking lots of the city. The applicant shall complete such form as required by the Chief of Police. The visitor shall receive a temporary permit and dashboard card to be displayed in the vehicle windshield.

(c) *Snow emergency parking.* Residents may park vehicles within the City of Evansville Municipal Parking Lots without a permit and at no cost, for no more than 48 consecutive hours while snow is being cleared from City streets during a snow emergency.

(d) *Fee.* There shall be a yearly fee, as established by the council from time to time by resolution and as set forth in appendix A, for each calendar year or fraction thereof, for the annual residential parking permit. There shall be no fee for the temporary residential parking permit or for any City resident during a snow emergency.

(Code 1986, § 7.03(11), Ord 2021-10)

Sec. 122-134. Parking or standing on private property limited or prohibited.

(a) *Authority* In the interest of public safety and pursuant to Wis. Stats. § 349.06(1)(b), 346.55, the Common Council determines the regulation of parking or standing motor vehicles on private property is necessary.

(b) *No motor vehicle parking or standing without consent.* No person shall leave or park any motor vehicle on private property without the consent of the owner or lessee of the property.

(c) *No motor vehicle parking or standing where limited, restricted, or prohibited.* No person shall leave or park any motor vehicle on private property contrary to any sign posted thereon by the owner or lessee limiting or restricting who may park or leave a vehicle or prohibiting parking or leaving of vehicles altogether.

(d) *Property owner or lessee to provide sign.* An owner or lessee of private property who wishes to limit, restrict, or prohibit the leaving or parking of motor vehicles on the property must post a sign that clearly warns of the restrictions or prohibition of parking or leaving of motor vehicles. The property owner or lessee shall obtain and pay any expense of installing and maintaining the required sign.

(Ord. No. 1999-17, § 1(7.03(13)), 11-9-1999)

Sec. 122-135. Parking of campers and trailers.

(a) No person owning or having control of any camping trailer (including but not limited to any trailer as the defined by Wis. Stats. § 340.01 (71), mobile home, motor bus, motor home, camper bus, gooseneck, fifth wheel, bumper pull behind, pop up, recreational vehicle, or other camper or trailer shall park the same upon any street, highway or public right-of-way of the City for more than four (4) separate days, or any portion thereof, whether consecutive or in the aggregate, within any 30 day period regardless of which street, highway or public right-of-way of the City it is parked on each particular day or portion thereof.

[Ord. 2016-15]

Secs. 122-136. Unregistered Vehicles

(a) No person, firm, corporation, or other entity shall park, leave standing and/or unattended any unregistered automobile, truck, motorcycle, or vehicle (including but not limited to any vehicle as defined by Wis. Stats. § 340.01(74)) on any public street, public parking lot or other City - owned property in the city.

(b) No person, firm, corporation or other entity shall park, leave standing and/or unattended any automobile, truck, motorcycle, or vehicle (including but not limited to any vehicle as defined by section 340.01(74) of the Wisconsin Statutes) on any public street, public parking lot or other City – owned property in the City that fails to properly display registration (as provided under Wis. Stats. § 341.18(1)).

(c) When any law enforcement officer finds a vehicle standing upon a public street, parking lot or other City – owned property in violation of the above provisions, the law enforcement officer is authorized to move such vehicle or require the person, firm, corporation, or other entity in charge thereof to move such vehicle to a location permitted under this Chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area and in such case the owner shall pay the costs of removal from impound including any storage fees before the owner may obtain possession of the vehicle.

(d) The provisions of sections 122-192 through 122-195 of the code of ordinances is applicable to this section.

(Ord 2017-10)

Secs. 122-137--122-160. Reserved.

ARTICLE V. TRAFFIC CONTROL SIGNS, SIGNALS AND DEVICES

Sec. 122-161. Installation and maintenance.

(a) The Municipal Services Committee shall procure, erect and maintain appropriate standard traffic signs, signals and markings conforming to the rules of the state highway division giving such notice of the provisions of this chapter as required by state law. Signs shall be erected in such locations and manner as the Municipal Services Committee

shall determine will best effect the program and purposes of this chapter and give adequate warning to users of the street or highway.

(Code 1986, § 7.04(1), Ord. 2014-02)

Sec. 122-162. Removal of unofficial devices.

(a) The Municipal Services Committee shall have the authority granted by Wis. Stats. § 349.09, and shall cause the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this chapter or Wis. Stats. § 346.41. Any charge imposed on premises for removal of such an illegal sign, signal or device shall be reported to the Common Council at its next regular meeting for review and certification.

(Code 1986, § 7.04(2), Ord. 2014-02)

Secs. 122-163--122-190. Reserved.

ARTICLE VI. ABANDONED VEHICLES

Sec. 122-191. Forty-eight (48) hour parking prohibited.

(a) Forty-eight (48) Hour Limitation. No person, firm or corporation shall park, leave standing and/or unattended any automobile, truck, motorcycle, or vehicle (including but not limited to any vehicle as the defined by Wis. Stats. §340.01 (74)) of any description on any public street, public parking lot or other City-owned property in the City for a period of Forty-eight (48) or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street, parking lot or other City-owned property in violation of the provisions of this Section, they are authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this Chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area and in such case the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before they may recover the possession thereof.

[Code 1986, § 7.08(1), Ord. 2012-26, Ord 2016-17]

Sec. 122-192. Removal and impoundment authorized.

(a) Any vehicle in violation of this article shall be impounded until lawfully claimed or disposed of under section 122-193, except that if the Chief of Police or their authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the City prior to expiration of the impoundment period upon determination by the Chief of Police or their authorized representative that the vehicle is not wanted for evidence or other reason.

(Code 1986, § 7.08(2), Ord. 2023-13)

Sec. 122-193. Disposition of impounded vehicles.

(a) *Vehicles with value exceeding \$100.00.*

- (1) If the Chief of Police or their authorized representative determines that the value of the abandoned vehicle exceeds \$100.00, they shall notify the owner and lienholders of record by certified mail that the vehicle has been deemed abandoned and impounded by the City and may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges, and if not so reclaimed shall be sold.
- (2) If an abandoned vehicle determined to exceed \$100.00 in value is not reclaimed within the period and under the conditions as provided in subsection (a)(1) of this section, it may be sold at private sale.
- (3) After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid to the City.
- (4) All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with Wis. Stats. § 342.40(3)(c).

(b) *Vehicles with value less than \$100.00.* Any abandoned vehicle which is determined by the Chief of Police or their authorized representative to have a value of less than \$100.00 may be disposed of by direct sale to a licensed salvage dealer upon determination that the vehicle is not reported stolen.

(Code 1986, § 7.08(3), Ord. 2023-13)

Sec. 122-194. Payment of costs of impoundment and sale.

(a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs in impounding and disposing of the vehicle. Costs not recovered for the sale of the vehicle may be recovered in a civil action by the City against the owner.

(Code 1986, § 7.08(4))

Sec. 122-195. Notice to state division of motor vehicles of disposition of vehicle.

(a) Within five days after sale or disposal of a vehicle as provided in section 122-193, the Chief of Police or their authorized representative shall advise the state department of transportation, division of motor vehicles, of such sale or disposition on a form supplied by the division. A copy of such form shall also be given to the purchaser of the vehicle. A copy shall also be retained on file in the city.

(Code 1986, § 7.08(5), Ord. 2023-13)

Secs. 122-196--122-220. Reserved.

ARTICLE VII. BICYCLES⁵

Sec. 122-221. Penalty.

(a) Any person who shall operate any bicycle not properly registered or carrying a proper identification tag as required under this article upon any street in the city, or who shall operate such bicycle in an unsafe manner or in violation of any state law or local ordinance, shall upon conviction thereof be subject to the penalty provided in section 122-31.

(Code 1986, § 7.06(9))

Sec. 122-222. Registration and license required.

(a) No person shall operate, and no owner shall consent to be operated in the City any bicycle customarily kept within the City unless at the time of operation it is registered with the city, the license fee therefor paid and the license tag for such bicycle attached thereto and visible for inspection.

(Code 1986, § 7.06(2))

Sec. 122-223. Application for license.

(a) Application for a bicycle license shall be made on a form provided by the Police Department, at which time the license fee shall be paid. The Police Department shall issue a license unless they recommend that no license be issued as provided in this article.

(Code 1986, § 7.06(4), Ord. 2023-13)

Sec. 122-224. Inspection prior to licensing.

(a) The police department shall cause to be inspected each bicycle presented for registration, and if any such bicycle is found to be in an unsafe mechanical condition or not equipped as provided in this article, shall recommend that no license be issued until such bicycle is put in proper mechanical condition or is equipped as provided in this article. The Chief of Police may designate the dates and times during which such inspections shall be conducted.

(Code 1986, § 7.06(5))

Sec. 122-225. Issuance of license.

(a) Upon payment of a license fee by the applicant in such amount as established by the council from time to time by resolution and as set forth in appendix A, the Police Department shall issue a license tag, which shall permit the bicycle to be operated upon the streets of the city. Unless cancelled or revoked in the manner provided in this article, no further application or fee shall be required for use of such bicycle by the applicant or

⁵ **Cross references:** Streets, sidewalks and other public places, ch. 106.

members of the applicant's immediate family, subject, however, to the provisions of section 122-227.

(Code 1986, § 7.06(3))

Sec. 122-226. Cancellation of license.

(a) The Chief of Police shall cancel the registration of and remove the identification tag from any bicycle being operated upon any street in the City in an unsafe manner or in violation of any state law or local ordinance. Such cancellation of registration and removal of tag shall be in addition to other penalties provided under this article.

(Code 1986, § 7.06(6))

Sec. 122-227. Notification of change in ownership; transfer of license.

(a) Within ten days after any bicycle registered under this article changes ownership, or is dismantled and taken out of operation, such information shall be reported to the Police Department by the person in whose name the bicycle has been registered. The transferee shall, within not more than ten days after such transfer, re-register the bicycle and pay a transfer fee as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 7.06(7))

Sec. 122-228. Warning device required.

(a) No bicycle shall be operated on the City streets unless equipped with either a warning bell or horn.

(Code 1986, § 7.06(8)(b))

Sec. 122-229. Operating with feet removed from pedals.

(a) No person shall operate a bicycle in the City with their feet removed from the pedals.

(Code 1986, § 7.06(8)(c))

Sec. 122-230. Trick riding.

(a) No rider of a bicycle shall remove both hands from the handlebars or practice any trick or fancy riding on any street in the city.

(Code 1986, § 7.06(8)(d))

Sec. 122-231. Parking.

(a) No person shall leave or park a bicycle at such a place or in such a way as to create a hazard to pedestrians, automobile operators or anyone else.

(Code 1986, § 7.06(8)(f))

Sec. 122-232. Pedestrian right-of-way.

(a) This article does not supersede the right of pedestrians to the right-of-way over any bicycle, even though operated in the manner provided in this article.

(Code 1986, § 7.06(8)(h))

Sec. 122-233. Riding on sidewalk.

(a) Bicycles may be ridden on sidewalks except in the business districts as defined on the zoning district map under chapter 130.

(Code 1986, § 7.06(8)(i))

Secs. 122-234--122-260. Reserved.

ARTICLE VIII. SNOWMOBILES

Sec. 122-261. Adoption of state law.

(a) Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the state statutes are hereby adopted by reference and made part of this section as if fully set forth in this section. Acts required to be performed or prohibited by such statutes are required or prohibited by this section:

TABLE INSET:

Wis. Stats. § 350.01	Definitions
Wis. Stats. § 350.02	Operation of snowmobiles on or in the vicinity of highways
Wis. Stats. § 350.03	Right-of-way
Wis. Stats. § 350.035	Meeting of snowmobiles
Wis. Stats. § 350.04	Snowmobile races, derbies and routes
Wis. Stats. § 350.045	Public utility exemption
Wis. Stats. § 350.047	Local ordinance to be filed
Wis. Stats. § 350.05	Operation by youthful operators restricted
Wis. Stats. § 350.07	Driving animals
Wis. Stats. § 350.08	Owner permitting operation
Wis. Stats. § 350.09	Head lamps, tail lamps and brakes, etc.
Wis. Stats. § 350.095	Noise level requirements

Wis. Stats. § 350.10	Miscellaneous provisions for snowmobile operation
Wis. Stats. § 350.101	Intoxicated snowmobiling
Wis. Stats. § 350.102	Preliminary breath screening test
Wis. Stats. § 350.1025	Application of intoxicated snowmobiling law
Wis. Stats. § 350.103	Implied consent
Wis. Stats. § 350.104	Chemical test
Wis. Stats. § 350.106	Report arrest to department
Wis. Stats. § 350.107	Officer's action after arrest for operating a snowmobile while under influence of intoxicant
Wis. Stats. § 350.11	Penalties
Wis. Stats. § 350.12	Registration of snowmobiles; trail use stickers
Wis. Stats. § 350.13	Uniform trail signs and standards
Wis. Stats. § 350.135	Interference with uniform trail signs and standards prohibited
Wis. Stats. § 350.15	Accidents and accident reports
Wis. Stats. § 350.155	Coroners and medical examiners to report; required blood specimen
Wis. Stats. § 350.17	Enforcement
Wis. Stats. § 350.18	Local ordinances
Wis. Stats. § 350.19	Liability of landowners
Wis. Stats. § 350.99	Parties to a violation

(Code 1986, § 7.07(1), Ord. 2011-14)

Sec. 122-262. Restrictions on operation.

(a) Except as provided in the adopted statutes, no person shall operate a snowmobile upon any public right-of-way, in any public park or on any other public property in the City except on marked routes, trails or areas as are authorized under this article.

(b) No person shall operate a snowmobile on private property without the consent of the owner or lessee.

(c) No person shall operate a snowmobile between the hours of 12:00 a.m. and 7:00 a.m.

(Code 1986, § 7.07(3), Ord. 2011-14, Ord. 2023-13)

Sec. 122-263. Snowmobile trails and routes.

(a) *Approval.* Persons desiring approval of designated snowmobile trails and routes shall apply for such designation to the Public Safety Committee, or to the authorized representative of the public safety committee. Such application shall include a map showing the trail or route of such proposed way and satisfactory proof that the owners of all land upon which such way is to be laid out have consented thereto. The public safety committee shall have the right to alter or revoke any snowmobile trail or route in its discretion.

(b) *Marking.* Approval of a snowmobile trail or route shall be contingent upon such trail or route being marked by the superintendent of municipal services in substantial conformity with the requirements of Wis. Admin. Code ch. NR 50.10, and upon the continued maintenance of such markings.

(c) *Routes designated.* The following streets or portions thereof are designated as snowmobile routes:

- (1) *County Trunk Highway M.* On County Trunk Highway M between a point 100 yards south of US Highway 14 and the northerly City limit. Snowmobiles using this route shall travel on the righthand side and conform to the direction of vehicular traffic and shall not exceed the posted speed limit. A crossing of the roadway of County Trunk Highway M shall be a direct crossing, only after stopping and yielding the right-of-way to all vehicles approaching on the roadway.

(d) *Trails designated.* The following corridors are designated as snowmobile trails:

- (1) *Southeast of US Highway 14 and County Trunk Highway M.* Across several private properties south of US Highway 14 and east of County Trunk Highway M connecting the Rock County snowmobile trail in the Town of Union, a point of access for a direct crossing of US Highway 14 near John Lindemann Drive, and a point on County Trunk Highway M 100 yards south of US Highway 14.

(Code 1986, § 7.07(4), Ord. 2011-14, Ord. 2014-02)

Secs. 122-264--122-290. Reserved.

ARTICLE IX. RAILROADS⁶

Sec. 122-291. Trains blocking streets.

(a) No person operating a railroad train, locomotive or railroad car shall obstruct vehicular traffic on public streets at a railway use at such crossing for longer than five continuous minutes or for more than seven minutes out of any 12 continuous minutes.

(Code 1986, § 9.19)

⁶ **Cross references:** Streets, sidewalks and other public places, ch. 106.

ARTICLE X. NEIGHBORHOOD ELECTRIC VEHICLES

Sec. 122-300. Definition of neighborhood electric vehicle.

(a) *Neighborhood electric vehicle (NEV)* means a motor vehicle that is propelled by electric power, and that conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under 49 C.F.R. §§ 571.3(b) and 571.500. Neighborhood electric vehicle does not include a golf cart.

Sec. 122-301. Operation of neighborhood electric vehicle.

(a) A person may operate a neighborhood electric vehicle on any City Street, including any connecting highway or to an intersection where the roadway crosses a state trunk highway, within the City that has a speed limit of 35 miles per hour or less, subject to the following restrictions:

- (1) The neighborhood electric vehicle must be maintained such that it always satisfies the definition of a neighborhood electric vehicle set forth in Section 122-300 and the requirements stated therein.
- (2) The person operating the neighborhood electric vehicle must hold a valid Wisconsin operator's license or a valid operator's license from another state.
- (3) The neighborhood electric vehicle must be registered pursuant to Wis. Stats. § 341.297.
- (4) Operation on connecting highways or crossing state trunk highways shall be limited to the following:
 - A. STH 213 from Walker Street to US 14.
 - B. STH 59 from Walker Street to 0.18 miles north of STH 213.
 - C. US 14 from 0.18 miles north of STH 213 to CTH M.

(Ord. 2007-17, Ord. 2008-02, Ord. 2023-13)

ARTICLE XI. TAXICABS

Sec. 122-310. Vehicle License Required.

(a) No person shall use or keep for hire any motor vehicle for the transportation of persons within the City without first securing a vehicle license from the city. The issuing authority is the Public Safety Committee. This article shall not apply to vehicles used for mass transit or under contract with the city.

Sec.122-311. Vehicle License Application.

(a) Applicants for a vehicle license shall file with the City an application and shall pay the required fee. The application shall include the following:

- (1) Name and address of the owner. If the owner is a partnership, the names and addresses of all partners. If the owner is a corporation, the names and addresses of the officers and directors of the corporation.

- (2) Evidence of liability insurance in the amount of at least three-hundred-thousand dollars (\$300,000.00) for injury to any one person and at least three-hundred-thousand dollars (\$300,000.00) for any one accident.
- (3) A schedule of the rates and charges for transportation within the City limits. The schedule of rates and charges shall not be changed during the license period without approval of the Common Council.

Sec. 122-312. Vehicle License Conditions.

- (a) No vehicle license shall be issued to an applicant that fails to meet the conditions herein. Failure to maintain the conditions throughout the term of the license shall be grounds for its suspension or revocation.
 - (1) Liability insurance in the amount of at least three-hundred-thousand dollars (\$300,000.00) for injury to any one person and at least three-hundred-thousand dollars (\$300,000.00) for any one accident shall remain in effect on the vehicle during the term of the license.
 - (2) The vehicle license shall be displayed in a conspicuous place within the vehicle.
 - (3) The approved schedule of rates shall be displayed in a conspicuous place within the vehicle. If metered, the meter and the display of charges shall be clearly visible.
 - (4) The vehicle shall have signage readable from at least two sides of the exterior identifying it as a taxicab.
 - (5) The vehicle license shall be valid for a term from July 1 to June 30.

Sec. 122-313. Operator License Required.

(a) No person shall operate a motor vehicle for the transportation of persons within the City without first securing an operator license from the city. The issuing authority is the Public Safety Committee.

Sec. 122-314. Operator License Application.

- (a) Applicants for an operator license shall file with the City an application and shall pay the required fee. The application shall include the following:
- (1) Copy of state-issued driver's license.
 - (2) Agreement to a criminal history check.

Sec. 122-315. Operator License Conditions.

(a) No operator license shall be issued to an applicant that fails to meet the conditions herein. Failure to maintain the conditions throughout the term of the license shall be grounds for its suspension or revocation.

- (1) The licensee shall have and maintain a valid driver's license.
- (2) The licensee shall be at least eighteen (18) years of age.
- (3) The licensee shall not have been convicted of a felony.
- (4) The licensee shall not have been convicted of operating a motor vehicle in violation of Wis. Stats. § 346.63, as may be amended from time to time, or any other state statute involving the operation of a motor vehicle while under the influence of intoxicant or a controlled substance within five (5) years.
- (5) The operator license with photo identification shall be displayed in a conspicuous place within the vehicle.
- (6) The operator license shall be valid for a term from July 1 to June 30.

Sec. 122-316. Suspension or Revocation.

(a) Notwithstanding Section 22.46(e) of the Municipal Code, in instances when immediate suspension is deemed necessary to maintain public safety, the Chief of Police or their designee may suspend any license issued under this article for up to thirty (30) days.

(b) Any license issued under this article may be revoked for cause by the Common Council pursuant to Section 22-46 of the Municipal Code.

(c) Violation of this Article is subject to penalty pursuant to Section 1-11 of the Municipal Code.

(Ord. 2008-04, Ord. 2023-13)

Article XII. ATV/UTV ROUTES

Sec. 122-341. Authority and Purpose.

(a) The purpose of this ordinance is to establish all-terrain vehicle (ATV) routes in the City and to provide safe and enjoyable ATV/UTV recreation consistent with public rights and interests pursuant to Wis. Stats. § 23.33 adopted by reference.

Sec. 122-342. Applicability and Enforcement; Designation of Routes.

- (a) The provisions of this ordinance shall apply as described below:
 - (1) Under Wis. Stats. § 23.33(8)(b), the City designates all City-maintained roads and streets as ATV routes except any road or street that is signed to prohibit ATV/UTV use.
 - (2) Under Wis. Stats. § 23.33(11)(am)(4.), the City authorizes the operation of ATVs on:
 - A. STH 213 from the Southern City Limits to the intersection with USH14

B. USH 14 from the Northern City Limits to the intersection with Cty Hwy M

(3) Under Wis. Stat. sec. 23.33(1m)(c), utility terrain vehicles (UTVs) may be operated on all roads and streets in the City on which ATVs may be operated.

(b) The provisions of this ordinance shall be enforced by the City of Evansville Police Department. Adoption of this ordinance shall not prohibit any law enforcement officer or DNR warden from proceeding under any other ordinance, regulation, statute, law or order that pertains to the subject matter addressed under this section.

Sec. 122-343. Rules of Operation.

(a) The following rules of operation apply on all routes:

- (1) *Speed.* No ATV/UTV shall be operated at a speed greater than the posted speed limit.
- (2) *Lights.* No ATV/UTV may be operated on the routes without fully functional headlights, taillights, and brake lights. Every ATV/UTV being operated on the routes must display a lighted headlamp and tail lamp at all times.
- (3) *Roadway Travel.* On any ATV route, all ATV/UTV operation is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions. All ATVs and UTVs must operate in a single file. Operation on paved shoulders intended for bicycle or pedestrians, gravel shoulders, sidewalks, grassy in-slope, ditches or other highway right-of-way is prohibited unless the ATV or UTV is actively being used for snow removal.
- (4) *Operation.* ATV/UTV operation on the routes shall be in accordance with the provisions of the Wisconsin State Statutes, the Wisconsin Administrative Code and all other applicable ordinances, as the same may be amended from time to time.
- (5) *Open Intoxicants.* No person may possess on his or her person or in or on an ATV or UTV upon any route, any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed or released.
- (6) *Seatbelts.* All UTV operators and passengers must have their seatbelts fastened at all times.

Sec. 122-344. Operation.

- (a) Hours of operation restriction: None
- (b) Seasonal restriction: None

Sec. 122-345. Operators.

- (a) All operators of ATVs/UTVs on City routes shall be at least 16 years of age.
- (b) All operators of ATVs/UTVs shall possess a valid driver's license.
- (c) All operators of ATVs/UTVs shall possess valid proof of liability insurance consistent with State of Wisconsin minimum requirements for motor vehicles.
- (d) All operators of ATVs/UTVs who were born after January 1, 1988, shall possess a valid safety certificate.

Sec. 122-346. Route Signs.

- (a) The City is solely responsible for ATV/UTV route signage.
- (b) The City shall procure, install and maintain signs that conform to the requirements of Wisconsin law, the Manual on Uniform Traffic Control Devices, the Wisconsin Department of Transportation NR64.12 and the Wisconsin Department of Natural Resources under Wis. Stats. § 23.33.
- (c) The City shall procure Wisconsin DOT permits for locations Section 2(a)(ii) authorized under this ordinance.
- (d) No person may erect, remove, obscure, or deface any official designated route or preferred route sign unless authorized by the Common Council or its designee.
- (e) Signage shall be put in place within 30 days after passage of this ordinance.

Sec. 122-347. Penalties.

- (a) The penalties under Wis. Stats. § 23.33(13) are adopted by reference. Deposits for violations shall be required in accordance with the Revised Uniform State Traffic Deposit Schedule, as the same may be amended from time to time.
- (b) Juvenile penalties shall be as permitted under Wis. Stats. § 938.17. Deposits for violations shall be required in accordance with the Revised Uniform State Traffic Deposit Schedule, as the same may be amended from time to time and as the same may apply to juveniles.
- (c) The penalty for any violation of this ordinance for which no statutory penalty is provided shall be \$50.00 together with court costs, fees and assessments except that the penalty for violation of section 3 (e) shall be \$100.00 together with court costs, fees and assessments.

Sec. 122-348. Severability.

- (a) If a court of competent jurisdiction adjudges any section, provision or portion of this ordinance invalid, the remainder of this ordinance shall not be affected thereby.

Sec. 122-349. Copies to be Distributed to Law Enforcement.

- (a) The City Clerk, upon passage of this ordinance, shall immediately send a copy of this ordinance to the City Evansville Police Department, the Department of Natural Resources, to the Wisconsin State Traffic Patrol, and to the Rock County Sheriff's

Department. A copy shall also be provided to the Rock County Highway Department and Wisconsin Department of Transportation.

(Ord. 2024-08)

Sec. 122-350 -- Sec. 122-380. Reserved.

Chapter 126

UTILITIES¹

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- Sec. 126-1. Rates, rules and regulations generally.
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- Sec. 126-3. Water and electric connections.
- Sec. 126-4. Abandonment of Water Services Lines.
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- Sec. 126-8. Entry power, changing meters.
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- Sec. 126-182. Extension of service outside city.
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- Sec 126-187. Amount and Payment of Impact Fees
- Sec 126-188. Exemption or Reduction for Low-Cost Housing
- Sec 126-189. Appeals
- Sec 126-190. Refund of Fees Paid

¹ **Cross references:** Any ordinance for the water, sewer and electric rates, rules and regulations and sewer and water main construction saved from repeal, § 1-10(14); administration, ch. 2; buildings and building regulations, ch. 18; electrical code, § 18-81 et seq.; plumbing code, § 18-111 et seq.; businesses, ch. 22; flood area zoning, ch. 54; health and sanitation, ch. 58; historic preservation, ch. 62; planning, ch. 94; solid waste, ch. 102; streets, sidewalks and other public places, ch. 106; public works, § 106-231 et seq.; subdivisions, ch. 110; telecommunications, ch. 118; cable television franchising regulations, § 118-31 et seq.; manufactured homes and trailers, § 130-1241.

Sec. 126-191. Lead and Galvanized Water Service Line Replacement
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Sec. 126-224. Inspections.
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ARTICLE I. IN GENERAL

Sec. 126-1. Rates, rules and regulations generally.

(a) The rates, rules and regulations of the utility shall be those on file and approved by the state public service commission.

(b) Any entity that wishes to attach non-wireless facilities to City owned power poles shall pay an annual fee, as established by the City of Evansville's fee schedule, unless a different fee is agreed to between the parties pursuant to a written agreement.

(Code 1986, § 13.02, Ord. 2021-14)

Sec. 126-2. Supervision and control of water and electric utilities.

The city council shall have charge and management of the water and electric utilities, as provided by Wis. Stats. § 66.068(1) and (7). The operations shall be managed by a municipal services director hereby referred to as "director". The director may assign staff to conduct inspections, provide approvals or denials, and investigate concerns as permitted under this chapter.

(Code 1986, § 13.01, Ord 2020-02)

Sec. 126-3. Water and electric connections.

(a) No water main shall be tapped without a written permit from the superintendent of municipal services and under the supervision and control of the superintendent of municipal services.

(b) Any person desiring a water or light connection shall file with the superintendent of municipal services a written application upon blanks furnished by the superintendent of municipal services, and no connection shall be made without a written permit.

(Code 1986, § 13.03, Ord. 2014-02)

Sec. 126-4. Abandonment of Water Service Lines.

It shall be the responsibility of the owner of water service line to terminate such service line at the City main when said service line is to be abandoned from use. Service lines are determined to be abandoned from use at the discretion of the City to include, but not limited to:

(a) When application is made to the City to demolish the structure that is served by the service line.

(b) When new or replacement services are installed.

(c) When changes in platting or zoning of existing lots where services have been previously installed but will not be used.

The owner shall incur all expenses to properly disconnect the service line at the corporation stop on the City main. Such work shall be inspected and approved by the City

during normal business hours prior to the commencement of backfilling procedures. If the proper termination is not completed in a reasonable amount of time as determined by the director, the City shall have the authority to complete the proper termination at the expense of the owner.

Any deviations to this ordinance for special circumstances may be considered by the director and only approved under written agreement between the City and owner.

(Code 1986, § 13.04, Ord 2020-02)

Sec. 126-5. System Tampering.

No person shall willfully or carelessly break, injure, mar, deface, interfere with or disturb any building, machinery, apparatus, fixtures, attachment or appurtenance of the water works of said City, or any public or private hydrant or water trough, or stopcock, meter, water supply or service pipe, or any part thereof; nor shall any person deposit anything in any stopcock, or commit any act tending to obstruct or impair the intended use of any of the above mentioned property, without the permission of the City or except in cases regulated by Ordinance.

(Code 1986, § 13.08, Ord. 2014-02, Ord 2020-02)

Sec 126-6. Meter Tampering.

(a) Whoever, without permission and for the purpose of obtaining electrical current, gas or water with intent to defraud any vendor of electricity, gas or water by doing any of the following:

- (1) Connect or cause to be connected by wire or any other device with the wire, cables or conductors of any such vendor.
- (2) Connect or disconnect the meters, pipes or conduits of the vendor or in any other manner tamper or interfere with the meters, pipes or conduits, or connect with the meters, pipes or conduits by pipes, conduits or other instruments.
- (3) Knowingly take, receive, use or convert to such person's own use, or the use of another, any electricity, water, or gas which has not been measured or authorized.
- (4) Cut, remove or in any manner make ineffective any seal, locking band or lock on an electric or water meter.
- (5) Provide electricity, gas or water to another dwelling, via any means, which is without electricity, gas or water. Upon discovery of such instance, the dwelling providing electricity, gas or water may be disconnected immediately by the utility company.

(b) The existence of any of the conditions with reference to meters, pipes, conduits or attachments, described in this section, is presumptive evidence that the person to whom gas, electricity or water is at the time being furnished by or through the meters, pipes, conduits or attachments has, with intent to defraud, created or caused to be created the

conditions. The presumption does not apply to any persons furnished with gas, electricity or water for less than 31 days or until there has been at least one meter reading.

(c) Any person violating this section may be subject to a forfeiture of not less than \$200. Each day that a violation continues is a separate violation, as provided in Sec 111 in the code of ordinances.

(d) Any person violating this section will be required to make full restitution to the utility company for the cost of services obtained in violation of the ordinance, and the cost of any damage to the equipment of a utility company as a result of the violation.

Sec 126-7. Meter Placement.

No meter shall be obstructed from maintenance or replacement. If a property owner, or their tenant, constructs or creates a restriction denying easy access to the meter, the City may remove said restrictions or relocate the meter at the property owners cost. When not an emergency, the City may elect to work with the property owner on a time table that is deemed reasonable by the City to relocate the meter or remove said obstructions.

Sec. 126-8. Entry power; changing meters.

(a) The municipal services director or other officer or employee of the City shall be permitted at all reasonable hours to enter the premises or buildings of consumers for the purpose of reading meters and to examine water pipes and fixtures, and the manner in which water is used.

(b) The City reserves the right to set or remove a meter or change its location whenever it is deemed advisable to do so.

Sec. 126-9. Liability of City.

The City shall not be responsible for accidents resulting from variation in the water pressure, or the ram of the water from the mains, or from collapse from any cause whatsoever.

Sec. 126-10. Contractual nature of application; penalty for breaking.

(a) The provisions of all Ordinances relating to utility service shall be construed as a part of the contract with every person who is supplied with utility service, and every person so taking such service shall be construed by his/her so taking to be bound by them as a part of his/her contract with the City.

(b) Whenever any violation of such Ordinances occur, the water shall be cut off by the City to the facility where such violation occurs although two (2) or more persons are supplied thereby, and shall not be turned on again except by the order of the municipal services director and the payment of the expense of turning off and turning on, and such other terms as provided for by Ordinance, and after satisfactory understanding with the owner that no further violation shall occur.

Sec 126-11. Hydrants.

Hydrants erected in the City for the purpose of fire protection are hereby declared to be public hydrants and no person, other than the members of the fire district and then only for the use and purpose of said district, or person authorized by the City to provide maintenance to the water utility shall open any of the said hydrants, or attempt to draw water from the same, or at any time uncover or remove any protection from any of the hydrants in said City or in any manner interfere with any of said hydrants. The municipal services director may provide a metered use of water from a hydrant when it does not compromise fire protection and cannot be provided at another location.

Sec. 126-12. Collection of delinquent utility bills.

The provisions of Wis. Stats. § 66.0809(3) shall apply to the collection of delinquent service charges of the municipal services department as provided in the rules and regulations of the utility filed with the state public service commission.

(Code 1986, § 13.08, Ord. 2014-02, Ord. 2020-02)

Secs. 126-13--126-30. Reserved.

ARTICLE II.

Article II deleted and rewritten as Article V. (Ord. 2009-08)

Secs. 126-31--126-180. Reserved.

ARTICLE III. WATER

DIVISION 1. GENERALLY

Sec. 126-181. Connection to public system.

(a) *Notice to connect.* Whenever water becomes available to any public, commercial, mercantile or business building or building used for human habitation, the superintendent of municipal services shall notify in writing the owner, agent or occupant thereof, to connect thereto all facilities required by the superintendent of municipal services. If such person to whom notice has been given shall fail to comply for more than ten days after the notice, the superintendent of municipal services shall cause the necessary connection to be made, and the expense thereof shall be assessed as a special tax against the property pursuant to Wis. Stats. §§ 281.43 and 281.45.

(b) *Deferred payment.* The owner or his agent or the occupant may within 30 days after completion of the work file a written option with the clerk-treasurer electing to pay

the amount of the assessment in five equal installments with interest on the unpaid balance at eight percent per year.

(Code 1986, § 11.02(1), (2), Ord. 2014-02)

Sec. 126-182. Extension of service outside city.

(a) In order to provide adequate fire protection for persons and property within the city and to ensure protecting the public health and safety of the residents of the city without placing an undue financial burden upon the city taxpayers and to effectively coordinate water department operations with other municipal public works activities and for the purpose of conserving the available water supply, it is determined that it is necessary to limit the territory in unincorporated areas which the municipal water utility holds itself out to serve.

(b) Although the city has provided water service in a limited area outside the city limits, there has been no formal delineation of the boundaries of the territory which the city has undertaken to serve. Based upon a survey of the outside area now served, the city acts, pursuant to Wis. Stats. § 66.069(2)(c), to restrict its holding out to provide water service in unincorporated areas to the territory as established by the council from time to time.

(Code 1986, § 13.05)

Sec. 126-183. Fluoridation.

The water utility shall introduce approximately one part of fluoride to every million parts of water being distributed in the water supply system of the city.

(Code 1986, § 11.05)

Sec. 126-184. Definitions.

For purposes of section 126-184 through 126-190, the following terms shall have the following meanings:

- A. “Capital costs” has the meaning defined in Wis. Stats. § 66.0617(1)(a).
- B. “Developer” has the meaning defined in Wis. Stats. § 66.0617(1)(b).
- C. “Impact fees” has the meaning defined in Wis. Stats. § 66.0617(1)(c).
- D. “Land development” has the meaning defined in Wis. Stats. § 66.0617(1)(d).
- E. “Public facilities” means facilities for pumping, storing and distributing water, as discussed in Wis. Stats. § 66.0617(1)(f).
- F. “Service area” means a geographic area delineated by the council within which the City provides public facilities.
- G. “City” means the City of Evansville.

(Ord. 2005-4)

Sec. 126-185. Impact Fee Revenue Administration.

- A. Revenues from impact fees shall be placed in one or more segregated, interest-bearing accounts and shall be accounted for separately from other city general and utility funds. Impact fee revenues and interest earned thereon may be expended only as provided in section 126-186.

- B. Impact fee revenues imposed and collected but not used within a reasonable period of time after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, as determined by the council, to the current record owner or owners of the property with respect to which the impact fees were imposed. Reasonable time periods for expenditure of impact fee revenues shall be as follows: water facilities, 20 years.

(Ord. 2005-4)

Sec. 126-186. Use of Impact Fees.

Funds collected from impact fees shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may become necessary due to land development. These costs may include the costs of debt service on bonds or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated impact fees for that project, to reimburse the city for advances of other funds or reserves, and such other purposes consistent with Wis. Stats. § 66.0617 that are approved by the municipal services committee.

(Ord. 2005-4, Ord. 2014-02)

Sec. 126-187. Amount and Payment of Impact Fees.

The council shall by resolution establish, and may from time to time amend, the amount of the impact fee, which shall be set forth in appendix A. The municipal services committee shall periodically review the impact fee adopted by the council and make recommendations for amendments to the fee the municipal services committee deems appropriate. All required impact fees shall be paid in full prior to issuance of a building permit for land development. Impact fee payments shall be assumed to be the responsibility of the developer at the time a building permit is issued.

(Ord. 2005-4, Ord. 2014-02)

Sec. 126-188. Exemption or Reduction for Low-Cost Housing.

The council may grant an exemption from or reduction in the amount of the impact fee on land development that provides low-cost housing provided, however, that no amount of an impact fee for which an exemption or reduction is provided under this section may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the city.

(Ord. 2005-4)

Sec. 126-189. Appeals.

The payment of an impact fee imposed under this section may be contested as to the amount, collection or use of the impact fee to the municipal services committee, provided that the applicant files a written notice of appeal in the clerk-treasurer's office within thirty (30) days of payment of the impact fee. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. The city finance director shall schedule the appeal for consideration by the municipal services committee at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than at least ten (10) days before the date of such meeting. Upon review of such appeal, the municipal services committee may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

(Ord. 2005-4, Ord. 2014-02)

Sec. 126-190. Refund of Fees Paid.

Any funds not expended or encumbered by the reasonable period of time as outlined in section 126-186 shall be refunded to the current owner of the property for which the impact fee was paid.

(Ord. 2005-4)

Secs. 126-191. Lead and Galvanized Water Service Line Replacement.

(a) Intent & Purpose

The Common Council of the City of Evansville finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead and galvanized pipe water service lines in use in the City and, to that end, declares the purposes of this section to be as follows:

- (1) To ensure that the water quality at every tap of utility customers meets the water quality standards specified under the federal law.
- (2) To reduce the lead in City drinking water to meet the Environmental Protection Agency (EPA) standards and ideally to a lead contaminant level of zero in City drinking water for the health of City residents.
- (3) To eliminate the constriction of water flow caused by mineral rich

groundwater flowing through lead and galvanized water service pipes and the consequent buildup of mineral deposits inside lead and galvanized pipes.

- (4) To meet the Wisconsin Department of Natural Resource (WDNR) requirements for local compliance with the Lead and Copper Rule (see 56 CFR 6460, 40 CFR parts 141.80 – 141.90 and Wis. Admin. Code §§ NR 809.541 – 809.55).

(b) Water System Reconstruction

(1) Inspection Required

The Municipal Service Director or their designee shall provide for the inspection of all private connections to public water mains scheduled for replacement as part of any public construction project. Property owners shall be given the option to allow the City's designated inspector to conduct the inspection at no cost to the owner, or to pay to have the owner's own licensed contractor conduct the inspection and provide a certification to the City stating whether the service lateral does or does not contain lead or galvanized pipe.

- (a) If the private water lateral does not contain lead or galvanized pipe, the City shall reconnect to the water system.
- (b) If the private water lateral is found to contain lead or galvanized pipe, the Municipal Service Director or their designee shall notify the owner in writing of that fact, and of the owner's options for replacing the water lateral pursuant to this Section.
- (c) Any existing water service lateral found to contain lead or galvanized pipe and not replaced pursuant to this Section shall be deemed an unlawful water service lateral.

(2) Owner to Replace Lead and Galvanized Service

The owner shall replace any lead or galvanized water service lateral with suitable material from the water curb stop valve to the City water meter serving the building. The owner may elect to:

- (a) Contract with a licensed contractor to replace the lead or galvanized water service lateral and provide written certification to the City that the lead or galvanized water service lateral has been replaced. The certification shall include the route, depth, and materials of the new water service lateral. The lead or galvanized service lateral shall be replaced, and certification shall be given within such time as may be established by the Municipal Service Director.
- (b) If available, request that the City arrange for its contractor to replace the lead or galvanized water service lateral. If the owner elects to have the City's contractor replace the lateral, the City will direct the contractor to do the work. The

owner will be required to execute an agreement with the City. The agreement must include the owner's request and authorization to do the work, including authorizing entry onto the owner's property for the purpose of doing the work. The agreement shall contain such additional terms as the Municipal Service Director deems necessary or appropriate.

(c) Authority to Discontinue Service

As a non-exclusive alternative to other methods allowed for obtaining compliance with the requirements of this Code regarding replacement of lead or galvanized illegal private water laterals, the City may, no sooner than 90 days after providing written notice to the Owner, discontinue water service to any property served by a lead or galvanized private water lateral.

(d) Financial Assistance

The City, at its sole discretion, may provide financial assistance to the owner of the property to which water utility service is provided for the purpose of assisting the owner in replacing customer-side water service lines containing lead or galvanized pipe. The financial assistance will be considered only if all the following conditions are met:

- (1) The property owner agrees to have the replacement work done by a City approved plumbing contractor in compliance with the ordinance.
- (2) The Municipal Service Director or their designee approves the quote before construction commences.
- (3) The property owner's customer-side water service is attached to a city-side service line that is not lead or galvanized pipe, or a city-side lead or galvanized pipe that is scheduled for replacement by the City and for which the property owner has been notified.
- (4) Upon completion of the customer-side service replacement, the property owner provides the City with a copy of the invoice from the plumbing contractor. Once there is proof of completion satisfactory to the property owner and City, City shall directly pay the plumbing contractor the amount of money approved by City for the replacement and provide documentation of payment to the property owner.
- (5) The amount of financial assistance will be the same for each owner in a customer class, be it a fixed amount or a percentage of the replacement cost.
- (6) The financial assistance program has been approved by the Public Service Commission of Wisconsin.

(Ord. 2022-14)

Secs. 126-192--126-200. Reserved.

DIVISION 2. PRIVATE WELLS

Sec. 126-201. Purpose of division.

The purposes of this division is to prevent unused, improperly constructed or defective wells from serving as a passage for contaminated surface waters or near-surface waters or other materials to reach the usable groundwater.

(Code 1986, § 13.07(1))

Sec. 126-202. Standards for use; inspections; permit for installation of new wells.

(a) No private well may be used in the city unless it meets these standards:

- (1) The well and pump installation meet the requirements of Wis. Admin. Code ch. NR 812, and a well constructor's report is on file with the state department of natural resources, or certification of the acceptability of the well has been granted by the private water supply section of the department of natural resources.
- (2) The well has a history of producing safe water and presently produces bacteriologically safe water as evidenced by three samplings two weeks apart.
- (3) The proposed use of the well can be justified as being necessary in addition to water provided by the public water system.
- (4) No physical connection shall exist between the piping of the public water system and the private well.

(b) The director of municipal services shall determine the location of each private well in the city and shall inspect such wells for compliance with this division. No new private well shall be constructed in the city without a permit therefor issued by the municipal services superintendent.

(Code 1986, § 13.07(3), Ord. 2014-02)

Sec. 126-203. Filling of abandoned wells required.

All abandoned or defective private wells located on any premises which is served by the public water system of the city shall be properly filled within the time required by order of the municipal services superintendent.

(Code 1986, § 13.07(2), Ord. 2014-02)

Sec. 126-204. Standards for filling abandoned wells.

Wells to be abandoned shall be filled according to the procedures outlined in Wis. Admin. Code ch. NR 812. The pump and piping shall be removed and the well checked for obstructions prior to plugging. Any obstruction or liner shall be removed.

(Code 1986, § 13.07(4))

Sec. 126-205. Report of abandonment.

A well abandonment report shall be submitted by the well owner to the state department of natural resources on forms provided by that agency. The report shall be submitted immediately upon completion of the filling of the well. The filling shall be inspected by the municipal services superintendent.

(Code 1986, § 13.07(5), Ord. 2014-02)

Secs. 126-206--126-220. Reserved.

DIVISION 3. CROSS CONNECTIONS

Sec. 126-221. Purpose of division.

The provisions of Wis. Admin. Code § NR 810.15 and Wis. Admin. Code § SPS 382.41 require protection of the public water system from contaminants due to backflow of contaminants through the water service connection, and the state department of natural resources and department of health and family services require the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination of all potable water systems. Therefore, this division is created to prevent such contamination.

(Code 1986, § 13.06(1), Ord. 2012-04)

Sec. 126-222. Definitions.²

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

Cross connection means any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the city water system, and the other water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(Code 1986, § 13.06(2))

² **Cross references:** Definitions generally, § 1-2.

Sec. 126-223. Cross connections prohibited.

No person shall establish or permit to be established or maintain or permit to be maintained any unprotected cross connection. Cross connections shall be protected as required in Wis. Admin. Code § SPS 382.41.

(Code 1986, § 13.06(3), Ord. 2012-04)

Sec. 126-224. Inspections.

(a) The municipal services superintendent shall cause inspections to be made of all properties served by the public water system where cross connections with the public water system are possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the utility as required in Wis. Admin. Code § SPS 382.41.

(b) Upon presentation of credentials, a representative of the water utility shall have the right to request entry, at any reasonable time, to property served by a connection to the public water system for the purpose of inspecting the property for unprotected cross connections. Refusing entry to such utility representative shall be sufficient cause for the water utility to discontinue water service to the property, as provided under Sec. 126-225. If entry is refused, a special inspection warrant may be obtained under Wisconsin Statutes, Section 66.0119.

(c) As an alternative, the water utility may allow the owner of the property to have the property inspected for unprotected cross connections, at their own expense, by a license plumber or certified cross connection inspector/surveyor.

(d) Any unprotected cross connection identified by the inspection shall be promptly corrected. Failure to promptly correct an unprotected cross connection shall be sufficient cause for the water utility to discontinue water service to the property, as provided under Sec. 126-225.

(Code 1986, § 13.06(4), Ord. 2012-04, Ord. 2014-02)

Sec. 126-225. Authority to discontinue water service.

The water utility may discontinue water service to any property wherein any connection in violation of this division exists, and may take such other precautionary measures necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Wis. Stats. ch. 68, except as provided in section 126-226. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.

(Code 1986, § 13.06(5), Ord. 2012-04)

Sec. 126-226. Emergency discontinuance of water service.

If it is determined by the water utility that an unprotected cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the city clerk and delivered to the customer's

premises, water service may be immediately discontinued. The customer shall have an opportunity for hearing under Wis. Stats. ch. 68 within ten days of such emergency discontinuance. Water service shall not be restored until the unprotected cross connection has been eliminated.

(Code 1986, § 13.06(6), Ord. 2012-04)

Sec. 126-227. Applicability of state plumbing code.

The state plumbing code, Wis. Admin. Code § SPS 381-387, is adopted by reference as a part of this division.

(Code 1986, § 13.06(7), Ord. 2012-04)

Sec. 126-228. Division supplemental to state and city plumbing codes.

This division does not supersede the state and city plumbing codes, but is supplementary to them.

(Code 1986, § 13.06(8))

ARTICLE IV. STORMWATER

Sec. 126-250. Findings.

- A. The management of stormwater and other surface water discharges within the City of Evansville is a matter that affects the health, safety and welfare of the City, its citizens and businesses.
- B. Failure to effectively manage stormwater affects the erosion of lands, damages to homes and businesses, sedimentation and environmental damages to properties, infiltration/inflow to the sanitary sewer and other environmental damages within the City.
- C. In order to protect the health, safety and welfare of the public and to ensure regulatory compliance, the City operates and maintains a system for the collection, conveyance, storage, treatment and disposal of stormwater within the City of Evansville.

[Ordinance 2008-12].

Sec. 126-251. Establishment of Stormwater Management Utility.

(a) The City hereby establishes a Stormwater Management Utility. The operation of the utility shall be under the supervision of the Common Council. The superintendent of municipal services will be in charge of the utility.

(b) The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes.

(c) The City is exercising its authority to establish a City of Evansville Stormwater Management Utility and to set rates to support these services.

(d) The costs of operating and maintaining the Stormwater Management Utility shall be allocated in direct relationship to the contributions and demands for stormwater management services. An annual budget shall be prepared for operation, maintenance, debt service and other costs related to the operation of the Stormwater Management Utility.

(e) Stormwater management facilities may include surface and underground drainage facilities, storm sewer, water courses, retaining walls and stormwater ponds and other such facilities which support a Stormwater Management Utility.

[Ordinance 2008-12, Ord. 2014-02].

Sec. 126-252. Definitions.

The following terms have the meanings set forth:

- A. Director. The term Director means the superintendent of municipal services or his designee.
- B. Equivalent Runoff Unit or ERU. The unit by which a stormwater utility charge is calculated. The term ERU represents the estimated average horizontal impervious area of “single family homes” within the City of Evansville on the date of adoption of this ordinance. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extension, patios, porches, driveways and sidewalks. One ERU is established as 3000 square feet.
- C. Impervious Area or Impervious Surface. A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay or compacted gravel, as well as streets, roofs, sidewalks, parking lots, driveways, compacted gravel driveways and other similar surfaces.
- D. Dwelling, Multiple family. A building or portion thereof designed for or occupied by three or more families or households.
- E. Dwelling, Single family. A detached building designed for or occupied exclusively by one family or household.
- F. Dwelling, Two family. A building containing two dwelling units that are either vertically stacked one above the other or side by side, with a separate entrance to each unit and with yards on all sides of the dwelling.
- G. Dwelling, Two family twin. A dwelling designed for or occupied exclusively by one family or household which is attached on one side to another dwelling of the same nature with a common side wall, each of which is located on an individual lot.
- H. Dwelling Unit. One or more rooms that are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

- I. Non-residential Property. Any developed lot or parcel other than residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property and parking lots.
- J. Residential Property. Any lot or parcel developed exclusively for residential purposes including single family homes, duplex units, multifamily units, but not including transient rentals (such as hotels and motels) and mobile-home parks.
- K. Stormwater System. Any natural or manmade stormwater conveyance facility operated or maintained by the City including, but not limited to retention/detention ponds, ditches, storm sewer, roads and navigable and non-navigable waterways.
- L. Developed Property. Property which has been altered from its natural state by the addition of any improvements, such as a building, structure, impervious surface, change of grade or landscaping.
- M. Undeveloped Property. Property which is not defined as developed property.

[Ordinance 2008-12, Ord. 2014-02, 2019-01].

Sec 126-253. User Fees and Rates.

(a) User Fee. The City shall require that adequate revenues are generated through user fees to provide for a balanced operating budget. The City hereby authorizes the imposition of user fees on all developed property in the City.

(b) Rates. The City will establish rates for each fiscal year. All rates established by the City will be fair and reasonable and calculated to achieve a balanced operating budget for the system. Current rates will be on file in the office of the City Clerk.

(c) Rate Percentage. Every two years variable and non-variable costs percentages shall be set by resolution.

(d) Rate Schedule. For purposes of the imposition of the user fee, the developed property in the City shall be divided into six (6) classes, which shall be called “customer classes.” The rate within each customer class shall be uniform. The rate schedule is as follows:

<i>Customer Class</i>	<i>Storm Water Charge</i>
Dwelling, Multi-family	0.4 ERU per dwelling unit
Dwelling, Single-family	1 ERU
Dwelling, Two Family	0.5 ERU per dwelling unit
Dwelling, Two Family Twin	1 ERU
Nonresidential	1 ERU for each 3000 square feet of impervious area
Undeveloped property	No charge

(e) Minimum Charge. The minimum ERU calculations for any customer other than undeveloped properties shall be not less than the rate of 0.4 of one ERU.

(f) New Construction. For all classifications other than single family residential, the construction of new or expanded building, driveways or other structures shall be subject to an increase in the number of ERU's assigned to a lot or parcel. The City shall recalculate the number of ERU's upon completion of new construction.

(g) The City Engineer shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant or developer. The City Engineer may require additional information as necessary to make the determination. The billing amount shall be updated by the superintendent of municipal services based on any additions or subtractions to the impervious area as approved through the building permit process.

[Ordinance 2008-12, Ord. 2014-02, Ord 2016-16, Ord 2019-01].

Sec. 126-254. Credits.

- A. The City may provide credits to offset the ERU charge as provided under the rules and guidelines of the Stormwater Credit Manual.
- B. To be entitled to consideration for a credit, the property owner shall file an application together with a review fee with the City that is supported by documentation and demonstrates the conditions of this section have been met. The application is subject to review and approval of the City as determined in the Stormwater Credit Manual.

[Ordinance 2008-12, Ord. 2014-02, Ord 2016-16].

Sec. 126-255. Billing and Penalties.

(a) Stormwater Management Utility charges will be billed monthly with said charges to appear on the bill issued for municipal water and sanitary sewer service. Irrespective of the service periods for municipal water and sanitary sewer service, the first charges billed by the Stormwater Management Utility shall be for the month following the effective date of the ordinance.

(b) The bills for Stormwater Management Utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this ordinance. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

(c) Stormwater Management Utility payments are due in 20 days. Payments not received shall be determined delinquent. The City may place a lien upon the property and collect delinquent charges under Wis. Stat 66.076(7) and 66.0809(3).

(d) All delinquent charges shall be subject to a three (3%) percent penalty per month in addition to all other charges, including prior penalties or interest that exist when the delinquent charge is extended upon the tax roll.

[Ordinance 2008-12, Ord 2016-16].

Sec. 126-256. Method of Appeal.

(a) The Stormwater Management Utility charge, a determination of ERU's or ERU credits may be appealed by filing a written appeal with the City Clerk's Office prior to the utility charge due date if not paid, or within thirty (30) days of payment. The appeal shall specify all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a timely challenge waives all right to later challenge that charge.

(b) The City Engineer will determine whether the stormwater charge is fair and reasonable, or whether a refund is due the customer. The City Engineer may act with or without a hearing, and will inform the customer in writing of his or her decision.

(c) The customer has thirty (30) days from the decision to file a written appeal to the Municipal Services Committee.

(d) If the Municipal Services Committee determines that a refund is due the customer, the refund will be applied as a credit on the customer's next monthly stormwater billing if the refund will not exceed the customer's next monthly stormwater billing, or will be refunded at the discretion of the City Administrator.

[Ordinance 2008-12, Ord. 2014-02, Ord 2016-16].

ARTICLE V. Sanitary Sewer User and User Charge System.

Division 1. General Provisions

Sec. 126-270. Chapter Reference

Chapters 160, 281, and 283 of the Wisconsin Statutes and the Natural Resources Chapters of the Wisconsin Administrative Code, as may be amended from time to time, relating to the Wisconsin Pollution Elimination System are hereby adopted by reference and incorporated into this Article V.

[Ord. 2009-08].

Sec. 126-271. Definitions.

Unless the context specifically indicates otherwise, the following terms, as used in this Article V shall have the meanings hereinafter designated:

AMMONIA NITROGEN (NH₃-N) shall mean one of the oxidation states of nitrogen, in which nitrogen is combined with hydrogen in molecular form as NH₃ or in ionized form as NH₄⁺. Quantitative determination of ammonia nitrogen shall be made in accordance with procedures set forth in the latest edition of "Standard Methods".

APPROVING AUTHORITY shall mean the City of Evansville and any board, commission, or committee designated by it to administer and enforce the terms of this Article V.

BIOCHEMICAL OXYGEN DEMAND (BOD₅) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter. Quantitative determination of BOD₅ shall be made in accordance with procedures set forth in the latest edition of "Standard Methods".

BUILDING DRAIN shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.67 meters) outside the inner face of the building wall.

BUILDING SEWER shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection. The property owner shall have the responsibility for maintaining the building sewer, including but not limited to, cleaning or clearing the building sewer by rodding or flushing. "Building Sewer" is also called "house connection, service lateral or private sewer".

Except as provided in this Article V, building sewers shall not be subject to the jurisdiction of the City of Evansville and the City shall not be responsible for the construction and/or maintenance of such sewers.

CHLORINE REQUIREMENT shall mean the amount of chlorine, in milligrams per liter, which must be added to wastewater to produce a specified residual chlorine content in accordance with procedures set forth in the latest edition of "Standard Methods".

CITY shall mean the City of Evansville, Rock County, State of Wisconsin.

COMBINED SEWER shall mean any sewer intended to serve as a sanitary sewer and a storm sewer.

COMMERCIAL USER shall mean any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of construction, wholesale or retail trade, finance, insurance, real estate or services, and who discharges primarily normal

domestic wastewater. This definition shall also include multi-family residences having three or more units served by a single water meter.

COMPATIBLE POLLUTANT shall mean biochemical oxygen demand, suspended solids, nitrogen, pH, or fecal coliform bacteria, plus additional pollutants identified in the WPDES Permit for the publicly owned treatment works receiving the pollutants if such works was designed to treat such additional pollutants, and in part does remove such pollutants to a substantial degree.

COMPOSITE SAMPLE (24 hours) shall mean the combination of individual samples taken at intervals of not more than one hour.

DWELLING UNIT shall mean a structure, or that part of a structure, which is used for intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.

EASEMENT shall mean an acquired legal right for the specific use of land owned by others.

FIXED CHARGE shall mean the portion of the wastewater service charge based upon the number of dwelling units, the number of customer's meters/connections to the wastewater treatment system and the size of the customer's water meters serving the user. Fixed charges shall recover the cost of debt retirement and associated reserves and depreciation associated with the construction, erection, modification or rehabilitation of the wastewater treatment facility and collection system for customer billing and treatment costs relating to infiltration and inflow.

FLOATABLE OIL shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

FLOW PROPORTIONAL SAMPLE shall mean a sample taken that is proportional to the volume of flow during the sampling period.

GARBAGE shall mean the residue from the preparation, cooking and dispensing of food, and from the handling, storage, and sale of food products and produce.

GREASE shall mean a group of substances including fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils, and certain other non-fatty materials as analyzed in accordance with procedures set forth in "Standard Methods".

GROUND GARBAGE shall mean the residue from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch in any dimension.

INCOMPATIBLE POLLUTANT shall mean any pollutant which is not a compatible pollutant which will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

INDUSTRIAL USER shall mean any user who discharges to the City's wastewater collection system liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments or from the development of any natural resource. Industrial user also includes any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of manufacturing, dairy products processing, meat processing, other food and drink products, painting or finishing operations, transportation, communications or utilities, mining, agriculture, forestry or finishing.

INDUSTRIAL WASTE shall mean any trade or process waste as distinct from segregated domestic wastes or wastes from sanitary conveniences.

INFILTRATION shall mean water unintentionally entering sanitary sewers, building drains, and building sewers from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

INFLOW shall mean the water discharged into the sanitary sewer, building drains, and building sewers from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters or drainage.

INFILTRATION/INFLOW shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

INTERCEPTOR SEWER shall mean a sewer whose primary purpose is to convey wastewater from a collection system or systems to a wastewater treatment facility. Size of the sewer is not a factor.

INTERFERENCE shall mean the inhibition or disruption of the City's wastewater collection system, treatment processes or operations which causes or significantly contributes to a violation or to an increase in the magnitude or duration of a violation of any requirement of its WPDES permit, including the impairment of the use or disposal of sludge.

MILLIGRAMS PER LITER shall be a weight-to-weight ratio; the milligrams per liter value (mg/l) multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

NATURAL OUTLET shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

NON CONTACT COOLING WATER shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added to the water is heat.

NORMAL DOMESTIC STRENGTH WASTEWATER shall mean sanitary wastewater resulting from the range of normal domestic activities, in which BOD5, SS, total Kjeldahl nitrogen or phosphorus concentrations do not exceed normal concentrations of:

- 1) A five day, 20°C, BOD5 concentration of not more than 225 mg/L.
- 2) A suspended solids concentration of not more than 175 mg/L.
- 3) A total Kjeldahl nitrogen concentration of not more than 42 mg/L.
- 4) A phosphorus concentration of not more than 5 mg/L.

OPERATION, MAINTENANCE AND REPLACEMENT (OM&R) COSTS shall mean all costs associated with the operation and maintenance of the wastewater treatment facility and wastewater collection system, as well as the costs associated with periodic equipment replacement necessary for maintaining the capacity and performance of the wastewater treatment and collection systems.

OPERATOR shall mean the Superintendent of Municipal Services or his or her duly authorized representative.

ORGANIC NITROGEN shall mean that portion of nitrogen present in organic compounds which includes various forms of proteins and their degradation products of amino acids and polypeptides. Oxidation of organic nitrogen frees the available nitrogen to ammonia nitrogen. Quantitative determination of organic nitrogen shall be made in accordance with procedures set forth in "Standard Methods".

PARTS PER MILLION shall mean a weight to weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

PERSON shall mean any and all persons including any individual, firm, company, municipal, or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

pH shall mean the logarithm (base 10) of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

PHOSPHORUS (P) shall mean total phosphorus in wastewater, which may be present in any of three principle forms: orthophosphates, polyphosphates, and organic phosphates. Quantitative determination of total phosphorus shall be made in accordance with procedures set forth in the latest edition of "Standard Methods".

PRETREATMENT shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of discharging such pollutants to the City's wastewater collection system.

PRETREATMENT STANDARD shall mean any regulation which applies to industrial users and which contains pollutant discharge limits promulgated by the WDNR or established by the agency. This term includes both prohibited discharge standards set forth or established under Chapter NR 211 and categorical pretreatment standards set forth in s. NR 211.11, Wisconsin Administrative Code, as may be amended from time to time.

PRIVATE SEWER shall mean any sewer outside of a public right-of-way or public easement. Except as provided in this Ordinance, a private sewer shall not be subject to the jurisdiction of the City of Evansville and the City shall not be responsible for the construction and/or maintenance of such sewer.

PROHIBITED DISCHARGE STANDARD shall mean any standard specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to the City's wastewater collection system by industrial users regardless of industrial category.

PUBLIC AUTHORITY shall mean any user whose premises are used for the conduct of the legislative, judicial, administrative, or regulatory activities of federal, state, local, or international units of government; government-owned educational facilities; government-owned health facilities; or government-owned recreational facilities. This does not include government-owned or operated business establishments. It is assumed that Public Authority users have normal domestic strength wastewater unless sampling data or other information demonstrates that greater than normal domestic strength wastewater is discharged.

PUBLIC SEWER shall mean any sewer provided by or subject to the jurisdiction of the City of Evansville. It shall also include sewers within or outside the City of Evansville boundaries that serve one or more persons and ultimately discharge into the City of Evansville wastewater treatment system, even though sewers may not have been constructed with City of Evansville funds. Public sewer shall not include private sewers or building sewers.

REPLACEMENT COSTS shall mean expenditures for obtaining and installing equipment, accessories, and appurtenances which are necessary during the service life of the treatment facility and collection system to maintain their design capacity and

performance for which the systems were designed and constructed. Operation and maintenance costs include replacement costs.

REPLACEMENT FUND shall be a separate account in which an annual budgeted amount shall be accumulated for purposes of defraying replacement costs as they arise. The replacement fund shall be used exclusively to defray replacement costs during the useful life of the wastewater treatment facility. At the end of such useful life, or at the time of any significant expansion or upgrade of the wastewater facilities, the fund may be used for any proper purpose related to providing wastewater treatment service pursuant to Section 66.076, Wis. Stats., as may be amended from time to time.

RESIDENTIAL USER shall mean any user whose premises are used primarily as a domicile for one or more persons and discharges only domestic wastes, but not including dwellings classified as Commercial User, defined above.

SANITARY SEWAGE shall mean a combination of water carried from residences, business buildings, institutions and industrial plants (other than industrial wastes from such plants), together with such ground, surface and storm waters as may be present.

SANITARY SEWER shall mean a sewer that carries sanitary and industrial water-carried wastes from residents, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm and surface water that are not admitted intentionally.

SANITARY SEWER SYSTEM HOOK-UP FEE shall mean a fee payable to the City before connection is made to the City's wastewater treatment system.

SEGREGATED DOMESTIC WASTES shall mean wastes from non-residential sources resulting from normal domestic activities. These activities are distinguished from industrial, trade, and/or process discharge wastes.

SERVICE LIFE shall mean the expected life of individual pieces of equipment. In many instances, the service life of a piece of equipment will be shorter than the useful life of the overall treatment system.

SEWAGE shall mean the spent water of a community. The preferred term is "Wastewater."

SEWAGE SYSTEM shall mean the composite network of underground conduits carrying wastewater and appurtenances incidental thereto (i.e., manholes, lift stations, service lateral).

SEWER shall mean a pipe or conduit that carries wastewater or drainage water.

SEWER LATERAL shall mean the portion of system located between the building and the sanitary sewer.

SEWER USER CHARGE shall mean a charge levied on users of the wastewater treatment facility for capital-related expenses, as well as operation and maintenance costs of said facilities.

SIGNIFICANT CONTRIBUTING USER shall mean an industrial or commercial user of the wastewater collection system which:

- 1) Has a waste discharge flow of 25,000 gallons or more per average workday; or
- 2) Has a waste discharge flow greater than 5 percent of the flow carried by the wastewater collection system; or
- 3) Has a waste discharge in one or more parameters (flow, BOD5, SS, TKN, P), five percent (5%) of the design value for that particular parameter, on such average or peak basis as the City deems appropriate; or
- 4) Has in its waste, a toxic pollutant in toxic amounts as defined in Wisconsin Administrative Code Chapter NR 215, as may be amended from time to time; or
- 5) Has a significant impact, either singly or in combination with other contributing industries, on the wastewater collection system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

SLUDGE shall mean the accumulated solids generated during the biological treatment, coagulation or sedimentation of water or wastewater.

SLUG shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the system and/or performance of the wastewater treatment works.

STANDARD METHODS shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Wastewater, and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

STORM DRAIN (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

STORM SEWER shall mean a sewer which carries storm waters and surface drainage but which excludes wastewater.

STORM WATER shall mean any flow occurring during or after any form of natural precipitation and resulting therefrom. Storm water does not include industrial and domestic wastewater.

STORM WATER RUNOFF shall mean that portion of the rainfall that is drained into the sewers.

SURCHARGE. Any user of the wastewater treatment system whose discharge exceeds in one or more parameters (flow, BOD5, SS, TKN, P) the concentration of normal domestic wastewater for that parameter shall be subject to a surcharge. The amount of such surcharges shall reflect the costs incurred by the City in removing the high strength BOD5, suspended solids, TKN or P from the wastewater.

SUSPENDED SOLIDS (SS) shall mean solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and that are removable by laboratory filtering as prescribed in "Standard Methods" and are referred to as nonfilterable residue.

TOTAL KJELDAHL NITROGEN (TKN) shall mean the sum total of ammonia nitrogen and organic nitrogen. Quantitative determination of total Kjeldahl nitrogen shall be made in accordance with procedures set forth in "Standard Methods".

TOXIC DISCHARGES shall mean discharge containing a substance or mixture of substances which, through sufficient exposure, or ingestion, inhalation, or assimilation by an organism, either directly from the environment or indirectly by ingestion through the food chain, will on the basis of information available cause death, disease, behavioral or immunological abnormalities, cancer, genetic mutations, or developmental or physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.

TOXIC SUBSTANCE shall mean any substance whether gaseous, liquid or solid which, when discharged to the system in sufficient quantities, interferes with any wastewater treatment process, or constitutes a hazard to human beings or animals, or inhibits aquatic life in the receiving stream of the effluent from the treatment facility.

UNMETERED USER shall mean a user who does not have a meter, installed and maintained by the City of Evansville on their public or private water supply.

UNPOLLUTED WATER shall mean water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

USEFUL LIFE shall mean the expected life of the treatment facility if individual pieces of equipment are replaced as necessary.

USER shall mean any person(s) who discharges, causes or permits the discharge of wastewater into the wastewater collection system.

USER CHARGE shall mean a sewer service charge levied on users of the wastewater collection system and wastewater treatment facility for capital-related expenses as well as operation and maintenance costs for said facilities.

USER CHARGE SYSTEM shall mean the methodology for collecting operation, maintenance and replacement (OM&R) and capital revenues equitably from each user of the wastewater treatment system.

USER CLASSES shall mean categories of users having similar flows and water characteristics; that is, levels of biochemical oxygen demand, suspended solids, phosphorus, ammonia nitrogen, etc. For the purposes of this Article V, there shall be four user classes: residential, commercial, industrial, and public authority.

VARIABLE CHARGE shall mean the portion of the wastewater service charge based on the volume and strength of wastewater discharged to the wastewater treatment system. The variable charge shall include the charge for normal strength wastewater and a surcharge if any of the parameters in the discharge exceed those of normal strength wastewater. Variable charges shall recover the operation, maintenance and replacement costs except customer billing and treatment costs relating to infiltration and inflow, which are recovered in the fixed charge.

VOLUME CHARGE shall mean a user charge based upon the volume of normal strength wastewater to be transported.

WASTEWATER shall mean the spent water of a community. From the standpoint of source, it may mean the combination of the liquid and water-carried industrial or domestic wastes from dwellings, residences, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's wastewater collection system.

WASTEWATER TREATMENT FACILITY shall mean the wastewater treatment system, exclusive of interceptor sewers and wastewater collection systems. All wastewater treatment is provided by the City of Evansville wastewater treatment facility and all references to wastewater treatment facilities refer to those facilities owned and operated by the City of Evansville.

WASTEWATER TREATMENT SYSTEM shall mean an arrangement of any devices, facilities, structures, equipment, or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of liquid industrial and domestic wastewater and sludge or necessary to recycle or reuse water, including interceptor sewers, outfall sewers, wastewater collection system, individual systems, pumping, power, and other equipment, and their appurtenances; extensions,

improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal or industrial wastes.

WATERCOURSE shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

WDNR shall mean the Wisconsin Department of Natural Resources.

WPDES PERMIT shall mean the Wisconsin Pollutant Discharge Elimination System Permit. The Wisconsin Department of Natural Resources has the authority under Chapters 283 and 160, Wisconsin Statutes, as may be amended from time to time, to issue, reissue, modify, suspend or revoke WPDES permits. General provisions are stated in Chapter NR 205 of the Wisconsin Administrative Code, as may be amended from time to time.

[Ord. 2009-08, Ord. 2014-02].

Sec. 126-272. City of Evansville.

The management, operation, and control of the Sewer Utility of the City of Evansville is vested in the Municipal Services Committee of said City of Evansville; all records, minutes, written procedures thereof and financial records shall be kept by the City Clerk of the City of Evansville.

[Ord. 2009-08, Ord. 2014-02].

Sec. 126-273. Sewer Utility of the City of Evansville.

The City of Evansville hereby establishes a Sewer Utility. The Sewer Utility shall have the power to construct sewer lines for public use, and shall have the power to lay sewer pipes in and through the alleys, streets, and public grounds within the City boundaries, and generally, to do all such work as may be found necessary or convenient in the management of the wastewater collection system. The City of Evansville, its officers, agents, and employees, are empowered to enter upon any land for the purpose of inspection or supervision in the performance of their duties under this Article V, without liability therefore; and the City shall have power to purchase and acquire all real and personal property which may be necessary for construction of the sewer system, or for any repair, remodeling, or addition thereto.

[Ord. 2009-08].

Sec. 126-274. Condemnation of Real Estate.

Whenever any real estate or any easement therein, or use thereof, shall in the judgment of the City be necessary to the sewer system; and whenever, for any cause, an

agreement for the purchase thereof, cannot be made with the owner thereof, the City shall proceed with all necessary steps to take such real estate easement, or use by condemnation in accordance with the Wisconsin Statutes and the Uniform Relocation and Real Property Acquisition Policy Act of 1970, as may be amended from time to time,, if federal funds are used.

[Ord. 2009-08].

Sec. 126-275. Title to Real Estate and Personal Property.

All property, real, personal, and mixed, acquired for the construction of the wastewater collection system, and all plans, specifications, diagrams, papers, books and records connected therewith said wastewater collection system, and all buildings, machinery, and fixtures pertaining thereto, shall be the property of said City.

[Ord. 2009-08].

Sec. 126-276. User Rules and Regulations.

The user rules, regulations, and user charges are a part of the contract between the sewer utility and every user. Every person who connects to the wastewater treatment system is deemed to have consented to be bound by such rules, regulations, and rates. In the event of violation of the rules or regulations, the sewer service to the violating user shall be shut off (even though two or more parties are receiving service through the same connection). Sewer service shall not be re-established until all outstanding bills, and shut off and reconnection charges are paid in full, and until such other terms and conditions as may be established by the City are met.

In addition to all other requirements, the City shall be satisfied that the offender will not continue in violation of the rules and regulations before authorizing reconnection of the offender's services. The City may change the rules, regulations, and sewer rates from time to time as it deems advisable, and may make special rates and contracts in all proper cases.

[Ord. 2009-08].

Sec. 126-277. Operator of the Wastewater Treatment Facility.

The operator of the wastewater treatment facility shall have the following duties:

- 1) Be responsible for the function of all phases of the wastewater treatment system for efficient and economical purposes.
- 2) Keep a complete record showing the costs of materials and labor used for each phase of the facility.
- 3) Make all necessary chemical analyses at the wastewater treatment plant and fill out and complete all monthly reports to the State.

- 4) Order necessary materials and repair parts used in the wastewater collection and treatment facility.
- 5) Keep informed on the latest methods and practices being used in the wastewater treatment facility and put the most economical methods thereof into practical use.

The operator of the wastewater collection and treatment facility shall keep a daily record of all transactions of their office and file a monthly and yearly report covering the same with the City. The yearly report shall be filed on or before February 1 and shall contain such recommendations relating to the operation of the wastewater collection and treatment facility and the Ordinances pertaining thereof as he shall deem advisable. The operator shall possess an operator's certificate in accordance with NR 114, as may be amended from time to time.

[Ord. 2009-08].

Division II. Use of the Public Sewers.

Sec. 126-280. Sanitary Sewers.

No person(s) shall discharge or cause to be discharged any unpolluted waters as storm water, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the City as part of a Wastewater Discharge Permit.

[Ord. 2009-08].

Sec. 126-281. User Connections.

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Evansville and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City of Evansville is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and connect such facilities directly to the proper public sewer in accordance with the provisions of this Article V within three (3) months after the date of official written notice from the City to do so. The City shall be responsible for properly notifying the owner(s).

If any person fails to comply after the expiration of the time provided by the notice, the City shall cause connection to be made. The expense thereof shall be assessed as a special tax against the property at an interest rate of 5 percent per year from the completion of work.

The sewer user charges contained in this user charge system shall take effect as of the day a connection to the sewer is made.

[Ord. 2009-08].

Sec. 126-282. Storm Sewers.

Storm water other than that exempted under Section 126-280 and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City, to a storm sewer or natural outlet.

[Ord. 2009-08].

Sec. 126-283. General Discharge Prohibitions.

Except as hereinafter provided, no user shall discharge or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater treatment system or to any public sewer:

- (1) Any gasoline, benzene, naphthalene, fuel oil, other flammable or explosive liquid, solid or gas shall be prohibited from the wastewater treatment system; or
- (2) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system; or
- (3) Any wastewater containing toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other pollutants to injure or interfere with any wastewater treatment process or which constitutes a hazard to humans or animals, creates a public nuisance, or creates a toxic effect or any hazard in or has an adverse effect on the waters receiving any discharge from the wastewater treatment system or to exceed the limitations set forth in state or federal categorical pretreatment standards; or
- (4) Solid or viscous substances which will or may cause obstruction to the flow in a sewer, require excessive cleaning or maintenance of the sewer, or otherwise interfere with the operation of the wastewater collection and treatment facilities. Examples of substances that may interfere with the proper operation of the wastewater facility are as follows, but not limited to; ashes, sand, mud, straw, shavings, metals, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders; or
- (5) Any wastewater having a pH less than 5.5 and more than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater treatment system; or

- (6) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other water or wastes are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair or create a condition deleterious to structures and treatment processes; or
- (7) Any wastewater with objectionable color (excessive discoloration) not removed in the treatment process, such as, but not limited to, dye wastes and vegetable wastes or tanning solutions; or
- (8) Any wastewater containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements or other agencies having jurisdiction over discharge to the receiving waters; or
- (9) Any wastewater which creates conditions at or near the wastewater treatment system which violate any statute or any rule, regulation or Ordinance of any public agency or state or federal regulatory body; or
- (10) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment facility to have a temperature exceeding 104°F (40°C); or
- (11) Quantities of flow, concentrations, or both which constitute a “slug” as defined herein, any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD5, etc.), released in a discharge of such volume or strength as to interfere with the wastewater treatment system. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations, quantities or flow of the user during normal operation; or
- (12) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from consumption on the premises or when served by caterers. The installation and operation of any commercial grinder equipped with a motor of one horsepower or greater shall be subject to the review and approval of the City and a permit shall be obtained prior to the installation of any such commercial garbage grinder unit; or
- (13) Non-contact cooling water or unpolluted storm or groundwater; or
- (14) Any wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, fats, wax, grease or product of mineral oil origin,

whether emulsified or not containing substances which may solidify or become viscous and any wastewater containing oil and grease concentrations whether emulsified or not which will or may cause obstruction to the flow in the wastewater collection system or other interference with the operations of the wastewater treatment facility. This limitation will be specifically reviewed during evaluation of wastewater treatment processes and may be further limited by the City; or

- (15) Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that they would interfere with the wastewater disposal system; or
- (16) Any wastewater containing odor-producing substances exceeding limits which may be established by the City; or
- (17) Any wastewater having a BOD5, suspended solids or TKN concentration of greater than normal domestic strength as defined in this Ordinance; or
- (18) Any wastewater which exert or cause unusual BOD5, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility; or
- (19) Any radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the Appropriate Authority having control over their use and which will or may cause damage or hazards to the wastewater treatment system or its personnel; or
- (20) Unless more restrictive standards are promulgated by a State or Federal agency which has jurisdiction, no person shall discharge wastewater containing in excess of:
 - 0.5 mg/l arsenic
 - 4.0 mg/l barium
 - 0.01 mg/l cadmium
 - 0.06 mg/l chromium
 - 1.0 mg/l iron
 - 1.00 mg/l copper
 - 0.05 mg/l cyanide
 - 0.20 mg/l lead
 - 0.002 mg/l mercury
 - 2.0 mg/l nickel
 - 0.004 mg/l selenium
 - 0.01 mg/l silver
 - 1.0 mg/l zinc
 - 0.005 mg/l phenolic compounds which cannot be removed by the

City's wastewater treatment process; or

(21) Grease and oil separators and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquids containing floatable grease in excessive amounts, or any flammable fluids, sand, or other harmful ingredients; except that such interceptors and separators shall not be required for private living quarters or dwelling units. All separators and interceptors shall be of a type and capacity as described in Section 126-301. All separators and interceptors shall be located as to be readily and easily accessible for cleaning and inspection.

(22) In addition, industrial users may not discharge pollutants into the City's wastewater treatment system which pass through or interfere with the operation or performance of the system and thereby cause or significantly contribute to a violation of the City's WPDES permit.

(a) An industrial user significantly contributes to pass-through and the consequent permit violation whenever such user:

- (1) Discharges a daily pollutant loading in excess of that allowed by contract with the City or by federal, state or local law; or
- (2) Discharges wastewater which is substantially different in nature or constitutes from the user's average discharge; or
- (3) Knows or has reason to know that its discharge alone or in conjunction with discharges from other sources, would result in a violation of the City's WPDES permit; or
- (4) Knows or has reason to know that the City is, for any reason, violating the final effluent limitations of its WPDES permit and that the industrial user's discharge, either alone or in conjunction with discharges from other sources, increases the magnitude or duration of the violation.

(b) An industrial user significantly contributes to interference and the consequent permit violation whenever such user does any of the above, or knows or has reason to know that its discharge, alone or in conjunction with discharges from other sources, would result in a violation of the City's WPDES permit or would prevent municipal sludge use or disposal by the City's selected method of sludge disposal in accordance with chapters 281 and 283, Wisconsin Statutes and Chapter NR 204, as may be amended from time to time.

[Ord. 2009-08].

Sec. 126-284. Rights Reserved

The City reserves the right to establish more stringent limitations or requirements on discharges to the wastewater collection system if deemed necessary to comply with the objectives presented in Section 126-283.

No wastewater, regardless of character, shall be discharged to the wastewater treatment system in such a manner as to interfere with the designed operation of the collection systems or treatment facilities, or to cause the treatment system to exceed the limits presented by the WPDES permit.

If any wastewater that is proposed to be or is discharged to the collection system contains a substance or characteristics prohibited by this section or which would otherwise create a hazard to life or constitute a public nuisance, the City may, after giving notice to the user in writing:

- reject the wastewater;
- require flow equalization of the discharge flow rate;
- require pretreatment prior to discharge to the wastewater disposal system;
- require payment to cover the added cost of handling and treating the waste not already covered by service charges in this Article V; and/or
- take any other action necessary to ensure compliance with this Article V.

Where pretreatment or flow equalizing facilities are provided, they shall be maintained continuously in satisfactory condition and effectively operated by the user at his expense.

[Ord. 2009-08].

Sec. 126-285. Special Arrangements.

No statement contained in this Division II shall be construed as prohibiting any special agreement between the City and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater treatment facility, either before or after pretreatment works by reason of the admission of such wastes, and no extra costs are incurred by the City without recompense by the person provided that all rates and provisions set forth in this Article V are recognized and adhered to.

[Ord. 2009-08].

Sec. 126-286. New Connections.

New connections to the wastewater treatment system shall not be permitted if there is insufficient capacity in the system to adequately transport and/or treat, as required by the WPDES Permit, the additional wastewater anticipated to be received from such connections.

[Ord. 2009-08].

Sec. 126-287. Free Service.

No user shall receive free service or pay a user charge less than the user's proportional share of operation and maintenance costs.

[Ord. 2009-08].

Sec. 126-288. Outside Service.

All users within the sewer service area of the City shall be treated equally as to user charges regardless of their location with respect to the service boundaries.

[Ord. 2009-08].

**Division III. Control of High Strength, Toxic or Industrial Wastes
Directed to Public Sewers.**

Sec. 126-290. Submission of Basic Data.

Within three (3) months after passage of this Article V, establishments discharging industrial wastes to a public sewer shall prepare and file with the City a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater works. Such information shall be provided as per Chapter NR 101 of the Wisconsin Administrative Code, as may be amended from time to time.

Similarly, each person desiring to make a new connection to the public sewer for the purpose of discharging industrial wastes shall prepare and file with the City a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

[Ord. 2009-08].

Sec. 126-291. Extension of Time.

When it can be demonstrated that circumstances exist which would create an unreasonable burden on the establishment to comply with the time schedule imposed by Section 126-290, a request for extension of time may be presented for consideration to the City which, at its sole discretion, may either grant or deny.

[Ord. 2009-08].

Sec. 126-292. High Strength or Toxic Wastes.

If any waters or wastes are discharged, or proposed to be discharged, to the public sewers, which contain substances or possess characteristics in excess of normal domestic strength wastewater as defined above, or which in the judgment of the City:

- (1) May be acutely or chronically toxic to aquatic life and wild and domestic animals; or

- (2) May adversely affect humans and cause increased risk of cancer in humans; or
- (3) May impart undesirable tastes or odors to surface waters or aquatic organisms ingested by humans; or
- (4) May prevent present or prospective future use of surface waters for public and private water supplies; or
- (5) May prevent propagation of fish and aquatic life and wild and domestic animal life; or
- (6) May create severe limitations for current and future methods of sludge recycling/disposal; or
- (7) May have deleterious effects upon the wastewater treatment system, processes or equipment; or
- (8) May cause additional requirements or limitations to become part of the District's discharge permit;
- (9) Or may otherwise create a hazard to life, health or constitute a public nuisance.

Then the City may:

- (1) reject the wastes; and/or
- (2) require pretreatment to an acceptable limit for discharge to the public sewers; and/or
- (3) require control over the quantities and rate of discharge; and/or
- (4) require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Divisions XI and XII.

The toxic pollutants subject to prohibition or regulation under this Division III shall include, but need not be limited to, the list of toxic pollutants or combination of pollutants established by Section 307(a) of the Clean Water Act of 1977 and subsequent amendments. Effluent standards or prohibitions for discharge to the sanitary sewer shall also conform to the requirements for Section 307(a) and associated regulations.

Pretreatment standards for those pollutants which are determined not to be susceptible to treatment by the treatment works or which would interfere with the operation of such works shall conform to the requirements and associated regulations of Section 307(b) of the Clean Water Act of 1977 and subsequent amendments. The primary source for such

regulations shall be 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution.

[Ord. 2009-08].

Sec. 126-293. Control Manholes.

Each user discharging high strength, toxic or industrial wastes into a public sewer shall be required by the City to construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of the waste, including domestic wastewater. The City shall have the authority to require the user to construct one or more control manholes as to separate domestic wastewater and industrial wastewater and to require separate sampling of these wastewaters. Within three (3) months after written notification from the City, the selected users shall complete construction of the control manholes or access points.

Control manholes or access facilities shall be located and built in a manner acceptable to the City. If measuring devices are to be permanently installed, they shall be of a type acceptable to the City.

Control manholes, access facilities, and related equipment shall be installed by the user discharging the waste, at the user's expense and shall be maintained by the user so as to be in safe condition, accessible, and in proper operating condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the City prior to the beginning of construction.

Alternatively, the City may choose to install the control manholes, access facilities and related equipment at the establishment discharging the waste. Expenses incurred for this service, however, are the responsibility of the establishment discharging the waste.

[Ord. 2009-08].

Sec. 126-294. Measurement of Flow from High Strength or Toxic Waste Users.

The volume of flow used for computing the user charge shall be the metered water consumption of the person as shown in the records of meter readings maintained by the City except as follows:

Provision for deductions. In the event that a person discharging industrial waste into the public sewers produces evidence satisfactory to the City that more than 20 percent of the total annual volume of water used for all purposes does not reach the public sewer, then the determination of the water consumption to be used in computing the waste volume discharged into the public sewer may be made a matter of agreement between the City and the person. Satisfactory evidence shall be evidence obtained by approved metering.

[Ord. 2009-08].

Sec. 126-295. Metering of High Strength, Toxic Waste or Industrial Wastes.

- (1) General. Users designated by the City with high levels of flow or with high strength discharge may be required to have monitoring facilities. City shall make a determination as to when metering of high levels of flow is needed as well as what frequency of sampling of high strength wastewater is needed. Metering and sampling devices shall be installed, owned and maintained by the user subject to the approval of the City. All installation, ownership and maintenance expenses shall be the responsibility of the user. Access to the sampling and metering location shall be granted to the City or its duly authorized representatives at all times. Within three (3) months after written notification from the City, the selected users shall complete the installation of metering and sampling devices.

Alternatively, the City may choose to install or maintain the metering and sampling devices at the establishment discharging the waste. All installation, ownership and maintenance expenses shall be the responsibility of the user.

- (2) Metering. Devices for measuring the volume of wastewater discharged may be required by the City if the volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of waste shall be installed, owned, and maintained by the user. A maintenance schedule must be accepted by the City. Following approval and installation, such meters may not be removed without the consent of the City.
- (3) Maintenance. A maintenance schedule must be approved by the City. All maintenance and equipment repair shall be performed within a reasonable time as determined by the City. Failure to perform maintenance and to repair within a reasonable time shall be subject to the same forfeiture and procedural provisions as applied to violation under this Article V. Prior to completion of satisfactory repairs, and for any preceding period during which the City determines there existed a malfunction, error or bias in the metering and sampling, the volume and strength of the wastewater for that period discharged by the user shall be based on historical data and a reasonable engineering estimate of flow and strength, taking account of material known production variations, all as determined by the City in consultation with the user. If prolonged periods of breakdown are anticipated, approved interim measuring and sampling needs shall be provided, and used to determine the volume and strength of wastewater.

Following approval and installation of permanent or temporary metering or sampling equipment, such equipment shall not be removed without the consent of the City.

[Ord. 2009-08].

Sec. 126-296. High Strength, Toxic and Industrial Waste Sampling.

Industrial wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes. The inspection shall be made by the industrial user as often as may be deemed necessary by the City.

Sampling shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the City. The use of flow proportional composite sampling is preferred.

Installation and operation and maintenance of the sampling facilities shall be the responsibility of the user discharging the waste and shall be subject to the approval of the City. Access to sampling locations shall be granted to the City or its duly authorized representatives at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

Expenses incurred for sampling the wastes, including the laboratory analytical tests, shall be the responsibility of the establishment discharging the wastes.

[Ord. 2009-08].

Sec. 126-297. Analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article V shall be determined in accordance with the latest edition of "Standard Methods." Sampling methods, location times, durations, and frequencies are to be determined on an individual basis subject to approval by the City.

Determination of the character and concentration of the industrial wastes shall be made by the establishment discharging them, or its agent, as designated and required by the City. The City may also make its own analyses on the wastes and these determinations shall be binding as a basis for charges.

[Ord. 2009-08].

Sec. 126-298. Pretreatment.

Where required, in the opinion of the City, to modify or eliminate wastes that are harmful to the structures, processes or operation of the wastewater treatment works, the person shall provide at their expense such preliminary treatment or processing facilities as may be determined required to render their wastes acceptable for admission to the public sewers.

[Ord. 2009-08].

Sec. 126-299. Submission of Information.

Plans, specifications, and any other pertinent information relating to proposed flow equalizations, pretreatment, or processing facilities shall be submitted for review of the

City prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.

[Ord. 2009-08].

Sec. 126-300. Grease and/or Sand Interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units.

All interceptors shall be of a type and capacity approved by the City, and shall be located as to be readily and easily accessible for cleaning and inspection. Discharged of grease, fats, oils or similar waste products of cooking or food shall use below-grade exterior grease interceptors in accordance with the Wisconsin Plumbing Administrative Code Chapters Comm. 81-87, as may be amended from time to time. If applicant can prove sufficient space is not available outdoors for an exterior grease interceptor, indoor traps may be installed, as approved by City. Interior traps shall meet Chapters Comm. 81-87, as may be amended from time to time.

In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.

[Ord. 2009-08].

Sec. 126-301. Industrial Permit Reports.

Each year all industrial users as identified by the City shall submit a WDNR Industrial Permit Report to the City. Forms for this report will be furnished by the City Clerk.

[Ord. 2009-08].

Sec. 126-302. Administration.

- (1) The City may require that any person discharging or proposing to discharge wastewater to the wastewater treatment system file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, rates of flow, mass discharge rate, raw material and production quantities, hours of operation, number and classification of employees, compliance status with any state or federal pretreatment standards or other information which relates to the generation of waste, including wastewater constituents and quantity of liquid or gaseous materials stored on site, even though they may not normally be

discharged. At a minimum, a summary of such data indicating each industrial user's compliance with this Article V shall be prepared quarterly and submitted to the City.

In addition to discharge reports, the City may require information in the form of Wastewater Discharge Permit applications, self-monitoring reports and compliance schedules.

(2) Wastewater Discharge Permits

(a) **Mandatory Permits.** All industrial users proposing to connect or to commence a new discharge to the wastewater treatment system shall obtain a Wastewater Discharge Permit before connecting to or discharging into the wastewater treatment system. All existing industrial users subject to national categorical pretreatment standards under Section 307(b) and (c) of the Clean Water Act connected to or discharging into the wastewater treatment system shall obtain a Wastewater Discharge Permit within 180 days after the effective date of this Article V.

(b) **Permit Application.** Users required to obtain a Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the City, and accompanied by a fee as established in the Fee Schedule. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and location (if different from the address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (3) Wastewater constituents and characteristics including but not limited to those governed by subsection 2(c) of this section as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures set forth in the current edition of Standard Methods for the Examination of Water and Waste Water;
- (4) Time and duration of discharge;
- (5) Average daily and peak hourly wastewater flow rates; including daily, monthly and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer conditions and appurtenances by the size, location and elevation.

- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged, including sludges, floats, skimmings, etc.;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or national categorical pretreatment standards, and (for an existing discharge) a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the use to meet applicable pretreatment standards. If additional operation and maintenance and/or pretreatment will be required, a proposed schedule by which the changes will be completed shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standard. No increment shall exceed 9 months in length and progress reports concerning each increment shall be submitted within 14 days following each increment date;
- (9) Each product produced by type, amount and rate of production;
- (10) Type and amount of raw materials processed (average and maximum per day);
- (11) Number of full and part time employees, and hours of work; and
- (12) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

- (c) Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this Article V and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:
 - (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system;

- (2) Limits on the average and maximum wastewater constituents and characteristics;
 - (3) Limits on average and maximum rate and time of discharge of requirements for flow regulation and equalization;
 - (4) Requirements for installation and maintenance of inspection and sampling facilities, such as mandatory sampling manholes pursuant to Chapters Comm. 81-87, as may be amended from time to time.
 - (5) Requirements for installation, operation, and maintenance of pretreatment facilities;
 - (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
 - (7) Compliance schedules;
 - (8) Requirements for submission of technical reports or discharge reports;
 - (9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, but in no case less than three years, and affording City access thereto;
 - (10) Requirements for notification to and acceptance by the City of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 - (11) Requirements for notification of slug or accidental discharges as defined in Section 126-271, and reporting of permit violations;
 - (12) Requirements for disposal of sludges, floats, skimmings, etc.; and/or
 - (13) Other conditions as deemed appropriate by the City to ensure compliance with this Article V.
- (d) **Permit Duration.** Permits shall be issued for five years. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in subsection C are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any

changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (e) Permit Modifications. A user, subject to the promulgation of a national categorical pretreatment standard, shall apply for a modification of its Wastewater Discharge Permit to comply with the promulgation of a national categorical pretreatment standard within the time frame prescribed by such standard. If the information previously submitted in an application for a Wastewater Discharge Permit is still current and adequate for such standard, then only a letter from the user certifying such is required.
 - (f) Permit Transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
 - (g) Permit Revocation: The City has the authority to revoke a wastewater discharge permit following the procedures set forth in Section 126-384.
- (3) Monitoring Facilities. Monitoring facilities to allow inspection, sampling, and flow measurement of the building, sewer and/or internal drainage systems shall be provided and operated by all industrial users. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or public vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and compositing of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City, unless a time extension is otherwise granted by the City.

- (4) Inspection and Sampling. The City shall inspect the facilities of any user or ascertain whether the purpose of this Article V is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The City, WDNR and

EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with any security guards so that upon presentation of suitable identification, the City, WDNR and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

- (5) Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this Article V and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater shall be provide, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and must be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Article V. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

All records relating to compliance with pretreatment standards shall be made available by the City to officials of the EPA or WDNR upon request. Any user subject to a national categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of the commencement of a new discharge to the wastewater treatment system, shall submit to the City during the months of June and December, unless required more frequently in the pretreatment standard or by the City, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. The City may agree to alter the months during which the above reports are to be submitted.

- (6) Final Compliance Date Reporting Requirements. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of the commencement of a new discharge to the wastewater treatment system, any user subject to pretreatment standards and requirements shall submit to the City a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring

the facility into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by the user, and certified to by a qualified professional.

- (7) Confidential Information. Information and data obtained from user's applications, permits, monitoring programs and inspections shall be subject to Wisconsin Public Records Law, sections 19.31 through 19.39 of Wisconsin Statutes, as may be amended from time to time.
- (8) Accurate Information. No user shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article V or Wastewater Discharge Permit.
- (9) Sludges Generated. Sludges, floats, skimmings, etc., generated by an industrial or commercial pretreatment system shall not be placed into the City's wastewater treatment system. Such sludges shall be contained, transported, and disposed of in accordance with all federal, state, and local regulations. Sludge generated by the City's wastewater treatment system shall be managed according to Ch. NR 204 of the Wisconsin Administrative Code, as may be amended from time to time, which is hereby incorporated by reference.

[Ord. 2009-08].

Division IV. Right of Entry, Safety, and Identification.

Sec. 126-310. Right of Entry.

The City Engineer, operator of the wastewater treatment facility, plumbing inspector or other duly authorized representative of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, testing, all in accordance with the provisions of this Article V and s. 196.171 Wisconsin Statutes, as may be amended from time to time. The City Engineer, operator of the wastewater treatment facility, plumbing inspector, or other duly authorized representative of the City shall have no authority to inquire into any process beyond that point having a direct bearing on the kind and source of discharge to the wastewater treatment system or wastewater treatment facility.

[Ord. 2009-08].

Sec. 126-311. Safety.

While performing the necessary work on private premises referred to in Section 126-310, the duly authorized representatives shall observe all safety rules applicable to the premises established by the Owner or occupant and the City shall indemnify the Owner against loss or damage to its property by City representatives and against the liability claims and demands for personal injury or property damage asserted against the Owner and growing out of gauging and sampling operation of the City representatives, and

indemnify the Owner against loss, or damage to its property by City representatives, except as such may be caused by negligence or failure of the owner to maintain safe conditions. The City shall report to the owner or occupant any unsafe conditions.

[Ord. 2009-08].

Sec. 126-312. Identification, Right to Enter Easements.

The City Engineer, operator and other duly authorized representatives of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater treatment system lying within said easement, all subject to the terms, if any, of the agreement.

[Ord. 2009-08].

Division V. Sewer Construction (Building Sewers).

Sec. 126-320. Work Authorized.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a plumbing permit and street opening permit pursuant to Section 106-132 from the City.

No contractor, plumber, pipe fitter or other person shall be permitted to do work on any public sewer or building sewer without first receiving a license from the State of Wisconsin, except in cases where state law permits building owners to conduct their own work without being licensed.

The permittee shall notify the City Building/Plumbing Inspector at least 48 hours before beginning any excavations.

[Ord. 2009-08].

Sec. 126-321. Cost of Sewer Connection.

(a) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The Owner shall indemnify the City from any loss of damage that may directly or indirectly be occasioned by the installation of the building sewer. The City shall approve the contractor and construction plans for the building sewer. Upon completion of the building sewer, the owner shall be responsible for all maintenance costs.

(b) In addition to the costs indicated in subsection (a) above, the Owner shall be required to submit a sanitary sewer system hook-up fee designed to offset increased operation costs and loss of capacity, which result as new connections are added to the wastewater treatment system, and avoid adjusting user charge rates on a regular basis or during those times when rapid short-term growth occurs. The Owner shall pay this fee,

as set forth in Appendix A, at the time a permit for building sewer is requested. The fee shall be established by the City from time to time by resolution.

[Ord. 2009-08, Ord. 2011-02].

Sec. 126-322. Use of Existing Building Sewers.

Existing building sewers may be used in connection with construction of new buildings only when they are found on examination and test by the City to meet all requirements for this Article V. Cost for testing of existing building sewer to be borne by party wanting to reuse same.

[Ord. 2009-08].

Sec. 126-323. Materials and Methods of Construction.

The size, slope, alignment, materials of construction of building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the State of Wisconsin standard specification for water and sewer construction, the Wisconsin plumbing code, the Wisconsin Administrative Code, the State Department of Natural Resources or other applicable rules and regulations of the City, as may be amended from time to time. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and W.P.C.F. Manual of Practice No. 9, as may be amended from time to time, shall apply.

[Ord. 2009-08].

Sec. 126-324. Building Sewer Grade.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

[Ord. 2009-08].

Sec. 126-325. Storm and Ground Water Drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which are connected directly or indirectly to a public sanitary sewer.

Any person in violation of this section shall disconnect all downspouts, groundwater drains, etc., no later than sixty (60) days from the date of an official written notice by the City. If any person fails to comply after the expiration of the time provided, the City may cause disconnection to be made at the property owner's expense.

[Ord. 2009-08].

Sec. 126-326. Conformance to Plumbing Codes.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the ASTM and the W.P.C.F. Manual of Practice No. 9, as may be amended from time to time. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

[Ord. 2009-08].

Sec. 126-327. Plumbers.

No contractor, plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the collection system without first receiving a license from the State of Wisconsin, except in cases where state law permits building owners to conduct their own work without being licensed.

[Ord. 2009-08].

Sec. 126-328. Inspection of Connection.

The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City. The cost of one inspection is included in the plumbing permit fee. Additional inspections, if required, shall be at the expense of the applicant.

[Ord. 2009-08].

Sec. 126-329. Barricades and Restoration.

All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

[Ord. 2009-08].

Sec. 126-330. Installation of Building Sewers.

All building sewers on private property will be installed and inspected in accordance with Wisconsin Administrative Code, Chapter Comm. 81-87, as may be amended from time to time.

[Ord. 2009-08].

Sec. 126-331. Permit.

An applicant for a plumbing permit and street opening permit shall notify the Building Inspector when the building sewer is ready for inspection and connection to the sanitary sewer. The Building/Plumbing Inspector shall supervise the connection process.

[Ord. 2009-08].

Sec. 126-332. Excavations.

In making excavations in streets or highways for laying building sewers or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public.

No person shall leave any such excavation made in any street or highway open at any time without barricades; and during the night, warning lights must be maintained at such excavations.

In refilling the opening, after the building sewers are laid, the earth must be laid in layers of not more than 12 inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, gravel and paving must be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the City.

No opening of the streets for tapping the pipes will be permitted when the ground is frozen, except in emergencies.

[Ord. 2009-08].

Sec. 126-333. Tapping of Mains.

No person, except those having special permission from the City, or persons in their service and approved by them, will be permitted under any circumstances to tap the mains or collection pipes. The kind and size of the connection with the pipe shall be that specified in the permit or order from said City.

Pipes should always be tapped on the top, and not within 15 inches (38 cm) of the joint, or within 36 inches (90 cm) of another lateral connection.

All connections to existing sewer mains shall be made with a saddle "T" or "Y" fitting set upon a carefully cut opening centered on the upper quadrant of the main sewer pipe and securely strapped on with corrosion resistant straps or rods, or with solvent welded joints in the case of plastic pipe.

[Ord. 2009-08].

Division VI. Connections to the Wastewater Treatment System.

Sec. 126-340. Mandatory Hookup.

The owner of each parcel of land adjacent to a sewer main on which there exists a building useable for human habitation or in a block through which such system is extended, shall connect to such system within three months of notice in writing from the City. Upon failure to do so the City may cause such connection to be made and bill the property owner for such costs, including any sanitary sewer system hook-up fee established under Section 126-321(b). If such costs are not paid within thirty (30) days, such notice shall be assessed as a special tax lien against the property, all pursuant to Section 66.0703 Wisconsin Statutes, as may be amended from time to time, provided, however, that the owner may within thirty (30) days after the completion of the work file a written request with the City stating that he cannot pay such amount in one sum and ask that there be levied in not to exceed three (3) equal installments, and that the amount shall be so collected with interest at the rate of 5% per annum from the completion of the work, the unpaid balance being a special tax lien, all pursuant to Section 66.0703 Wisconsin Statutes, as may be amended from time to time.

In lieu of the above, the City at its option may impose a penalty for the period that the violation continues, after ten (10) days written notice to any owner failing to make a connection to the sewer system of an amount equal to 150% of the average residential charge for sewer service payable monthly for the period in which the failure to connect continues, and upon failure to make such payment said charge shall be assessed as a special tax lien against the property, all pursuant to Section 66.0703 Wisconsin Statutes, as may be amended from time to time.

The failure to connect to the sewer system is contrary to the minimum health standards of said City and fails to assure preservation of public health, comfort, and safety of said City.

[Ord. 2009-08, Ord. 2011-02].

Sec. 126-341. Maintenance of Services.

The City shall maintain sewer service within the limits of the City for the street mains, without expenses to the property owner, except when they are damaged as a result of negligence or carelessness on the part of the property owner, a tenant, or an agent of the property owner. All sewer services from the point of maintenance by the system to and throughout the premises must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property.

When any sewer service is to be relaid and there are two or more buildings on such service, each building shall be disconnected from such service and a new sewer shall be installed for each building.

[Ord. 2009-08].

Sec. 126-342. Application to Connect Proposed New Wastewater System.

Any person located within the corporate limits of the City desiring to connect a proposed new wastewater system to the wastewater treatment system shall make a written application to the City for permission to make such connection or use. The application shall include a statement of the location or locations at which it is desired to connect, and a statement of the character of the wastewater to be transmitted.

The City shall design or review and approve all proposed wastewater systems. All costs and expenses incident to the design and bidding including engineering, permits and other fees associated with the connection or hookup to the wastewater treatment system shall be borne by the person requesting the proposed new wastewater system. Prior to the design of a sewer extension, the person shall secure and furnish proof of an escrow account for the estimated amount of the design costs, the amount to be determined by the City. The account shall be so arranged and an escrow agreement executed between the person, the bank, the City to allow the latter to withdraw amounts from the account. The account shall be sufficient to cover payments to all parties under contract with the City for the design of the wastewater system. This money will not be refunded if the project does not proceed to construction.

[Ord. 2009-08].

Sec. 126-343. Alterations.

Alterations to the existing wastewater treatment system shall be treated as Proposed New Wastewater Systems subject to the requirements of Section 126-342. The City may modify this provision if the sewer connection is not directly connected to a City sewer and providing the person has previously presented and has had approved a general overall sewer plan. If such a modification is made, it will be done in writing and must be kept on file by the person to which it applies.

After sewer connections have been made in a building or upon any premises, no plumber shall make any alterations, extensions or attachments unless the party ordering such work shall exhibit the proper permit.

[Ord. 2009-08].

Sec. 126-344. Reserve Capacity.

Prior to permitting any connection or use of the wastewater treatment system, the City shall ascertain that all downstream sewers, interceptors, lift station, force mains, and treatment works have sufficient reserve capacity for volume, suspended solids and BOD5 to assure adequate collection and treatment of the additional wastewater contributed to the wastewater treatment system. The City reserves the right to refuse connection if the requirements for this section cannot be met.

[Ord. 2009-08].

Sec. 126-345. Inspections and Supervision During Construction.

During the construction of any wastewater system which the City has approved, the City may, from time to time, inspect the same to see that said work is being done in accordance with the approval plans and specifications. Failure to make such inspections shall not nullify the rights of the City to require reconstruction should non-adherence to approved plans be subsequently discovered. Every person in the construction of laterals or wastewater systems, within its jurisdiction, shall require that such construction be under the direction of a Wisconsin Registered Professional Engineer or Licensed Master Plumber, if plan approval was obtained under his license. The Engineer or Master Plumber shall keep accurate records of the location, depth, and length of the sewers as built, and of the location of the Y-branches or slants. As-built plans shall be presented to City within 60 days of completion or connection to existing sewer which ever occurs first. Cost of inspections shall be borne by property owner.

[Ord. 2009-08].

Sec. 126-346. Prohibited Connections.

The connection of combined sewers to the sanitary sewers is prohibited as is the connection of any proposed or existing storm sewers to the wastewater treatment system. Connection of catch basin or curb inlets to any sanitary sewer directly or indirectly connected to the wastewater treatment system is strictly prohibited.

[Ord. 2009-08].

Sec. 126-347. Physical Connection.

All proposed sewer connections shall be planned to be made at a manhole with the flow lines of the connecting sewer being at or below the manhole shelf or the connection shall be made through an approved drop. At least 48 hours before connection is to be made, notice of such intent must be given to the City. When the actual connection is made, it must be done in the presence of a City inspector.

[Ord. 2009-08].

Sec. 126-348. Records.

Records of connections to the wastewater treatment system shall be kept by the municipality in which such connections are made and such records shall be available for inspection by the City.

[Ord. 2009-08].

Sec. 126-349. User Use Only.

No user shall allow other users, other building sewers or other building drains to connect to the wastewater treatment system through his building sewer and building drain.

[Ord. 2009-08].

Sec. 126-350. User to Permit Inspection.

Every user shall permit the City, or its duly authorized agent, at all reasonable hours of the day, to enter his premises or building to examine the pipes and fixtures, and the manner in which the drains, and sewer connections operate; and he shall at all times, frankly and without concealment, answer all questions put to him relative to its use.

[Ord. 2009-08].

Sec. 126-351. City Responsibility.

The City and its agents and employees shall not be liable for damages occasioned by reason of the breaking, clogging, stoppage, or freezing of any building sewers or building drains; nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to shut off the building sewer at any time for the purpose of repairs, or any other necessary purpose, and permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the building sewer within the said City, the City shall, if practicable, give notice to each and every consumer affected within said City of the time when such service will be so shut off.

[Ord. 2009-08].

Sec. 126-352. User to Keep in Repair.

Every user shall keep his own building sewer and building drain in good repair and protected from frost, at his own risk and expense, and shall prevent any unnecessary overburdening of the sewer system.

[Ord. 2009-08].

Division VII. Septic Tank and Holding Tank Waste.

Sec. 126-360. Septic Tanks and Holding Tanks Prohibited.

The maintenance and use of septic tanks, holding tanks or other private disposal system within the sewer service area of the City serviced by its wastewater treatment system are hereby declared to be a public nuisance and a health hazard. Upon abandonment of a septic tank or holding tank, the tank shall be filled with sand or gravel in a manner acceptable to the City.

[Ord. 2009-08].

Sec. 126-361. Septic Tank and Holding Tank Disposal.

No person in the business of gathering and disposing of septic tank or holding tank wastes shall transfer such material into any disposal area or manhole located within the City of Evansville boundaries unless approval for disposal has been first obtained from

the City. Written application for this approval shall be made to the City and shall state the name and address of the applicant; the number of its disposal units; and the make, model and license number of each unit. Approval shall be non-transferable except in case of replacement of the disposal unit for which approval shall have been originally issued. The time and place of disposal will be designated by the City. The City may impose such conditions as it deems necessary on any approval granted. Bills shall be mailed on a monthly basis and if payments are not received in 30 days thereof, disposal privileges shall be suspended.

Any commercial hauler of septic tank or holding tank wastes shall carry public liability insurance in an amount not less than one hundred thousand dollars (\$100,000) and to protect any and all persons or property from injury and/or damage caused in any way or manner by any act, or failure to act, by any of his employees. A certificate certifying such insurance to be in full force and effect shall be furnished to the City.

Any wastes discharged into the treatment system shall be of domestic origin and will comply with the provisions of any and all applicable Ordinances of the City. A user shall not deposit or drain any gasoline, oil, acid, alkali, grease, rags, waste, volatile, or inflammable liquids or other deleterious substances into any manhole nor allow any earth, sand or solid material to pass into any part of the wastewater system.

Any person or party disposing of septic tank or holding tank wastes shall indemnify and hold harmless the City from any and all liability and claims for damage arising out of or resulting from work and labor performed.

[Ord. 2009-08].

Division VIII. Damage to or Tampering With Wastewater Treatment System.

Sec. 126-370. Willful, Negligent or Malicious Damage.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities.

[Ord. 2009-08].

Sec. 126-371. Liability of User for Losses.

Any person who violates any provision of this Article V shall become liable to the City or any downstream user, for any expense, loss or damage occasioned by reason of such violation which the City or any downstream user may suffer as a result thereof. This section shall be applicable whether or not a written notice of the violation was given as provided in Section 126-380 and without consideration for any penalties which may be imposed for a violation of this Article V.

[Ord. 2009-08].

Sec. 126-372. Damaging Sewers Prohibited.

No person shall alter, disturb or uncover any connection with or opening into any sanitary sewer or appurtenance thereof without first obtaining written permission from the City.

No person shall willfully or maliciously obstruct, damage, or tamper with any private drain or sewer, or in any structure, appurtenance or equipment which is part of the wastewater treatment system.

[Ord. 2009-08].

Division IX. Violations and Penalties.

Sec. 126-380. Written Notice of Violation.

Any user alleged to have violated an order of the City or who has failed to comply with any provisions of this Article V and the orders, rules, regulations and permits issued hereunder shall be served by the City with a written notice stating the nature of the violation and/or ordering satisfactory correction of any still existing violation within a reasonable period of time as established by the City. Said written notice shall identify the violation, set forth the potential charges or penalties to be imposed, and provide notice of right to request a hearing pursuant to Division XIII herein.

[Ord. 2009-08, Ord. 2010-01].

Sec. 126-381. Civil Penalties.

Any user who is found to have violated an order of the City or who has failed to comply with any provisions of this Article V and the orders, rules, regulations and permits issued hereunder, including the failure by an industrial user to immediately notify the City of an accidental slug or discharge in violation of a Wastewater Discharge Permit, shall be fined not less than Fifty Dollars (\$50) nor more than Two Thousand Five Hundred (\$2,500) for each offense. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court recorder's fees and other expenses of litigation by an appropriate action against the person found to have violated this Article V or the order, rules, regulations and permits issued hereunder. This section shall not apply to the untimely payment or failure to pay a bill pursuant to Division X.

[Ord. 2009-08, Ord. 2010-01].

Sec. 126-382. Continued Violations.

Each violation and each day a violation continues shall constitute a separate offense. This, however, shall not bar the City from enforcing the mandatory hook-up provision in

Section 126-340, taking appropriate action to prevent or remove a violation, or any other right the City may have.

[Ord. 2009-08, Ord. 2010-01].

Sec. 126-383. Costs of Damage.

Any user violating any of the provisions of this Article V or who has a discharge which causes a deposit, obstruction, damage or other impairment to the City's wastewater treatment system shall become liable to the City for any expense, loss or damage caused by the violation or discharge. The City may add to the user's charges and fees the costs assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Article V.

Any user discharging toxic pollutants shall pay for any increased operation, maintenance, and replacement costs caused by said discharge, in addition to any other charge or penalties provided herein.

[Ord. 2009-08].

Sec. 126-384. Revocation of Permit.

The City may shut off service to and/or revoke the Wastewater Discharge Permit of any user which fails to factually report the wastewater constituents and characteristics of his discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring or for violation of conditions of its Wastewater Discharge Permit, this Article V, or applicable state and federal regulations.

[Ord. 2009-08].

Division X. Billing Practice.

Sec. 126-390. Billing Period.

All user service charges for all customers shall be billed on a monthly basis, including those using private water well supplies. All user service charges for significant contributors and for those customers whose water meter is read on a monthly basis shall be billed on a monthly basis.

[Ord. 2009-08].

Sec. 126-391. Payment.

User charges shall be payable within 20 days of the date of the bill. Customers who select to pay user service charges for the entire year shall submit payment by October 1st of each year.

[Ord. 2009-08].

Sec. 126-392. Penalties.

Charges, fines, forfeitures, fees and penalties levied in accordance with this Article V shall be a debt due to the City. If the debt is not paid within 20 days after it is due and payable, it shall be deemed delinquent. There shall be an added penalty of 3 percent of the amount of the monthly bill and of the unpaid balance applied monthly. Charges, fines, forfeitures, fees and penalties shall constitute a lien upon the property services and be recorded on the City's tax roll. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these charges, fines, forfeitures, fees and penalties.

Charges, fines, forfeitures, fees and penalties shall constitute a lien under the property services, and be recorded on the tax roll of the City of Evansville. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these liens.

[Ord. 2009-08].

Sec. 126-393. Notification.

Each user shall be notified annually, in conjunction with a regular bill, of the rate schedule attributable to wastewater treatment services including an explanation of the charges.

[Ord. 2009-08].

Sec. 126-394. Billing.

The property owner is held responsible for all bills on premises that he owns. All bills and notices of any nature, relative to the sewer use, will be addressed to the owner and/or occupant and delivered to the addressee by first class mail.

[Ord. 2009-08].

Sec. 126-395. Failure to Receive Bill No Penalty Exemption.

Every reasonable care will be exercised in the proper delivery of bills. Failure to receive a bill, however, shall not relieve any person of the responsibility for payment of user charges within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

[Ord. 2009-08].

Sec. 126-396. Delinquent Bills.

The City shall furnish the City Clerk with a list of all such lots or parcels of real estate, and the notice shall be given by the City. Such notice shall be in writing and shall state the amount of such arrears, including any penalty assessed pursuant to the rules of such City; that unless the same is paid by September 1, the same will be levied as a tax against the lot or parcel of real estate to which service was furnished and for which payment is delinquent as above specified. Such notice may be served by delivery to either such owner or occupant personally, or by letter addressed to such owner or occupant at the post office address of such lot or parcel of real estate. Each such delinquent amount, including such penalty, shall thereupon become a lien upon the lot or parcel of real estate to which the service was furnished and payment for which is delinquent. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to said tax if the same is not paid within the time required by law for payment of taxes upon real estate.

[Ord. 2009-08].

Sec. 126-397. Disposition of Revenue.

The amounts received from collection of the charges shall be credited to a wastewater account which shows all receipts and expenditures of the sewer utility. When appropriated by the City, the credits to the account shall be available for payment for operations, maintenance, repairs and depreciation of the wastewater system. Any surplus in the account shall be available for payment of principal and interest of bonds or notes issued and outstanding or which may be issued to provide funds for the wastewater system or parts thereof, and all or part of the expenses for additions, improvements and other necessary disbursements or indebtedness.

[Ord. 2009-08].

Division XI. User Charge System.

Sec. 126-400. User Charges.

There is hereby levied and assessed upon each lot, parcel of land, building, premises or unit having a connection with the wastewater treatment works, a user charge, based upon the quantity of wastewater discharged, pursuant to Section 66.076, Wis. Stats., as amended from time to time. Such user charges shall be billed to the person, firm, corporation or other entity owning, using or occupying the property served. The user charges shall consist of a fixed charge and a variable charge. The user charge is applicable and will be billed regardless of occupancy status.

[Ord. 2009-08].

Sec. 126-401. Fixed Charge.

The fixed charge shall be a minimum charge for all users based upon the number of connections to the wastewater treatment works. This charge includes billing and

administration costs, inflow/infiltration treatment costs, collection system depreciation, insurance costs and collection system and wastewater treatment facility debt costs. The fixed charge amount shall be determined from time to time by resolution by the City.

[Ord. 2009-08].

Sec. 126-402. Variable Charge.

The variable charge is based on the volume and strength of wastewater discharged to the wastewater treatment system. The variable charge amount shall be determined from time to time by resolution by the City.

[Ord. 2009-08].

Sec. 126-403. Special Assessments.

Not included in the foregoing user service charges are the costs associated with providing local collecting facilities to users, which the City may levy by special assessment, in whole or in part, to the property benefited thereby.

[Ord. 2009-08].

Sec. 126-404. Unpolluted water rates.

The City may adjust sewer charges for unpolluted water entering into the sanitary sewer system or running straight to ground. The adjusted rates, requirements and eligible activities for unpolluted water shall be set by resolution.

(Ord. 2020-02)

Secs. 126-405 – 126-409 Reserved.

Division XII. Significant Contributors.

Sec. 126-410. General.

Significant contributors shall be those users of the wastewater treatment system whose discharges exceed, in one or more parameters (flow, BOD5, TSS, TKN), five percent (5%) of the design value for that particular parameter, on such average or peak basis as the City determines is appropriate.

- (1) Significant contributors will be requested to advise the City of their best estimate of the level of usage of the wastewater treatment facility that they expect to utilize through the remaining useful life of the wastewater treatment facility. The City may allocate a portion of capacity in the wastewater treatment facility to specific significant contributors, particularly in the case of new construction,

expansion or renovation of such facility. Significant contributors shall pay capital costs associated with such allocated capacity.

- (2) Significant contributors will be encouraged to contract with the City as to the amount of such allocated capacity and as to the payment of associated capital costs. In exchange for a contractual commitment to pay such capital costs, the City may protect the contracting significant contributors from capital cost increases that might otherwise result from changes in the number of discharges over whom capital costs might be spread.
- (3) Significant contributors who have provided projected usage levels to the City prior to a project of construction, expansion or renovation, shall, in the absence of contract provisions to the contrary, have their fixed charge computed on the basis of actual or projected usage levels. The City shall in any such allocation process treat all significant contributors in a manner that is not unreasonable or unjustly discriminatory. The City may change the amount of allocated capacity from the projections provided by the significant contributors, provided any opportunity for such change is made available to all significant contributors.
- (4) For the purpose of determining wastewater treatment facility debt service on a usage basis, the following cost breakdown is provided:

per 1000 gallons of flow

per pound of BOD5

per pound of SS

The calculation of the treatment plant debt charge on a usage basis shall be computed by the formula presented below:

$$C = F \times V + 0.00834 \times V \times [(\$0.09 \times (B-234)) + (\$0.08 \times (S-205)) + (\$0.29 \times (N-58))]$$

Where:

C = charge to significant users for wastewater treatment plant 40% debt service

F = base monthly fixed charge per 1,000 gallons

V = wastewater volume in 1,000 gallons

B = concentration of BOD5 from a user in mg/l

S = concentration of TSS from a user in mg/l

.00834 = conversion factor (mg/l to lbs)

.74800 = conversion factor (1000 gallons to 100 cubic feet)

- (5) Total Kjeldahl nitrogen (TKN) monitoring is required by the City due to nitrogen limitations. The frequency of monitoring shall be determined by the City on a case-by-case basis.
- (6) Significant contributors who connect to the wastewater treatment system after any specific construction, expansion or renovation project may only be allocated capacity in that project to the extent the City deems such capacity is available. In no event may capacity allocated to a significant contributor under a wastewater discharge permit with the City be changed in any way without compliance with the terms of the contract. Significant contributors who do not have a contractual commitment to pay specific treatment plant debt service charges may have their allocated capacities and associated fixed charges reduced on a prospective basis if, in the judgment of the City, the re-allocated portion of the capacity should be made available to another user.

[Ord. 2009-08].

Division XIII. Appeals.

Sec. 126-420. Hearing Procedures.

Except in the case of untimely payment or non-payment of a bill pursuant to Division X, any user, permit applicant or permit holder who receives a written notice pursuant to Section 126-380, may, within ten (10) days of the date of the notice, file a request for a hearing. Said request shall set forth in detail the facts supporting the user's request for a hearing. If the person served with a written notice fails to request a hearing, the penalties set forth in the written notice shall be imposed.

The filing of a requested hearing shall stay any decision, action or determination, including cease and desist orders, except as necessary to protect the public health, welfare or safety on an emergency basis including, but not limited to, the temporary termination of service.

A request for hearing shall be held in prompt fashion and shall be heard by the City. After the City has heard the evidence, it may impose any fines, penalties, or other sanctions as authorized by Article V. Such may include a requirement that the violator pay the full costs of the proceedings including the City's technical, administrative and other costs in developing its proofs and may include reasonable attorney fees.

[Ord. 2009-08, Ord. 2010-01].

Chapter 130

ZONING*

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* **Cross references:** Buildings and building regulations, ch. 18; flood area zoning, ch. 54; historic preservation, ch. 62; planning, ch. 94; shoreland-wetland zoning, § 94-101 et seq.; shoreland-wetland zoning district, § 94-141 et seq.; shoreland-wetland zoning, ch. 100; zoning maps for shoreland-wetland zoning district, § 100-31; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110; telecommunications, ch. 118.

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ARTICLE I. IN GENERAL

Sec. 130-1. Statutory authority.

In accordance with Wis. Stats. § 62.23, and for the purposes listed therein, the city ordains the zoning regulations set forth in this chapter.

(Code 1986, § 17.01)

Sec. 130-2. Purpose of chapter.

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of this community; to regulate and restrict the use of all lands and waters; to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; to further the appropriate use of land and conservation of natural resources; to stabilize and protect property values; to preserve and promote the beauty of the community; to preserve productive and historic agricultural soils; and to implement the community's master plan or plan components.

(Code 1986, § 17.02)

Sec. 130-3. Effect of chapter on existing ordinances and property restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, this chapter shall govern.

(Code 1986, § 17.03)

Sec. 130-4. Interpretation of chapter.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other power granted by the state statutes.

(Code 1986, § 17.04)

Sec. 130-5. Jurisdiction of chapter.

This chapter shall include all lands and waters within the city.

(Code 1986, § 17.05)

Sec. 130-6. 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.

Above-grade floor area means the total floor area within the exterior walls and at or above grade level of a building which is habitable as living quarters. Above-grade floor area may be comprised of the floor area of one or more floors. If a floor is partially above the grade level, the floor is counted as above-grade if it has direct doorway access to the outdoors and is habitable as living quarters.

Accessory building means any building except the principal building on a lot, which is subordinate in area, extent and purpose to the principle building and contributes to the comfort, convenience or necessity of the occupants of the principal building. An accessory building includes, but is not limited to, the following:

- (1) A utility shed, garden house or private greenhouse.
- (2) A children's playhouse, gazebo, dog kennel and run, chicken coop and run.

An accessory building in a residential district shall be limited in area as follows: 150 square feet.

Accessory Dwelling Unit (ADU) means an attached or detached subordinate structure, which is clearly incidental to and is located on the same parcel as the principle structure. An ADU is no more than 750 square feet in size and contains a dwelling unit, at least a one car garage, no more than one full bathroom, and has a driveway connected to the street.

Accessory structure means a detached subordinate structure, which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related, and which is located on the same lot as the principle structure. An accessory structure includes, but is not limited to, the following:

- (1) A play structure, detached deck, above and in ground swimming pools and lawn ornament.

Airport not open to the public means any airport on privately owned land used solely by the property owner.

Airport open to the public means any airport, whether publicly or privately owned, which is open for use by the general public without the necessity of obtaining prior use approval.

Alley means a street or thoroughfare less than 21 feet wide and affording only secondary access to abutting properties.

Applicant means the owner of the land or his representative. Consent shall be required in writing from the legal owner of the premises.

Arterial street means a public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

Attached private garage means a private garage so constructed as to form an integral part of the principal building or portion of the principle building designed, arranged, used or intended to be used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers of the occupant.

Automotive vehicle means a vehicle that is self-propelled, except a snowmobile, unless specifically referred to as a motor vehicle in this chapter.

Basement means a story partly underground.

Bed and breakfast establishment shall be as defined by the state department of health and family services in Wis. Admin. Code § HFS 197.03(3). Boardinghouse means a building other than a hotel where meals or lodging and meals are provided for compensation for three or more persons not members of the owner's family.

Bond means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in the amount and form satisfactory to the city council. All bonds shall be approved by the plan commission wherever a bond is required by this chapter.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. The term "building" also includes any part thereof.

Building area means total ground coverage in square feet of all buildings and structures, including garages, carports and other attached or accessory structures.

Building height means the vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

Commission means the city plan commission.

Common area means an area or space designed for joint use of tenants or owners residing in a planned unit development.

Community means a legal entity organized under appropriate statutory authority as a body corporate which represents a town, village, city or county such as the case may be.

Conditional use means a use of land which is of such a special nature, or is so dependent upon contemporary circumstances, as to make impractical the predetermination of permissibility. A conditional use shall be denied unless the applicant can demonstrate that the use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole.

Density means the number of dwelling units per acre allowable under a schedule of district regulations.

Dependent mobile home means a mobile home which does not have complete bathroom facilities.

Developer means the owner of land proposed for subdivision or his representative. Consent shall be required from the legal owner of the premises.

Development means any manmade change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures; the construction or additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or excavation of earthen materials.

Development guide means the city master plan (Wis. Stats. § 62.23) or the town's development plan (segment of the county's development plan, Wis. Stats. § 59.97).

Drive-in establishment means a place of business in which patrons can be served while remaining in their automobiles.

Driveway means a minor private way used by vehicles and pedestrians for common access to a lot, small group of lots or facilities.

Dwelling, multiple-family means a building or portion thereof designed for or occupied by three or more families or households.

Dwelling, single-family means a detached building designed for or occupied exclusively by one family or household.

Dwelling, two-family means a building containing two dwelling units that are either detached, vertically stacked one above the other or side-by-side, with a separate entrance to each unit and with yards on all sides of the dwelling. Two Family Dwellings constructed after January 1, 2021 shall be serviced by individual utility connections and meters.

Dwelling, two-family twin means a dwelling designed for or occupied exclusively by one family or household which is attached on one side to another dwelling of the same nature with a common side wall, each of which is located on an individual lot.

Earthwork means the moving of more than two cubic yards of any type of soils.

Easement means authorization by a property owner for the use by another and for specified purpose of any designated part of his property.

Emergency shelter means public or private enclosures designed to protect people from flood, windstorm, fire, riots or invasions, and from aerial, radiological, biological or chemical warfare.

Essential services means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, and stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but does not include buildings.

Expressway means a divided arterial street or highway, either with full or partial control of access, and with or without grade-separated intersections.

Family means a group of persons related by blood or marriage and living together as a single housekeeping entity.

Fence means a linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include but may not be limited to wood, concrete, metal, wire, masonry, or stacked rocks.

Floodplain means the land adjacent to a body of water which is subject to periodic overflow therefrom.

Floodway means the channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.

Floor area means the area within the exterior walls of a building which is usable as living quarters.

Freeway means an expressway with full control of access and with fully grade-separated intersections.

Frontage means the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Garage, detached private means a private garage entirely separated from the principal building.

Garage, private means a building or portion thereof used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers.

Garage, public means any building or premises, other than a private or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, storage means any building or premises used for storage only of motor vehicles.

Gas service station means a business at which the primary activities are the sale of gasoline to the public and the repair and maintenance of motor vehicles. Grocery items may also be sold.

Green area means land that is covered by a pervious surface on which vegetation is growing.

High density means those residential zoning districts in which the density is greater than one dwelling unit per 8,500 square feet.

Home occupation means a small home-based family or professional business where economic activity is performed entirely within a dwelling unit or an attached garage. A home occupation may include, for example, personal and professional services or handicrafts. (See division 9, section 130-531 of this chapter)

Hotel means a building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in any individual room or apartment.

Household pet means tame animals which have been traditionally kept in the home, to include dogs, cats, rabbits, birds, hamsters, and other animals which in their adult life do not exceed 250 pounds, or four feet in height at normal posture.

Household unit means the body of persons who live together in one dwelling unit as a single housekeeping unit.

Intensive soils survey means the testing of soil at a particular geographic location as to its individual assets and limitations.

Interchange means a grade-separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

Land division means the division of a lot, parcel, or tract of land by the owner thereof or his agent, for the purpose of sale or building development, which creates:

- (1) One or more lots, parcels or ownership units; or
- (2) The need for a public dedication of land for public road, parkland, or open space.

Large farm animal means any horse, head of cattle, pony, sheep, goat, or hog.

License means a written license issued by the city allowing a person to operate and maintain a mobile home park under the provisions of this chapter and regulations issued under this chapter.

Loading area means a completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress from and egress to a public street or alley.

Lodginghouse means a building other than a hotel where lodging only is provided for compensation for not more than 12 persons not members of the owner's family.

Lot. A tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

Lot area means the total area reserved for exclusive use of the owners of a particular piece of real property.

Lot, corner means a lot abutting on two or more streets at their intersection.

Lot depth. The mean horizontal distance between the front lot line and rear lot line, or, in the case of a lot with two front lot lines, the mean horizontal distance between the front lot lines.

Lot lines and area mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot line, front. The boundary of a lot which abuts a public or private street. In the case of a corner lot, the front lot line shall be the shortest dimension along the street, unless otherwise specified by the Zoning Administrator based upon site conditions. Any

such decision by the Zoning Administrator shall account for the impact of the decision on surrounding lots and be kept on file at City Hall. Lots that are not corner lots that abut more than one street frontage shall be considered to have two front lot lines.

Lot line, rear. The boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be aligned ten feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

Lot line, side. Any boundary of a lot that is not a front, rear, or street side lot line.

Lot line, street side. The boundary of a lot that fronts a public street that is not a front lot line.

Lot width. The horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required front setback line for the principal building.

Low density means those residential zoning districts in which the density is over 12,000 square feet per dwelling unit.

Master plan means a comprehensive plan for development of the local government, prepared and adopted by the local government, pursuant to state law, and including any part of such plan separately adopted in any amendment to such plan, or parts thereof.

Medium density means those residential zoning districts in which the density is over 8,500 and up to and including 12,000 square feet per dwelling unit.

Minor structure means any small, movable accessory structure or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four feet in height.

Mobile home means a structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and is designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Mobile home lot means a parcel of land designed for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park means a parcel of land under single ownership designed, maintained, intended or used for the purpose of providing a location and accommodations for two or more mobile homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park or its facilities; except that a mobile home subdivision shall not be deemed a mobile home park.

Mobile home stand means that part of an individual lot which has been reserved for the placement of one mobile home unit.

Mobile home subdivision means a parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single mobile home and its facilities.

Motel means a series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.

Nonconforming structure means a building or premises lawfully used, occupied or erected at the time of the passage of the ordinance from which this chapter is derived or at the time of an amendment thereto, which does not conform to the regulations of this chapter with respect to frontage, width, height, area, yard, parking, loading or distance requirements.

Nonconforming use means the use or occupancy of a building or premises, which is lawful at the time of enactment of the ordinance from which this chapter is derived or at the time of enactment of amendments thereto, but which use or occupancy does not conform to the provisions of this chapter or any amendments thereto.

Nondependent mobile home means a mobile home which has complete bathroom facilities.

Occupied, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Ordinance means any legislative action, however nominated, of a local government which has the force of law, including any amendment or repeal or any ordinance.

Owner means any person, group of persons, firm, corporation, or other legal entity having legal title to or sufficient proprietary interest in the land.

Park management means the person who owns or has charge, care or control of a mobile home park or travel trailer park.

Park street means a private way which affords the principal means of access to individual mobile home lots, travel trailer spaces or auxiliary buildings.

Permitted use. Uses listed under this heading are permitted as of right. This means that an applicant for a building permit shall be given a permit if he meets the other requirements of the chapter, e.g., yards, setbacks and so forth.

Person means any individual, firm, trust, partnership, public or private association, such as, but not limited to, clubs or corporation.

Principal building means the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory or of secondary importance.

Retail store means any place that offers merchandise for sale to the general public.

Roominghouse means a building other than a hotel where lodging only is provided for compensation for three or more persons not members of the owner's family.

Service building means a structure housing toilet, washing and bathing facilities and such other facilities as may be required by this chapter.

Setback. The minimum distance by which the principal building or structure must be separated from a right-of-way or lot line, excluding uncovered steps.

Sign means a structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

Standard soils survey means a soils survey of the county by the Soil Conservation Service, U.S. Department of Agriculture.

Standards means the setbacks, using vision corners, sideline requirements, height limitations, square footage requirements and other specifications as required by this chapter.

Story means that portion of a building included between the floor and the surface of the floor next above it, or the space between the floor and the ceiling next above it, if there is not a floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.

Story, half means the space under any roof except a flat roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

Street means all property dedicated or intended for public or private street purposes or subject to public easements 21 feet or more in width.

Street right-of-way line means the dividing line between a lot, tract or parcel of land and an abutting street.

Structural alteration means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

Structure means anything constructed or erected having location on the ground. The term "structure" also includes any part thereof.

Subdivision means a division of a lot, parcel or tract of land by the owner thereof or his agent, for the purpose of sale of building development, where:

- (1) The act of division creates five or more parcels or building sites.
- (2) Five or more parcels or building sites are created by successive divisions from the original parent parcel.

Taper means the point at which the access road to or from a highway interchange meets another intersecting road.

Temporary structure means a removable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure.

Tenant storage area means an enclosed space designed to provide auxiliary general storage space for the occupants of an individual mobile home.

Tourist camp or court means a tract of land of at least one acre upon which two or more camp cottages are located or where temporary accommodations are provided for two or more trailers or house cars, open to the public either free or for a fee.

Trailer space means a parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

Travel trailer means a vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form:

- (1) A unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 32 feet;
- (2) A unit designed to be mounted on a truck chassis;
- (3) A unit constructed as an integral part of a self-propelled vehicle; or
- (4) A canvas folding unit mounted on wheels.

Travel trailer camp means a parcel of land in which two or more spaces are occupied, or intended for occupancy, by travel trailers for transient dwelling purposes.

Turning lanes means an existing or proposed connecting roadway between an arterial street and any other street. Turning lanes include grade-separated interchange ramps.

Usable open space means land which is drainable, not covered by buildings and not dedicated to vehicular or utility uses, but can be part of a required setback.

Use (land use) means that which is customarily or habitually done, may include seasonal uses, and need not have extended to the entire tract of land at the time of the adoption of the ordinance from which this chapter is derived.

Used, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Variance means authority granted to the owner to use his property in a manner which is prohibited by this chapter. A variance is a departure from the terms of this chapter where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.

- (1) Area variance means one which does not involve a use which is prohibited by this chapter. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density, density regulations and yard requirements.
- (2) Use variance means one which permits a use of land other than that which is prescribed by this chapter, except that such term does not refer to variances for utility purposes as provided for in Wis. Stats. § 62.23(7)(e)7. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by this chapter. A use variance shall not be granted under this chapter.

Vision clearance triangle means an unoccupied triangular space at a corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.

Waterline means the shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 percent of the length of such waterline shall be either on or on the landward side of the normal high-water mark of such stream.

Yard. Open space on a lot between the principal building and any lot lines, unoccupied and unobstructed from the ground upward, except as otherwise provided in this code.

Yard, front. A yard extending the full width of the lot between the front lot line and the principal building (Exhibit 1).

Yard, rear. A yard extending the full width of the lot between the rear lot line and the principal building, excluding only such projections as are permitted in this chapter. When there is a street side yard present, the rear yard extends only to the street side yard, and not the full width of the lot (Exhibit 1).

Yard, side. A yard extending from the front yard to the rear yard, between the side lot line and the principal building (Exhibit 1).

Yard, street side. A yard extending along a street side lot line from the front yard to the rear lot line, between the street side lot line and the principal building.

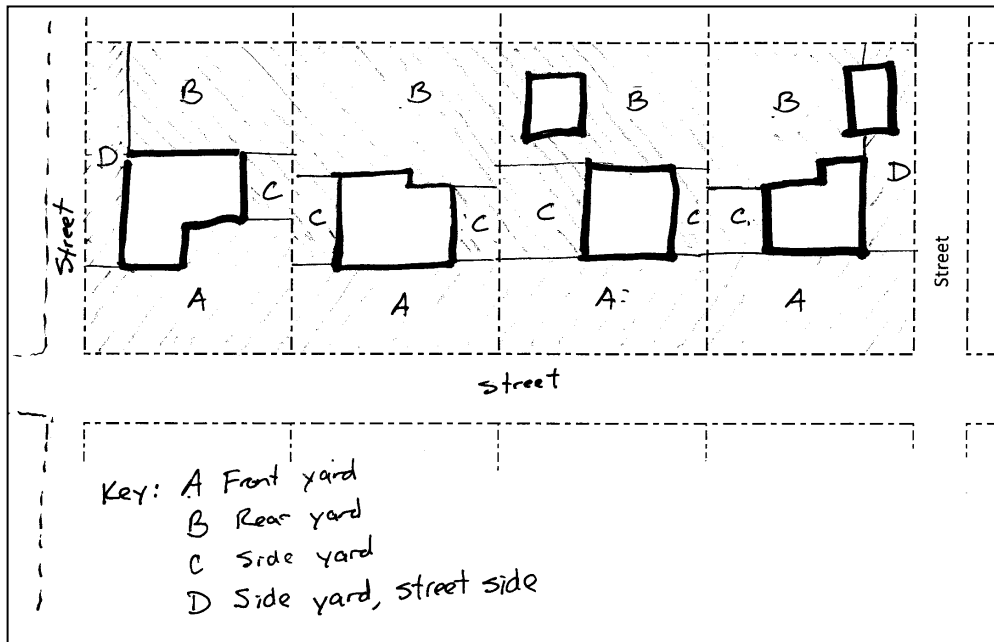


Exhibit 1. Front, Side, and Rear Yards in Various Settings

Zoning administrator means the city administrator or designees of the city administrator.

(Code 1986, § 17.06; Ord. No. 2002-4, §§ 2--6, 4-9-2002, Ord. 2006-25, Ord 2007-10, Ord. 2007-21, Ord. 2012-02, Ord. 2012-15, Ord. 2016-18, Ord. 2020-13)

Cross references: Definitions generally, § 1-2.

Sec. 130-7. Compliance with chapter.

No structure, land, or water shall hereafter be used without compliance with this chapter and all other applicable local, county, and state regulations. The zoning administrator, with the aid of the police department, shall investigate all complaints, give notice of violations, and enforce this chapter. The zoning administrator may enter, at any reasonable time as permitted by the property owner, onto any public or private lands or waters to make inspection. If the zoning administrator is refused entry, he may apply for, obtain, and execute a special inspection warrant for premises pursuant to Wis. Stats. §§ 66.122 and 66.123. The zoning administrator may set time limits and conditions for the correction of violations.

(Code 1986, § 17.20)

Sec. 130-8. Hearings on proposed amendments to be held before plan commission.

The city elects, pursuant to Wis. Stats. § 66.01, to have the hearings on proposed zoning amendments before the city plan commission and elects not to be governed by Wis. Stats. § 62.23(7)(d)1, insofar as such section conflicts with this section.

(Ord. No. 13-79, § 1, 4-10-1979)

Editor's note: The preceding section, exercising authority under Wis. Stats. § 66.01 to have hearings on zoning amendments before the city plan commission, was adopted by a Charter ordinance, No. 13-79, which requires special procedures for amendment under Wisconsin law.

Sec. 130-9. Official map.

- (a) *Purpose.* The purpose of this section is to preserve and promote the public health, safety, convenience and general welfare; to provide for the orderly, safe and economical expansion of the developed area of the community; and to facilitate adequate provision for transportation, parks and playgrounds.
- (b) *Official map established; adoption.*
 - (1) There is hereby established an official map of the city, showing the location and width of streets, highways, and parkways and location and extent of parks and playgrounds. Such official map consists of eight sheets showing the location and width of streets within the city limits and into the adjacent unincorporated area over which the city can exercise extraterritorial jurisdiction in accordance with Wis. Stats. § 236.10(1)(b)2.
 - (2) This map is made a part of this section, and all notations, references and other information shown thereon shall be as much a part of this section as though the matters and information were fully described in this section.
 - (3) There shall be a certified copy of the official map, which shall be kept in the office of the city clerk-treasurer, and shall be available for inspection by any interested person during regular office hours. Such copy shall bear on its face a certification that it is a true copy of the official map and shall show the date

of the adoption of the ordinance from which this section is derived (November 14, 1978) and shall be signed by the mayor and countersigned by the city clerk-treasurer.

Thereafter, no change or addition to such official map shall become effective until it shall have been indicated by the appropriate convention on the certified copy of the official map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the mayor and countersigned by the city clerk-treasurer.

(c) *Effect.*

- (1) The official map is intended to be final and conclusive with respect to the location and width of streets, highways and parkways and the location and extent of parks and playgrounds.
- (2) The placing of any street, highway, parkway, park or playground line upon the official map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street, parkway, park or playground, or the taking or acceptance of any land for such purposes.

(d) *Changes and additions.* The city council may, whenever and as often as it deems in the public interest, change or add to the official map to establish the exterior lines of planned new streets, highways, parkways, parks, or playgrounds or to widen, narrow, extend or close existing streets, highways, parkways, park or playgrounds by the following procedure:

- (3) Before making such addition or change, the council shall refer the matter to the plan commission for report thereon.
- (4) The plan commission shall make a report and recommendation upon the proposed change to the city council within 60 days.
- (5) Such additions and changes, when adopted and added to the certified copy of the official map, shall become a part of the official map of the city, and shall be final and conclusive with respect to the location and width of the streets, highways and parkways and the location and extent of parks and playgrounds shown thereon.
- (6) The locating, widening, or closing or the approval of the locating, widening or closing of streets, highways, parkways, parks or playgrounds by the city under provisions of law other than this section shall be deemed to be a change or addition to the official map and shall be subject to the provisions of this section.
- (7) Changes or additions made by a subdivision plat approved by the city under Wis. Stats. ch. 236 shall not require a public hearing if the changes or additions do not affect any land outside the platted area.

- (e) *Municipal improvements.* No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway until such street, highway, or parkway is duly placed on the official map.
- (f) *Restrictions on issuance of building permits.*
- (1) For the purpose of preserving the integrity of the official map, no permit shall be issued for any building in the bed of any street, highway, or parkway shown on the official map. No permit for the erection of any building shall be issued unless a street, highway, or parkway giving access to such proposed structure has been duly placed on this map.
 - (2) The zoning administrator shall require each applicant to submit a plot plan (unless the site is a lot in a recorded subdivision or certified survey plat) showing accurately the location of any proposed building with reference to adjacent streets, highways, or parkways shown on the official map.
 - (3) The zoning administrator shall grant or deny the application within 30 days of proper submission, unless such time period is extended by agreement with the applicant.
- (g) *Authority of board of appeals.* The board of appeals shall have the power to grant relief from the requirements of this section in accordance with the provisions of Wis. Stats. § 62.23(6)(d), (f) and (g).
- (1) Before taking any action authorized in this section, the board of appeals shall hold a public hearing at which parties in interest and others shall have an opportunity to be heard. At least 15 days before the hearing, notice of the time and place of the hearing shall be published as a class 1 notice under Wis. Stats. ch. 985.
 - (2) Permits granted by the board shall as little as practicable increase the cost of opening such street, highway, or parkway or tend to cause a change in the official map.
 - (3) The board may impose reasonable requirements as a condition of granting the permit. Such requirements shall be designated to promote the health, safety or general welfare of the community and protect any future street, highway or parkway layout.
 - (4) The board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the mapped street, highway or parkway.
 - (5) Decisions of the board of appeals relating to the official map shall be subject to judicial review in the same manner as its decisions relating to zoning regulations.
- (h) *Enforcement.* It shall be the duty of the city zoning administrator and the chief of police to enforce the provisions of this section.

- (i) *Penalty.* Any person who fails to comply with this section shall be subject to the provisions of section 1-11. Each day a violation exists shall constitute a separate offense. No damages shall be allowed for the taking by any governmental agency for street, highway or parkway purposes of any building erected in violation of this section.

(Code 1986, § 17.50)

Sec. 130-10. Reserved.

Editor's note: Ord. No. 2002-9, § 1, adopted March 11, 2003, repealed § 130-10, which pertained to outdoor advertising signs regulation and derived from Ord. No. 2000-7, § 1(17.80), adopted March 14, 2000.

Sec. 130-11. Repeal of certain districts¹.

Divisions 12A, 12B, 12C, 13A, 13B, 14A, 14B and 14C of Article VIII of this chapter are repealed effective January 1, 2008, unless this section is repealed or amended before such date.

(Ord. 2004-2, Ord. 2005-39)

Secs. 130-12--130-30. Reserved.

¹ Editor's Note: The named districts were repealed when the sunset date was not further extended.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

DIVISION 1. GENERALLY

Sec. 130-31. Land use permits and certificates of occupancy.

(a) *Approval by zoning administrator.* No permit pertaining to the use of land, buildings or structures shall be issued unless the application for such permit has been examined by the zoning administrator and he has signed it indicating that the proposed use of land, buildings, or structures and any future proposed buildings or structures comply with all of the provisions of this chapter. Any permit or certificate of occupancy issued in conflict with the provisions of this chapter shall be null and void.

(b) *Application for building permit.* An application for a building permit shall be made to the zoning administrator upon forms furnished and shall include, for the purpose of proper enforcement of this chapter, the following data:

- (1) An accurate property map, in duplicate, properly dimensioned, showing:
 - a. The boundaries of the property involved.
 - b. The location of the centerline of any abutting streets or highways.
 - c. The location on the lot of any existing buildings, proposed additions or proposed new buildings, including the measured distances between such buildings, and from the lot lines, and from the centerline of any abutting streets or highways to the nearest portion of such building.
 - d. The high-water line of any stream or lake on which the property abuts.
- (2) The use to be made of the building, structure, or land, and such other information as may be required by the zoning administrator for the proper enforcement of this chapter.

(c) *Building permit fee.* The applicant, upon filing of the building permit application with the zoning administrator, shall pay a fee to the zoning administrator in accordance with the building permit requirements of the building code. (See also section 18-4.)

(d) *Certificate of occupancy.*

- (1) *Required.* No vacant land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the zoning administrator showing that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter.
- (2) *Application; issuance.* Such certificate shall be applied for when application is made for a land use permit and shall be issued within ten

* **Cross references:** Administration, ch. 2.

days after the completion of the work specified in such land use permit application, provided the building or premises and the proposed use thereof conform with all the requirements of this chapter.

- (3) *Temporary certificates.* Under such rules and regulations as may be established by the city council, the zoning administrator may issue a temporary certificate of occupancy for part of a building.

(Code 1986, § 17.11)

Sec. 130-32. Violations; penalties; civil remedies.

(a) *Violations.* No person shall construct or use any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the city council, the zoning administrator, the plan commission or any neighboring property owner who would be specifically damaged by such violation may institute an appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed.

(b) *Penalties.* Any person who fails to comply with or violates any of this chapter shall be subject to the provisions of section 1-11. Each day a violation exists or continues shall constitute a separate offense.

(c) *Civil remedies.* Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, prevent unlawful construction, recover damages, restrain, correct or abate a violation, or prevent illegal occupancy of a building or premises, and these remedies shall be in addition to the penalties described in subsection (b) of this section.

(Code 1986, § 17.18)

Secs. 130-33--130-50. Reserved.

DIVISION 2. ADMINISTRATOR*

Sec. 130-51. Designated; general duties.

The community development director is designated as the administrative and enforcement officer for the provisions of this chapter, and is referred to in this chapter as the zoning administrator. The duty of the zoning administrator, or a designee of the zoning administrator, is to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The zoning administrator may designate other city staff or consultants to serve as designees for the purposes of administration and enforcement.

(Ord. No. 1998-7, § 1(17.06)(112)(a), 7-14-1998, Ord. 2009-05, Ord. 2013-01)

* **Cross references:** Officers and employees, § 2-91 et seq.

Sec. 130-52. Specific duties.

The provisions of this chapter shall be administered and enforced by the zoning administrator or a designee, who in addition thereto and in furtherance of such authority shall:

- (1) Receive, file, and forward all applications for any and all procedures governed by this chapter to the designated officials.
- (2) Maintain permanent and current records of this chapter, including but not limited to all maps, amendments, conditional uses, sign permits, site plans, occupancy permits, variances, appeals, interpretations, and applications therefor.
- (3) Make available to the public, to the fullest extent possible, all reports and documents concerning the city's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The city council may set fees necessary to recover the cost of providing information to the public.
- (4) Determine that all building permits and certificates of occupancy comply with all provisions of this chapter.
- (5) Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this chapter.
- (6) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentations of his identification, he may procure a special inspection warrant in accordance with Wis. Stats. § 66.122. He shall conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this chapter.
- (7) Record the first floor and lowest floor (basement or crawlway) elevations of all structures erected, moved, altered, or improved in the floodland districts.
- (8) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (9) Determine that all zoning text amendments, zoning map amendments, conditional use permits, sign permits, site plans, detailed site analyses, variances, and interpretations of this chapter comply with all provisions of this chapter.
- (10) Where useful, set marks on bridges or buildings or other markers which show the depth of the regional flood, or set marks delineating the boundaries of wetlands.
- (11) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the city attorney in a manner specified by him.

- (12) Institute, in the name of the city, any appropriate actions or proceedings against a violator of this chapter, as provided by law.
- (13) Request assistance and cooperation from the city police department and city attorney, as deemed necessary.
- (14) Provide the plan commission with reports concerning compliance of development proposals with this chapter and the city's comprehensive plan.

(Ord. No. 1998-7, § 1(17.06)(112)(b), 7-14-1998, Ord. 2009-05)

Secs. 130-53--130-70. Reserved.

DIVISION 3. BOARD OF ZONING APPEALS*

Sec. 130-71. Membership.

The board of appeals shall consist of five members appointed, on the third Tuesday in April, by the mayor and confirmed by the city council.

(Code 1986, § 17.15(1), Ord. 2006-18)

Sec. 130-72. Term of members.

Terms of members of the board of appeals shall be for staggered three-year periods and shall expire on the third Tuesday in April of the appropriate year.

(Code 1986, § 17.15(2), Ord. 2006-18)

Sec. 130-73. Oath of members.

All members of the board of appeals shall take the official oath in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment.

(Code 1986, § 17.15(8))

Sec. 130-74. Vacancies.

Vacancies on the board of appeals shall be filled for unexpired terms in the same manner as appointments for full terms.

(Code 1986, § 17.15(9))

Sec. 130-75. Compensation of members.

Compensation of members of the board of appeals shall be as determined by the city council.

(Code 1986, § 17.15(10))

* **Cross references:** Boards, commissions and committees, § 2-191 et seq.

Sec. 130-76. Alternate members.

The mayor shall appoint two alternate members to the board of appeals for staggered terms of three years. Annually, the mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board of appeals refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board of appeals so refuses or is absent.

(Code 1986, § 17.15(5), Ord. 2006-37)

Sec. 130-77. Chairperson* .

The chairperson of the board of appeals shall be designated by the mayor.

(Code 1986, § 17.15(3))

Sec. 130-78. Secretary.

The board of appeals shall elect one of its members as secretary.

(Code 1986, § 17.15(6))

Sec. 130-79. Conflicts of interest.

Any member of the board of appeals who has any interest in a matter before the board shall not vote thereon and shall remove himself from any meeting or hearing at which such matter is under consideration.

(Code 1986, § 17.15(4))

Sec. 130-80. Technical assistance by zoning administrator.

The zoning administrator shall attend all meetings of the board of appeals for the purpose of providing technical assistance when requested by the board of appeals.

(Code 1986, § 17.15(7))

Sec. 130-81. Organization; meetings and rules of procedure; records.

(a) The board of appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(b) Meetings shall be held at the call of the chairperson and at such other times as the board may determine, and shall be open to the public.

(c) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, the reasons for the board's determination, and its finding of facts. The secretary shall keep records of the board's examinations and other official

* **Cross references:** Officers and employees, § 2-91 et seq.

actions, all of which shall be immediately filed with the city clerk-treasurer and shall be a public record.

(d) If a quorum is present, the board may take action by a majority vote of the members present.

(Code 1986, § 17.15(11), Ord. 2006-37)

Sec. 130-82. Powers; assistance by other agencies.

(a) The board of appeals shall have the following powers:

- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.
- (2) Hear and decide special exceptions to the terms of this chapter upon which such board is required to pass under this chapter.
- (3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. This power includes hearing and deciding appeals from decisions of the plan commission to grant or deny variances in connection with site plan reviews.
- (4) Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be erected or used for public utility purposes in any location which is reasonably necessary for the public convenience and welfare. Except for such utility purposes, use variances are not permitted.
- (5) Hear and decide appeals from decisions of the plan commission to grant or deny conditional use permits.

(b) The board may request assistance from other city officials, departments, committees, and boards.

(Code 1986, § 17.15(12); Ord. No. 2003-12, § 4, 10-14-2003)

Secs. 130-83--130-100. Reserved.

DIVISION 4. CONDITIONAL USES

Sec. 130-101. Purpose of division.

(a) The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.

(b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this chapter of specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.

(c) Under this chapter, a proposed conditional use shall be denied unless the applicant can demonstrate, to the satisfaction of the city, that the proposed conditional use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole, as determined by the plan commission per section 130-104(4).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(1)), 1-19-1998)

Sec. 130-102. Initiation of request for approval.

Proceedings for approval of a conditional use may be initiated by an application of the owner of the subject property.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(2)), 1-19-1998)

Sec. 130-103. Application for approval.

(a) All applications for proposed conditional uses shall be approved and certified as complete by the zoning administrator prior to the initiation of this procedure. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

- (1) A map of the subject property showing all lands for which the conditional use is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- (2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current tax records of the city.

The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction which maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city, at the discretion of the zoning administrator.)

- (3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city, at the discretion of the zoning administrator.)
- (4) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
- (5) A site plan of the subject property as proposed for development. The site plan shall conform to all the requirements of section 130-203. If the proposed conditional use is a group development, a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided the plat contains all information required on the site plan per division 8 of this article.

(b) As an additional requirement, the applicant should provide written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in section 130-104(3)a-f.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(3)), 1-19-1998)

Sec. 130-104. Review by zoning administrator.

The proposed conditional use shall be reviewed by the zoning administrator as follows:

- (1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.
- (2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application per section 130-103.
- (3) The zoning administrator may also evaluate the application to determine whether the requested conditional use is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the following standards:
 - a. How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the city's master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?

- b. How is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the city's master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?
 - c. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see section 130-103(a)(5)) result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this chapter, the master plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city or other governmental agency having jurisdiction to guide development?
 - d. Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
 - e. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?
 - f. Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in subsections (3)a--e of this section), after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?
- (13) The zoning administrator shall forward the report per subsection (2) of this section, and, if prepared, the report per subsection (3) of this section, to the plan commission for the commission's review and use in taking action on the conditional use. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(4)), 1-19-1998)

Sec. 130-105. Preliminary review by plan commission; public hearing.

(a) The plan commission shall schedule a public hearing to consider the application for a conditional use within 45 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed conditional use per section 130-103(a)(1) and (4). In addition, at least ten days before the public hearing,

the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the boundaries of the subject property as identified in section 130-103(a)(2), and to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this chapter. Failure to mail such notice, provided it is unintentional, shall not invalidate proceedings under this section.

(b) Within 60 days after the public hearing (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission shall make its preliminary findings regarding section 130-104 and its recommendations regarding the application as a whole. If the plan commission makes a favorable preliminary finding on an application, it shall state in the minutes, and in a subsequently issued written conditional use permit, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use, as identified in section 130-104(3)a--f, after taking into consideration the proposal by the applicant.

(c) If the plan commission so chooses, the plan commission may suspend the regulations outlined in subsection (b) of this section, by roll call vote, and may take action on the proposed conditional use on the same night as the public hearing. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, the general public, or its own members) or may deny approval of the proposed conditional use.

(d) If a favorable preliminary finding is made by the plan commission, the city staff shall prepare a written conditional use permit.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(5)), 1-19-1998)

Sec. 130-106. Final action by plan commission.

The plan commission shall review its preliminary findings regarding the proposed conditional use and the written conditional use permit. The plan commission may request further information and/or additional reports from the zoning administrator, city staff and/or the applicant. The plan commission may take final action on the application at the time of its initial consideration of the written conditional use permit, or may continue the proceedings at its discretion or at the applicant's request. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, general public, or its own members) or may deny approval of the proposed conditional use. If the plan commission wishes to make significant changes in the proposed conditional use, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to plan commission action. Any action to amend the provisions of the proposed conditional use permit requires a majority vote of the plan commission. The plan commission's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(6)), 1-19-1998)

Sec. 130-107. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(7)), 1-19-1998)

Sec. 130-108. Revocation of approval.

Upon approval by plan commission, the applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property per division 8 of this article. Once a conditional use is granted, no erosion control permit, site plan approval, certificate of occupancy, or building permit shall be issued for any development which does not comply with all requirements of this chapter. Any conditional use found not to be in compliance with the terms of this chapter shall be considered in violation of this chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the city council, following the procedures outlined in sections 130-102--130-107.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(8)), 1-19-1998)

Sec. 130-109. Time limit for commencing and completing development.

The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by plan commission and such uses shall be operational within 730 days of such approval. Failure to initiate or complete development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, the term "operational" shall be defined as complying with the conditions of the conditional use permit. Prior to such a revocation, the applicant may request an extension of this period. Such request shall require formal approval by plan commission and shall be based upon a showing of acceptable justification (as determined by the plan commission).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(9)), 1-19-1998)

Sec. 130-110. Discontinuance of use.

Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(10)), 1-19-1998)

Sec. 130-111. Change of ownership of property.

All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use in violation as approved per section 130-106, without approval by the plan commission, shall be grounds for revocation of the conditional use approval per section 130-108.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(11)), 1-19-1998)

Sec. 130-112. Recording of site plan and other documents.

Except for conditional use approvals for temporary uses, all documents associated with the written description, the approved site plan, and the specific requirements of approval, and a memorandum referring to and stating the general purpose of the conditional use (along with a legal description of the subject property), shall be recorded by the applicant with the county register of deeds office, and the applicant shall submit evidence of such recordation to the city staff.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(12)), 1-19-1998)

Sec. 130-113. Notice to the state department of natural resources regarding uses affected by conservancy regulations.

The plan commission shall transmit a copy of each application for a conditional use for conservancy regulations in the shoreland-wetland, floodway, floodplain, or flood fringe overlay zoning districts to the state department of natural resources for review and comment at least ten days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the department of natural resources has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or floodland regulations shall be transmitted to the state department of natural resources within ten days of the date of such decision.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(13)), 1-19-1998)

Sec. 130-114. Appeals.

The decision of the plan commission under this division may be appealed to the board of appeals by the applicant for the conditional use permit, or any person or persons jointly or severally aggrieved by a decision of the plan commission on a conditional use permit, or any officer, department, board, or bureau of the city. Such appeal must specify the grounds thereof with respect to the findings of the plan commission and must be filed with the city clerk-treasurer within ten days of the final action of the plan commission. The city clerk-treasurer shall not issue the conditional use permit or a building permit related to the conditional use permit during the ten-day appeal period. The city clerk-treasurer shall transmit such appeal to the board of appeals.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(14)), 1-19-1998; Ord. No. 2003-12, § 5, 10-14-2003)

Sec. 130-115. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(15)), 1-19-1998)

Sec. 130-116. Imposition of conditions.

(a) *Generally.* The plan commission or city council may impose such conditions as may be necessary to mitigate any potential impacts between the proposed use and surrounding land uses, both existing and those reasonably anticipated.

(b) *Bufferyards.* Depending on the circumstances, the plan commission or city council may require the applicant to provide a bufferyard on the subject property with an opacity level of 0.1 or 0.2 consistent with the standards listed in table 130-270 (d)(1).

(Ord. 2005-40)

Secs. 130-117--130-130. Reserved.

DIVISION 5. STANDARDS FOR EVALUATING PROPOSED CONDITIONAL USES, ZONING DISTRICT CHANGES AND SITE PLANS

Sec. 130-131. Information to be considered.

The plan commission or the city council may consider any relevant factors, including, but not limited to, the factors identified below, when considering an application for a conditional use permit, change in zoning district, or site plan approval, to the extent such factors are deemed relevant to the particular application. In addition, the plan commission may consider the information required under section 130-203 when considering an application for site plan approval. The plan commission or common council may attach conditions on approval of an application for application for a conditional use permit, change in zoning district, or site plan approval to address problems that are not in direct conflict with this chapter.

(1) *Site design and physical characteristics.*

- a. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.
- b. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.
- c. Where public sewers are not available, the percolation characteristics of the soil.
- d. Adequacy of the proposed internal circulation system, including safety considerations.
- e. Access to sites from the internal circulation system.

- f. The costs of providing various public services.
 - g. Appearance (how the area will look).
- (2) *Site location relative to public road network.*
- a. Convenient access to a public road network (safety of access points).
 - b. Visibility from the proposed road and the need for visibility.
 - c. Access; the location is to provide access primarily by righthand turning movements.
- (3) *Land use.*
- a. Compatibility with existing or proposed uses in the area.
 - b. Relation to any existing land use plan.
 - c. Relation to existing or proposed development at nearby interchanges.
 - d. In reviewing an application for a zoning district change to the local business district (B-1), central business district (B-2), community business district (B-3), regional business district (B-4), or planned office district (O-1), the plan commission and city council shall consider whether the proposed zoning district change likely will result in increased vehicular traffic on nearby local streets in areas of existing residential development and whether such increased traffic will have an adverse impact on the existing residential development.
- (4) *Traffic generation.*
- a. Amount of daily and peak hour traffic to be generated, related to site size. Traffic shall be subclassified as to arterial, collector and local streets.
 - b. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.
 - c. Expected composition of site-generated traffic by vehicle types.
 - d. Effect of site-generated traffic on the operation of the area.
 - e. Safety and convenience to future users.
- (5) *Community effects.*
- a. Immediate and long range tax base.
 - b. Access to market or service area.
 - c. Relation to scenic or recreation values.
 - d. Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.
 - e. Compliance with the master plan's goals and objectives.
- (6) *Other relevant factors.*

- a. Compliance with the performance standards in article III of this chapter.
- b. Additional impacts.

(Code 1986, § 17.12, Ord. 2006-11)

Secs. 130-132--130-150. Reserved.

DIVISION 6. APPEAL AND VARIANCE PROCEDURES

Sec. 130-151. Application.

Appeals from the decision of the zoning administrator concerning the literal enforcement of this chapter or from the decision of the plan commission to grant or deny a variance in connection with a site plan review may be made by any person aggrieved or by any officer, department, board or bureau of the city. Such appeals shall be filed with the city clerk within ten days, after the date of written notice of the decision or order of the zoning administrator or plan commission. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time and shall be filed with the city clerk. Such appeals and applications shall include the following:

- (1) The name and address of the appellant or applicant, all abutting and opposite property owners of record and owners within 250 feet.
- (2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 130-31 for a building permit.
- (3) Additional information required by the plan commission, board of appeals or zoning administrator.
- (4) Fee receipt from the city clerk in the amount established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs. If the appeal is from a decision by the plan commission to grant or deny a variance in connection with a site plan review, the fee for this appeal is in addition to the fee paid to request a variance from the plan commission. Such fees are nonrefundable.
- (5) If the appeal is from a decision to grant or deny a variance in connection with site plan approval, a copy of the minutes of all plan commission meetings at which the site plan review or application for variance was discussed or decided.

The city clerk shall transmit such appeals and applications and required documents to the board of appeals.

(Code 1986, § 17.16(1); Ord. No. 2003-12, § 6, 10-14-2003, Ord. 2009-05)

Sec. 130-152. Hearing.

The board of appeals shall hold a public hearing pursuant to this division within a reasonable time to be set by it, after receiving written application for the hearing, shall

give public notice thereof at least 15 days prior to the hearing by publication of a class 2 notice under Wis. Stats. ch. 985, and shall give due notice to the parties in interest, the zoning administrator and the plan commission. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

(Code 1986, § 17.16(2))

Sec. 130-153. Findings.

No variance to the provisions of this chapter shall be granted by the board of appeals unless it has considered the standards in section 130-131 and it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of such a general or recurrent nature as to suggest that this chapter should be changed.
- (2) *Absence of detriment.* The variance shall not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (3) *Conclusions of law.* The findings of the board shall be accompanied by findings of fact and conclusions of law.

(Code 1986, § 17.16(3))

Sec. 130-154. Decision; time limit for commencing development.

(a) The board of appeals shall decide all appeals and applications under this division within 30 days after final hearing and shall transmit a signed copy of the board's decision, including the reasons for the board's determination and its findings of fact, to the appellant or applicant, zoning administrator and plan commission.

(b) Conditions appropriate to effect the determination of the board on appeal may be placed upon any building permit ordered or authorized by the board pursuant to Wis. Stats. § 62.23(7)(e)8.

(c) Variances and permits granted by the board shall expire within six months unless substantial work has commenced pursuant to such grant.

(Code 1986, § 17.16(4))

Sec. 130-155. Review by court.

Any person aggrieved by any decision of the board of appeals under this division may present to a court of record a verified petition setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the city clerk-treasurer.

(Code 1986, § 17.16(5))

Secs. 130-156--130-170. Reserved.

**DIVISION 7. AMENDMENT OF OFFICIAL ZONING MAP AND/OR ZONING
CLASSIFICATION**

Sec. 130-171. Purpose of division.

The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of the official zoning map and/or zoning classification. (Refer to the requirements of Wis. Stats. §§ 62.23(6)(b), 62.23(7)(d)2.)

(Ord. No. 1997-18, § 2(17.17(1)), 1-19-1998)

Sec. 130-172. Initiation of request for amendment.

Proceedings for amendment of the official zoning map and/or zoning classification may be initiated by any one of the following four methods:

- (1) An application of the owner of the subject property;
- (2) A petition for annexation. The procedure for designating the zoning for annexed land shall proceed according to Chapter 16 of the City Code;
- (3) A recommendation of the city staff or the plan commission; or
- (4) Action of the city council.

(Ord. No. 1997-18, § 2(17.17(2)), 1-19-1998, Ord. 2005-27, Ord. 2012-19)

Sec. 130-173. Application.

(a) All applications for proposed amendments to the official zoning map and/or zoning classification, regardless of the party of their initiation per section 130-172, shall be filed in the office of the zoning administrator, and shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item maybe placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

- (1) A map of the subject property showing all lands for which the zoning map amendment is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

- (2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on the map as the names and addresses appear on the current tax records of the city. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city at the discretion of the zoning administrator.)
- (3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city at the discretion of the zoning administrator.)

(b) As an optional requirement, the applicant may wish to provide written justification for the proposed map amendment, consisting of the reasons why the applicant believes the proposed map amendment is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the standards set out in section 130-174(3)a--c.

(Ord. No. 1997-18, § 2(17.17(3)), 1-19-1998, Ord. 2005-27, Ord. 2012-19)

Sec. 130-174. Review by zoning administrator.

The proposed amendment to the official zoning map shall be reviewed by the zoning administrator as follows:

- (1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.
- (2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the factors listed in section 130-131 that the zoning administrator believes are relevant to the application and the written justification for the proposed map amendment provided in the application per section 130-173.
- (3) The zoning administrator also shall evaluate the application to determine whether the requested amendment to the official zoning map is in harmony with the city's comprehensive plan, particularly as evidenced by compliance with the following standards:
 - a. How does the proposed official zoning map amendment further the purposes of this chapter as outlined in section 130-2 and the applicable rules and regulations of the state department of natural resources and the Federal Emergency Management Agency?

- b. Which of the following factors has arisen which are not properly addressed on the current official zoning map and/or zoning classification?
 - 1. The designations of the official zoning map and/or zoning classification should be brought into conformity with the comprehensive plan.
 - 2. A mistake was made in mapping on the official zoning map and/or zoning classification (that is, an area is developing in a manner and purpose different from that for which it is mapped). If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the city may intend to stop an undesirable land use pattern from spreading.
 - 3. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
 - 4. Growth patterns or rates have changed, thereby creating the need for an amendment to the official zoning map and/or zoning classification.
- c. How does the proposed amendment to the official zoning map and/or zoning classification maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
 - (4) The zoning administrator shall forward the report per subsection (2) and subsection (3) of this section to the plan commission for the commission's review and use in making its final recommendation to the city council. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Ord. No. 1997-18, § 2(17.17(4)), 1-19-1998, Ord. 2006-11)

Sec. 130-175. Review and recommendation by plan commission.

(a) The city council shall not make an amendment to the official zoning map and/or zoning classification without allowing for a recommendation from the plan commission per the provisions of this division.

(b) The plan commission shall schedule a reasonable time and place for a public hearing to consider the application within 60 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney.

(c) Notice of the proposed amendment to the official zoning map shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed change in zoning. In addition, ten days prior to the public hearing, the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the boundaries of the subject property as identified in

section 130-173(a)(1); and to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed plan and regulations. Failure to mail the notice, shall not invalidate proceedings under this section.

(d) Within 60 days (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission may make a written report stating to the city council, and/or shall state in the minutes, its findings regarding sections 130-173 and 130-174, and its recommendations regarding the application as a whole. The report may include a formal finding of facts developed and approved by the plan commission concerning the requirements of section 130-174(3)a--c.

(e) If the plan commission fails to make a report within 60 days after the filing of the complete application (and in the absence of an applicant-approved extension per subsection (d) of this section), then the city council may take action after the expiration of the 60-day period. Failure to receive the written report from the plan commission per subsection (d) of this section shall not invalidate the proceedings or actions of the city council.

(f) If the plan commission recommends approval of an application, it shall state in the minutes, or in the subsequently issued written report to the city council, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment to the official zoning map outweigh, or do not outweigh, any and all potential adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant.

(Ord. No. 1997-18, § 2(17.17(5)), 1-19-1998)

Sec. 130-176. Action by city council.

(a) The city council shall consider the plan commission's recommendation regarding the proposed amendment to the official zoning map. The city council may request further information and/or additional reports from the plan commission, the zoning administrator, and/or the applicant.

(b) The city council may take final action on the application, or may continue the proceedings at its discretion or at the applicant's request. The city council may approve the amendment to the official zoning map as originally proposed, may approve the proposed map amendment with modifications (per the recommendations of the zoning administrator, the plan commission, authorized outside experts, or its own members) or may deny approval of the proposed map amendment. If the city council wishes to make significant changes in the proposed map amendment, as recommended by the plan commission, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to city council action.

(c) When the city council takes action on the application, it shall state in the minutes, and/or in a subsequently issued written decision, its conclusion and any findings of facts supporting its conclusion as to the following: that the potential public benefits of the proposed map amendment outweigh, or do not outweigh, any and all potential

adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant and the recommendation of the plan commission. Any action to amend the provisions of proposed map amendment requires a majority vote of the city council. The city council's approval of the proposed map amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other amendment to the official zoning map.

(Ord. No. 1997-18, § 2(17.17(6)), 1-19-1998)

Sec. 130-177. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Ord. No. 1997-18, § 2(17.17(7)), 1-19-1998)

Sec. 130-178. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division, except that no fee is required if a petition for annexation is deemed to be a complete application under section 130-173(c).

(Ord. No. 1997-18, § 2(17.17(8)), 1-19-1998, Ord. 2005-27)

Secs. 130-179--130-200. Reserved.

DIVISION 8. SITE PLAN REVIEW AND APPROVAL

Sec. 130-201. Purpose of division.

The purpose of this division is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this division are designed to ensure that all proposed land use and development activity complies with the requirements of this chapter. Specifically, this division requires that the initiation of all development activity (including building permits, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the plan commission before the building, occupancy, and zoning permits can be issued; except that the following activities are exempt:

- (a) Single family and two-family residences
- (b) Interior renovations that do not alter the building footprint
- (c) Alterations of exterior siding, window and door openings, or roofing, that do not alter the building footprint

- (d) Additions of uncovered decks, stairs, and handicap ramps, except for decks used for outside seating for eating or drinking establishments.
- (e) Fences permitted under Section 130-540 of the City of Evansville Zoning Ordinance
- (f) Signs permitted under Section 130-1270 through 130-1283 of the City of Evansville Zoning Ordinance

(Ord. No. 1997-18, § 3(17.19(1)), 1-19-1998, Ord. 2009-10)

Sec. 130-202. Initiation of request for approval; pre-application meeting; review by zoning administrator; appeal for variance.

(a) *Initiation of request for approval.* Proceedings for approval of a site plan shall be initiated by the owner of the subject property, or his legally authorized representative.

(b) *Pre-application meeting.* The applicant shall first meet with the zoning administrator and other applicable city staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the applicant on technical requirements and procedures, and a timetable for project review may be discussed.

(c) *Review by zoning administrator.* The applicant shall apply to the zoning administrator for the scheduling of an appearance before the plan commission. The zoning administrator shall notify the applicant of the date and time of the applicable plan commission meeting. The appearance before the plan commission shall not be scheduled unless the application is approved as complete by the zoning administrator per the requirements of section 130-203. The review of the submitted application shall be completed within ten working days of application submittal. Once the application is approved as complete, the zoning administrator shall schedule an appearance before the plan commission a maximum of seven weeks from the date of complete application acceptance.

(d) *Appeal for variance.* If the zoning administrator, in connection with a site plan review, decides that the proposed development being reviewed is prohibited by a literal enforcement of this chapter, the applicant for site plan approval may elect to appeal from the zoning administrator's decision to the plan commission or the board of appeals. If the applicant elects to make the appeal to the plan commission, the applicant and plan commission shall follow the procedure, including payment of the required fee, set forth in sections 130-151 to 130-154. The plan commission may issue one decision on the appeal and the application for site plan approval or may issue separate decisions.

(Ord. No. 1997-18, § 3(17.19(2)), 1-19-1998; Ord. No. 1998-3, § 1, 6-9-1998; Ord. No. 2003-12, § 7, 10-14-2003, Ord. 2009-05)

Sec. 130-203. Application requirements.

All applications for proposed site plans shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the placement of the site plan application on the plan commission's agenda, the applicant shall provide the zoning administrator with 12 copies of the

complete application as certified by the zoning administrator. The zoning administrator may waive the certain specific application submittal requirements for site plans or site plan amendments for minor projects where the scope and scale of a project requiring site plan approval does not warrant literal interpretation of the application requirements. Any waivers of submittal requirements must be specifically described and included in any motion by the plan commission acting on such minor projects. The complete application shall comprise all of the following:

- (1) *Written description of intended use.* Written description of the intended use describing in reasonable detail:
 - a. The existing zoning district (and proposed zoning district if different);
 - b. Natural resources site evaluation worksheet (per the zoning administrator);
 - c. Current land uses present on the subject property;
 - d. Proposed land uses for the subject property;
 - e. Projected number of residents, employees, and daily customers;
 - f. Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
 - g. Operational considerations relating to hours of operation, projected normal and peak water usage (optional), sanitary sewer or septic loadings (optional), and traffic generation;
 - h. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in this chapter, including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of this chapter), then the statement "The proposed development shall comply with all requirements of this chapter" shall be provided;
 - i. Exterior building and fencing materials;
 - j. Possible future expansion and related implications relative to subsections (1)a--i of this section; and
 - k. Any other information pertinent to adequate understanding by the plan commission of the intended use and its relation to nearby properties.
- (2) *Site plan.* A property site plan drawing (and reduction at 11 inches by 17 inches) which includes:
 - a. A title block which indicates the name, address and phone/fax numbers of the current property owner and/or agents (developer, architect, engineer, planner) for project;

- b. The date of the original plan and the latest date of revision to the plan;
- c. A north arrow and a scale. The scale shall not be smaller than one inch equals 100 feet;
- d. A parcel number of the subject property;
- e. All property lines and existing and proposed right-of-way lines, with bearings and dimensions clearly labeled;
- f. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
- g. All required building setback lines;
- h. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
- i. The location and dimension (cross section and entry throat) of all access points onto public streets;
- j. The location and dimensions of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this chapter;
- k. The location and dimension of all loading and service areas on the subject property and labels indicating the dimensions of such areas;
- l. The location of all outdoor storage areas and the design of all screening devices;
- m. The location, type, height, size and lighting of all signage on the subject property;
- n. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property, including clear demonstration of compliance with lighting requirements of this chapter;
- o. The location and type of any permanently protected green space areas;
- p. The location of existing and proposed drainage facilities; and
- q. In the legend, data for the subject property as follows:
 - 1. Lot area;
 - 2. Floor area;
 - 3. Floor area ratio;
 - 4. Impervious surface area;
 - 5. Impervious surface ratio; and
 - 6. Building height.

- (3) *Landscaping plan.* A detailed landscaping plan of the subject property, at the same scale as the main plan (and a reduction at 11 inches by 17 inches), showing the location of all required bufferyard and landscaping areas, and existing and proposed landscape point fencing and berm options for meeting such requirements. The landscaping plan shall demonstrate complete compliance with the requirements of article IV of this chapter. (The individual plant locations and species, fencing types and heights, and berm heights shall be provided.)
- (4) *Grading and erosion control plan.* A grading and erosion control plan at the same scale as the main plan (and a reduction at 11 inches by 17 inches) showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the detailed requirements of this Code.
- (5) *Elevation drawing.* Elevation drawing of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.
- (6) *Traffic impact report.* A traffic impact report that meets the requirements of this part if the number of trips per day for the existing and proposed development is 750 or more. When the number of trips per day is 300 or more but less than 750, the city may require a traffic impact report when circumstances warrant such review. When a traffic impact report is required, the applicant shall hire an engineer as approved by the city to prepare the report. The approved engineer shall have expertise in transportation planning. Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions. The traffic impact report shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements (1) existing traffic circulation conditions and patterns; (2) anticipated traffic circulation conditions and patterns, including truck movements; (3) effects of the project on traffic safety and efficiency; (4) recommendations/alternatives to alleviate negative effects; and (5) an executive summary.
- (7) *Copies.* Three full-size copies of the items required by subsections (3)--(5) of this section.

The zoning administrator may waive the certain specific application submittal requirements for site plans or site plan amendments for minor projects where the scope and scale of a project requiring site plan approval does not warrant literal interpretation of the application requirements. Any waivers of submittal requirements must be specifically

described and included in any motion by the Plan Commission acting on such minor projects.

(Ord. No. 1997-18, § 3(17.19(3)), 1-19-1998, Ord. 2006-30, Ord. 2009-05, Ord. 2009-10)

Sec. 130-204. Review by plan commission.

The plan commission, in its consideration of a submitted complete application for site plan approval, shall take into account the intent of this chapter to ensure attractive, efficient, and appropriate development of land in the community, exterior architectural design, construction materials, signage, color, and building form, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. The plan commission, in reviewing the application, may require such additional measures and/or modifications as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the plan commission may withhold approval of the site plan until revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the plan commission, or may approve the application subject to the provision of a revised application reflecting the direction of the plan commission to the satisfaction of the zoning administrator. Such amended plans and conditions applicable to the proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by one of the two procedures described in this section as directed by the plan commission.

(Ord. No. 1997-18, § 3(17.19(4)), 1-19-1998)

Sec. 130-205. Approval required prior to initiation of land use or development activity.

Absolutely no land use or development activity, including site clearing, grubbing, or grading, shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this chapter and shall be subject to all applicable enforcement mechanisms and penalties.

(Ord. No. 1997-18, § 3(17.19(5)), 1-19-1998)

Sec. 130-206. Modification of approved plan.

The plan commission shall review all proposed deviations to an approved site plan with the procedures outlined in sections 130-202 and 130-204 when such deviation would result in consequences not considered in the initial review; would result in consequences of a greater magnitude not contemplated in the initial review; would materially change the appearance of a building or other structure, or would change one or more of the written findings. In other cases, the zoning administrator, upon written petition, may authorize a minor deviation in consultation with the city engineer and other city department heads, as may be appropriate, provided such deviation does not circumvent a condition imposed by the plan commission. Examples of a minor deviation in most situations include, but are not limited to, a change to an outdoor lighting plan,

landscaping plan, pedestrian flow, and on-site parking. If the zoning administrator authorizes a minor deviation, he shall document such decision in writing and submit it to the plan commission at its next regularly scheduled meeting. If the zoning administrator does not authorize a minor deviation, the applicant may submit the application to the plan commission for review and action consistent with sections 130-202 and 130-204.

(Ord. No. 1997-18, § 3(17.19(6)), 1-19-1998, Ord. 2006-32, Ord. 2009-05)

Sec. 130-207. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Ord. No. 1997-18, § 3(17.19(7)), 1-19-1998)

Secs. 130-208--130-230. Reserved.

(Ord. No. 1997-18, § 3(17.19), 1-19-1998, Ord. 2009-10)

ARTICLE III. PERFORMANCE STANDARDS

Sec. 130-231. Generally.

This chapter permits specific uses in specific districts, and the performance standards in this article are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with the district regulations and with the performance standards in this article. The zoning administrator shall refer any violation of this article affecting public health to the board of health.

(Code 1986, § 17.21)

Sec. 130-232. Air pollution.

No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grain per cubic foot of the conveying gas or any color visible smoke equal to or darker than no. 2 on the Ringelmann Chart described in the United States Bureau of Mine's Information Circular 7718.

(Code 1986, § 17.21(1))

Sec. 130-233. Fire and explosive hazards*.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

TABLE INSET:

<i>Closed Cup Flash Point</i>	<i>Gallons</i>
Over 187° F	400,000
105° F to 187° F	200,000
Below 105° F	100,000

(Code 1986, § 17.21(2))

Sec. 130-234. Glare and heat.

* **Cross references:** Fire prevention and protection, ch. 50.

No activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the I-2 heavy industrial district or I-3 special industrial district, which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside the premises.

(Code 1986, § 17.21(3))

Sec. 130-235. Liquid or solid wastes*.

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities or can injure or damage persons or property.

(Code 1986, § 17.21(4))

Sec. 130-236. Noise.

(a) No activity shall produce a sound level outside the I-1, light industrial district, I-2, heavy industrial district or I-3 special industrial district boundaries which exceeds the following sound level, measured by a sound level meter and associated octave band filter:

TABLE INSET:

<i>Octave Band Frequency (cycles per second)</i>	<i>Sound Level (decibels)</i>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
Above 4,800	39

(b) No activity in any other district shall produce a sound level outside its premises that exceeds the following:

TABLE INSET:

* **Cross references:** Solid waste, ch. 102.

<i>Octave Band Frequency (cycles per second)</i>	<i>Sound Level (decibels)</i>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

(c) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

(Code 1986, § 17.21(5))

Sec. 130-237. Odors.

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises. The guide for determining odor measurement and control shall be Wis. Admin. Code § NR 429.03. Agriculture odors associated with normal agricultural activities are exempted from this section.

(Code 1986, § 17.21(6))

Sec. 130-238. Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(Code 1986, § 17.21(7))

Sec. 130-239. Vibration.

No activity in any district except an industrial district (I-1, I-2 or I-3) shall emit vibrations which are discernible without instruments outside its premises. No activity in an industrial district shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

TABLE INSET:

<i>Frequency (cycles per second)</i>	<i>Outside the Premises</i>	<i>Outside the District</i>
0 to 10	0.0020	0.0004
10 to 20	0.0010	0.0002
20 to 30	0.0006	0.0001
30 to 40	0.0004	0.0001
40 to 50	0.0003	0.0001
50 and over	0.0002	0.0001

(Code 1986, § 17.21(8))

Sec. 130-240. Water quality protection.

(a) No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

(b) In addition, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Admin. Code ch. NR 102 for all navigable waters.

(Code 1986, § 17.21(9))

Secs. 130-241--130-260. Reserved.

ARTICLE IV. LANDSCAPE REGULATIONS

Sec. 130-261. Purpose of article.

The purpose of this article is to provide minimum requirements for landscaping and landscape plans based on the amount of impervious surface on a lot or combination of lots proposed for development.

(Ord. No. 1997-18, § 12(17.601), 1-19-1998, Ord. 2010-02, Ord. 2023-04)

Sec. 130-262. Intent, scope and organization of article.

(a) This article contains the standards that govern the amount, size, type, installation and maintenance of required landscaping. This article recognizes the important and diverse benefits which landscaping provides in terms of protecting the health, safety, and general welfare of the community, as well as implementing the comprehensive plan. The requirements of this article are intended to:

- (1) Protect and restore the native and natural environment throughout the development process.
 - (2) Reduce the negative environmental effects of development and invasive species while fostering aesthetically pleasing and pedestrian friendly development which will enhance the appearance and character of the community.
 - (3) Reduce the “heat island” effect of impervious surfaces such as parking lots by cooling the shading the surface area.
 - (4) Increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.
- (b) The landscape requirements described in this article are required for all new developments and expansions of existing developments, except single-family and two-family residential dwellings.
- (c) A "landscape point" concept is used to provide a maximum amount of flexibility and individual preference in terms of the selection of plant materials.
- (d) The landscaping proposed by the applicant shall address the following areas that generally require landscape treatments:
- (1) Building foundations
 - (2) Street yard beautification
 - (3) Parking lot and loading area screening
 - (4) Buffer areas between potentially conflicting land uses

- (5) Screening of site elements, such as trash and outside storage areas
- (6) Requirements relating to an issued Certificate of Appropriateness pursuant to Chapter 62

(Ord. No. 1997-18, § 12(17.602), 1-19-1998, Ord. 2010-02, Ord. 2023-04)

Sec. 130-263. Required landscape points and landscape plan.

(a) *Landscape points.* Landscape requirements are stated in terms of the number of landscape points required. The required number of landscape points is dependent upon the amount of impervious surface on a lot or combination of lots proposed for development based on the landscape point requirements described in Table 1 below:

Table 1. Landscape Point Requirements

<i>Impervious Surface</i>	<i>Required Points</i>
Under 10,000 SF	100 points per 1,000 SF
10,000 to 19,999 SF	80 points per 1,000 SF
20,000 to 49,999 SF	60 points per 1,000 SF
50,000 SF and Over	40 points per 1,000 SF

For purposes of interpreting this requirement, impervious surfaces include all area under principal and accessory buildings, parking areas, and paved surfaces.

(b) *Point Scoring.* A different number of points are awarded for each plant, depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. There is a minimum plant size at the time installation in order for plants to be eligible for landscape points. In calculating the number of required landscape points under the provisions of this article, all areas and distances for which required calculations are based shall be rounded up to the nearest whole number. Table 2 below describes the points awarded for different plant categories.

Table 2. Landscape Points Per Plant and Minimum Installation Sizes

<i>Plant Category</i>	<i>Landscape Points per Plant</i>	<i>Minimum Permitted Plant Installation Size</i>
Tall deciduous tree (40 to 100 feet)	50	2" caliper
Medium deciduous tree (30 to 40 feet)	30	6' tall
Low deciduous tree	20	4' tall

(15-30 feet)		
Evergreen tree	40	5' tall
Tall deciduous shrub (8 to 10 feet)	10	36" tall
Medium deciduous shrub (5 to 8 feet)	4	24" tall
Low deciduous shrub (2 to 5 feet)	2	18" tall
Tall to medium evergreen shrub	8	18" tall/wide
Low evergreen shrub	2	12" tall/wide
Decorative screening fence	1 point per linear foot	N/A

(c) *Existing plant material.* Existing plant materials on site may be included in point calculations, if the materials are non-invasive, desirable species and will be preserved and protected during construction.

(d) *Landscape Plan.* Plant materials and other elements of landscaping required to meet the standards of this article shall be clearly depicted and labeled on a landscape plan. Landscape plans may be prepared by an owner, a landscape company, landscape architect, or other qualified landscape professional. Landscape plans shall include:

- (1) Notation of drawing scale and directional north arrow
- (2) Name, address and phone number of the owner and the person who prepared the plan.
- (3) Location of existing deciduous trees greater than three-inch caliper and evergreen trees 10 feet high or greater
- (4) Description of plant materials to be removed
- (5) Location and schedule of proposed new plant materials listing the common name and botanical name of proposed plant materials, quantity, and plant size at installation.
- (6) Location and description of all proposed walls, fences, and other similar site landscape features.
- (7) Labeling of mulching, edging & curbing
- (8) Areas of seeding or sodding
- (9) Areas to remain undisturbed and limits of land disturbance

(10) Location of connecting walkway from public sidewalk to main entrance(s) of building

(e) *Landscape plan review and approval.* Landscape plans shall be reviewed and approved by the Plan Commission as part of the site plan review and approval process described in Article II Division 8 of this chapter.

(f) *Additional landscaping or screening.* Additional landscaping or screening may be required by the Plan Commission in order achieve the intent of this section as described in Section 130-262.

(g) *Exceptions:* During Site Plan approval, the Plan Commission, or during project implementation, City staff, may grant exceptions to allow required landscaping to be planted offsite for the shared benefit of the community. Offsite plantings are only allowed if the applicant demonstrates proposed landscaping meets the intent of this article as described in Section 130-262. Landscaping placed offsite is subject to the following priorities (Under no circumstances should 100% of required landscape points be subject to the exceptions described below):

- (1) Trees planted in adjacent terraces
- (2) Trees planted in terraces in general
- (3) Landscaping installed on City owned property
- (4) Fees paid equivalent to value of landscape points for the maintenance, installation, or improvement of landscaping at city facilities and recreation areas.

(Ord. No. 1997-18, § 12(17.603), 1-19-1998, Ord. 2010-02, Ord. 2011-07, Ord. 2023-04)

Sec. 130-264. Plants Suitable for South Central Wisconsin

Common species suitable for landscape use in south central Wisconsin are listed in *A Guide to Selecting Landscape Plants for Wisconsin*, E.R. Hasselkus, UW Extension Publication: A2865, which is adopted by reference as a part of this section. The City and applicants shall use this publication as a guideline for plant selection.

(Ord. 2011-07, Ord. 2023-04)

Sec. 130-265. Installation and maintenance of landscaped areas.

(a) *Installation.*

- (1) All landscape material required by the provisions of this article shall be installed on the subject property, in accordance with the approved landscape plan, within 365 days of the issuance of an occupancy permit for any building on the subject property.

- (2) All new plant materials credited for landscape points shall be nursery-grown stock grown in accordance with the *USA Standards for Nursery Stock*, latest edition. All plants shall be hardy plants suitable for south central Wisconsin climatic conditions. All plants shall be typical of their species or variety and shall have a normal habit of growth. Installed plant materials shall be sound, healthy and vigorous, well-branched and densely foliated when in leaf with healthy, well-developed root systems. They shall be free of disease and insect pests, eggs, or larvae.
 - (3) All pervious portions of each lot, not otherwise landscaped, shall be seeded with lawn or native ground cover unless such vegetation is already fully established.
 - (4) Landscaping materials, fences and berms which are located within duly recorded utility easements and/or pedestrian easements shall be located and selected so that they will not interfere with the intent of the easement. In the event of construction activity or maintenance within a recorded easement, replacement of any plant materials or landscape features in an easement shall be the responsibility of the property owner.
 - (5) On corner lots in all zoning districts, no fence, wall, vegetation, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct the vision clearance triangle between a height of 2 1/2 feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the edge of right-of-way street lines of such corner lots and a line joining the points along such street lines 15 feet from the point of intersection. If arterial streets intersect with other arterial streets or railways, the triangular vision clearance triangle shall be increased to 30 feet from the point of intersection.
 - (6) Private parking areas on non-residentially zoned parcels in excess of 10,000 SF or 25 spaces shall include internal landscaping and islands equal to 15% of parking area.
 - (7) The greater of at least two street trees or street trees every 40'-60' shall be planted in the terrace adjacent to each lot at time of construction or when improvement to the property exceed 25% of the land value.
- (b) *Maintenance.*
- (1) The continued and continual maintenance of all required landscape materials and ground cover shall be the responsibility of the owner of the property on which the materials are required. Plant material that has died shall be replaced within 365 days. This requirement shall run with the property and is binding upon all future property owners.

- (2) The owner of any lot or parcel in the city which is five acres or less in area shall maintain lawns, turf areas, plantings beds, and other decorative surface treatments, so as to present an attractive appearance in all yard areas in accordance with generally accepted landscaping practices in south central Wisconsin.
- (3) Lawns shall be maintained to a height not to exceed 8 inches.
- (4) The greater of at least one street tree or street trees every 60' shall be maintained in the terrace adjacent to each lot

(Ord. No. 1997-18, § 12(17.613), 1-19-1998, Ord. 2010-02, Ord. 2011-07, Ord. 2023-04)

Secs. 130-266 -- 130-300 Reserved.

(Ord. No. 1997-18, § 12(17.604-612, 614), 1-19-1998; Ord. No. 1998-12, § 4(17.604-607,610), 9-8-1998, Ord. 2005-40, Ord. 2005-44, Ord. 2010-02, Ord. 2011-07)

ARTICLE V. DETAILED LAND USE DESCRIPTIONS AND REGULATIONS

DIVISION 1. GENERALLY

Sec. 130-301. Scope of article.

A land use that is not listed in this article and which can not be interpreted to be the same as a listed land use is prohibited.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998, Ord. 2006-27)

Sec. 130-302. Table of land uses.

The following table lists uses permitted by right, permitted as a conditional use, or permitted as a temporary use pursuant to this article:

TABLE OF LAND USES

P	Permitted by right
C	Permitted as a conditional use
T	Permitted as a temporary use.

O-1	Planned Office
B-1	Local Business
B-2	Central Business
B-3	Community Business
B-4	Regional Business
B-5	Special Use Business
I-1	Light Industrial
I-2	Heavy Industrial
I-3	Special Industrial

TABLE INSET:

<i>Type of Land Use</i>	<i>O-1</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>	<i>B-5</i>	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>	<i>TND</i>
NONRESIDENTIAL LAND USES										
<i>Agricultural uses:</i>										
130-341 Cultivation	P	P	P	P	P	P	P	P	P	P

130-342 Husbandry										
130-343 Intensive agriculture										
130-344 Agricultural service									C	
130-345 On-site agricultural retail uses										
130-346 Selective cutting	P	P	P	P	P	P	P	P	P	P
130-347 Clear cutting	C	C	C	C	C	C	C	C	C	C
<i>Institutional uses:</i>										
130-371 Passive outdoor public recreational uses	P	P	P	P	P	C	P	P	P	P
130-372 Active outdoor public recreational uses	P	P	P	P	P	C	P			P
130-373 Indoor institutional uses	P	P	P	P	P	C	P			P
130-374 Outdoor institutional uses	C	C	C	C	C	C	C			C
130-375 Public services and utilities	P	P	P	P	P	P	P	P	P	P
130-376 Institutional residential uses	C	C	C	C	C					C
130-377 Community living arrangement (1--8 residents)		C								P
130-378 Community living arrangement (9--15 residents)	C	C								P
130-379 Community living arrangement (16+ residents)	C	C								P
<i>Commercial uses:</i>										
130-401 Office	P	P	P	P		P	P	P	P	P*
130-402 Personal or professional service	P	P	P	P	C	P				P*
130-403 Indoor sales or service	C	P	P	P	P	P	C			P*
130-404 Outdoor display				C	C	C		C		P*
130-405 Indoor maintenance service		P	P	P	P	P	P	P	P	
130-406 Outdoor maintenance service						C		C	C	
130-407 In-vehicle sales or service				C		C				
130-408 Indoor commercial entertainment	C	C	C	C	C	C				P*
130-409 Outdoor commercial				C		C			C	

entertainment										
130-410 Commercial animal boarding				C		C				
130-411 Commercial indoor lodging			C	C	C					
130-412 Bed and breakfast establishment		C	C	C						C
130-413 Group day care center (9+ children)	C	C	C	C	C		C	C		C
130-414 Campground										
130-415 Boardinghouse		C	C	C	C					
130-416 Sexually oriented land use									C	
130-417 Vehicle repair and maintenance				C	C	C	C	C		
130-418 Group development	C	C	C	C	C	C	C	C		C
130-419 Gas station/convenience store/food counter		C		C	C	C				C
130-420 Carwash				C	C	C				
130-421 Special central business district commercial/residential uses			C							
130-422 Large-format retail store					C					
130-423 Artisan Studio		C	P	P	P	P	P	C		
<i>Storage or disposal uses:</i>										
130-451 Indoor storage or wholesaling						P	P	P	P	
130-452 Outdoor storage or wholesaling						C	C	C		
130-453 Personal storage facility				C		C	C	C		
130-454 Junkyard or salvage yard										C
130-455 Waste disposal facility										C
130-456 Composting operation										C
130-457 Motor vehicle storage yard				C			C	C	C	
<i>Transportation uses:</i>										
130-481 Off-site parking lot			P	P		C		P	P	
130-482 Airport/heliport	C						C	C	C	
130-483 Freight terminal						C				C

130-484 Distribution center						C	C	P	P	
130-485 Railroad line	C	C	C	C	C	C	C	C	C	C
<i>Industrial uses:</i>										
130-501 Light industrial uses						C	P	P	P	
130-502 Heavy industrial uses								C	C	
130-503 Communication tower									C	
130-504 Extraction use									C	
<i>Accessory uses:</i>										
130-522 Commercial apartment		C	P	C	C					
130-523 Farm residence	P	P	P	P	P		P	P	P	
130-524 Private residential garage or shed	P	P	P	P	P		P	P	P	P
130-525 Company cafeteria	P		P	P	P	P	P	P	P	
130-526 Company-provided on-site recreation	C		C	C	C	C	C	C	C	
130-527 Outdoor display incidental to indoor sales and service				C	C	C		C		
130-528 In-vehicle sales and service				C		P	C			
130-529 Indoor sales incidental to light industrial use						P	P	P	P	
130-530 Light industrial use incidental to indoor sales			C	C	C	C	C			
130-531 Home occupation	P	P	P	P	P					P/C
130-532 Family day care home										P
130-533 Intermediate day care home										
130-534 Migrant labor camp										
130-535 On-site parking lot	P		P	P	P	P	P	P	C	P
130-536 Exterior communication device	P	P	P	P	P	P	P	P	C	P
130-537 Drive-in financial institution		C	C	C	C	C				
130-538 Outdoor commercial food & beverage service										C
130-539 Outdoor furnace							P	P	P	

<i>Temporary uses:</i>										
130-561 General temporary outdoor sales		T	T	T	T	T				
130-562 Outdoor assembly	T	T	T	T	T	T	T	T	T	
130-563 Contractor's project office	T	T	T	T	T	T	T	T	T	T
130-564 Contractor's on-site equipment storage	T	T	T	T	T	T	T	T	T	T
130-565 Relocatable building	T	T	T	T	T	T	T	T	T	
130-566 On-site real estate sales	T	T	T	T	T	T	T	T	T	T
130-567 Outdoor sales of farm products		T	T	T	T	T	T			
130-568 Sidewalk Cafe			T							T

*The floor area of individual businesses in the TND district shall be less than 6000 sf.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998; Ord. No. 1998-12, § 5(17.70), 9-8-1998; Ord. No. 2002-11, § 9, 11-12-2002, Ord. 2005-44, Ord. 2005-47, Ord. 2006-25, Ord. 2006-36, Ord. 2006-42, Ord. 2007-4, Ord. 2011-17)

Secs. 130-303--130-320. Reserved.

Sec. 130-302. Table of land uses.

The following table lists uses permitted by right, permitted as a conditional use, or permitted as a te

P	Permitted by right
C	Permitted as a conditional use
T	Permitted as a temporary use.

O-1	Planned Office
B-1	Local Business
B-2	Central Business
B-3	Community Business
B-4	Regional Business
B-5	Special Use Business
I-1	Light Industrial
I-2	Heavy Industrial
I-3	Special Industrial
TND	Traditional Neighborhood Development

Type of Land Use	O-1	B-1	B-2	B-3	B-4
NONRESIDENTIAL LAND USES					
<i>Agricultural uses:</i>					
130-341 Cultivation	P	P	P	P	P
130-342 Husbandry					
130-343 Intensive agriculture					
130-344 Agricultural service					
130-345 On-site agricultural retail uses					
130-346 Selective cutting	P	P	P	P	P
130-347 Clear cutting	C	C	C	C	C
<i>Institutional uses:</i>					
130-371 Passive outdoor public recreational uses	P	P	P	P	P
130-372 Active outdoor public recreational uses	P	P	P	P	P
130-373 Indoor institutional uses	P	P	P	P	P
130-374 Outdoor institutional uses	C	C	C	C	C
130-375 Public services and utilities	P	P	P	P	P

130-376 Institutional residential uses	C	C	C	C	C
130-377 Community living arrangement (1--8 residents)		C			
130-378 Community living arrangement (9--15 residents)	C	C			
130-379 Community living arrangement (16+ residents)	C	C			
<i>Commercial uses:</i>					
130-401 Office	P	P	P	P	
130-402 Personal or professional service	P	P	P	P	C
130-403 Indoor sales or service	C	P	P	P	P
130-404 Outdoor display				C	C
130-405 Indoor maintenance service		P	P	P	P
130-406 Outdoor maintenance service					
130-407 In-vehicle sales or service				C	
130-408 Indoor commercial entertainment	C	C	C	C	C
130-409 Outdoor commercial entertainment				C	
130-410 Commercial animal boarding				C	
130-411 Commercial indoor lodging			C	C	C
130-412 Bed and breakfast establishment		C	C	C	
130-413 Group day care center (9+ children)	C	C	C	C	C
130-414 Campground					
130-415 Boardinghouse		C	C	C	C
130-416 Sexually oriented land use					
130-417 Vehicle repair and maintenance				C	C
130-418 Group development	C	C	C	C	C
130-419 Gas station/convenience store/food counter		C		C	C

130-420 Carwash				C	C
130-421 Special central business district commercial/residential uses			C		
130-422 Large-format retail store					C
130-423 Artisan Studio		C	P	P	P
<i>Storage or disposal uses:</i>					
130-451 Indoor storage or wholesaling					
130-452 Outdoor storage or wholesaling					
130-453 Personal storage facility				C	
130-454 Junkyard or salvage yard					
130-455 Waste disposal facility					
130-456 Composting operation					
130-457 Motor vehicle storage yard				C	
<i>Transportation uses:</i>					
130-481 Off-site parking lot			P	P	
130-482 Airport/heliport	C				
130-483 Freight terminal					
130-484 Distribution center					
130-485 Railroad line	C	C	C	C	C
<i>Industrial uses:</i>					
130-501 Light industrial uses					
130-502 Heavy industrial uses					
130-503 Communication tower		C	C	C	C
130-504 Extraction use					
<i>Accessory uses:</i>					
130-522 Commercial apartment		C	P	C	C
130-523 Farm residence	P	P	P	P	P
130-524 Private residential garage or shed	P	P	P	P	P
130-525 Company cafeteria	P		P	P	P
130-526 Company-provided on-site recreation	C		C	C	C
130-527 Outdoor display incidental to indoor sales and service				C	C
130-528 In-vehicle sales and service				C	
130-529 Indoor sales incidental to light industrial use					
130-530 Light industrial use incidental to indoor sales			C	C	C
130-531 Home occupation	P	P	P	P	P

130-532 Family day care home					
130-533 Intermediate day care home					
130-534 Migrant labor camp					
130-535 On-site parking lot	P		P	P	P
130-536 Exterior communication device	P	P	P	P	P
130-537 Drive-in financial institution		C	C	C	C
130-538 Outdoor commercial food & beverage service					
130-539 Outdoor furnace					
<i>Temporary uses:</i>					
130-561 General temporary outdoor sales		T	T	T	T
130-562 Outdoor assembly	T	T	T	T	T
130-563 Contractor's project office	T	T	T	T	T
130-564 Contractor's on-site equipment storage	T	T	T	T	T
130-565 Relocatable building	T	T	T	T	T
130-566 On-site real estate sales	T	T	T	T	T
130-567 Outdoor sales of farm products		T	T	T	T
130-568 Sidewalk Cafe			T		

*The floor area of individual businesses in the TND district shall be less than 6000 sf.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998; Ord. No. 1998-12, § 5(17.70), 9-8-1998; Ord. No. 2002-

mporary use pursuant to this article:

B-5	I-1	I-2	I-3	TND
P	P	P	P	P
			C	
P	P	P	P	P
C	C	C	C	C
C	P	P	P	P
C	P			P
C	P			P
C	C			C
P	P	P	P	P

				C
				P
				P
				P
P	P	P	P	P*
P				P*
P	C			P*
C		C		P*
P	P	P	P	
C		C	C	
C				
C				P*
C			C	
C				
				C
	C	C		C
			C	
C	C	C		
C	C	C		C
C				C

C				
P	P	C		
P	P	P	P	
C	C	C		
C	C	C		
			C	
			C	
			C	
	C	C	C	
C		P	P	
	C	C	C	
C			C	
C	C	P	P	
C	C	C	C	C
C	P	P	P	
		C	C	
C	C	C	C	
			C	
	P	P	P	
	P	P	P	P
P	P	P	P	
C	C	C	C	
C		C		
P	C			
P	P	P	P	
C	C			
				P/C

				P
P	P	P	C	P
P	P	P	C	P
C				
				C
	P	P	P	
T				
T	T	T	T	
T	T	T	T	T
T	T	T	T	T
T	T	T	T	
T	T	T	T	T
T	T			
				T

2-11, § 9, 11-12-2002, Ord. 2005-44, Ord. 2005-47, Ord. 2006-25, Ord. 2006-36, Ord. 2006-42, Ord. 2007-

4, Ord. 2008-08, Ord. 2009-06, Ord. 2011-17)

DIVISION 2. RESIDENTIAL LAND USES

Sec. 130-321. Conventional residential development.

Conventional residential development includes but is not limited to all residential developments which do not provide permanently protected green space areas. Property which is under common ownership of a property owners' association is permitted, but is not a required component of this type of development. Up to ten percent of a conventional residential development's gross site area can contain natural resource areas which must be protected (or other permanently protected green space areas) without a reduction in maximum gross density. The following regulations are applicable to this use:

- (1) Permitted by right: Residential districts, B-1.
- (2) Conditional use regulations: Residential districts, B-1, B-2.
- (3) Parking requirements: Three spaces for all single-family and two-family dwelling units; for multifamily dwelling units, two spaces per unit for two or more bedrooms, 1 1/2 spaces per unit for one or less bedrooms. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(1)(a)), 1-19-1998)

Sec. 130-322. Institutional residential development.

Institutional residential development is a form of residential development designed to accommodate institutional residential land uses, such as retirement homes, nursing homes, convents, dormitories and similar land uses that are not considered to be community living arrangements under Wis. Stat. chapter 62.23 (see sections 130-377, 130-378 and 130-379). Institutional residential development is regulated under section 130-376.

(Ord. No. 1997-18, § 13(17.70(1)(b)), 1-19-1998, Ord. 2005-23)

Sec. 130-323. Two family twin dwelling.

Two family twin dwellings, as defined in Sec. 130-6, shall meet the following standards:

- (1) Compliance with Comm 21.08 of the Wisconsin Administrative code, concerning fire separation of units (units must be completely separated from foundation to roof).
- (2) The common wall separating the units shall be roughly perpendicular to the right-of-way line.
- (3) Dwellings shall have separate: water service, lines, meters, sanitary sewer service laterals, gas and electric service and meters.
- (4) Complementary colors and materials shall be used for such units.

- (5) A joint cross-access and maintenance agreement or covenant must be submitted with the land division that creates the zero lot line duplex lot(s). Such an agreement or covenant shall be subject to Zoning Administrator approval, then recorded with the County Register of Deeds by the developer against all affected properties. The developer shall provide proof of recordation to the Zoning Administrator. The agreement or covenant must include:
- a. Maintenance standards for the common wall .
 - b. Maintenance and replacement standards for exterior surfaces of the building to maintain a neat and harmonious appearance over time.
 - c. Maintenance standards for any common features.
 - d. Provisions or procedures for addressing emergency maintenance of one side of the duplex in the event that one owner is unreachable or uncooperative and maintenance must be performed to preserve the value and livability of the other unit.
 - e. A restriction against construction of a detached single-family home in the event either or both sides of the twin dwelling are destroyed.
 - f. Language that the agreement or covenant shall not be terminated, amended or otherwise altered without the approval of the City Council.

(Ord. 2012-02)

Sec. 130-324. Two family dwelling.

Two family dwellings, as defined in Sec. 130-6, shall meet the following standards:

- a. Provisions or procedures for addressing emergency maintenance of one side of the duplex in the event that one owner or occupant is unreachable or uncooperative and maintenance must be performed to preserve the livability of the other unit shall be recorded with the County Register of Deeds for two family dwellings created after June 1, 2012.

(Ord. 2012-02)

Secs. 130-325--130-340. Reserved.

DIVISION 3. AGRICULTURAL LAND USES

Sec. 130-341. Cultivation.

Cultivation land uses include all operations primarily oriented to the on-site outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered cultivation if the plants are consumed by animals which are located off-site. The following regulations are applicable to this use:

- (1) Permitted by right: All districts.
 - a. On buildable lots, cultivation areas shall not exceed 20 percent of the lot's area.
 - b. Cultivation areas shall not be located within the required front yard or street yard of any buildable or developed lot.
- (2) Conditional use regulations: Not applicable.
- (3) Parking requirements: One space per employee on the largest work shift. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(2)(a)), 1-19-1998)

Sec. 130-342. Husbandry.

Husbandry land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity of less than one animal unit per acre. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts.
 - a. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property, and 100 feet from all other lot lines.
 - b. All outdoor animal containments (pasture) shall be located a minimum of ten feet from any residentially zoned property.
- (3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(2)(b)), 1-19-1998)

Sec. 130-343. Intensive agriculture.

Intensive agricultural land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding one animal unit per acre, and/or agricultural activities requiring large investments in structures. Examples of such land uses include feedlots, hog farms, poultry operations, fish farms, commercial

greenhouse operations and certain other operations meeting this criterion. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts.
 - a. Such uses shall not be located in, or adjacent to, an existing or platted residential subdivision.
 - b. Such uses shall be completely surrounded by a bufferyard with a minimum intensity per section 130-270.
 - c. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 300 feet from all residentially zoned property and 100 feet from all other lot lines.
 - d. Such uses shall be located in an area that is planned to remain commercially viable for agricultural land uses.
 - e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70)(2)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70)(2)(c)), 9-8-1998)

Sec. 130-344. Agricultural service uses.

Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, byproducts, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities (except commercial composting uses, see section 130-456). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural district, I-2, and I-3.
 - a. Such uses shall not be located in, or adjacent to, an existing or platted residential subdivision.
 - b. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.
 - c. If within the A-1 district, such uses shall be located in an area that is planned to remain commercially viable for agricultural land uses.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: As required by Chapter 130, Article XI, of the Municipal Code.

(Ord. No. 1997-18, § 13(17.70(2)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(2)(d)), 9-8-1998, Ord. 2013-02)

Sec. 130-345. On-site agricultural retail uses.

On-site agricultural retail land uses include land uses solely associated with the sale of agricultural products grown exclusively on the site. The sale of products grown or otherwise produced off-site shall not be permitted within on-site agricultural retail operations, and such activity constitutes retail sales as a commercial land use. Packaging and equipment used to store, display, package or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers, and bags) shall be produced off-site. The following regulations are applicable to this use:

- (1) Permitted by right: Agricultural districts.
 - a. No structure or group of structures shall exceed 500 square feet in floor area.
 - b. No structure shall exceed 12 feet in height.
 - c. All structures shall meet all required setbacks for nonresidential land uses.
 - d. Signage shall be limited to one on-site sign, which shall not exceed 30 square feet in area.
 - e. Such land use shall be served by no more than one driveway. The driveway shall require a valid driveway permit.
 - f. A minimum of one parking space shall be required for every 200 square feet of product display area.
 - g. The sale of products that are grown or otherwise produced on non-adjacent property under the same ownership, or on property under different ownership, shall be prohibited.
 - h. The structure and fencing shall be located a minimum of 300 feet from any residentially zoned property.
- (2) Conditional use regulations: Not applicable.
- (3) Parking requirements: One space per employee on the largest work shift, and four spaces for customers.

(Ord. No. 1997-18, § 13(17.70(2)(e)), 1-19-1998)

Sec. 130-346. Selective cutting.

Selective cutting land uses include any operation associated with the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or combined areas) of less than or equal to 40 percent of the woodlands on the property (or up to 100 percent for developments approved prior to the effective date of the ordinance from

which this article is derived). Selective cutting activity shall be limited to areas located within development pads which are designated on recorded plats or certified survey maps. The destruction of trees in an area in excess of this amount of the woodlands on the property shall be considered clear cutting (see section 130-347). The following regulations are applicable to this use:

- (1) Permitted by right: All districts.
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(2)(f)), 1-19-1998)

Sec. 130-347. Clear cutting.

Clear cutting land uses include the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 40 percent of the woodlands on a property (or up to 100 percent for developments approved prior to the effective date of the ordinance from which this article is derived). Clear cutting is permitted only as a conditional use within the jurisdiction of this chapter. Areas which have been clear cut as a result of intentional action following the effective date of the ordinance from which this article is derived without the granting of a conditional use permit are in violation of this chapter, and the property owner shall be fined for such violation and shall be required to implement the mitigation standards required for the destruction of woodlands solely at his expense, including costs associated with site inspection to confirm the satisfaction of mitigation requirements. Areas which have been clear cut unintentionally as a result of fire shall not subject the owner of the property to fines associated with the violation of this chapter, but shall require the satisfaction of mitigation requirements at the owner's expense, including cost associated with site inspection to confirm the satisfaction of mitigation requirements. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: All districts.
 - a. The applicant shall demonstrate that clear cutting will improve the level of environmental protection on the subject property.
 - b. Areas of the subject property that are clear cut beyond the limitations established in this section shall be replanted per the requirements of section 130-269. (The referenced section requires the replanting of trees in other portions of the subject property, thereby freeing the currently wooded area for development while ensuring that the amount of required wooded area on the subject property remains constant.)
 - c. Clear cutting shall not be permitted within a required bufferyard or landscaped area (see section 130-270), or within an area designated as permanently protected green space.
 - d. Such use shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(2)(g)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(2)(g)), 9-8-1998)

Secs. 130-348--130-370. Reserved.

DIVISION 4. INSTITUTIONAL LAND USES

Sec. 130-371. Passive outdoor public recreational uses.

Passive outdoor public recreational land uses include all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, open grassed areas not associated with any particular active recreational land use (see section 130-372), picnic areas, picnic shelters, gardens, fishing areas, and similar land uses. The following regulations are applicable to this use:

- (1) Permitted by right: All districts except B-5.
- (2) Conditional use regulations: B-5.
- (3) Parking requirements: One space per four expected patrons at maximum capacity for any use requiring over five spaces. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-372. Active outdoor public recreational uses.

Active outdoor public recreational land uses include all recreational land uses located on public property which involve active recreational activities. Such land uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses, and similar land uses. The following regulations are applicable to this use:

- (1) Permitted by right: All districts, except A, B-5, I-2 and I-3.
 - a. Facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.
 - b. All structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - c. Facilities that serve a community-wide function shall be located with primary vehicular access on a collector or arterial street or a street with a boulevard consisting of curbs and vegetation that separates the two directions of traffic from each other.
 - d. Facilities that serve a regional or community-wide function shall provide an off-street passenger loading area if the majority of the users will be children.
- (2) Conditional use regulations: B-5.

(3) Parking requirements: For active outdoor public recreation, one space per four expected patrons at maximum capacity for any use requiring over five spaces. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(b)), 9-8-1998, Ord. 2004-17, Ord. 2005-44, Ord. 2012-18)

Sec. 130-373. Indoor institutional uses.

Indoor institutional land uses include all indoor public and not-for-profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), group day care centers (nine or more children), schools, places of worship, nonprofit clubs, nonprofit fraternal organizations, convention centers, hospitals, jails, prisons, and similar land uses. The following regulations are applicable to this use:

- (1) Permitted by right: All nonresidential districts, except A, B-5, I-2 and I-3.
 - a. Such uses shall provide an off-street passenger loading area if the majority of the users will be children (as in the case of a school, daycare, places of worship, library, or similar land use).
 - b. All structures shall be located a minimum of 50 feet from any residentially zoned property.
- (2) Conditional use regulations: Residential districts and B-5.
 - a. Such uses shall meet all regulations listed in subsection (1) of this section.
 - b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: Generally, one space per three expected patrons at maximum capacity. However, see the following additional specific requirements. These requirements shall be waived for businesses in the B-2 district.
 - a. Places of worship: One space per five seats at the maximum capacity.
 - b. Community or recreation center: One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - d. Group day care center (nine or more children): One space per five students, plus one space for each employee on the largest work shift.
 - c. Funeral home: One space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.
 - d. Hospital: Two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.
 - e. Library or museum: One space per 250 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.

- f. Elementary and junior high: One space per teacher and per staff member, plus one space per two classrooms.
- g. Senior high: One space per teacher and staff member, plus one space per five non-bused students.
- h. College or trade school: One space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.

(Ord. No. 1997-18, § 13(17.70(3)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(c)), 9-8-1998, Ord. 2004-17, Ord. 2005-44, Ord. 2012-18, Ord. 2023-15)

Sec. 130-374. Outdoor institutional uses.

Outdoor institutional land uses include public and private cemeteries, privately held permanently protected green space areas, not-for-profit outdoor recreational facilities, country clubs, non-public golf courses, and similar land uses. Such land uses include playcourts (such as tennis courts and basketball courts) and playfields (such as ball diamonds, football fields, and soccer fields). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: All districts, except A, I-2 and I-3.
 - a. Such uses shall be located with primary vehicular access on a collector or arterial street or a street with a boulevard consisting of curbs and vegetation that separates the two directions of traffic from each other.
 - b. Such uses shall provide an off-street passenger loading area if a significant proportion of the users will be children.
 - c. All structures and actively used outdoor recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - d. Facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.
 - e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: Generally, one space per three expected patrons at maximum capacity. However, see the following additional specific requirements. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.
 - a. Cemetery: One space per employee, plus one space per three patrons to the maximum capacity of all indoor assembly areas.

- b. Golf course: 36 spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurant).
- c. Swimming pool: One space per 75 square feet of gross water area.
- d. Tennis court: Three spaces per court.

(Ord. No. 1997-18, § 13(17.70(3)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(d)), 9-8-1998, Ord. 2004-17, Ord. 2012-18)

Sec. 130-375. Public service and utilities uses.

Public service and utilities land uses include all town, county, state and federal facilities (except those otherwise treated in this article), emergency service facilities such as fire departments and rescue operations, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses. The following regulations are applicable to this use:

- (1) Permitted by right: All districts, except A.
 - a. Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. All outdoor storage areas adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.
 - c. All structures shall be located a minimum of 20 feet from any residentially zoned property.
 - d. The exterior of all buildings shall be compatible with the exteriors of surrounding buildings.
- (2) Conditional use regulations: A.
 - a. Conditional uses shall follow the same regulations provided under section 130-375(1).
- (3) Parking requirements: One space per employee on the largest work shift, plus one space per company vehicle normally stored or parked on the premises, plus one space per 500 square feet of gross square feet of office area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(e)), 9-8-1998, Ord. 2012-18)

Sec. 130-376. Institutional residential uses.

Institutional residential land uses include group homes, convents, monasteries, nursing homes, convalescent homes, limited care facilities, rehabilitation centers, and similar land uses not considered to be community living arrangements under the

provisions of Wis. Stats. § 62.23 (see section 130-377, 130-378 and 130-379). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, R-1, R-2, R-3.
 - a. No individual lots are required, although the development shall contain a minimum of 800 square feet of gross site area for each occupant of the development.
 - b. A minimum of 30 percent of the development's gross site area shall be held as permanently protected green space.
 - c. The proposed site shall be located so as to avoid disruption of an established or developing office area.
 - d. The applicant shall provide an off-street passenger loading area at a minimum of one location within the development.
 - e. All structures shall be located a minimum of 35 feet from any residentially zoned property which does not contain an institutional residential land use.
 - f. Parking requirements: Three spaces for all single-family and two-family dwelling units; for multi-family dwelling units, two spaces per unit for two or more bedrooms, 1 ½ spaces per unit for one or less bedrooms. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request for the applicant.
 - i. Monastery or convent: One space per six residents, plus one space per employee on the largest work shift, plus one space per five chapel seats if the public may attend.
 - ii. Nursing home: One space per six patient beds, plus one space per employee on the largest work shift, plus one space per staff member and per visiting doctor.
 - g. The applicant shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(3)(f)), 1-19-1998, Ord. 2004-18, Ord. 2005-23)

Sec. 130-377. Community living arrangement (one to eight residents).

Community living arrangement land uses include all facilities provided for in Wis. Stats. § 46.03(22), including child welfare agencies, group homes for children, and community-based residential facilities. Community living arrangements do not include day care centers (see separate listing); nursing homes (an institutional residential land use); or general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their

capacity as provided for in Wis. Stats. § 62.23. The following regulations are applicable to community living arrangements having one to eight residents:

- (1) Permitted by right: RR, LL-R12, LL-R15, R-1, R-2, R-3.
 - a. No community living arrangement shall be established within 500 feet of any adult family homes and other such facilities, regardless of its capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council authorizes that arrangement and if both facilities comprise essential components of the same program.
 - b. The applicant shall demonstrate that the total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).
 - c. A foster home or a treatment foster home that is the primary domicile of a foster parent or treatment foster parent and adult family homes shall not be subject to subsections a. and b., except that foster homes and treatment foster homes operated by corporations, child welfare agencies, churches, associations or public agencies shall be subject to subsections a. and b.
- (2) Conditional use regulations: O-1, B-1, B-2.
- (3) Parking requirements: Three spaces.

(Ord. No. 1997-18, § 13(17.70(3)(g)), 1-19-1998, Ord. 2005-28)

Sec. 130-378. Community living arrangement (nine to 15 residents).

For a description of community living arrangement land uses, see section 130-377. The following shall apply to community living arrangements having nine to 15 residents:

- (1) Permitted by right: R-2, R-3.
 - a. No community living arrangement shall be established within 500 feet of any other such facility, regardless of capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council authorizes that arrangement and if both facilities comprise essential components of the same program.
 - b. The applicant shall demonstrate that the total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).
- (2) Conditional use regulations: RR, LL-R12, LL-R15, R-1, O-1, B-1, B-2.

- a. Such uses shall meet all regulations for permitted uses under subsection (1) of this section.
- b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: Four spaces.

(Ord. No. 1997-18, § 13(17.70(3)(h)), 1-19-1998, Ord. 2005-28)

Sec. 130-379. Community living arrangement (16 or more residents).

For a description of community living arrangement land uses, see section 130-377. The following shall apply to community living arrangements having 16 or more residents:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: R-3, O-1, B-1, B-2.
 - a. No community living arrangement shall be established within 500 feet of any other such facility, regardless of capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council authorizes this arrangement and if both facilities comprise essential components of the same program.
 - b. The total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per every three residents.

(Ord. No. 1997-18, § 13(17.70(3)(i)), 1-19-1998, Ord. 2005-28)

Secs. 130-380--130-400. Reserved.

DIVISION 5. COMMERCIAL LAND USES*

Sec. 130-401. Office.

Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis. The following regulations are applicable to this use:

- a. Permitted by right: O-1, B-1, B-2, B-3, B-5, I-1, I-2, I-3.
- (2) Conditional use regulations: Not applicable.
- (3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-402. Personal or professional service.

Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such uses include professional services, financial services such as those provided by banks or credit unions, insurance services, realty offices, medical offices and clinics, veterinary clinics, barbershops, beauty shops, and related land uses. The following regulations are applicable to this use:

- (1) Permitted by right: O-1, B-1, B-2, B-3, B-5.
- (2) Conditional use regulations: B-4, R-1, R-2, R-3.
- (3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(b)), 1-19-1998, Ord. 2004-18, Ord. 2005-44)

Sec. 130-403. Indoor sales or service.

Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or nonpersonal or nonprofessional services, entirely within an enclosed building. This use includes self-service facilities such as coin-operated laundromats. Depending on the zoning district, such land uses may or may not display products outside of an enclosed building. Such activities are listed as "outdoor display incidental to indoor sales" under "accessory uses" in the table of landuses (section 130-302). A land use which contains both indoor sales and outdoor sales exceeding 15 percent of the total sales area of the buildings on the property shall be considered as an outdoor sales land use (see section 130-404). This land use category does not include retail stores

* **Cross references:** Businesses, ch 22.

in excess of 20,000 gross square feet which are regulated under Section 130-422. The following regulations are applicable to this use:

- (1) Permitted by right: B-1, B-2, B-3, B-4, B-5.
- (2) Conditional use regulations: O-1, I-1.
- (3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(c)), 1-19-1998, Ord. 2005-44, Ord. 2006-25, Ord. 2007-4)

Sec. 130-404. Outdoor display.

Outdoor display land uses include all land uses which conduct sales or display sales or rental merchandise or equipment outside of an enclosed building. Example of such land uses include vehicle sales, vehicle rental, manufactured and mobile housing sales and monument sales. The area of outdoor sales shall be calculated as the area which would be enclosed by a fence installed and continually maintained in the most efficient manner that completely encloses all materials displayed outdoors. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See also division 6 of this article.) Land uses which conduct or display only a limited amount of product outside of an enclosed building are listed separately in section 130-527 as outdoor display incidental to indoor sales. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-4, B-5, I-2.
 - a. The display of items shall not be permitted in permanently protected green space areas, required landscaped areas, or required bufferyards.
 - b. The display of items shall not be permitted within required setback areas for the principal structure.
 - c. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of this chapter. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.
 - d. Display areas shall be separated from any vehicular parking or circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.
 - e. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - f. Outdoor display shall be permitted during the entire calendar year; however, if goods are removed from the display area, all support fixtures used to

display the goods shall be removed within ten calendar days of the goods' removal.

- g. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
- h. The facility shall provide a bufferyard with a minimum opacity of 0.60 along all borders of the display area abutting residentially zoned property, except per subsection (2)e of this section (see section 130-270).
- i. Such uses shall comply with article II, division 4 of this chapter, regarding conditional uses.

(3) Parking requirements:

- a. In front of required principal building setback: One space per 300 square feet of gross floor area.
- b. Behind required principal building setback: One space per 300 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(4)(d)), 1-19-1998, Ord. 2005-44)

Sec. 130-405. Indoor maintenance service.

Indoor maintenance services include all land uses that perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered a vehicle repair and maintenance land use (see section 130-417). The following regulations are applicable to this use:

- (1) Permitted by right: B-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.
- (2) Conditional use regulations: Not applicable.
- (3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(e)), 1-19-1998, Ord. 2004-18, Ord. 2005-44)

Sec. 130-406. Outdoor maintenance service.

Outdoor maintenance services include all land uses which perform maintenance services, including repair, and have all or any portion of their operations located outside of an enclosed building. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-5, I-2, I-3
 - a. All outdoor activity areas shall be completely enclosed by a minimum six-foot-high fence. Such enclosure shall be located a minimum of 50 feet from

any residentially zoned property and shall be screened from such property by a bufferyard with a minimum opacity of 0.60 (see section 130-270).

- b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

- (3) Parking requirements: One space per 300 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(4)(f)), 1-19-1998, Ord. 2005-44)

Sec. 130-407. In-vehicle sales or service.

In-vehicle sales and service, land uses include all land uses which perform sales and/or services to persons in vehicles, or to vehicles which may or may not be occupied at the time of such activity (except for vehicle repair and maintenance services, see section 130-417). Such land uses often have traffic volumes that exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities. This use does not include drive-in financial institutions, carwashes, or gas station/convenience store/food counters. These uses are handled as separate land use categories. If performed in conjunction with a principal land use (for example, a drive-up window or an ATM machine), in-vehicle sales and service land uses shall be considered an accessory use (see section 130-528). The following regulations are applicable to this use:

- (1) Permitted by right: B-4, as regulated in subsections (2)a--g. and (3) below.
- (2) Conditional use regulations: B-3, B-5.
 - a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lanes.
 - b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
 - c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.
 - d. No drive-through window or stacking lane should obscure the front façade or street-facing side of the principal building.
 - e. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.
 - f. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material that is designed to meet the requirements of a minimum four-ton axle load.

- g. The facility shall provide a bufferyard with a minimum opacity of 0.60 along all property borders abutting residentially zoned property (see section 130-270).
- h. Interior curbs shall be used to separate driving areas from exterior fixtures such as canopy supports and landscaped islands. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.
- i. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements:

- a. For principal land uses, one space per 200 square feet of gross floor area. For accessory uses, refer to the parking requirements of the principal land use on site.
- b. Each drive-up lane shall have a minimum stacking length of 100 feet behind the pass-through window (or less if requested and need is demonstrated through the conditional use permit process) and 40 feet beyond the pass-through window.

(Ord. No. 1997-18, § 13(17.70(4)(g)), 1-19-1998; Ord. No. 2002-11, § 1, 11-12-2002, Ord. 2005-44, Ord. 2024-05)

Sec. 130-408. Indoor commercial entertainment.

Indoor commercial entertainment land uses include all land uses that provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, B-5.
 - a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of residentially zoned property.
 - b. The facility shall provide a bufferyard along all borders of the property abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per every three patron seats or lockers (whichever is greater), or one space per three persons at the maximum capacity

of the establishment, whichever is greater. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(h)), 1-19-1998, Ord. 2005-44)

Sec. 130-409. Outdoor commercial entertainment.

Outdoor commercial entertainment land uses include all land uses that provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, drive-in theaters, go-cart tracks, and racetracks. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-5, I-2, I-3.
 - a. Activity areas shall not be located closer than 300 feet to residentially zoned property.
 - b. The facility shall provide a bufferyard along all borders of the property abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Activity areas (including drive-in movie screens) shall not be visible from any residentially zoned property.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space for every three patron seats at the maximum capacity of the establishment.

(Ord. No. 1997-18, § 13(17.70(4)(i)), 1-19-1998, Ord. 2005-44)

Sec. 130-410. Commercial animal boarding.

Commercial animal boarding facility land uses include land uses that provide shortterm and/or longterm boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration. Animal boarding facilities and activities that, except for parking, exercise areas, and training areas, are completely and continuously contained indoors, are subject to a separate set of regulations (see subsection (3) of this section). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations for agricultural districts:

- a. A maximum of one animal unit per acre of fully enclosed outdoor area (and a maximum of five dogs, cats or similar animals) shall be permitted.
 - b. The minimum permitted size of a horse or similar animal stall shall be 100 square feet.
 - c. The following setbacks shall be required in addition to those of the zoning district:
 - 1. No activity area, including pastures or runs, shall be located closer than ten feet to any property line.
 - 2. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property.
 - 3. A vegetative strip at least 100 feet wide shall be maintained between any corral, manure pile, or manure application area and any surface water or well in order to minimize runoff, prevent erosion, and promote nitrogen absorption.
 - d. Special events such as shows, exhibitions, and contests shall only be permitted when a special events permit has been secured.
 - e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Conditional use regulations for B-3, B-4 and B-5, I-1 districts:
- a. All activities, except vehicle parking, shall be completely and continuously contained indoors, except animal exercise and training areas which must occur within a securely fenced outside exercise enclosure that must be supervised by a staff person during all periods when animals are exercising or being trained.
 - b. The following setbacks shall be required in addition to those of the zoning district:
 - 1. No activity are, including exercise or training areas, shall be located closer than ten feet to any property line.
 - c. Subsections (2)b, (2)d, and (2)e of this section shall be complied with.
- (4) Parking requirements: As required by Chapter 130 Article XI, of the Municipal Code.

(Ord. No. 1997-18, § 13(17.70(4)(j)), 1-19-1998, Ord. 2005-44, Ord. 2009-02, Ord. 2014-07)

Sec. 130-411. Commercial indoor lodging.

Commercial indoor lodging facilities include land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not

considered accessory uses and therefore require review as a separate land use. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-2, B-3, B-4.
 - a. If located on the same side of a building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of residentially zoned property.
 - b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per bedroom, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(k)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(k)), 9-8-1998)

Sec. 130-412. Bed and breakfast establishment.

Bed and breakfast establishments are exclusively indoor lodging facilities that provide meals only to paying lodgers. Such land uses may provide indoor recreational facilities for the exclusive use of their customers. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural and residential districts, B-1, B-2, B-3.
 - a. *Liquor permit; inspections.* All such facilities shall be required to obtain a permit to serve liquor, if applicable. They shall be inspected annually at a fee as established by the council from time to time by resolution, to verify that the land use continues to meet all applicable regulations.
 - b. *Signs.* One sign, with a maximum area of 20 square feet, shall be permitted on the property.
 - c. *Bufferyards.* The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity section 130-270.
 - d. *Safety and sanitation requirements.* No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate

operational smoke detector alarm, as required in the city building code. One lavatory and bathing facility shall be required for every ten occupants, in addition to the owner's/occupant's personal facilities.

- e. *Residency by operator.* The dwelling unit in which the bed and breakfast operation takes place shall be the principal residence of the operator/owner, and the operator/owner shall live on the premises when the bed and breakfast operation is active.
- f. *Meals.* Only the meal of breakfast shall be served to overnight guests.
- g. *Record of patrons.* Each operator shall keep a list of names of all persons staying at the bed and breakfast operation. This list shall be kept on file for a period of one year. Such list shall be available for inspection by city officials at any time.
- h. *Maximum stay.* The maximum stay for any occupants of a bed and breakfast operations shall be 14 days.
- i. *Conditional use permit required.* It shall be unlawful for any person to operate a bed and breakfast operation as defined and as permitted in this Code without first having obtained a conditional use permit.
- j. *Application for license.* Applicants for a license to operate a bed and breakfast operation shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with this chapter and other applicable city codes and ordinances, and be within the terms of this chapter.
- k. *Issuance of license.* After application duly filed with the clerk-treasurer for a license under this section, plan commission review and recommendation for a conditional use permit, the council shall hold a public hearing and determine whether any further license shall be issued based upon the public convenience and necessity of the people in the city. In the council's determination of the number of bed and breakfast operations required to provide for such public convenience and necessity, the council shall consider the effect upon residential neighborhoods, conditions of existing holders of licenses, and the necessity of issuance of additional licenses for public service.
- l. *Public nuisance violations.* Bed and breakfast operations shall not be permitted whenever the operation endangers or offends or interferes with the safety or rights of others so as to constitute a nuisance.
- m. *Suspension, revocation and renewal of license.* Any license issued under the provisions of this section may be revoked by the city council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto. In such investigation, compliance or noncompliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other considerations shall be weighed in determination of such issue.

n. *General regulations.* Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

- (3) Parking requirements: One space per each bedroom. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(l)), 1-19-1998)

Sec. 130-413. Group day care center (nine or more children).

Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with an established indoor institutional land use on the same environs, such as a place of worship, school, or civic organization. In such instances, group day care centers are considered as accessory uses and therefore do not require review as a separate land use so long as the primary function of the shared building space is for the principal land use. The following regulations are applicable to group day care centers caring for nine or more children:

- (1) Permitted by right:
 - a. All nonresidential districts, except A, C-1, C-2, I-2 and I-3.
 - b. As an accessory use to an indoor institutional principal land use regardless of zoning district.
- (2) Conditional use regulations: R-3, TND.
 - a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
 - c. The property owner's permission is required as part of the conditional use permit application.
- (3) Parking requirements: One space per five students, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.
- (4) Other requirements: Operators of group day care centers must obtain and remain in compliance with any group child care license issued from the Department of Children and Families.

(Ord. No. 1997-18, § 13(17.70(4)(m)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(m)), 9-8-1998, Ord. 2004-18, Ord. 2012-18, Ord. 2023-15)

Sec. 130-414. Campground.

Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts.
 - a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: 1.5 spaces per campsite.

(Ord. No. 1997-18, § 13(17.70(4)(n)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(n)), 9-8-1998)

Sec. 130-415. Boardinghouse.

Boarding homes include any residential use renting rooms that do not contain private bathroom facilities (with the exception of approved bed and breakfast facilities). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Multifamily residential districts, B-1, B-2, B-3, B-4.
 - a. The facility shall provide a bufferyard along a property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. Such uses shall provide a minimum of one on-site parking space for each room for rent.
 - c. Such uses shall be located in an area of transition from residential land uses to nonresidential land uses.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per room for rent, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(o)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(o)), 9-8-1998, Ord. 2004-18)

Sec. 130-416. Sexually oriented land uses.

Sexually oriented land uses include any facility oriented to the display of sexually oriented materials such as videos, movies, slides, photos, books, or magazines; or actual

persons displaying and/or touching sexually specified areas. For the purpose of this chapter, the term "sexually specified areas" includes any one or more of the following: genitals, anal area, female areola or nipple, and the term "sexually oriented material" includes any media which displays sexually specified areas. This section is designed to reflect the city council's official finding that sexually oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other similar jurisdictions. Specifically, the city council is concerned with the potential for such uses to limit the attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this section to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the city's comprehensive master plan and protect the character and integrity of its commercial and residential neighborhoods. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: I-3.
 - a. Such uses shall be located a minimum of 1,000 feet from any agriculturally zoned property or residentially zoned property, and shall be located a minimum of 1,000 feet from any school, church, or outdoor recreational facility.
 - b. Exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, or affect the marketability of properties in the vicinity for sale at their assessed values.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per 300 square feet of gross floor area, or one space per person at the maximum capacity of the establishment (whichever is greater).

(Ord. No. 1997-18, § 13(17.70(4)(p)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(p)), 9-8-1998)

Sec. 130-417. Vehicle repair and maintenance.

Vehicle repair and maintenance services include all land uses which perform maintenance services (including repair) for motorized vehicles and contain all operations (except vehicle storage) within an enclosed building. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-4, B-5, I-1, I-2.
 - a. Storage of abandoned vehicles shall be prohibited.

- b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per 300 square feet of gross floor area. Adequate on-site parking is required for all customer and employee vehicles.

(Ord. No. 1997-18, § 13(17.70(4)(q)), 1-19-1998; Ord. No. 1998-9, § 1, 7-14-1998; Ord. No. 1998-12, § 5(17.70(4)(q)), 9-8-1998, Ord. 2005-44)

Sec. 130-418. Group development.

A group development is any development containing two or more structures containing principal land uses on the same lot. Common examples of group developments include multiple-family dwellings, shopping centers and office centers. One-building office structures and other land uses in which each lot contains only one structure are not group developments, even though such developments may contain parcels under common ownership. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, B-5, I-1, I-2, R-3.
 - a. All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development.
 - b. The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.
 - c. No group development, except multiple-family dwellings, shall take access to a local residential street.
 - d. All development located within a group development shall be located so as to comply with the intent of this chapter regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes that serve to demonstrate complete compliance with such intent. The building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, if such action is so desired.
 - e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(4)(r)), 1-19-1998, Ord. 2005-1, Ord. 2005-44)

Sec. 130-419. Gas station/convenience store/food counter.

Gas station/convenience store/food counter uses are gas station facilities which are commonly designed to include a convenience store and food counter within the enclosed building. With the exception of any development proposals which may have been submitted in writing to the plan commission prior to the time of adoption of the ordinance from which this article is derived, these uses shall not include any drive-in, drive-up and drive-through facilities, which are considered in-vehicle sales or service uses(see section 130-407). Such land uses often have high traffic volumes which exhibit their highest levels concurrent with peak traffic flows. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-1, B-3, B-4, B-5.

- a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the gas pumps and driving lanes.
- b. Any convenience store/food counter building shall be located within the building envelope closest to the street side or occupy the corner area of any lot it occupies. Gas pump areas shall not be located in any front yard area. See Exhibit 1 at the end of this section 130-419 for a desired layout that reflects these standards.
- c. The gas pump areas shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
- d. In no instance shall a gas pump area be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.
- e. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, and a minimum of 20 feet from all residentially zoned property lines, and shall be a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.
- f. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum four-ton axle load.
- g. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
- h. Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports and landscaped islands. The curbs shall be a minimum of six inches high

and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

- i. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (2) Parking requirements: One space per 300 square feet of gross floor area of convenience store, plus one space per three seats of food counter seating, and one space per employee on the largest work shift of the food counter.
- (3) Sign regulations: no gas station/convenience store/food counter is allowed an electronic message sign beyond those that display fuel prices.

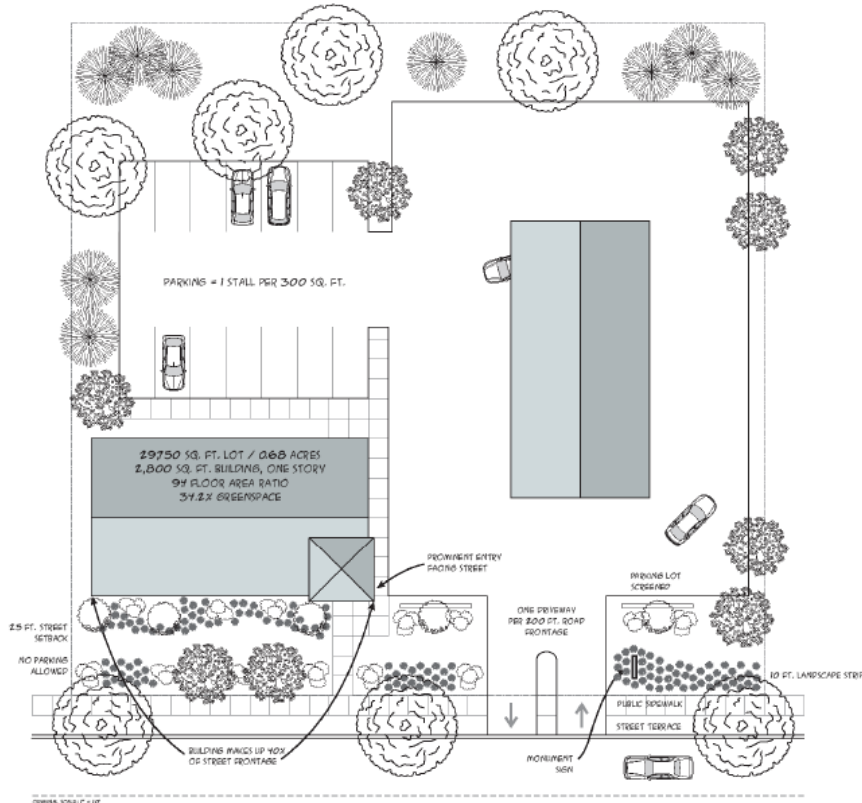


Exhibit 1. Example of a compliant layout for a new gas station site.

(Ord. No. 1997-18, § 13(17.70(4)(s)), 1-19-1998; Ord. No. 1998-19, § 1, 11-10-1998; Ord. No. 1998-12, § 5(17.70(4)(s)), 9-8-1998, Ord. 2005-44, Ord. 2024-04)

Sec. 130-420. Carwash.

Carwashes include any facility that provides for the washing of motorized vehicles. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-4, B-5.

- a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the vehicular washing area and driving lanes.
- b. The vehicular washing areas shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
- c. In no instance shall a vehicular washing area be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.
- d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.
- e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material that is designed to meet the requirements of a minimum four-ton axle load.
- f. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
- g. Interior curbs shall be used to separate driving areas from exterior fixtures. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.
- h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per bay.

(Ord. No. 1997-18, § 13(17.70(4)(t)), 1-19-1998; Ord. No. 1998-19, § 2, 11-10-1998; Ord. No. 1998-12, § 5(17.70(4)(t)), 9-8-1998, Ord. 2005-44)

Sec. 130-421. Special central business district commercial/residential uses.

The special central business district commercial/residential land use applies exclusively to property in the central business district (see article VIII, division 6 of this chapter) that contains dwelling and/or lodging units in addition to commercial space. This use allows for dwelling units and lodging units to be located on the ground floor if there is a minimum of 700 square feet of commercial space on the street front. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-2.
 - a. If dwelling units are located on the ground floor, there must also be a minimum of 700 square feet of commercial space on the street front.

- b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: A minimum of one off-street parking space for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for purposes of this requirement with the approval of the zoning administrator. These requirements may be waived by the plan commission, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(u)), 1-19-1998)

Sec. 130-422. Large format retail stores.

(a) A large-format store is any of the following (1) a single building that contains more than 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, (2) two or more buildings with a total of 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, or (3) a group of buildings on adjoining lots with more than 20,000 gross square feet of floor where the primary tenant owns the lots and occupies 65 percent or more of the gross floor area. The term does not include a retail store that is part of an industrial building or warehouse when the floor area of such store is less than 20,000 gross square feet. The following regulations are applicable to this use:

- (1) Conditional use regulations: B-4.
 - (2) Parking requirements: One space per 300 square feet of gross floor area.
- (b) *Legislative findings.* The Common Council makes the following findings:
- (1) Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.
 - (2) Based on the city's smart growth comprehensive plan adopted in June 2005, most city residents and visitors appreciate and value Evansville "small-town" character.
 - (3) If not regulated, large retail stores could negatively affect Evansville's "small-town" character.
 - (4) Large retail stores may cause negative impacts to the economic vitality of certain retail sectors.
 - (5) Large retail buildings may be inconsistent with the existing community character and the surrounding neighborhood.
 - (6) A diverse retail economy is desirable in that it provides consumer choice and fosters competition.

(c) *Purpose.* The provisions of this section are intended to accomplish the following purposes:

- (1) ensure that large retail stores are consistent with the city's general community character and the neighboring properties,
- (2) ensure that large retail stores contribute to a diverse and sound economic base,
- (3) prevent urban blight due to vacant stores,
- (4) ensure that development complements the city's efforts to revitalize downtown, and
- (5) provide the basis for a joint agreement with the Town of Union.

(d) *Development agreement.* Prior to issuance of a building permit for a large-format store, the building owner shall enter into a developer's agreement with the city, to run with the land, that includes all of the following:

- (1) a provision that prevents the owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purposes
- (2) a provision requiring long-term maintenance of the development including landscaping if the building is vacated
- (3) a provision requiring the preparation of an adaptive reuse plan or a demolition plan acceptable to the city within 12 months of vacation
- (4) a provision requiring the property owner to post a bond of sufficient amount to either convert the building to another use or demolish the building, which ever is greater, if the building remains vacant 24 months after the first date of vacation
- (5) other provisions deemed necessary by the city to address the particular circumstances related to the project

(e) *Vacation of existing buildings.* When a large-format store is proposed as a replacement for another retail store already located in the city, the applicant shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

(f) *Economic analysis.* When a large-format store exceeds 40,000 square feet, the developer shall provide funding to the city to hire a qualified consultant of the city's choice who will conduct an economic and fiscal impact study of the proposed project. Such study shall address the following:

- (1) Identification and assessment of the positive, negative, and neutral effects which are directly attributable to the proposed project along with those indirect effects which may accrue as well.
- (2) An analysis of how the proposed project may affect commercial vacancy rates in its trade area.
- (3) An analysis of anticipated jobs to be created and potentially lost by type (e.g., construction, management, clerks, etc.) and by employment status (e.g., full-time, part-time, seasonal, etc.).
- (4) A comparison of anticipated tax revenue from the project with the project's need for public services.
- (5) The extent to which the proposed project would likely reduce the number of existing businesses within its trade area.
- (6) The extent to which the proposed project would export dollars out of the local economy as compared to other locally, owned and operated businesses.
- (7) Other elements deemed appropriate by the consultant to complete a balanced analysis of the project.

(g) *Absolute building area cap.* Under no circumstance shall the floor area of a large-format store exceed 60,000 square feet. The board of appeals may not grant a variance relating to this cap. The common council may allow a larger area only by amending this provision with an ordinance.

(h) *Architectural standards.* A large-format store shall comply with design standards as may be adopted by the city.

[Ord. 2006-25]

Sec. 130-423. Artisan Studio.

An artisan studio is a place used for creating, making, and selling works of art and/or handmade craft items on a small-scale. Examples of such items include, but may not be limited to, paintings, textiles, photography, sculptures, pottery, ceramics, leather products, hand-made paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and body lotions.

- (1) Permitted by right: B-2, B-3, B-4, B-5, I-1
- (2) Conditional use regulations: B-1, I-2
- (3) Standards. The following use standards shall apply:

- a. When located in a commercial district, at least 15 percent of the floor area shall be devoted to the retail sale of items produced on site and those of a similar nature.
 - b. When located in a commercial district, all of the activities shall occur within a building.
 - c. When located in an industrial district, no more than 20 percent of the floor area shall be devoted to the retail sale of items produced on site.
 - d. The retail portion of the business, when provided, shall be located at the front of the building.
 - e. Such use shall comply with the performance standards contained in article III*.
 - f. Such use shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.
- (4) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

[Ord. 2007-4]

Sec. 130-424. Tobacco/e-cigarette/hemp retailer.

Tobacco, e-cigarette, or CBD retailer means an establishment in which 10 percent or more of the gross public floor area is devoted to, or 10 percent or more of the stock in trade consists of, the following: cigarettes, tobacco products, e-cigarette products such as propylene glycol, glycerin, nicotine, flavorings, or other products for use in electronic cigarettes, personal vaporizers, or electronic nicotine delivery system, or any device used to ingest cigarettes, tobacco products, e-cigarette products, or products derived from hemp as defined by s. 94.55 Wis. Stats. This term does not include a tobacco bar as defined in s. 101.123 Wis. Stats.

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-4, I-3.
- (3) Standards. The following use standards shall apply:
 - a. Such uses shall be located a minimum of 1,000 feet from:
 - i. any property zoned B-2 Central Business District
 - ii. from any school, place of worship, City park, or outdoor recreational facility.
 - b. Such use shall comply with the performance standards contained in article III of this chapter.

* Drafter's note: These performance standards address air pollution, fire and explosive hazards, glare and heat, liquid or solid waste, noise, odors, radioactivity and electrical disturbances, vibration, and water quality.

- c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- d. Such uses cannot be operated as part of a sexually oriented land use per sec. 130-416.

(Ord. No. 2023-15)

Secs. 130-425 --130-450. Reserved.

DIVISION 6. STORAGE OR DISPOSAL LAND USES

Sec. 130-451. Indoor storage or wholesaling.

Indoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, longterm indoor storage facilities, and joint warehouse and storage facilities. Retail outlets associated with this use shall be considered accessory uses per section 130-529. The following regulations are applicable to this use:

- (1) Permitted by right: B-5, I-1, I-2, I-3.
- (2) Conditional use regulations: Not applicable.
- (3) Parking requirements: One space per 2,000 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(5)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-452. Outdoor storage or wholesaling.

Outdoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. Such a land use in which any activity beyond loading and parking is located outdoors is considered an outdoor storage and wholesaling land use. Examples of this land use include contractors' storage yards, equipment yards, lumberyards, coalyards, landscaping materials yards, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment or other materials typically associated with a junkyard or salvage yard. (See section 130-454.) The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-5, I-1, I-2.

Outdoor storage land use in the I-1 district shall require a conditional use permit and shall comply with the conditional use requirements associated with this land use that are outlined below.

- a. All outdoor storage areas shall be enclosed by any permitted combination of buildings, structures, walls and fencing. Such walls and fencing shall be designed to screen all stored materials from view from nonindustrialized areas to the satisfaction of the plan commission.
- b. The storage of items shall not be permitted in required front setback areas.
- c. In no event shall the storage of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of this chapter. If the number of provided parking stalls on

the property is already less than the requirement, such storage area shall not further reduce the number of parking stalls already present.

- d. Storage areas shall be separated from any vehicular parking or circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.
- e. Materials being stored shall not interfere in any manner with either on- or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
- f. Inoperative vehicles or equipment, or other items typically stored in a junkyard or salvage yard, shall not be stored under the provisions of this land use.
- g. All outdoor storage areas shall be located no closer to residentially zoned property than the required minimum setback for buildings on the subject property.
- h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: As required in article XI of this chapter.

(Ord. No. 1997-18, § 13(17.70(5)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(b)), 9-8-1998, Ord. 2005-44, Ord. 2011-17)

Sec. 130-453. Personal storage facility.

Personal storage facilities are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Such storage areas are also known as miniwarehouses. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-5, I-1, I-2.
 - a. The facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.
 - b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
 - d. No electrical power shall be run to the storage facilities.
- (3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(c)), 9-8-1998, Ord. 2005-44)

Sec. 130-454. Junkyard or salvage yard.

Junkyard or salvage yard facilities are any land or structure used for a salvaging operation, including but not limited to the aboveground outdoor storage and/or sale of waste paper, rags, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantling, storage, or salvage of two or more unlicensed and/or inoperative vehicles. Recycling facilities involving on-site outdoor storage of salvage materials are included in this land use. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: I-3.
 - a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. All buildings, structures, and outdoor storage areas and any other activity areas shall be located a minimum of 100 feet from all lot lines.
 - c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.
 - d. Such uses shall not involve the storage, handling or collection of hazardous materials.
 - e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(d)), 9-8-1998, Ord. 2012-18)

Sec. 130-455. Waste disposal facility*.

Waste disposal facilities are any areas used for the disposal of solid wastes, including those defined by Wis. Stats. § 281.01(15), but not including composting operations (see section 130-456). The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: I-3.
 - a. Such uses shall comply with all county, state and federal regulations.
 - b. The facility shall provide a bufferyard along all borders of the property with a minimum opacity per section 130-270.

* **State law references:** Water and sewage generally, Wis. Stats. § 281.01 et seq.

- c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
- d. Operations shall not involve the on-site holding, storage or disposal of hazardous materials in any manner.
- e. Required site plans shall include detailed site restoration plans, which shall, include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with such restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the city administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. The requirement for such surety is waived for waste disposal facilities owned by public agencies.
- f. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(e)), 9-8-1998, Ord. 2012-18)

Sec. 130-456. Composting operation.

Composting operations are any land uses devoted to the collection, storage, processing and or disposal of vegetation. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts, I-3.
 - a. Such uses shall comply with all county, state and federal regulations.
 - b. The facility shall provide a bufferyard along all borders of the property occupied by non-agricultural land uses with a minimum opacity per section 130-270.
 - c. All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines.
 - d. No food scraps or other vermin-attracting materials shall be processed, stored or disposed of on-site.
 - e. Operations shall not involve the on-site holding, storage or disposal of hazardous wastes as defined by state statutes in any manner.
 - f. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(f)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(f)), 9-8-1998)

Sec. 130-457. Motor vehicle storage yard.

Motor vehicle storage yards are any land or structure used for the temporary storage of impounded motor vehicles or wrecked motor vehicles awaiting an insurance adjustment or transport to a repair shop. The salvaging of motor vehicle parts or the repair of motor vehicles is not allowed. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, I-1, I-2, I-3.
 - a. The facility shall provide a bufferyard consistent with section 130-270 and any additional bufferyard requirements deemed necessary to provide adequate screening between the facility and adjoining properties.
 - b. No portion of the parcel used to store motor vehicles may be located within 40 feet of a residentially-zoned parcel or within 20 feet of another nonindustrially-zoned parcel.
 - c. An eight-foot solid fence, subject to Plan Commission approval, shall be located around the perimeter of the area used to store the motor vehicles.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
 - e. The applicant shall submit a fence plan as part of the conditional use application which shall specify materials, the color scheme, and construction methods.
- (3) Parking requirements: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.

[Ord. 2006-42]

Secs. 130-458--130-480. Reserved.

DIVISION 7. TRANSPORTATION LAND USES

Sec. 130-481. Off-site parking lot.

Off-site parking lots are any areas used for the temporary parking of vehicles which are fully registered, licensed and operative. The following regulations are applicable to this use:

- (1) Permitted by right: B-2, B-3, I-2, I-3.
 - a. Access to an off-site parking lot shall only be permitted from a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
- (2) Conditional use regulations: B-5.
- (3) Parking requirements: No requirement.

(Ord. No. 1997-18, § 13(17.70(6)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-482. Airport/heliport.

Airports and heliports are transportation facilities providing takeoff, landing, servicing, storage and other services to any type of air transportation. The operation of any type of air vehicle (including ultralight aircraft, hang gliders, parasails, and related equipment, but excepting model aircraft) within the jurisdiction of this chapter shall occur only in conjunction with an approved airport or heliport. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, I-1, I-2, and I-3.
 - a. All buildings, structures, and outdoor airplane or helicopter storage areas and any other activity areas shall be located a minimum of 100 feet from all lot lines.
 - b. The facility shall provide a bufferyard along all borders of the property not otherwise completely screened from activity areas by buildings or structures with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per each employee on the largest work shift, plus one space per every five passengers based on average daily ridership.

(Ord. No. 1997-18, § 13(17.70(6)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(b)), 9-8-1998, Ord. 2012-18)

Sec. 130-483. Freight terminal.

Freight terminals are defined as land and buildings representing either end of one or more truck carrier lines, which may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities, principally serving several or many businesses and always requiring transshipment. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-5, I-3.
 - a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. All buildings, structures, outdoor storage areas, and other activity areas shall be located a minimum of 100 feet from all lot fines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(6)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(c)), 9-8-1998, Ord. 2005-44)

Sec. 130-484. Distribution center.

Distribution centers are facilities oriented to the shortterm indoor storage and possible repackaging and reshipment of materials involving the activities and products of a single user. Retail outlets associated with this use shall be considered accessory uses per section 130-529. The following regulations are applicable to this use:

- (1) Permitted by right: I-2, I-3.
- (2) Conditional use regulations: B-5, I-1.
 - a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - b. All buildings, structures, outdoor storage areas, and other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(6)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(d)), 9-8-1998, Ord. 2005-44)

Sec. 130-485. Railroad line.

A railroad line is a strip of land with railroad tracks and auxiliary facilities for track operation. The term does not include freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, car yards, or the like.

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: All districts.

(3) Parking requirements: None.

[Ord. 2005-44]

Secs. 130-486--130-500. Reserved.

DIVISION 8. INDUSTRIAL LAND USES*

Sec. 130-501. Light industrial land uses.

Light industrial land uses are industrial facilities at which all operations (with the exception of loading operations) are conducted entirely within an enclosed building, are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line, do not pose a significant safety hazard (such as danger of explosion), and comply with all of the performance standards listed for potential nuisances. Light industrial land uses may conduct retail sales activity as an accessory use provided that the requirements of section 130-529 are complied with. The following regulations are applicable to this use:

- (1) Permitted by right: I-1, I-2, I-3. All activities, except loading and unloading, shall be conducted entirely within the confines of a building.
- (2) Conditional use regulations: B-5.
- (3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-502. Heavy industrial land use.

Heavy industrial land uses are industrial facilities which do not comply with one or more of the following criteria: are conducted entirely within an enclosed building, are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and do not pose a significant safety hazard (such as danger of explosion). More specifically, heavy industrial land uses are industrial land uses which may be wholly or partially located outside of an enclosed building, may have the potential to create certain nuisances which are detectable at the property line, and may involve materials which pose a significant safety hazard. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers), including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: I-2, I-3.

* **Cross references:** Businesses, ch. 22.

- a. The facility shall provide a bufferyard along all borders of the property abutting properties which are not zoned with a minimum opacity per section 130-270.
- b. All outdoor activity areas shall be located a minimum of 100 feet from residentially zoned property. No materials shall be stacked or otherwise stored so as to be visible over bufferyard screening elements.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(b)), 9-8-1998)

Sec. 130-503. Communication tower.

Communication towers include all freestanding broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts, B-1, B-2, B-3, B-4, B-5, I-1, I-2, and I-3.
 - a. The tower shall be located so that there is a sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.
 - b. The installation and continued maintenance of a bufferyard is required along property borders abutting residentially zoned property with a minimum opacity per section 130-270.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
 - d. If unused for a period of twenty-four (24) months communication towers, pads, and any associated equipment must be removed.
- (3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(c)), 9-8-1998, Ord. 2008-08, Ord. 2009-06)

Sec. 130-504. Extraction uses.

Extraction uses include any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts, I-3.
 - a. Such uses shall receive approval from the county prior to action by the city, and shall comply with all county, state and federal regulations.

- b. The facility shall provide a bufferyard along all borders of the property with a minimum opacity per section 130-270.
- c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
- d. Required site plans shall include detailed site restoration plans, which shall include, at a minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with such restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the zoning administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. The requirement for such surety is waived for waste disposal facilities owned by public agencies.
- e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(d)), 9-8-1998)

Secs. 130-505--130-520. Reserved.

DIVISION 9. ACCESSORY LAND USES

Sec. 130-521. Generally.

Accessory uses are land uses which are incidental to the principal activity conducted on the subject property. With the exception of a commercial apartment (see section 130-522), or a farm residence (see section 130-523), in no instance shall an accessory use, cellar, basement, tent or recreational trailer be used as a residence. With the exception of farm buildings, accessory buildings located within a residential district shall be constructed or finished in an architectural style complementary to and with materials complementary to the principal residential buildings in the neighborhood. Accessory uses shall not be located between a principal building and a street frontage on the same lot, or within any required front yard or street side yard.

(Ord. No. 1997-18, § 13(17.70(8)), 1-19-1998)

Sec. 130-522. Commercial apartment.

Commercial apartments are dwelling units which are located above the ground floor of a building used for a commercial land use (as designated in division 5 of this article), most typically an office or retail establishment. The primary advantage of commercial apartments is that they are able to share required parking spaces with nonresidential uses. The following regulations are applicable to this use:

- (1) Permitted by right: B-2.
- (2) Conditional use regulations: B-1, B-3, B-4.
 - a. The gross floor area devoted to commercial apartments shall be counted toward the floor area of a nonresidential development.
 - b. A minimum of one off-street parking space shall be provided for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for purposes of this requirement with the approval of the zoning administrator. These requirements shall be waived for businesses in the B-2 district.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(a)), 1-19-1998)

Sec. 130-523. Farm residence.

A farm residence is a single-family detached dwelling unit located on the same property as any of the principal agricultural land uses listed in division 3 of this article. The following regulations are applicable to this use:

- (1) Permitted by right: All districts except B-5.
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(b)), 1-19-1998, Ord. 2005-44)

Sec. 130-524. Detached garage, carport, utility shed, play structure or lawn ornament.

A private residential garage, carport or utility shed is a building that primarily accommodates the sheltered parking of a passenger vehicle and/or the storage of residential maintenance equipment. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flagpoles, etc., shall be permitted in setback areas, but not closer than three feet to an abutting property line other than a street line. For the purposes of this section, children's play structures, including play houses or elevated play structures and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this section whether such structures are placed on a foundation or not. Swing sets, slides, and sandboxes are not considered children's play structures for purposes of this section. A building permit is not required for construction of a play structure. Play structures shall not be used for storage or constructed out of materials that would constitute a nuisance. It may be located on the same lot as a residential unit, or on a separate lot in conjunction with a residential land use. The following regulations are applicable to this use:

- (1) Permitted by right. Residential and nonresidential districts, except B-5, per the following requirements:
 - a. In all residential zoning districts, one or more private garages and, except in the RR zoning district, one accessory building not to exceed 150 square feet shall be permitted. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
 - b. In the RR zoning district, two accessory buildings.
 - c. In all nonresidential zoning districts, one accessory structure, not to exceed 1,000 square feet, shall be permitted.
 - d. A detached garage or accessory structure shall not exceed the height of the principal building.
- (2) Conditional use regulations. Agricultural districts. In all agricultural zoning districts, accessory structures in excess of 1,000 square feet shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(8)(c)), 1-19-1998; Ord. No. 2002-4, § 7, 4-9-2002; Ord. No. 2003-7, § 2, 10-14-2003, Ord. 2005-44)

Sec. 130-525. Company cafeteria.

A company cafeteria is a food service operation which provides food only to company employees and their guests, which meets state food service requirements, and

which is located on the same property as a principal land use engaged in an operation other than food service. The following regulations are applicable to this use:

- (1) Permitted by right: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(d)), 9-8-1998, Ord. 2005-44)

Sec. 130-526. Company-provided on-site recreation.

A company-provided on-site recreational facility is any active or passive recreational facility located on the same site as a principal land use, and which is reserved solely for the use of company employees and their guests. Facilities using activity night lighting shall be a conditional use. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.
 - a. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. Outdoor recreation facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.
 - c. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - d. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(e)), 9-8-1998, Ord. 2005-44)

Sec. 130-527. Outdoor display incidental to indoor sales and service (more than 12 days).

For a description of outdoor display land uses, see section 130-404. The following shall apply to outdoor display incidental to indoor sales and service for more than 12 days:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-3, B-4, B-5, I-2.
 - a. Such uses shall comply with all conditions of section 130-404.
 - b. The display area shall not exceed 25 percent of the gross floor area of the principal building on the site.

- c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(f)), 1-19-1998, Ord. 2005-44)

Sec. 130-528. In-vehicle sales and services incidental to on-site principal land use.

For a description of in-vehicle sales and service uses, see section 130-407. The following shall apply to in-vehicle sales and service uses incidental to an on-site principal land use:

- (1) Permitted by right: B-4 and B-5, as regulated in section 130-407.
- (2) Conditional use regulations: B-3, I-1.
 - a. Such uses shall comply with all conditions of section 130-407.
 - b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(g)), 1-19-1998; Ord. No. 2002-11, § 2, 11-12-2002, Ord. 2005-44)

Sec. 130-529. Indoor sales incidental to storage or light industrial land use.

Indoor sales incidental to storage or light industrial land use include any retail sales activity conducted exclusively indoors which is incidental to a principal land use such as warehousing, wholesaling or any light industrial land use, on the same site. The following regulations are applicable to this use:

- (1) Permitted by right: B-5, I-1, I-2, I-3.
 - a. Adequate parking shall be provided for customers. Such parking shall be in addition to that required for customary light industrial activities.
 - b. The total area devoted to sales activity shall not exceed 25 percent of the total area of the buildings on the property.
 - c. Such uses shall provide restroom facilities directly accessible from the retail sales area.
 - d. The retail sales area shall be physically separated by a wall from other activity areas.
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(h)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(h)), 9-8-1998, Ord. 2005-44)

Sec. 130-530. Light industrial activities incidental to indoor sales or service land use.

Light industrial activities incidental to indoor sales or service land use include any light industrial activity conducted exclusively indoors that is incidental to a principal land use such as indoor sales or service, on the same site. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: B-2, B-3, B-4, B-5, I-1.
 - a. The total area devoted to light industrial activity shall not exceed 15 percent of the total area of the buildings on the property, or 5,000 square feet, whichever is less.
 - b. The production area shall be physically separated by a wall from other activity areas and shall be soundproofed to the level required by this chapter for all adjacent properties.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(i)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(i)), 9-8-1998, Ord. 2005-44)

Sec. 130-531. Home occupation*.

It is the intent of this section to provide a means to accommodate a small home-based family or professional business without the necessity of rezoning from a residential to a commercial district. Approval of an expansion of a home occupation at a future time beyond the limitations of this section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary. Home occupations are economic activities performed within any single-family detached residence which comply with the following requirements. Examples include personal and professional services and handicrafts which comply with all of the following requirements:

- (1) Permitted by right: All districts, except I-1, I-2, I-3.
 - a. The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
 - b. There shall be no exterior alterations that change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - c. No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 - d. No home occupation use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - e. Only one sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall not exceed three square feet.
 - f. The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.

* **Cross references:** Businesses, ch 22.

- g. A permitted home occupation is restricted to a service-oriented business prohibiting the manufacturing of items or products or the sale of items or products on the premises. Examples of service-oriented businesses are, but are not limited to, computer programming, accounting, insurance agencies and computer-based consulting and clerical services.
- h. A permitted home occupation shall not occupy more than 30 percent of the floor area of the dwelling.
- i. Persons employed by a permitted home occupation shall be limited to the resident family members and no more than one nonresident employee.
- j. Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.

(2) Conditional use regulations:

- a. The plan commission may approve home occupations in residential districts which do not meet the standards in subsection (1) of this section as conditional uses. The standards in article II, division 4 of this chapter shall be applicable.
- b. The type and number of equipment or machinery used on the conditional use site may be restricted by the plan commission.
- c. Sale or transfer of the property or expansion of the home occupation shall cause the conditional use permit to be null and void.

(Ord. No. 1997-18, § 13(17.70(8)(j)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(j)), 9-8-1998)

Sec. 130-532. Family day care home (four to eight children)*.

Family day care homes are occupied residences in which a qualified person provides child care for four to eight children. The care of less than four children is not subject to the regulations of this chapter. The following regulations are applicable to family day care homes:

- (1) Permitted by right: Agricultural, all residential districts, B-1, .
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(k)), 1-19-1998, Ord. 2023-15)

Sec. 130-533 Group child care center (nine or more children)*.

Group day care centers that meet the standards of Section 130-413 with more than nine children may be permitted as an accessory use by right only when located on a property whose principal land use is indoor institutional.

* **State law references:** Family day care homes, Wis. Stats. § 48.65 and Chapter DCF 250.

* **State law references:** Group child care center, Wis. Stats. § 48.65 and Chapter DCF 251.

- (1) Permitted by right: Within a building whose principal land use is designated as indoor institutional.

(Ord. No. 1997-18, § 13(17.70(8)(k)), 1-19-1998, Ord. 2023-15)

Sec. 130-534. Migrant labor camp.

Migrant labor camps include any facility subject to the regulations of Wis. Stats. § 103.90. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: Agricultural districts.
 - a. Such uses shall be surrounded by a bufferyard along all property lines adjacent to properties in residential, office or commercial zoning districts with a minimum opacity per section 130-270.
 - b. A migrant labor camp shall be an accessory use to an active principal use, under the same ownership, which is located within the city.
 - c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(m)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(m)), 9-8-1998)

Sec. 130-535. On-site parking lot.

On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed and operative. The following regulations are applicable to this use:

- (1) Permitted by right: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.
 - a. Access to an on-site parking lot shall only be permitted from a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
- (2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(n)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(n)), 9-8-1998, Ord. 2005-44)

Sec. 130-536. Exterior communication devices.

Exterior communication devices include uses such as satellite dishes, ham radio towers, TV antennas, etc. The following regulations are applicable to this use:

- (1) Permitted by right: All districts.
 - a. Exterior communication devices shall not be located in the excess front or street yards.

- b. Devices must be sited an equal or greater number of feet from any property lines as their maximum height.
- c. The applicant must demonstrate that all reasonable mechanisms have been used to mitigate safety hazards and the visual inputs of the device.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(o)), 1-19-1998)

Sec. 130-537. Drive-in financial institution.

Drive-in financial institutions are facilities that allow customers of banks, credit unions, and other financial institutions to conduct financial transactions while seated in their vehicles. Such land uses often have traffic volumes that exhibit their highest levels concurrent with peak traffic flows on adjacent roads. The following regulations are applicable to this accessory use, but not to the bank, credit union, or financial institution itself, which are considered a personal or professional service land use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-1, B-2, B-3, B-4, B-5.

- a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lanes.
- b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement or exacerbate the potential for pedestrian/vehicular conflicts.
- c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.
- d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.
- e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum four-ton axle load.
- f. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.
- g. Interior curbs shall be used to separate driving areas from exterior fixtures such as canopy supports and landscaped islands. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

- h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
- (3) Parking requirements: If the drive-in facility is not a window or windows in the building that contains the teller and service desks of the bank, credit union, or other financial institution, one space per 50 square feet of gross floor area. In any event, each drive-up lane shall have a minimum stacking length of 100 feet behind the pass-through window and 40 feet beyond the pass-through window. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(8)(p)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(p)), 9-8-1998; Ord. No. 2002-11, § 3, 11-12-2002, Ord. 2004-18, Ord. 2005-44)

Sec. 130-538. Outdoor commercial food and beverage service.

Outdoor commercial food and beverage service uses include the sale of food or beverages for on-site consumption on the premises of a restaurant or tavern. The following regulations are applicable to this use:

- (1) Permitted by right: Not applicable.
- (2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4
 - a. The size of the outdoor service area shall not be more than 100 percent of the floor area of the restaurant or tavern or 300 percent of the floor area in the B-2 Central Business District.
 - b. The outdoor service area shall lie within the same parcel as the restaurant or tavern and shall not lie within any public right of way.
 - c. The outdoor service area shall not lie within a required bufferyard or a required front, side, or rear yard setback.
 - d. If the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property, all borders of the outdoor service area that abut or would otherwise be visible from the residentially zoned property shall have a bufferyard with a minimum opacity per section 130-270.
 - e. If the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property, no person may occupy the outdoor service area after 9:30 PM.
 - f. No alcoholic beverages shall be served if the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property.
 - g. No alcoholic beverages shall be served unless the liquor, beer or wine license, whichever is applicable, as issued by the state of Wisconsin explicitly states that consumption is permitted within the outdoor service area.

- h. If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier (or other material as directed by alcohol licensing laws in the State of Wisconsin) shall be erected to prevent entry to the outdoor service area by any other means.
 - i. The restroom facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons, and no temporary toilet facilities will be permitted.
 - j. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to conditional uses.
- (3) Parking requirements: One space per every three patron seats, calculated on the sum of the indoor and outdoor patron seats. This requirement may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. 2005-14, Ord. 2024-04)

Sec. 130-539. Outdoor furnace.

An outdoor furnace is an apparatus designed to burn solid or liquid combustible materials (e.g., corn, ear corn, wood, wood pellets, coal, fuel oil) to produce heat and/or heat hot water for a building in which it is not located.

- (1) Permitted by right: A-1, A-2, A-3, RR, I-1, I-2, I-3
 - a. *Type of materials burned.* The following types of materials shall not be burned within an outdoor furnace (1) leaves, (2) rubbish or garbage, (3) waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code, (4) asphalt and products containing asphalt, (5) chemically-treated or painted wood, (6) any plastic material, (7) rubber and synthetic rubber-like products, (8) any material treated with petroleum products or chemicals, and (9) newspaper, corrugated cardboard, container board, paper, and other materials that must be recycled, except that such material may be used as a starter fuel.
 - b. *Performance.* An outdoor furnace shall comply with all applicable standards governing air quality and emissions as may be promulgated and amended by the United States Environmental Protection Agency and the Wisconsin Department of Natural Resources.
 - c. *Furnace certification.* An outdoor furnace shall be certified by a recognized product testing company such as UL, CSA, or ETL.
 - d. *Blower required.* An outdoor furnace shall be fitted with an electro-mechanical-draft combustion system.
 - e. *Heat exchanger.* An outdoor furnace shall be fitted with a secondary heat exchanger, also known as a two-pass heat exchanger.

- f. *Locking device.* An outdoor furnace shall have a child-proof locking device on the fire door or shall be in an enclosure with the access door having such a locking device.
- g. *Limits on when one can be used.* There are no limitations on when during the year an outdoor furnace can be used.
- h. *Placement.* An outdoor furnace shall not be placed closer than 50 feet to the property boundary line of the parcel on which it is located or within the building setback line. Furthermore, an outdoor furnace shall not be located in the front yard or in the street-side yard of a corner lot.
- i. *Separation from combustible materials.* An outdoor furnace shall maintain separation to combustible materials, such as LP tanks, consistent with standards of the National Fire Protection Association.
- j. *Venting stack.* The opening of the venting stack shall meet the standards in table 130-539(1)j. For the purpose of this section, if an adjoining residentially-zoned parcel is vacant, the minimum building setback line shall be used as the edge of the building and the height of the highest eave shall be 12 feet. If when the residential building is constructed the height of the eave is greater than 12 feet, the furnace operator shall at that time raise the stack so as to comply with the height standards in the table.

Table 130-159(1)j. Venting stack heights

Distance to Closest Residence Not Served By Furnace	Minimum Height
50 feet or less	The height of the highest eave of that residence plus 2 feet
More than 50 feet but less than 100 feet	75 percent of the height of the highest eave of that residence plus 2 feet
More than 100 feet but less than 150 feet	50 percent of the height of the highest eave of that residence plus 2 feet
More than 150 feet	25 percent of the height of the highest eave of that residence plus 2 feet

- k. *Manufacturer operating instructions.* Manufacturer operating instructions shall be followed except when in conflict with this section.
- l. *Installation requirements.* An outdoor furnace shall be installed by a licensed contractor consistent with the manufacturer instructions except when in conflict with this section.

- m. *Location of burnable stockpiles.* Stockpiles of burnable materials may be kept inside of a building or out of doors. If kept indoors, the building may not also house the outdoor furnace. If kept outdoors, the stockpiles shall be no closer than 25 feet to the property boundary line of the parcel on which it is located or within the building setback whichever is greater. Furthermore, if kept outdoors, the stockpiles shall not be located in the front yard or in the street-side yard of a corner lot.
 - n. *Storage of corn.* If corn, or other similar food stuff, is burned within an outdoor furnace, it shall be stored in a vermin-proof container.
 - o. *Building permit.* A building permit shall be obtained from the city building inspector prior to the establishment of an outdoor furnace.
- (2) Conditional use regulations: Not applicable
 - (3) Parking requirements: None
 - (4) Subsequent change in zoning designation: If a property owner submits an application to change the zoning designation of a parcel with an outdoor furnace to another designation that does not allow an outdoor furnace and the common council makes the requested change, the outdoor furnace shall cease to operate upon enactment of the ordinance changing the designation.
 - (5) Annual permit required. Prior to the establishment of this use and each year thereafter, the operator of the outdoor furnace shall obtain an annual permit from the city building inspector. The building inspector shall not issue an annual permit when the operator has failed to operate the furnace consistent with this section.

[Ord. 2006-36]

Sec. 130-540. Fences

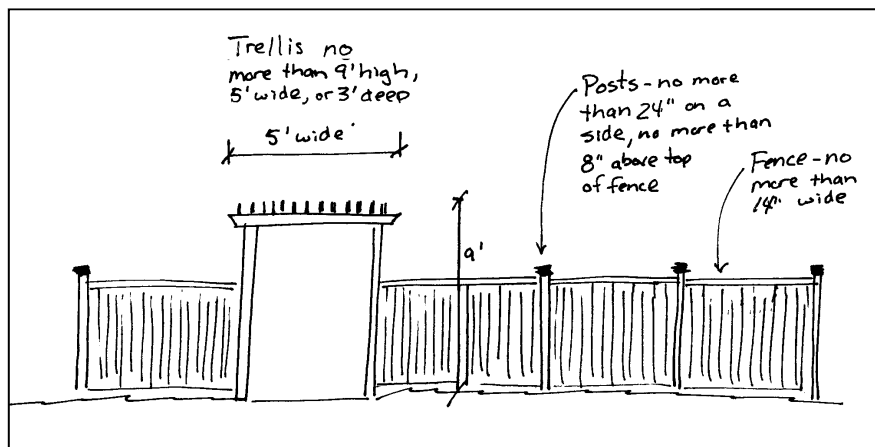
(a) *Applicability.*

The requirements of this section apply to fences more than 30 inches in height. All fences constructed or rebuilt after August 14, 2007, are subject to the provisions of this Section 130-540.

(b) *Measurement of fence height.*

The height of a fence shall be measured from the adjoining ground surface to the top of the fence material (not the fence post, pole, or column).

Exhibit 1. General construction specifications



(c) *Construction specifications.* A fence shall meet the following construction specifications, some of which are depicted in Exhibit 1:

(1) *Width.* With the exception of vertical supports, the width of a fence shall not exceed 14 inches.

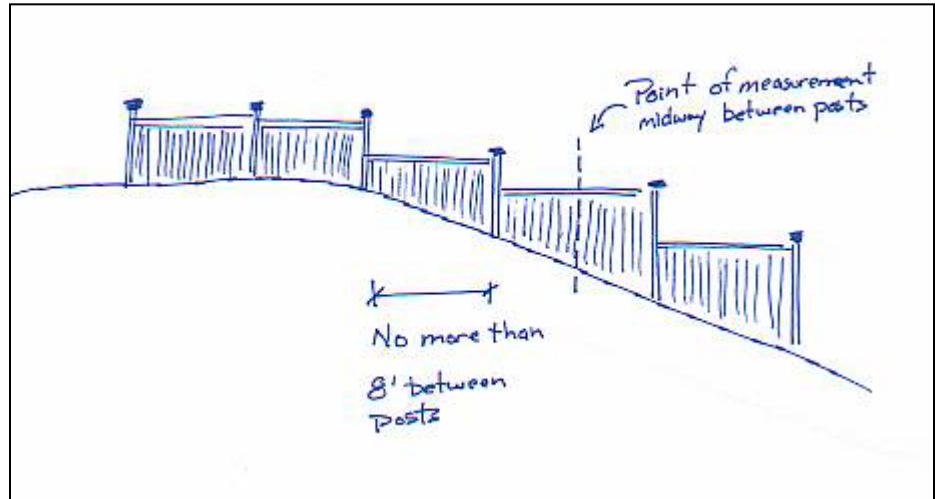
Exhibit 2. Maximum fence height

Location	Residential Zoning Districts	Commercial Zoning Districts	Industrial Zoning Districts
Front yard	3 feet	3 feet	8 feet
Side yard, street side	3 feet	3 feet	8 feet
Side yard (interior lot)	6 feet	6 feet	8 feet
Rear yard	6 feet	6 feet	8 feet

(2) *Height.* The top of a fence shall not exceed the height listed in Exhibit 2. Where a fence is located on a slope and is stepped, each section shall not be wider than 8 feet and the height shall be measured in the middle of the stepped section (Exhibit 3).

(3) *Orientation.* All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located.

Exhibit 3. Special standards for a stepped fence



(4) *Materials.* A fence shall be constructed of building materials commonly used for fence construction in the region, except for those specifically prohibited in this section. A fence located in a front yard or in a side yard that abuts a street right-of-way shall have a maximum opacity of 50 percent. All other fences may be solid from the ground to the maximum height. Snow fences constructed of wood and wire, and/or plastic shall be permitted only as temporary fences. Fences in the Historic Districts shall be 50% open in front and side yards.

(5) *Vertical support specifications.* A vertical support, such as a post or column, shall not exceed 24 inches in width or extend more than 24 inches above the top of the highest point of the adjoining fence.

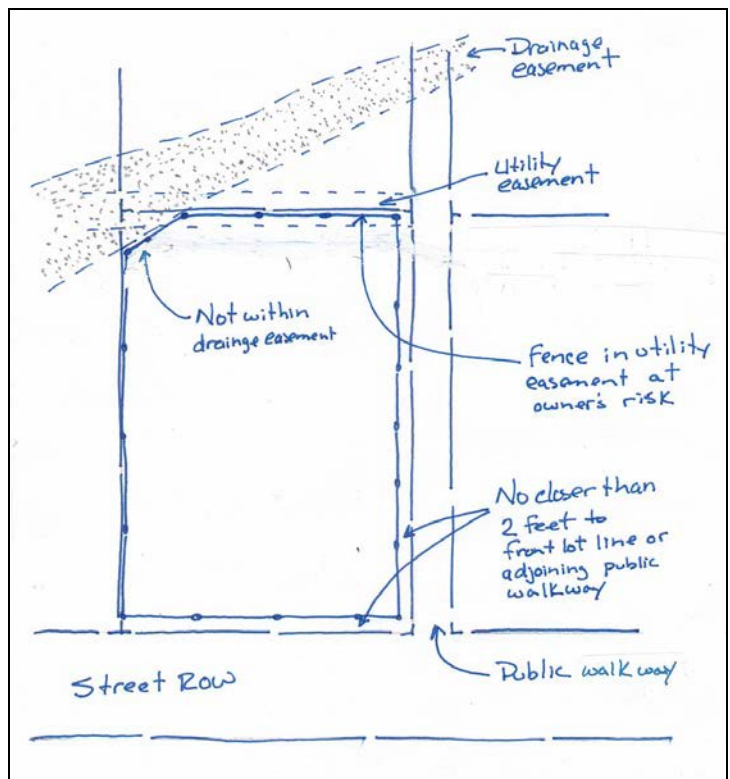
- (6) *Trellises*. A trellis may extend above a pedestrian walkway provided it is not taller than 9 feet, wider than 5 feet, or deeper than 3 feet.
- (7) *Arbors*. An arbor may be incorporated into the overall design of a fence provided no part is taller than 8 feet and does not extend for more than 10 percent of the length of the side on which it is located.
- (d) *Location specifications*. A fence shall meet the following locational specifications (Exhibit 4):
 - (1) A fence shall be located on the owner's side of a property line.
 - (2) A fence shall not be closer than 2 feet to the front lot line or other property boundary line when adjoining a pedestrian walkway or the like.
 - (3) A fence may be placed within a utility easement with the understanding that the utility authority may remove such fence at the property owner's expense and is not liable for any damage to the fence or the reconstruction of the fence.
 - (4) A fence shall not be located within a drainage easement. Upon written petition, the building inspector may allow a fence in a drainage easement when it can be shown that the fence will not restrict the flow of storm water.

(e) *Special standards for fencing around a swimming pool*. A fence may be located around a swimming pool provided it meets the standards in the most current edition of ANSI/IAF-8 as promulgated by the American National Standards Institute and Association of Pool and Spa Professionals that relate to barriers and fencing.

(f) *Special standards for fencing around a tennis court and the like*. A fence may be located around a tennis court, basketball court, volleyball court, or other sports-related court, provided it meets the following standards:

- (1) The fence shall not exceed 12 feet in height.
- (2) The fence shall not be located within a setback line.
- (3) Any portion of the fence above 6 feet in height shall be an open woven wire.

Exhibit 4. Locational specifications



(g) *Special standards for temporary fencing.* A temporary fence may be used for the duration of a construction project with a valid building permit.

(h) *Solid masonry fencing.* A solid masonry fence shall not impede the natural flow of storm water.

(i) *Barbed wire fencing.* Barbed wire fencing is prohibited except as follows:

(1) Three courses of barbed wire may be installed above the top line of a 6-foot high chainlink fence when located in an industrial zoning district.

(2) Barbed wire may be used when in an agriculturally zoned district.

(j) *Electric fencing.* Electrically-charged fencing is prohibited except that the building inspector may allow it in an agricultural district when used to retain animals and it will not pose a safety hazard.

(k) *Maintenance.* A fence shall be maintained in a structurally sound manner.

(Ord. No. 2007-10, Ord. 2023-15)

Sec. 130-541. Chicken Keeping

Chicken keeping includes accommodating and raising chickens, defined as a domestic fowl of the subspecies *Gallus gallus domesticus*, in covered enclosures (coops) and fenced enclosures (runs). Chicken keeping is considered an accessory use. The following regulations are applicable to this use:

(1) Permitted by Right: Not Applicable

(2) Special use regulations in Residential Districts, R-1:

a. No more than six (6) chickens (female only) on a lot containing a single-family dwelling only.

b. Not allowed on residential lots containing two (2) or more dwelling units.

c. Keeping of roosters is prohibited.

d. Slaughter of chickens is prohibited on site.

e. The chickens shall be provided with and kept in a structurally sound covered enclosure (coop) and an attached fence enclosure (run). The enclosures must be maintained in good repair and kept free from rodents and other vermin. The fence of the run shall be of sufficient opacity or webbing to contain a chicken.

f. The coop and run shall be located in a rear yard only and shall be a minimum of ten (10) feet from any residential structure or any adjacent lot. The coop and run shall not be located in side, street side or front yards, or setback areas.

g. The total area of the coop and run shall not exceed one-hundred fifty (150) square feet in footprint area and ten (10) feet in height. The total area of the coop shall be a minimum of four (4) square feet per chicken. The total area

of the run shall be a minimum of six (6) square feet per chicken. The coop and run are considered an accessory building as defined in Section 130-6.

- h. Chickens shall not be allowed to be kept within a residential dwelling or garage.
- i. Any electrical work on or in the coop and run requires an electrical permit from the building inspector.
- j. Any chickens not contained within the coop or run shall be subject to the provisions of Sec. 14-3. Running at Large. The City reserves the right to apply other provisions in Section 14 as may be appropriate to regulate the keeping of chickens.
- k. A Chicken Keeping Permit shall be approved and issued after:
 - (3) An application for a permit to construct, erect, alter, remodel or add a coop or run is submitted in writing to the City Inspector for approval before any work begins.
 - (4) No work or any part of the work shall be commenced until a written permit for such work is obtained.
 - (5) Before coop and run can be occupied by chickens, the City Inspector shall do a final on-site inspection.
 - (6) An application for a permit is renewed yearly.
 - (7) Initial and renewal permits shall pay a fee as determined from time to time by Common Council, but not less than Twenty (20) Dollars.
 - (8) Renewals of Chicken Keeping permits shall be denied if the applicant has been documented and notified of being in violation of Section 130-541 and/or Chapter 14 in the previous six (6) months.

(Ord. No. 2016-18, Ord. 2023-15)

Secs. 130-542--130-560. Reserved.

DIVISION 10. TEMPORARY LAND USES

Sec. 130-561. General temporary outdoor sales.

General temporary outdoor sales uses include the display of any items outside the confines of a building which is not otherwise permitted as a permitted or conditional use, or a special event otherwise regulated by this Code. Examples of this land use include but are not limited to seasonal garden shops, tent sales, and bratwurst stands. Garage sales are exempt from the provisions of this chapter, but shall comply with the requirements of this Code. This use is a permitted temporary use in B-1, B-2, B-3, B-4, and B-5 districts. Temporary use regulations are as follows:

- (1) Display shall be limited to a maximum of 12 days in any calendar year.
- (2) Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- (3) Signage shall comply with the requirements for temporary signs.
- (4) Adequate parking shall be provided.
- (5) If the subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.

(Ord. No. 1997-18, § 13(17.70(9)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-562. Outdoor assembly.

Outdoor assembly uses include any organized outdoor assembly of more than 100 persons. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

- (1) Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- (2) Signage shall comply with the requirements for temporary signs.
- (3) Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the application.
- (4) If the subject property is located adjacent to a residential area, activities shall be limited to daylight hours.
- (5) Adequate provisions for crowd control shall be made, and shall be described within the application.

(Ord. No. 1997-18, § 13(17.70(9)(b)), 1-19-1998)

Sec. 130-563. Contractor's project office.

Contractor's project office uses include any structure containing an on-site construction management office for an active construction project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

- (1) The structure shall not exceed 2,000 square feet in gross floor area.
- (2) The facility shall be removed within ten days of issuance of the occupancy permit.
- (3) The facility shall not be used for sales activity. (See section 130-566.)
- (4) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(9)(c)), 1-19-1998)

Sec. 130-564. Contractor's on-site equipment storage facility.

Contractor's on-site equipment storage facilities include any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

- (1) The facility shall be removed within ten days of issuance of the occupancy permit.
- (2) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.
- (3) Such use shall be limited to a maximum area not exceeding ten percent of the property's gross site area.

(Ord. No. 1997-18, § 13(17.70(9)(d)), 1-19-1998)

Sec. 130-565. Relocatable building.

Relocatable buildings include any manufactured building that serves as a temporary building for less than six months. Facilities serving for more than six months shall be considered conditional uses and subject to the general standards and procedures presented in article II, division 4 of this chapter. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

- (1) Such uses shall conform to all setback regulations.
- (2) Such uses shall conform to all building code regulations.

(Ord. No. 1997-18, § 13(17.70(9)(e)), 1-19-1998)

Sec. 130-566. On-site real estate sales office.

On-site real estate sales offices include any building that serves as an on-site sales office for a development project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

- (1) The structure shall not exceed 5,000 square feet in gross floor area.
- (2) The facility shall be removed or converted to a permitted land use within ten days of the completion of sales activity.

- (3) Signage shall comply with the requirements for temporary signs.
- (4) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(9)(f)), 1-19-1998)

Sec. 130-567. Seasonal outdoor sales of farm products.

Seasonal outdoor sales of farm products include any outdoor display of farm products not otherwise regulated by this Code. This use is a permitted temporary use in B-1, B-2, B-3, B-4, B-5 and I-1 districts. Temporary use regulations are as follows:

- (1) Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- (2) Signage shall comply with the requirements for temporary signs.
- (3) Adequate parking shall be provided.
- (4) If the subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.

(Ord. No. 1997-18, § 13(17.70(9)(g)), 1-19-1998, Ord. 2005-44)

Sec. 130-568. Sidewalk cafés.

Sidewalk cafés include an area on a sidewalk or similar area within the public right-of-way where food is served and which is associated with a restaurant. The provisions of this section are intended to accomplish the following purposes: enhance the pedestrian ambiance of the city by promoting additional activity on city sidewalks and visual interest, enhance the appropriate use of existing public spaces; and increase economic activity in the area. This use is a permitted use in the B-2 district. Temporary use regulations are as follows:

- (1) *Location.* A sidewalk café shall be located directly in front of the restaurant with which it is associated and it shall be operated solely in conjunction with such restaurant.
- (2) *Obstructions.* A sidewalk café may not interfere with any public service facilities located within the street right-of-way, including public telephones, mailboxes, public signs, public benches, public art, public fountains, and bus stops. In addition, a sidewalk café may not interfere with fire escapes, drop ladders, building access points, and other points of normal or emergency access.
- (3) *Pedestrian movement.* No portion of the sidewalk café may impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement.
- (4) *Planters.* Planters may be used as a visual amenity and to frame off the space allocated for the sidewalk café. The size of plant materials shall be compatible in scale with the immediate area. Hanging planters are not permitted.

- (5) *Lighting.* Lighting shall be limited to tabletop lamps of low intensity. The city administrator may allow additional lighting to provide appropriate levels for safety.
- (6) *Furnishings.* All furnishings shall fit the character of a public streetscape. Umbrellas over each table may be permitted if it does not create an obstruction.
- (7) *Floor covering.* A floor covering may not be used in the sidewalk café.
- (8) *Tables.* Round tables may not exceed 36 inches in diameter and square tables may not exceed 36 inches in width.
- (9) *Food preparation.* All food shall be prepared within the restaurant.
- (10) *Alcoholic beverages.* No alcoholic beverages may be served or consumed in the sidewalk café unless the proper licenses have been issued under Sec. 6-2, Sec. 6-43, and or Sec. 106-163.
- (11) *Off-street parking requirements:* One space per every three patron seats, calculated on the sum of the indoor and outdoor patron seats. This requirement may be waived by the plan commission, following a request from the applicant.

[Ord. 2005-21, Ord. 2022-05]

Secs. 130-569--130-610. Reserved.

ARTICLE VI. USE RESTRICTIONS

Sec. 130-611. Generally.

The use restrictions and regulations set forth in this article shall apply for purposes of this chapter.

(Code 1986, § 17.22)

Sec. 130-612. Permitted uses.

Only those principal uses specified, their essential services, and the uses enumerated in sections 130-613--130-616 shall be permitted in a district.

(Code 1986, § 17.22(1))

Sec. 130-613. Accessory uses.

Accessory uses and structures are permitted as provided in article V of this chapter, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry.

(Code 1986, § 17.22(2))

Sec. 130-614. Conditional uses.

Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the city plan commission and issuance of a conditional use permit in accordance with article II, division 4 of this chapter.

(Code 1986, § 17.22(3))

Sec. 130-615. Unclassified or unspecified uses.

Unclassified or unspecified uses may be permitted by the city plan commission provided such uses are similar in character to the principal uses permitted in the district.

(Code 1986, § 17.22(4))

Sec. 130-616. Temporary uses.

Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure are permitted in accordance with article V of this chapter.

(Code 1986, § 17.22(5))

Sec. 130-617. Compliance with performance standards.

Performance standards as listed in this chapter shall be complied with by all uses in all districts.

(Code 1986, § 17.22(6))

Sec. 130-618. Soil restrictions.

Certain soil types in the city, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, have severe or very severe limitations for on-site soil absorption sewage disposal facilities because of one or more of the following reasons: high or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock. The county standard soils survey prepared by the U.S. Soil Conservation Service is adopted by reference as a determining factor in land use decisions. When a question arises as to the accuracy of a soil mapping unit, an intensive soil survey of the site in question shall be requested from the county sanitarian and/or a soil scientist from the Soil Conservation Service by either the city or the applicant.

(Code 1986, § 17.22(7))

Secs. 130-619--130-640. Reserved.

ARTICLE VII. NONCONFORMING USES, STRUCTURES AND LOTS

Sec. 130-641. Continuation of nonconforming use.

The lawful nonconforming use of a structure, land, or water existing at the time of adoption of the ordinance from which this chapter is derived or at the time of amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; however:

- (1) Only that portion of the land or water in actual use may be so continued, and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.
- (2) Total lifetime structural repairs or alterations shall not exceed 50 percent of the assessed value of the structure unless it is permanently changed to conform to the use provisions of this chapter.
- (3) Substitution of new equipment may be permitted by the board of appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(Code 1986, § 17.23(1))

Sec. 130-642. Discontinuance of nonconforming use; replacement of damaged structure.

(a) *Discontinuance of a nonconforming use.* Except as provided in paragraph C of this section, if a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter.

(b) *Damage to a nonconforming structure.* When a nonconforming structure is damaged by violent wind, vandalism, fire, explosion, flood, ice, snow, mold, infestation, the public enemy or other calamity after March 2, 2006, it may be restored to its condition immediately prior to the damage except that the structure may be larger when necessary to comply with state or federal requirements. Upon petition of the property owner, the plan commission may authorize restoration that is different than its condition immediately prior to the date of the event, provided such deviation results in less of a nonconforming situation.

(c) *Damage to a structure housing a nonconforming use.* When a structure, whether conforming or nonconforming, that houses a nonconforming use is damaged by violent wind, vandalism, fire, explosion, flood, ice, snow, mold, infestation, the public enemy or other calamity after January 1, 2005, the nonconforming use may resume provided each of the following conditions are met:

- (1) the restoration of the structure is complete within 18 months following the date of the event;
- (2) the nonconforming use resumes immediately following the completion of the restoration; and
- (3) the area of the structure devoted to the nonconforming use does not exceed the area it occupied prior to the date of the event.

Upon petition of the property owner, the plan commission may authorize a one-time extension of 18 months.

(Code 1986, § 17.23(2), Ord. 2005-43, Ord. 2006-6)

Sec. 130-643. Continuation of nonconforming structure.

A lawful nonconforming structure existing at the time of adoption of the ordinance from which this chapter is derived or at the time of amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.

(Code 1986, § 17.23(3))

Sec. 130-644. Change to conforming use or structure; substitution of more restrictive use.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the plan commission has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the plan commission.

(Code 1986, § 17.23(4))

Sec. 130-645. Substandard lots.

Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record in the county register of deeds office before December 27, 1955, such lot may be occupied by one family so long as setback requirements for the district within which it is located can be met. Such lot shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter.

Sec. 130-646. Special provisions for preexisting and nonconforming outdoor furnaces.

Within 90 days of enactment of this section, preexisting and nonconforming outdoor furnaces shall meet the following as outlined in Section 130-539:

- (1) types of material burned (1) a
- (2) performance (1) b
- (3) locking device (1) f
- (4) venting stack (1) i
- (5) manufacturer operating instructions (1) j
- (6) location of burnable stockpiles (1) l
- (7) storage of corn (1) m
- (8) annual permit (5)

(Code 1986, § 17.23(5), Ord. 2006-36)

Secs. 130-647--130-670. Reserved.

ARTICLE VIII. DISTRICTS

DIVISION 1. GENERALLY

Sec. 130-671. Established.

For the purpose of this chapter, the city is divided into the following zoning districts:

- Agricultural District One (A-1).
- Agricultural District Two (A-2).
- Agricultural District Three (A-3).
- Local Business District (B-1).
- Central Business District (B-2).
- Community Business District (B-3).
- Regional Business District (B-4).
- Special Use Business District (B-5).
- Lowland Conservancy District (C-1).
- Highland Conservation District Two (C-2).
- Rural Residential District (RR).
- Residential District One (R-1).
- Residential District Two (R-2).
- Residential District Three (R-3).
- Planned Unit Development District (PUD).
- Mobile Home Parks District (MHP).
- Historic Conservation Overlay District (HC).
- Special Purpose District (SP).
- Light Industrial District (I-1).
- Heavy Industrial District (I-2).
- Special Industrial District (I-3).
- Large Lot Urban Residential District (LL-R12).
- Large Lot Urban Residential District (LL-R15).
- Planned Office District (O-1).
- Groundwater Protection Overlay District (GP).
- Traditional Neighborhood Development District (TND).

(Code 1986, § 17.25, Ord. 2005-44, Ord. 2005-53)

Sec. 130-672. Zoning map.

The location and boundaries of the zoning districts are established as shown on the map entitled "Official Zoning Map, City of Evansville, Wisconsin," dated May 9, 1978, as amended, which accompanies and is made part of this chapter. All notations and references shown on the zoning map are as much a part of this chapter as though specifically described in this chapter.

(Code 1986, § 17.26(1))

Sec. 130-673. District boundaries.

The following rules shall apply with respect to the boundaries of the zoning districts as shown on the zoning maps:

- (1) Where zoning district boundary lines are indicated as following streets or alleys or extensions thereof, such boundary lines shall be construed to be the centerlines of such streets or alleys or extensions thereof, unless clearly shown to the contrary.
- (2) Where a boundary line coincides approximately but not exactly with a lot line which existed on the effective date of incorporation of such boundary line into the zoning map, the boundary line shall be construed to be the lot line at that location.
- (3) For unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by the use of the scale shown on such map.
- (4) Where any uncertainty exists as to the exact location of zoning district boundary lines, the zoning board of appeals, upon written application, shall determine the location of such boundary lines.

(Code 1986, § 17.27)

Sec. 130-674. Zoning of annexed land.

Annexation of property to the city and the zoning of such property shall proceed according to Chapter 16 of this Code.

(Code 1986, § 17.28, Ord. 2012-19)

Sec. 130-675. General regulations.

The following regulations set forth requirements that usually do not apply uniformly throughout the city, but rather cover things that are applicable to one or more districts:

- (1) *Erection of more than one principal structure on lot.* In any district, no more than one principal structure housing a permitted or conditional use may be erected on a single lot, except for group development as otherwise permitted under this chapter.

- (2) *Exceptions to height regulations.* The height limitations in the requirements for permitted and conditional uses do not apply to spires, belfries, cupolas, antennas, water tanks, fire towers, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (3) *Structures to have access.* Every residential building hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- (4) *Parking and storage of motorized vehicles or trailers.* No occupied or unoccupied motorized vehicle or trailer shall be parked on the terrace (right-of-way) or ordinarily considered frontage, except on a designated paved or gravel surface, of a residential zoned property.
- (5) *Setback exceptions.* A setback less than the setback required by this chapter may be permitted:
 - (a) Where there are at least five existing main buildings existing on June 1, 1978, within 500 feet of the proposed site that are built to less than the required setback. In such case, the setback shall be the average of the nearest main building on each side of the proposed site or, if there is no building on one side, the average of the setback for the main building on one side and the required setback. Such setback shall be granted by a permit from the city plan commission and shall not require a special exception or variance.
 - (b) For bay windows, architectural features, roof overhangs, chimneys, window wells, or similar less than 24"
 - (c) For covered open porches areas in the front yard at least 25 square feet, but not exceeding 75 square feet in size and not closer than 10 feet from front lot line or sidewalk.
- (6) *Loading and unloading space.* In commercial or industrial districts, sufficient space for loading or unloading of vehicles shall be provided off the highway in connection with any commercial or industrial use so the highway shall at all times be free and unobstructed to the passage of traffic.
- (7) *Lots.* Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such on June 1, 1978, such lot may be occupied by one family.
- (8) *Vacation of streets and alleys.* Vacation of public streets, alleys and rights-of-way shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (9) *Underground utility lines.* Utility lines which will serve individual lots, to include electric lines under 12,000 volts, cable TV, telephone, natural gas, etc., shall be installed underground within the utility easements shown on the map required by the building permit.

- (10) *Overhead utility lines.* No overhead power, telephone or telegraph lines shall be erected within one-half mile of any boundary of the site of any airport, landing field, or landing and takeoff strip.
- (11) *Mobile homes.* Mobile homes (both singlewide and doublewide) are allowed only in mobile home parks, except when converted to a single-family dwelling according to section 78-1.
- (12) *Soil designations.* Soil designations used in this chapter are from the Soil Survey for Rock County, Wisconsin, by the U.S. Department of Agriculture, Soil Conservation Service.

(Code 1986, § 17.24; Ord. No. 2000-9, § 1(17.24(4)), 9-12-2000, Ord. 2020-13)

Secs. 130-676--130-700. Reserved.

DIVISION 2. AGRICULTURAL DISTRICT (A)*

Sec. 130-701. Purpose and intent; soil types.

The purpose of the A district is to provide a transitional district within the City for large parcels of land that will eventually be subdivided and developed under residential, business, or industrial zoning. Land planned for long-term or permanent agricultural use should remain outside the City. This district exclusively provides for agricultural uses and uses compatible with agriculture. The intent of this district is to allow for the orderly transition of agricultural land that has been annexed to the City to its planned future land use under the City's Comprehensive Plan, while preventing uncontrolled, uneconomical spread of residential development which results in excessive public service costs to the community.

(Code 1986, § 17.29(1), Ord. 2012-18)

Sec. 130-702. Uses permitted by right.

The following uses are permitted in the A district:

- (1) Cultivation (per section 130-341).
- (2) On-site agricultural retail uses (per section 130-345).
- (3) Selective cutting (per section 130-346).
- (4) Passive outdoor public recreational uses (per section 130-371).

(Code 1986, § 17.29(2), Ord. 2012-18)

Sec. 130-703. Uses permitted as conditional use.

The following conditional uses shall be allowed in the A-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Husbandry (per section 130-342).
- (2) Intensive agriculture (per section 130-343).
- (3) Agricultural service uses (per section 130-344).
- (4) Clear cutting (per section 130-347).
- (5) Public service and utilities uses (per section 130-375).
- (6) Commercial animal boarding (per section 130-410).

* **Cross references:** Animals, ch 14.

- (7) Campground (per section 130-414).
- (8) Composting (per section 130-456).
- (9) Railroad line (per section 130-485).
- (10) Communications tower (per section 130-503).
- (11) Extraction uses (per section 130-504).

(Code 1986, § 17.29(3), Ord. 2005-44, Ord. 2012-18)

Sec. 130-704. Uses permitted as accessory uses.

Land uses permitted as accessory uses in the A-1 district are as follows:

- (1) *Land uses permitted by right:*
 - a. Outdoor furnace (per section 130-539).
 - b. Farm residence (per section 130-523).
 - c. Detached garage, carport, utility shed, play structure or lawn ornament (per section 130-524).
 - d. Home occupation (per section 130-531).
 - e. Family day care (four to eight children) (per section 130-532).
 - f. Exterior communication devices (130-536).

- (2) *Land uses permitted as conditional use:*
 - a. Intermediate day care home (nine to fifteen children) (per section 130-533).
 - b. Migrant labor camp (per section 130-534).

[Ord. 2006-36, Ord. 2012-18]

Sec. 130-705. Requirements for all uses.

Within the A district, the following standards shall apply:

- (1) Minimum lot size: 20 acres.
- (2) Maximum building height: 35 feet for residential structures; on-site agricultural retail structures are limited to a height of 12 feet; no maximum for other structures.
- (3) Minimum front yard setback: 50 feet.
- (4) Minimum rear yard setback: 50 feet.
- (5) Minimum side yard:
 - a. Principal buildings: 20 feet on each side.

- b. Accessory buildings: Ten feet on each side.
 - (6) Minimum street side:
 - a. Principal buildings: 50 feet.
 - b. Accessory buildings: 20 feet.
 - (7) Minimum lot width at front setback line: 150 feet.
- (Code 1986, § 17.29(4), Ord. 2006-36, Ord. 2012-18)

Secs. 130-706--130-720. Reserved.

DIVISION 5. LOCAL BUSINESS DISTRICT (B-1)*

Sec. 130-761. Intent and purpose.

(a) *Description.* The B-1 district is intended to permit small-scale neighborhood commercial development which is compatible with the desired overall neighborhood community character of the area in general, and with adjacent residential development in particular. The desired neighborhood community character of the development is attained through landscape surface area ratio requirements, and by restricting the maximum building size of all buildings within each instance of this district to 5,000 square feet per floor with no more than two stories. Significant areas of landscaping are required in this district to ensure that this effect is achieved.

(b) *Rationale.* This district is used to provide both convenience-oriented goods and services and for the permanent protection of adjacent residential areas by permitting only a limited range of commercial activities. Together, these requirements ensure that the desired character is maintained as long as the B-1 district designation is retained, regardless of how much development occurs within that area.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(1)), 1-19-1998, Ord. 2006-11)

Sec. 130-762. Uses permitted by right.

Land uses permitted by right in the B-1 district are as follows:

- (1) Single-family and two family uses (per section 130-321).
- (2) Twin house/duplex (per section 130-321).
- (3) Cultivation (per section 130-341).
- (4) Selective cutting (per section 130-346).
- (5) Passive outdoor public recreation (per section 130-371).
- (6) Active outdoor public recreation (per section 130-372).
- (7) Indoor institutional uses (per section 130-373).
- (8) Public services and utilities (per section 130-375).
- (9) Office (per section 130-401).
- (10) Personal or professional services (per section 130-402).
- (11) Indoor sales or service (per section 130-403).
- (12) Indoor maintenance service (per section 130-405).
- (13) Group day care center (nine or more children) (per section 130-413).
- (14) Commercial Apartment (per section 130-522).

* **Cross references:** Businesses, ch 22.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(a)), 1-19-1998, Ord. 2024-04)

Sec. 130-763. Uses permitted as conditional use.

Land uses permitted as conditional uses in the B-1 district are as follows:

- (1) Two-flat (per section 130-321).
- (2) Townhouse (per section 130-321).
- (3) Multiplex (per section 130-321).
- (4) Apartment (per section 130-321).
- (5) Institutional residential uses (per section 130-322).
- (6) Clear cutting (per section 130-347).
- (7) Outdoor institutional uses (per section 130-374).
- (8) Community living arrangement (one to eight residents) (per section 130-377).
- (9) Community living arrangement (nine to 15 residents) (per section 130-378).
- (10) Community living arrangement (16 or more residents) (per section 130-379).
- (11) Indoor commercial entertainment (per section 130-408).
- (12) Bed and breakfast establishments (per section 130-412).
- (13) Boardinghouse (per section 130-415).
- (14) Group development (per section 130-418).
- (15) Gas station/convenience store/food counter (per section 130-419).
- (16) Railroad line (per section 130-485).
- (17) Artisan studio (per section 130-423).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(b)), 1-19-1998, Ord. 2005-44, Ord. 2007-4, Ord. 2024-04)

Sec. 130-764. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-1 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Home occupation (per section 130-531).
 - d. Exterior communication devices (per section 130-536).
- (2) *Land uses permitted as conditional use.*
 - a. Commercial apartment (per section 130-522).

- b. Drive-in financial institution (per section 130-537).
- c. Outdoor commercial food and beverage service (per section 130-538).
- d. Communication tower (per section 130-503).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32((2)(c))), 1-19-1998, Ord. 2005-14, Ord. 2009-06)

Sec. 130-765. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-1 district are as follows:

- (1) General temporary outdoor sales (per section 130-561).
- (2) Outdoor assembly (per section 130-562).
- (3) Contractor's project office (per section 130-563).
- (4) Contractor's on-site equipment storage (per section 130-564).
- (5) Relocatable building (per section 130-565).
- (6) On-site real estate sales office (per section 130-566).
- (7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(d))), 1-19-1998)

Sec. 130-766. Requirements for all uses.

Within the B-1 district, the following standards shall apply:

- (1) Maximum zoning district: Two acres.
- (2) Maximum building size: 5,000 square feet per floor, with no more than two stories.
- (3) No parking is permitted in required setbacks for principal buildings.
- (4) Residential architectural and landscaping requirements include foundation planting, pitched roof, 15 percent window covering, and natural materials (brick, wood, or stone).
- (5) Minimum landscape surface ratio: 25 percent for one-story; 30 percent for two-story.
- (6) Operating hours: No earlier than 6:00 a.m. and no later than 11:00 p.m.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(1))), 1-19-1998, Ord. 2023-15)

Sec. 130-767. Requirements for residential uses.

The following regulations are applicable to residential uses in the B-1 district:

- (1) Residential density and intensity requirements for institutional residential development:
 - b. Minimum landscape surface ratio: 50 percent.

- c. Maximum building coverage: 40 percent.
 - d. Maximum accessory building coverage: Ten percent.
 - e. Maximum building size: 5,000 square feet.
- (2) Residential requirements:
- a. For single-family and two-family dwellings: see the R-2 district regulations.
 - b. For townhouses, multiplexes, apartments, and residential uses with more than one principal building see the R-3 district regulations.
 - c. For institutional residential development, see the B-3 community business district regulations.
- (3) Residential landscaping requirements:
- a. Single Family: not applicable.
 - b. Two-family and multifamily residential uses: see Section 130-768(6)

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(3)), 1-19-1998)

Sec. 130-768. Requirements for nonresidential uses.

The following regulations are applicable to nonresidential uses in the B-1 district:

- (1) Nonresidential intensity requirements:
- a. Maximum number of floors: Two.
 - b. Minimum landscape surface ratio: 30 percent.
 - c. Maximum floor area ratio: 0.275.
 - d. Minimum lot area: 7,500 square feet.
 - e. Maximum building size: 5,000 square feet.
- (2) Nonresidential bulk and lot dimension requirements:
- a. Minimum lot area: 7,500 square feet.
 - b. Minimum lot width: 75 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
- a. Building to front lot line: 10 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - i. Building to street side lot line: 15 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: 10 feet.
 - c. Building to residential rear lot line: 30 feet.

- d. Building to nonresidential side lot line: Not applicable.
 - e. Building to nonresidential rear lot line: 12 feet.
 - f. Minimum paved surface setback: 5 feet from side or rear; 10 feet from street.
 - g. Minimum building separation: 10 feet or zero feet on the zero lot line side where two nonresidential structures are adjacent.
 - h. Minimum accessory building setback: 5 feet.
- (4) Maximum building height: 35 feet.
- (5) Driveways and Access
- a. Maximum driveway width at sidewalk: 25 feet
 - b. One driveway allowed per street on which lot has frontage
- (6) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.
- (7) Landscaping requirements
- a. Forty landscaping points per 100 linear feet of building foundation.
 - b. Fifteen landscaping points per 1,000 square feet of gross floor area.
 - c. Forty landscaping points per 100 linear feet of street frontage.
 - d. Eighty landscaping points per 10,000 square feet of paved area/20 stalls.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(4)), 1-19-1998, Ord. 2005-1, Ord. 2023-15)

Secs. 130-769--130-790. Reserved.

DIVISION 6. CENTRAL BUSINESS DISTRICT (B-2)*

Sec. 130-791. Intent and purpose.

(a) *Description.* The B-2 district is intended to permit both large- and small-scale downtown commercial development at an intensity which provides significant incentives for infill development, redevelopment, and the continued economic viability of existing development. A wide range of office, retail, and lodging land uses are permitted within this district. No requirements for on-site landscaping or parking are required in this district, except that land uses permitted as conditional uses shall require a parking waiver from the plan commission following a request from the applicant. This district is strictly limited to the central city locations.

(b) *Rationale.* This district is intended to provide an alternative primarily infill development designation for commercial activity to the community business (B-3) and regional business (B-4) districts and is designed to assist in maintaining the longterm viability of the central city.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(1)), 1-19-1998, Ord. 2006-11)

Sec. 130-792. Uses permitted by right.

Land uses permitted by right in the B-2 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Active outdoor public recreation (per section 130-372).
- (5) Indoor institutional uses (per section 130-373).
- (6) Public services and utilities (per section 130-375).
- (7) Office (per section 130-401).
- (8) Personal or professional services (per section 130-402).
- (9) Indoor sales or service (per section 130-403).
- (10) Indoor maintenance service (per section 130-405).
- (11) Off-site parking lot (per section 130-481).
- (12) Artisan Studio (per section 130-423).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(a)), 1-19-1998, Ord. 2007-4)

Sec. 130-793. Uses permitted as conditional use.

* **Cross references:** Businesses, ch 22.

Land uses permitted as conditional uses in the B-2 district are as follows:

- (1) Clear cutting (per section 130-347).
- (2) Outdoor institutional uses (per section 130-374).
- (3) Institutional residential uses (per section 130-376).
- (4) Indoor commercial entertainment (per section 130-408).
- (5) Commercial indoor lodging (per section 130-411).
- (6) Bed and breakfast establishment (per section 130-412).
- (7) Group day care center (nine or more children) (per section 130-413).
- (8) Boardinghouse (per section 130-415).
- (9) Group development (per section 130-418).
- (10) Special central business district commercial/residential uses (per section 130-421).
- (11) Community living arrangement (one to eight residents) (per section 130-377).
- (12) Community living arrangement (nine to 15 residents) (per section 130-278).
- (13) Community living arrangement (16 or more residents) (per section 130-379).
- (14) Railroad line (per section 130-485).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(b)), 1-19-1998, Ord. 2005-28, Ord. 2005-44)

Sec. 130-794. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-2 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Commercial apartment (per section 130-522).
 - b. Farm residence (per section 130-523).
 - c. Private residential garage or shed (per section 130-524).
 - d. Company cafeteria (per section 130-525).
 - e. Home occupation (per section 130-531).
 - f. On-site parking lot (per section 130-535).
 - g. Exterior communication devices (per section 130-536).
- (2) *Land uses permitted as conditional use.*
 - a. Company-provided on-site recreation (per section 130-526).
 - b. Light industrial use incidental to indoor sales (per section 130-530).
 - c. Drive-in financial institution (per section 130-537).

- d. Outdoor commercial food and beverage service (per section 130-538).
- e. Communication tower (per section 130-503).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(c)), 1-19-1998, Ord. 2005-14, Ord. 2009-06)

Sec. 130-795. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-2 district are as follows:

- (1) General temporary outdoor sales (per section 130-561).
- (2) Outdoor assembly (per section 130-562).
- (3) Contractor's project office (per section 130-563).
- (4) Contractor's on-site equipment storage (per section 130-564).
- (5) Relocatable building (per section 130-565).
- (6) On-site real estate sales office (per section 130-566).
- (7) Outdoor sales of farm products (per section 130-567).
- (8) Sidewalk café (per section 130-568).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(d)), 1-19-1998d, Ord. 2005-21)

Sec. 130-796. Architectural requirements.

(a) *General requirements.* In the B-2 district, nonresidential construction, including new structures, building additions, building alterations, and restoration or rehabilitation shall correspond to the downtown design guidelines as determined by the plan commission and as evidenced by certain existing structures within the downtown area and by the requirements set forth in this section for building setback, height, building mass, horizontal rhythms (created by the placement and design of facade openings and related elements such as spiers and columns), vertical rhythms (created by the placement and design of facade details such as sills, transoms, cornices and sign bands), roof forms, exterior materials, exterior surface features and appurtenances, exterior colors, exterior signage, on-site landscaping, exterior lighting, parking and loading area design, and the use of screening.

(b) *Building setback.* Throughout the district, the setback of buildings from street yard and side yard property lines shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown.

(c) *Building height.* Throughout the district, the height of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown area. In no instance shall buildings be more than one story taller or shorter than the height of a building of similar use on one of the immediately adjoining properties.

(d) *Building mass.* Throughout the district, the mass of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown area. The characteristic proportion (relationship between facade height and width) of the general design theme shall be maintained. Building mass for large structures (with a facade area exceeding 5,000 square feet) shall be disguised through the use of facade articulations, or through the use of exterior treatments which give the impression of directly adjoining individual buildings.

(e) *Horizontal rhythms.* Throughout the district, the horizontal pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as piers and columns, shall be spaced at regular intervals across all visible facades of the building, and shall be compatible with those of existing buildings in the immediate area which conform to the general design theme of the downtown area.

(f) *Vertical rhythms.* Throughout the district, the floor heights on main facades shall appear visually in proportion to those of adjoining buildings. The rhythm of the ground floor shall harmonize with the rhythm of upper floors. The vertical pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as sills, headers, transoms, cornices and sign bands, shall be compatible in design and elevation with those of existing buildings in the immediate area which conform to the general design theme of the downtown area.

(g) *Roof forms.* Throughout the district, flat or gently sloping roofs which are not visible from the street shall be used. Mansards or other exotic roof shapes not characteristic of the general design theme of the downtown area, as determined by the plan commission, shall not be used. Throughout the district, roof shapes not characteristic of the general design theme of the downtown area shall not be used.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(1)), 1-19-1998)

Sec. 130-797. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-2 district are as follows:

- (1) Residential density and intensity requirements, institutional residential development:
 - a. Maximum gross density: Up to 50.00, per limits of the conditional use permit.
 - b. Minimum landscape surface ratio: 50 percent.
 - c. Maximum building coverage: 40 percent.
 - d. Maximum accessory building coverage: Ten percent.
- (2) Residential bulk requirements: For institutional residential development, see the requirements of the community business district.

- (3) Residential landscaping requirements: Not applicable for single-family uses. See the nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(3)), 1-19-1998)

Sec. 130-798. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-2 district are as follows:

- (1) Nonresidential intensity requirements:
 - a. Maximum number of floors: Four.
 - b. Minimum landscape surface ratio: Zero percent.
 - c. Maximum floor area ratio: 3.00.
 - d. Minimum lot area: 1,750 square feet.
 - e. Maximum building size: Not applicable.
- (2) Nonresidential bulk and lot dimension requirements:
 - a. Minimum lot area: 1,750 square feet.
 - b. Minimum lot width: 20 feet.
 - c. Minimum street frontage: 20 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: Zero feet.*
 - b. Building to residential side lot line: Zero feet.*
 - c. Building to residential rear lot line: Ten feet.
 - d. Building to nonresidential side lot line: Zero feet.*
 - e. Building to nonresidential rear lot line: Ten feet.
 - f. Minimum paved surface setback: Zero feet.*
 - g. Minimum building separation: Zero feet.*

*Maximum permitted setback of zero feet, except where permitted by the plan commission as an essential component of site design.
- (4) Maximum building height: 45 feet; minimum building height, 20 feet.
- (5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.
- (6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses):
 - a. Zero landscaping points per 100 linear feet of building foundation.

- b. Zero landscaping points per 1,000 square feet of gross floor area.
- c. Zero landscaping points per 100 linear feet of street frontage.
- d. Twenty landscaping points per 10,000 square feet of paved area/20 stalls.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(4)), 1-19-1998)

Sec.130-799. Window Treatment in Central Business District.

- (1) This section shall apply to any and all windows of first floor commercial spaces located within the B-2 Central Business District where the interior can be observed from the public streets or sidewalks of the city.
- (2) All windows of vacant first floor commercial and retail buildings within the B-2 Central Business District which windows can be viewed from the public streets and sidewalks of the city and which expose the interiors of such buildings, shall screen the vacant interior of the building in which they are located. On the glass of the window there shall be an attractive display. This display may feature fresh displays of the incoming tenant, signs indicating vacancy and availability, posters advertising community events, or artwork appropriate for all audiences. At no point should these posters cover more than 50% of the glass area. The window glass shall be clean both inside and outside.
- (3) No windows or storefronts of commercial and retail buildings in the B-2 Central Business District which are either vacant or otherwise not conducting business for a period of thirty consecutive business days shall be boarded or shuttered, or covered from the inside by means of tarp, cardboard, or other non-commercial window treatments.
- (4) No more than 50% of a window of a first floor commercial space in the B-2 Central Business District shall be covered permanently with standard window treatments (e.g. blinds, curtains, etc.)
- (5) Definitions
 - a. Boarding means the placement of plywood or some type of construction material as a barrier, temporary or permanent, to cover and obscure a window or storefront.
 - b. Fresh displays means the displays between the window treatment and glass and which have been rotated or changed every 120 days.
 - c. Shuttered means the placement of metal shutters, roll down grates and accordion types of barriers, temporary or permanent, commonly used to protect a building.
 - d. Vacant means properties which are not open to the public, or to clientele of any sort, and which buildings are not being used for the display or merchandising of any product, and have been in such a position for a period of more than thirty consecutive business days. These terms shall not apply to new buildings under construction or new buildings never

having been previously occupied, but shall apply to existing buildings conducting internal construction, renovation, maintenance or demolition that does not include the building's edifice.

(Ord. 2024.04)

Secs. 130-800--130-820. Reserved.

DIVISION 7. COMMUNITY BUSINESS DISTRICT (B-3)*

Sec. 130-821. Intent and purpose.

(a) *Description.* The B-3 district is intended to permit both large- and small-scale pedestrian- and auto-oriented commercial development. This district has a floor area ratio that allows for a higher density than the Regional business district. A wide range of office, retail, and lodging land uses are permitted within this district. These permitted uses include small tenant group developments and in-vehicle sales and service uses.

(b) *Rationale.* This district is intended to provide the principal zoning district for commercial development. This district is also intended to provide for and encourage mixed use and infill development for commercial activity to the regional business district. The community business district is designed as a transitional district between the Central and Regional Business Districts to ensure the long-term economic health of commercial development areas existing as of the effective date of the ordinance from which this chapter is derived, and is designed to provide significant incentives for infill development in this area by limiting large scale regional business uses which can afford the relatively higher development costs and rents associated with development in the regional business district.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(1)), 1-19-1998, Ord. 2006-11, Ord. 2017-01)

Sec. 130-822. Uses permitted by right.

Land uses permitted by right in the B-3 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Active outdoor public recreation (per section 130-372).
- (5) Indoor institutional uses (per section 130-373).
- (6) Public services and utilities (per section 130-375).
- (7) Office (per section 130-401).
- (8) Personal or professional services (per section 130-402).
- (9) Indoor sales or service (per section 130-403).
- (10) Indoor maintenance service (per section 130-405).
- (11) Off-site parking lot (per section 130-481).
- (12) Artisan studio (per section 130-423).
- (13) Group development (per section 130-418).
- (11) Group day care center (nine or more children) (per section 130-413).

* **Cross references:** Businesses, ch 22.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(a)), 1-19-1998, Ord. 2007-4, Ord. 2017-01, Ord. 2024-04)

Sec. 130-823. Uses permitted as conditional use.

Land uses permitted as conditional use in the B-3 district are as follows:

- (1) Clear cutting (per section 130-347).
- (2) Outdoor institutional uses (per section 130-374).
- (3) Institutional residential uses (per section 130-376).
- (4) Outdoor display (per section 130-404).
- (5) In-vehicle sales or service (per section 130-407).
- (6) Indoor commercial entertainment (per section 130-408).
- (7) Outdoor commercial entertainment (per section 130-409).
- (8) Commercial animal boarding (per section 130-410).
- (9) Commercial indoor lodging (per section 130-411).
- (10) Bed and breakfast establishment (per section 130-412).
- (12) Boardinghouse (per section 130-415).
- (13) Vehicle repair and maintenance (per section 130-417).
- (14) Gas station/convenience store/food counter (per section 130-419).
- (15) Carwash (per section 130-420).
- (16) Personal storage facility (per section 130-453).
- (17) Railroad line (per section 130-485).
- (18) Motor vehicle storage yard (per section 130-457).
- (19) Commercial Apartment (per section 130-522)
- (20) Apartment (per section 130-321) in conjunction with non-residential land uses.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(b)), 1-19-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2017-01, Ord. 2024-04)

Sec. 130-824. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-3 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).

- c. Company cafeteria (per section 130-525).
 - d. Home occupation (per section 130-531).
 - e. On-site parking lot (per section 130-535).
 - f. Exterior communication devices (per section 130-536).
 - g. Commercial apartment (per section 130-522).
- (2) *Land uses permitted as conditional use.*
- a. Company-provided on-site recreation (per section 130-526).
 - b. Outdoor display, incidental (per section 130-527).
 - c. In-vehicle sales and service (per section 130-528).
 - d. Light industrial use incidental to indoor sales (per section 130-530).
 - e. Drive-in financial institution (per section 130-537).
 - f. Outdoor commercial food and beverage service (per section 130-538).
 - g. Communication tower (per section 130-503).
 - h. Two-flat (per section 130-321).
 - i. Townhouse (per section 130-321).
 - j. Multiplex (per section 130-321).
 - k. Institutional residential uses (per section 130-322).

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(c)), 1-19-1998, Ord. 2005-14, Ord. 2009-06, Ord. 2017-01)

Sec. 130-825. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-3 district are as follows:

- (1) General temporary outdoor sales (per section 130-561).
- (2) Outdoor assembly (per section 130-562).
- (3) Contractor's project office (per section 130-563).
- (4) Contractor's on-site equipment storage (per section 130-564).
- (5) Relocatable building (per section 130-565).
- (6) On-site real estate sales office (per section 130-566).
- (7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(d)), 1-19-1998)

Sec. 130-826. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-3 district are as follows:

- (1) Residential density and intensity requirements:
 - a. Maximum gross density: Per limits of the conditional use permit.
 - b. Minimum landscape surface ratio: 50 percent.
 - c. Maximum building coverage: 40 percent.
 - d. Maximum accessory building coverage: Ten percent.
- (2) Residential bulk and lot dimension requirements:
 - a. Minimum lot area: 9,000 square feet.
 - b. Minimum lot width: 70 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Front or street side lot line to house: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Front or street side lot line to garage: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - c. Side lot line to house or garage: Six feet.
 - d. Total of both sides, lot lines to house or garage: 12 feet.
 - e. Rear lot line to house or garage: 30 feet.
 - f. Side lot line to accessory structure: Three feet from property line, five feet from alley.
 - g. Rear lot line to accessory structure: Three feet from property line, five feet from alley.
 - h. Minimum paved surface setback: Five feet from side or rear, ten feet from street.
 - i. Minimum dwelling unit separation: 12 feet.
- (4) Maximum height of dwelling unit: 35 feet, greater with conditional use permit.
- (5) Maximum height of accessory structure: 15 feet.
- (6) Minimum number of off-street parking spaces required on the lot: Three (includes garage, drives, and all designated parking surfaces).
- (7) Minimum dwelling core dimensions: 24 feet by 40 feet.
- (8) Minimum roof pitch: 3:12.
- (9) Minimum eave width: 18 inches.

- (10) Residential landscaping requirements: Not applicable for single-family uses. See nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(3)), 1-19-1998)

Sec. 130-827. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-3 district are as follows:

- (1) Nonresidential intensity requirements:
 - a. Maximum number of floors: Four.
 - b. Minimum landscape surface ratio: 15 percent.
 - c. Maximum Building Coverage: 60 Percent
 - d. Maximum floor area ratio: 1.5
 - e. Minimum lot area: 9,000 square feet.
 - f. Maximum building size: 20,000 Square Feet per Floor
 - g. Maximum Parking Lot Street Frontage: 50 Percent
- (2) Nonresidential bulk and lot dimension requirements:
 - a. Minimum lot area: 9,000 square feet.
 - b. Minimum lot width: 70 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: 10 feet, 35 feet maximum or for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: Ten feet.
 - c. Building to residential rear lot line: 25 feet.
 - d. Building to nonresidential side lot line: Ten feet or zero feet on zero lot line side.
 - e. Building to nonresidential rear lot line: 25 feet.
 - f. Minimum paved surface setback: Five feet from side or rear, ten feet from street.
 - g. Minimum building separation: 12 feet, or zero feet on zero lot line side.
- (4) Maximum building height: 40 feet.
- (5) Driveways and Access
 - a. Maximum width at sidewalk: 25 feet

- b. One driveway allowed per street on which lot has frontage.
- (5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article XI of this chapter.
- (6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily): See landscaping requirements per article IV of this chapter.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(4)), 1-19-1998, Ord. 2017-01, Ord. 2024-04)

Secs. 130-828--130-850. Reserved.

DIVISION 8. REGIONAL BUSINESS DISTRICT (B-4)*

Sec. 130-851. Intent and purpose.

(a) *Description.* The B-4 district is intended to permit large scale, regional commercial development that mitigates the impact on the character of the area in general. Significant areas of landscaping are required in this district to ensure that this effect is achieved. A wide range of retail uses are permitted within this district. It is the intent of this district to encourage regional scale shopping uses. Smaller group developments are permitted in the community business district to encourage infill development in that area of the community.

(b) *Rationale.* This district is intended to provide an alternative to other commercial zones for limited applications of larger regional commercial development. The standards of this district are designed to provide a clear distinction from the community business and central business districts in terms of permitted intensity of development, treatment of outdoor sales, and required green space areas. The desired quality of the development is attained through the landscape surface area ratio requirements and permitted uses in this district. Together, these requirements ensure that the desired community character is maintained as long as the regional business district designation is retained, regardless of how much development occurs within that area.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(1)), 1-19-1998; Ord. No. 2000-12, § 1(17.35(1)), 6-13-2000; Ord. No. 2002-11, § 4, 11-12-2002, Ord. 2006-11, Ord. 2017-02)

Sec. 130-852. Uses permitted by right.

Land uses permitted by right in the B-4 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Active outdoor public recreation (per section 130-372).
- (5) Indoor institutional uses (per section 130-373).
- (6) Public services and utilities (per section 130-375).
- (7) Indoor sales or service (per section 130-403).
- (8) Indoor maintenance service (per section 130-405).
- (9) In-vehicle sales or service (per section 130-407).
- (10) In-vehicle sales and service incidental to on-site principal land use (per section 130-528).
- (11) Artisan studio (per section 130-423).
- (12) Group day care center (nine or more children) (per section 130-413).

* **Cross references:** Businesses, ch 22.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(a)), 1-19-1998; Ord. No. 2002-11, § 5, 11-12-2002, Ord. 2007-4, Ord. 2024-04)

Sec. 130-853. Uses permitted as conditional use.

Land uses permitted as conditional uses in the B-4 district are as follows:

- (1) Clear cutting (per section 130-347).
- (2) Outdoor institutional uses (per section 130-374).
- (3) Institutional residential uses (per section 130-376).
- (4) Personal or professional services (per section 130-402).
- (5) Outdoor display (per section 130-404).
- (6) Drive-in financial institutions (per section 130-537).
- (7) Indoor commercial entertainment (per section 130-408).
- (8) Commercial animal boarding (per section 130-410(3)).
- (9) Commercial indoor lodging (per section 130-411).
- (10) Boardinghouse (per section 130-415).
- (11) Vehicle repair and maintenance (per section 130-417).
- (12) Group development (per section 130-418).
- (13) Gas station/convenience store/food counter (per section 130-419).
- (14) Carwash (per section 130-420).
- (15) Large-format retail store (per section 130-422).
- (16) Railroad line (per section 130-485).
- (17) Business district mixed commercial/residential uses. (per section 130-421)
- (18) Commercial Apartment (per section 130-522).
- (19) Tobacco/e-cigarette/hemp retailer. (per section 130-424).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(b)), 1-19-1998; Ord. No. 2002-11, § 6, 11-12-2002, Ord. 2005-44, Ord. 2005-47, Ord. 2006-25, Ord 2009-02, Ord. 2017-02, Ord. 2024-04)

Sec. 130-854. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-4 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Company cafeteria (per section 130-525).
 - d. Home occupation (per section 130-531).

- e. On-site parking lot (per section 130-535).
 - f. Exterior communication devices (per section 130-536).
 - g. In-vehicle sales and service incidental to on-site principal land use (per section 130-528).
 - h. Commercial apartment (per section 130-522).
- (2) *Land uses permitted as conditional use.*
- a. Company-provided on-site recreation (per section 130-526).
 - b. Outdoor display, incidental (per section 130-527).
 - c. Drive-in financial institutions (per section 130-537).
 - d. Light industrial use incidental to indoor sales (per section 130-530).
 - e. Outdoor commercial food and beverage service (per section 130-538).
 - f. Communication tower (per section 130-503).
 - g. Two-flat (per section 130-321).
 - h. Townhouse (per section 130-321).
 - i. Multiplex (per section 130-321).
 - j. Apartment (per section 130-321).
 - k. Institutional residential uses (per section 130-322).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(c)), 1-19-1998; Ord. No. 2002-11, § 7, 11-12-2002, Ord. 2005-14, Ord. 2009-06, Ord. 2017-02)

Sec. 130-855. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-4 district are as follows:

- (1) General temporary outdoor sales (per section 130-561).
- (2) Outdoor assembly (per section 130-562).
- (3) Contractor's project office (per section 130-563).
- (4) Contractor's on-site equipment storage (per section 130-564).
- (5) Relocatable building (per section 130-565).
- (6) On-site real estate sales office (per section 130-566).
- (7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(d)), 1-19-1998)

Sec. 130-856. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-4 district are as follows:

- (1) Residential density and intensity requirements: See the requirements of the O-1 district.
- (2) Residential bulk requirements: See the requirements of the O-1 district.
- (3) Residential landscaping requirements: Not applicable for single-family uses. See nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(3)), 1-19-1998)

Sec. 130-857. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-4 district are as follows:

- (1) Nonresidential intensity requirements:
 - a. Maximum number of floors: Two.
 - b. Minimum landscape surface ratio: 25 percent.
 - c. Maximum floor area ratio: 0.5
 - d. Minimum lot area: 40,000 square feet.
 - e. Maximum building size: Not applicable.
 - f. Minimum building size 10,000 square feet
 - g. Maximum Parking Lot Street Frontage: 50 percent.
- (2) Nonresidential bulk and lot dimension requirements:
 - a. Minimum lot area: 40,000 square feet.
 - b. Minimum lot width: 100 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: 15 feet, 50 feet maximum or for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: Ten feet.
 - c. Building to residential rear lot line: 25 feet.
 - d. Building to nonresidential side lot line: 10 feet or zero feet on zero lot line side.
 - e. Building to nonresidential rear lot line: 25 feet.
 - f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

- g. Minimum building separation: 20 feet or zero feet on zero lot line side.
- (4) Maximum building height: forty (40) feet.
- (5) Driveways and Access
 - a. Maximum width at sidewalk: 25 feet
 - b. One driveway allowed per street on which lot has frontage.
- (6) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article XI of this chapter.
- (7) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses): See landscaping requirements per article IV of this chapter.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(4)), 1-19-1998; Ord. No. 2000-12, § 2(17.35(4)), 6-13-2000; Ord. No. 2002-11, § 8, 11-12-2002, Ord. 2017-02, Ord. 2024-04)

DIVISION 9. SPECIAL USE BUSINESS DISTRICT (B-5)*

Sec. 130-871. Intent and purpose.

(a) *Description.* The B-5 district is intended to accommodate a mix of complementary land uses which are suited to close proximity to an active railroad line. This district is not intended to be expanded in size beyond what was originally passed or applied to another location in the city. All new parcels created in the district must have legal access and be served by a street, whether public or private, that meets city standards.

(b) *Rationale.* This district is intended to allow development on platted lots that are relatively shallow. This district is intended to allow use of these parcels for commercial land uses, which are compatible with surrounding land uses and especially with the railroad corridor.

[Ord. 2005-44]

Sec. 130-872. Uses permitted by right.

Land uses permitted by right in the B-5 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Public services and utilities (per section 130-375).
- (4) Office (per section 130-401).
- (5) Personal or professional services (per section 130-402).
- (6) Indoor sales or service (per section 130-403).
- (7) Indoor maintenance service (per section 130-405).
- (8) Indoor storage or wholesaling (per section 130-451).
- (9) Artisan studio (per section 130-423).

[Ord. 2005-44, Ord. 2007-4]

Sec. 130-873. Uses permitted as conditional use.

Land uses permitted as conditional use in the B-5 district are as follows:

* **Cross references:** Businesses, ch 22.

- (1) Clear cutting (per section 130-347).
- (2) Passive outdoor public recreation (per section 130-371).
- (3) Active outdoor public recreation (per section 130-372).
- (4) Indoor institutional uses (per section 130-373).
- (5) Outdoor institutional uses (per section 130-374).
- (6) Outdoor display (per section 130-404).
- (7) Outdoor maintenance service (per section 130-406)
- (8) In-vehicle sales or service (per section 130-407).
- (9) Indoor commercial entertainment (per section 130-408).
- (10) Outdoor commercial entertainment (per section 130-409).
- (11) Commercial animal boarding (per section 130-410).
- (12) Vehicle repair and maintenance (per section 130-417).
- (13) Group development (per section 130-418).
- (14) Gas station/convenience store/food counter (per section 130-419).
- (15) Carwash (per section 130-420).
- (16) Outdoor storage of wholesaling (per section 130-452).
- (17) Personal storage facility (per section 130-453).
- (18) Off-site parking lot (per section 130-481).
- (19) Freight terminal (per section 130-483).
- (20) Distribution center (per section 130-484).
- (21) Railroad line (per section 130-485).
- (22) Light industrial (per section 130-501).

[Ord. 2005-44]

Sec. 130-874. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-5 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Company cafeteria (per section 130-525).
 - b. In-vehicle sales and service (per section 130-528).
 - c. Indoor sales incidental to light industrial use (per section 130-529)
 - d. On-site parking lot (per section 130-535).
 - e. Exterior communication device (per section 130-536).
- (2) *Land uses permitted as conditional use.*
 - a. Company-provided on-site recreation (per section 130-526).
 - b. Outdoor display, incidental (per section 130-527).
 - c. Light industrial use incidental to indoor sales (per section 130-530).
 - d. Drive-in financial institution (per section 130-537).
 - e. Communication tower (per section 130-503).

[Ord. 2005-44, Ord. 2009-06]

Sec. 130-875. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-5 district are as follows:

- (1) General temporary outdoor sales (per section 130-561).
- (2) Outdoor assembly (per section 130-562).
- (3) Contractor's project office (per section 130-563).
- (4) Contractor's on-site equipment storage (per section 130-564).
- (5) Relocatable building (per section 130-565).
- (6) On-site real estate sales office (per section 130-566).
- (7) Outdoor sales of farm products (per section 130-567).

[Ord. 2005-44]

Sec. 130-876. Requirements for uses.

Regulations applicable to uses in the B-5 district are as follows:

- (1) Intensity requirements:
 - a. Maximum number of floors: Two.
 - b. Minimum landscape surface ratio: 15 percent.
 - c. Maximum floor area ratio: 0.40.
 - e. Maximum building size: Not applicable.
- (2) Nonresidential bulk and lot dimension requirements:
 - a. Minimum lot area of parcels created after January 1, 2006: 7,500 square feet.
 - b. Minimum lot width: 70 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: 10 feet, 35 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to side lot line: 8 feet or zero feet on zero lot line side.
 - e. Building to rear lot line: 8 feet.
 - f. Minimum paved surface setback: Five feet from side or rear lot line; ten feet from street.
 - g. Minimum building separation: 12 feet or zero feet on zero lot line side.
- (4) Maximum building height: 35 feet.
- (5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.
- (6) Nonresidential landscaping requirements:
 - a. Twenty landscaping points per 100 linear feet of building foundation.
 - b. Five landscaping points per 1,000 square feet of gross floor area.

- c. Twenty landscaping points per 100 linear feet of street frontage.
- d. Forty landscaping points per 10,000 square feet of paved area/20 stalls.

[Ord. 2005-44]

Secs. 130-877--130-880. Reserved.

DIVISION 10. LOWLAND CONSERVANCY DISTRICT ONE (C-1)

Sec. 130-881. Purpose and intent; soil types.

The purpose of the C-1 district is to provide a means of obtaining the goals and objectives of the development guide. The C-1 district is designed to protect public health, safety and general welfare of the citizens of the community, to protect private and public property from the hazards of floodwater inundation or high groundwater, and to protect the community from costs which are incurred when development occurs in lowland areas. The intent of this district is to conserve areas which are subject to floodhazard for open land uses, agricultural uses, recreational uses and other uses which do not require construction of extensive buildings in lowland areas. This district is delineated by alluvial or wet soils defined as follows:

TABLE INSET:

Ad	EoA	Me
Aw	Ha	Mf
AzA	Ho	Na
BmA	KaA	Ot
Br	LkA	Pa
Co	Ma	Rs
Da	Mb	Se
E1A	Mc	Wb
EmA	Md	WcA

(Code 1986, § 17.36(1))

Sec. 130-882. Uses permitted by right.

The following uses of land are permitted in the C-1 district:

- (1) Agricultural uses, to include crop and pasture land when conducted in accordance with Soil Conservation Service Standards, not including the erection of buildings or structures.
- (2) Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- (3) Forestry and the management of forests.
- (4) Wildlife preserves.

- (5) The management of wildlife, including waterfowl, fish, and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities.
- (6) Hunting, fishing, trapping, piers, docks, and boathouses.
- (7) Public and private parks, picnic areas, and similar uses.
- (8) Hiking trails and bridle paths.
- (9) Preservation of areas of scenic, historic, or scientific value.
- (10) Watershed conservation areas.
- (11) Open storage uses such as parking areas.
- (12) Uses similar and customarily incidental to any of the uses listed in subsections (1)--(11) of this section.

(Code 1986, § 17.36(2))

Sec. 130-883. Uses permitted as conditional use.

The following conditional uses shall be allowed in the C-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Dams, reservoirs, ponds, water storage and primary facilities.
- (2) Commercial outdoor recreation, to include miniature golf, amusement parks, drive-in theaters and racetracks.
- (3) Power plants deriving their power from the flow of water, and transmission lines and other facilities accessory thereto.
- (4) Utilities such as, but not restricted to, telephone, telegraph, power, or other transmission lines.
- (5) Relocation of any watercourse.
- (6) Filling, drainage or dredging of wetlands pursuant to chapter 54.
- (7) Removal of topsoil or peat.
- (8) Camping grounds open to the public.
- (9) Golf courses, both public and private.
- (10) Hunting and fishing clubs for permitted and approved conditional uses, provided that the area will not be adversely affected.
- (11) Sewage disposal plants.
- (12) Railroad line (per section 130-485).

(Code 1986, § 17.36(3), Ord. 2005-44)

Sec. 130-884. Requirements for all uses.

Within the C-1 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Minimum front yard setback: 50 feet.
- (3) Minimum rear yard setback: 25 feet.
- (4) Minimum lot frontage on public road: 50 feet.
- (5) Minimum lot area: Two acres.
- (6) Minimum lot width at building line: 100 feet.
- (7) Minimum side yard setback: 15 feet.
- (8) Off-street parking, public gathering: One space per five seats if applicable or one space per 200 square feet of building.

(Code 1986, § 17.36(4))

Secs. 130-885--130-900. Reserved.

DIVISION 11. HIGHLAND CONSERVATION DISTRICT TWO (C-2)

Sec. 130-901. Purpose and intent; soil types.

The purpose of the C-2 district is to provide a means of obtaining the natural resource and the recreation goals and objectives of the development guide. The C-2 district is to provide for the preservation, protection, enhancement, and restoration of significant woodlands, scenic areas, submarginal farmland and areas that have slopes in excess of 20 percent; to limit erosion and sedimentation; and to promote and maintain the natural beauty of the area while seeking to ensure the preservation and protection of areas that have significant topography, natural watersheds, groundwater and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality. This district exists as delineated on the zoning map and includes the following soil types:

TABLE INSET:

DuC2	GrA	OsA	WfB2	SaA
DuB2	F1B	OgB	WfC2	SaB
DuA	F1A	OgA	WnA	SaC2
KeA	PmB	KeC2	WnB2	SbA
KdC2	PmA	KeB2	WnC2	SbB
KdB	P1C2	TrA	WoA	SbC2
JuA	P1B	WaA	ZuA	SkA
JaB	P1A	WaB	ZuB	SkB
JaA	PeC2	WaC2	RnB2	SkC2
HeA	PeB2	WeA	RnC2	ZuC2
GrD2	PeA	WeB	RpB	PnA
GrC2	OsC2	WeC2	RpC2	PnB
GrB2	OsB	WfA	RpD2	PnB

(Code 1986, § 17.37(1))

Sec. 130-902. Uses permitted by right.

The following uses are permitted uses in the C-2 district:

- (1) Forest and woodland crop management.
- (2) Farming and related agricultural uses when conducted in accordance with Soil Conservation Service Standards.

- (3) Installation of soil and water conservation structures.
- (4) Parks and recreational areas, arboretums, and botanical gardens.
- (5) Forest preservation, wildlife reservations, and conservation projects.
- (6) Other recreation activities that do not require a structure or earth movement.

(Code 1986, § 17.37(2))

Sec. 130-903. Uses permitted as conditional use.

The following conditional uses shall be allowed in the C-2 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Hunting and fishing clubs, including trap and skeet shooting facilities, target ranges and gun clubs when such activities are located 100 feet from the boundaries of the property involved.
- (2) Horse stables, riding clubs, and fairgrounds.
- (3) Private and public golf courses and country clubs.
- (4) Earth movements involving site disturbing in excess of one acre not related to farming activity.
- (5) Stream course changing, waterway construction or enlargement, dams, and changing of natural drainageways.
- (6) Single-family dwellings.
- (7) Ski hills, ski trails, hunting and fishing clubs.
- (8) Recreation camps.
- (9) Public or private campgrounds.
- (10) Animal hospitals, shelters and kennels.
- (11) Telephone, telegraph and electric transmission lines, buildings or structures and similar public utility facilities.
- (12) Radio, television, and communication transmitters or relay towers and facilities.
- (13) Rifle ranges, skeet shooting clubs, and other activity features.
- (14) Railroad line (per section 130-485).

(Code 1986, § 17.37(3), Ord. 2005-44)

Sec. 130-904. Requirements for all uses.

Within the C-2 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Minimum front yard setback: 75 feet.

- (3) Minimum rear yard setback: 25 feet.
- (4) Minimum lot width at building line: 100 feet.
- (5) Minimum lot frontage on public road: 50 feet.
- (6) Minimum lot area: Ten acres.
- (7) Minimum side yard setback: 15 feet.
- (8) Off-street parking, public gathering: One space per five seats if applicable, one space per 200 square feet of building, or one space per five anticipated users at maximum usage of facility.

(Code 1986, § 17.37(4))

Secs. 130-905--130-920. Reserved.

DIVISION 12. LARGE LOT RESIDENTIAL DISTRICT (LL-R)

Sec. 130-921. Sec. 130-921. Purpose and intent.

The purpose of the LL-R district is to provide a means of obtaining the residential goals and objectives of the Smart Growth Comprehensive Plan with regard for natural resource features that prevent may lots from conforming to the lot area maximums of the City's standard residential zoning districts. The LL-R district is intended allow for larger lots to fit in with neighboring properties when needed as part of the subdivision and platting process. This district is also made to accommodate annexed properties with existing dwelling units, formerly on private well and septic systems, and to provide those properties a way to subdivide buildable areas for future housing.

Sec. 130-922. Uses permitted by right.

The following uses are permitted uses in the LL-R district:

- (1) One single-family dwelling unit; one or more private garages. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 11 percent of the total area of the lot.
- (2) Two-family and two family twin dwellings.
- (3) Public and quasipublic owned parks and playgrounds and publicly-owned community buildings and grounds.
- (4) Graded schools, places of worship and their affiliated/accessory uses, water storage facilities and related structures.
- (5) Accessory building clearly incidental to the residential use of the property; provided, however, no accessory building may exceed 150 square feet.
- (6) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.
- (7) Community living arrangement (one to eight residents) (per section 130-377).
- (8) Home occupation when meeting all of the criteria in section 130-531.
- (9) Family day care home (per section 130-532)
- (10) All existing structures and uses on lots that were zoned LL-R12 and LL-R15 prior to July 9, 2024.
- (11) Accessory Dwelling Units as defined in Section 130-6.

Sec. 130-923. Uses permitted as conditional use.

The following conditional uses shall be allowed in the LL-R district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Home occupation, which does not meet all of the criteria in section 130-531.
- (2) Community living arrangement (nine to 15 residents) (per section 130-378).
- (3) One single-family dwelling unit with an above-grade floor area of at least 900 and less than 1,200 square feet.
- (4) Railroad line (per section 130-485).
- (5) Group day care center (nine or more children). (per section 130-413)
- (6) Bed and breakfast establishment (per section 130-412).

Sec. 130-924. Requirements for all uses.

Within the LL-R district, the following standards shall apply:

- (1) Maximum building height of principal structure: 35 feet.
- (2) Height of detached garages or accessory buildings: Shall not exceed the height of the principal structure.
- (3) Minimum front yard setback: 25 feet or 20 feet when alternate standards are met (see Sec. 130-944(13)).
- (4) Minimum rear yard setback: 15 feet.
- (5) Minimum side yard setback: Eight feet; total 20 feet on both sides.
- (6) Minimum lot width at front setback line: 80 feet.
- (7) Minimum lot frontage on public road: 50 feet.
- (8) Minimum lot area:
 - a. Single family dwelling: 13,000 square feet.
 - b. Two-family dwelling: 15,000 square feet
 - c. Two-family twin dwelling: 16,000 square feet
- (9) Detached garage and accessory building side yard and street side yard setback:
 - a. Five feet for side and rear yards.
 - b. 20 feet for street side yards.
- (10) Minimum above-grade floor area: 1,200 square feet.
- (11) Minimum street side yard setback: 20 feet.
- (12) Maximum front yard setback: 35 feet.
- (13) Alternative setback standards referenced in this section may be used when any of the two following standards are met:
 - a. Linear garage frontage does not exceed 40% of the building's front elevation.

- b. Building is a two-story structure.
- c. Front Porch at least 25 square feet in size .
- d. Street facing garage doors are recessed by at least four feet behind the façade of the ground floor of the principal building.
- e. Driveway width does not exceed 15 feet in front setback area or is shared by access easement with adjacent lot.

Sec. 130-925. References to prior zoning district classifications

References throughout Chapter 130 relating to permitted and conditional uses in the LL-R12 and LL-R15 zoning districts shall be interpreted as permitted and conditional uses in the LL-R zoning district.

Sec.130-926. Uses permitted that meet special regulations.

The following special uses shall be allowed in the LL-R district subject to special regulations:

- (1) Chicken Keeping, which meets the special use regulations outlined in Section 130-541.

Secs. 130-927 to Sec 130-940 Reserved.

[Ord. 2024-05]

DIVISION 13. LARGE LOT URBAN RESIDENTIAL DISTRICT (LL-R12)

Sec. 130-941. Uses and Requirements

- (1) All new uses in the LL-R12 district shall follow the uses and requirements set in Division 12 Large Lot Residential (LL-R) district.
- (2) All existing structures and uses on lots that were zoned LL-R12 prior to July 9, 2024 are permitted and deemed compliant with this chapter.

(Code 1986, § 17.381(2); Ord. No. 2002-4, § 10, 4-9-2002; Ord. No. 2003-7, § 5, 10-14-2003; Ord. 2004-2, Ord. 2005-28, Ord. 2007-21, Ordinance 2024-05)

DIVISION 14. LARGE LOT URBAN RESIDENTIAL DISTRICT (LL-R15)

Sec. 130-961. Uses and Requirements

- (1) All new uses in the LL-R15 district shall follow the uses and requirements set in Division 12 Large Lot Residential (LL-R) district.
- (2) All existing structures and uses on lots that were zoned LL-R15 prior to July 9, 2024 are permitted and deemed compliant with this chapter.

(Code 1986, § 17.382(2); Ord. No. 2002-4, § 11, 4-9-2002; Ord. No. 2003-7, § 6, 10-14-2003, Ord. 2004-2, Ord. 2005-28, 2007-21, 2024-05)

DIVISION 15. RESIDENTIAL DISTRICT ONE (R-1)

Sec. 130-981. Purpose and intent.

The purpose of the R-1 district is to provide a means of obtaining the residential goals and objectives of the Smart Growth Comprehensive Plan. The R-1 district is intended to provide sufficient space in appropriate locations for residential development to meet the housing needs of the community's present and expected future population, with due allowance for the need for a choice of sites. The intent of this district is to provide a traditional neighborhood character for single- and two-family detached dwellings at densities which are served by public sewer and other basic community services.

(Code 1986, § 17.39(1), Ord. 2020-13)

Sec. 130-982. Uses permitted by right.

The following uses are permitted in the R-1 district:

- (1) One single-family dwelling unit. One or more private garages for each residential lot. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (2) Places of worship and all affiliated uses, all grade schools, libraries, water storage facilities and related structures.
- (3) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.
- (4) Public parks and playgrounds and recreational and community center buildings and grounds.
- (5) Accessory buildings clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 200 square feet.
- (6) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.
- (7) Not over four boarders or lodgers not members of the family.
- (8) Greenhouses.
- (9) Home occupation, when meeting all of the criteria of section 130-531.
- (10) Family day care home (per section 130-532)
- (11) Community living arrangement (one to eight residents) (per section 130-377).
- (12) One two-family dwelling unit, subject to site plan approval, only on those lots denoted for such use on the face of a final subdivision plat or certified survey map

which were approved by the common council after September 30, 2005. One or more private garages may be provided for each residential unit as provided for in this subsection. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential unit shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

- (13) Accessory Dwelling Unit as defined in Section 130-6 that is also located within or adjacent to a city designated Historic Conservation Overlay District or locally landmarked/plaques parcel.

(Code 1986, § 17.39(2); Ord. No. 2002-4, § 12, 4-9-2002; Ord. No. 2003-7, § 7, 10-14-2003, Ord. 2005-28, Ord. 2005-38, Ord. 2016-18, Ord. 2020-13, Ord. 2023-15)

Sec. 130-983. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Two-family dwelling units, and one or more private garages for each residential unit. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (2) Home occupation, which does meet all of the criteria of section 130-531.
- (3) Public buildings such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages, or storage areas.
- (4) Institutions of a charitable or philanthropic nature; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (5) Telecommunications and electric transmission and distribution lines, buildings or structures.
- (6) Indoor institutional uses (per section 130-373) and indoor residential uses (per section 130-376).
- (7) Day care centers and nursery schools (less than 9 children).
- (8) Funeral homes, undertaking establishments and cemetery memorial retail businesses.

- (9) Bed and breakfast establishments, subject to the following restrictions:
- (10) Off-street parking. At least one space shall be provided by the operator for every one to two rooms being rented and two spaces for every three and four rooms being rented.
- (11) Signs. A sign no larger than four square feet in size will be allowed on the property, with the location and design of the sign to be subject to the approval of the police chief and historic preservation commission, respectively.
- (12) Community living arrangement (nine to 15 residents) (per section 130-378).
- (13) Railroad line (per section 130-485).
- (14) Single-family dwelling units with an above-grade floor area of at least 800 and less than 1,000 square feet.

(Code 1986, § 17.39(3); Ord. No. 2002-4, § 13, 4-9-2002; Ord. No. 2003-7, § 8, 10-14-2003, Ord. 2005-23, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21, Ord. 2020-13)

Sec. 130-984. Requirements for all uses.

Within the R-1 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Setbacks and Building Separation
 - a. Minimum front and street side yard setback: 25 or 20 feet when alternate standards are met (see Sec. 130-984(3)).
 - b. Maximum front yard and street side yard setback: 30 feet.
 - c. Minimum rear yard setback: 20 feet.
 - d. Minimum side yard setback: 8 feet, total of 20 feet on both sides or 8 feet when alternate standards are met (see Sec. 130-984(3)).
 - e. Occupied dwelling units shall maintain 10 feet of building separation, unless fireproofed.
 - f. Driveway side and rear yard setbacks: 3 feet.
- (3) Alternative setback standards referenced in this section may be used when any of the two following standards are met:
 - a. Linear garage frontage does not exceed 40% of the building's front elevation.
 - b. Building is a two-story structure.
 - c. Front Porch at least 25 square feet in size .
 - d. Street facing garage doors are recessed by at least four feet behind the façade of the ground floor of the principal building.
 - e. Driveway width does not exceed 15 feet in front setback area or is shared by access easement with adjacent lot.

- (4) Detached ADU, garage and accessory building side yard and street side yard setback:
 - a. 3 feet for side yards, five (5) feet for ADUs only.
 - b. 20 feet for street side yards.
 - c. Five (5) feet for rear yards.
- (5) Lot width at front setback line:
 - a. Minimum: 60 feet
 - b. Maximum: 100 feet
- (6) Minimum lot frontage on public road: 50 feet.
- (7) Minimum lot area for single-family dwelling: 6,000 square feet
- (8) Minimum lot area for two-family dwelling: 8,000 square feet
- (9) Maximum lot area for a single family dwelling: 14,000 square feet
- (10) Maximum lot area for a two-family dwelling: 16,000 square feet
- (11) Minimum above-grade floor area for single-family dwelling: 1,000 square feet.
- (12) Minimum floor area for two-family dwelling: 700 square feet per unit.
- (13) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.
- (14) Buildings and Structures Lot Coverage Standards
 - a. Maximum lot coverage by impervious surfaces shall be forty five percent (45%) of lot area.
 - b. Maximum front yard coverage by impervious surfaces shall be forty five percent (45%) of lot area, provided maximum lot coverages are not exceeded.
 - c. Maximum linear garage coverage, as measured across the street facing façade, on a building's front elevation shall be fifty five percent (55%)
 - d. Front facing façade of garage recessed from, or no more than, eight (8) feet offset from primary façade at ground level.
 - e. Maximum driveway width at sidewalk of twenty (20) feet.

(Code 1986, § 17.39(4); Ord. No. 2003-9, § 4, 9-9-2003; Ord. No. 2003-11, § 4, 10-14-2003, Ord. 2004-2, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-16, Ord. 2020-13, Ord. 2021-08, Ord. 2023-15, Ord. 2024-04)

Sec. 130-985. Uses permitted that meet special regulations.

The following special uses shall be allowed in the R-1 district subject to special regulations:

- (1) Chicken Keeping, which meets the special use regulations outlined in Section 130-541.

Secs. 130-986--130-1000. RESERVED

DIVISION 16. RESIDENTIAL DISTRICT TWO (R-2)

Sec. 130-1002. Uses permitted by right.

The following uses are permitted in the R-2 district:

- (1) Single-family dwellings.
- (2) Two-family dwellings (per section 130-324).
- (3) Two-family twin dwellings (per section 130-323).
- (4) Places of worship and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.
- (5) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.
- (6) Public parks, playgrounds, and recreational and community center buildings and grounds.
- (7) One or more private garages and one accessory building clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 200 square feet. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (8) Uses customarily incidental to any of the uses listed in subsections (1)--(6) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.
- (9) Not over four boarders or lodgers not members of the family.
- (10) Home occupation, when meeting all of the criteria of section 130-531.
- (11) Community living arrangement (one to eight residents) (per section 130-377).
- (12) Community living arrangement (nine to 15 residents) (per section 130-378).
- (13) Family day care home (per section 130-532)

(Code 1986, § 17.40(2); Ord. No. 2002-4, § 14, 4-9-2002; Ord. No. 2003-7, § 9, 10-14-2003, Ord. 2005-28, Ord. 2012-02, Ord. 2020-13, Ord. 2023-15)

Sec. 130-1003. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-2 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Home occupation, which does not meet all of the criteria of section 130-531.
- (2) Public buildings such as colleges and universities, including private music,

dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.

- (3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (4) Telephone, telegraph and electric transmission lines, buildings or structures.
- (5) Indoor institutional uses (per section 130-373) and indoor residential uses (per section 130-376).
- (6) Funeral homes, undertaking establishments and cemetery memorial retail businesses.
- (7) Three-family and four-family dwelling units.
- (8) Group day care center (nine or more children). (per section 130-413)
- (9) Railroad line (per section 130-485).

(Code 1986, § 17.40(3), Ord. 2005-23, Ord. 2005-44, 2007-21, Ord. 2023-15)

Sec. 130-1004. Requirements for all uses.

Within the R-2 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Setbacks and Building Separation
 - a. Minimum front yard and street side yard setback: 25 feet or 20 feet when alternate standards are met (see Sec.130-1004(8)).
 - b. Maximum front yard and street side yard setback: 30 feet.
 - c. Minimum rear yard setback: 20 feet.
 - d. Minimum side yard setback: 8feet, total of 20 feet on both sides.
 - e. Detached garage and accessory building side yard and street side yard setback:
 1. 3 feet for side yards.
 2. 20 feet for street side yards.
 3. 5 feet for rear yards.
- (3) Lot width at front setback line:
 - a. Minimum: 60 feet Two-family twin lots shall have a minimum of 35 feet per lot.
 - b. Maximum: 100 feet
- (4) Minimum lot frontage on public road: 75 feet, except that two-family twin lots shall have a minimum of 25 feet per lot.

- (5) Minimum lot area:
 - a. Single-family: 6,000 square feet
 - b. Two-family: 8,000 square feet
 - c. Two-family twin: 5,000 square feet per lot.
 - d. Three-family: 12,000 square feet.
 - e. Four-family: 14,000 square feet.
- (6) Maximum lot area:
 - a. Single family: 14,000 square feet
 - b. Two family: 16,000 square feet
 - c. Two family twin: 8,000 square feet
- (7) Minimum side yard setback:
 - a. Single-family, two-family, three-family, and four-family: 8 feet; total 20 feet on both sides.
 - b. Two-family twin: Zero feet on the interior (common wall) lot line. 10 feet on exterior side lot lines or 8 feet on both sides when alternate standards are met (see Sec.130-1004(8)).
 - c. Detached occupied dwelling units shall maintain 10 feet of building separation, unless fireproofed.
 - d. Driveway side and rear yard setbacks: 3 feet.
- (8) Maximum front yard and street side yard setback: 30 feet.
- (9) Alternative setback standards referenced in this section may be used when any of the two following standards are met:
 - a. Linear garage frontage does not exceed 40% of the building's front elevation.
 - b. Building is a two-story structure.
 - c. Front Porch at least 25 square feet in size.
 - d. Street facing garage doors are recessed by at least four feet behind the façade of the ground floor of the principal building.
 - e. Driveway width does not exceed 15 feet in front setback area or is shared by access easement with adjacent lot.
- (10) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings of three or more units. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, drives or drainageways.

- (11) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.
- (12) Minimum above-grade floor area for single-family dwelling: 1,000 square feet.
- (13) Buildings and Structures Lot Coverage Standards
 - a. Maximum lot coverage by impervious surfaces shall be fifty percent (50%) of lot area.
 - b. Maximum front yard coverage by impervious surfaces shall be fifty percent (50%) of lot area, provided maximum lot coverages are not exceeded.
 - c. Maximum linear garage coverage on a building's front elevation shall be fifty five percent (55%)
 - d. Front facing façade of garage recessed from, or no more than eight (8) feet offset from primary façade at ground level.
 - e. Maximum Driveway Width at sidewalk of 20 feet.

(Code 1986, § 17.40(4); Ord. No. 2003-9, § 5, 9-9-2003; Ord. No. 2003-11, § 5, 10-14-2003, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-02, Ord. 2012-16, Ord. 2020-13, Ord. 2021-08, Ord. 2023-15, Ord. 2024-04)

Secs. 130-1005--130-1020. Reserved.

DIVISION 17. RESIDENTIAL DISTRICT THREE (R-3)

Sec. 130-1021. Purpose and intent.

The purpose of the R-3 district is to provide a means of obtaining the residential goals and objectives of the Smart Growth Comprehensive Plan. The R-3 district is intended to protect and enhance the character and value of residential areas primarily occupied by varied dwelling types of moderate density and to accommodate areas planned for new residential development of moderate density.

(Code 1986, § 17.41(1), Ord. 2023-15)

Sec. 130-1022. Uses permitted by right.

The following uses are permitted in the R-3 district:

- (1) Places of worship and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.
- (2) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.
- (3) Public parks, playgrounds, and recreational and community center buildings and grounds.
- (4) One or more private garages and one accessory building per principal building clearly incidental to the residential use of the property. Additionally:
 - a. No accessory building may exceed 200 square feet.
 - b. The total area of any attached garages shall not exceed the area of the foundation of the dwelling.
 - c. The total area of any detached garages shall not exceed the area of the foundation of the dwelling.
 - d. The total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.
- (5) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section, provided that no such use generates traffic or noise that would create a public or private nuisance.
- (6) Not over four boarders or lodgers not members of the family.
- (7) Multiple-family dwellings up to four units.
- (8) Roominghouses, boardinghouses or lodging houses for not more than 15 roomers or boarders.
- (9) Home occupation, when meeting all of the criteria of section 130-531.
- (10) Community living arrangement (one to eight residents) (per section 130-377).

- (11) Community living arrangement (nine to 15 residents) (per section 130-378).
- (12) Family day care home (per section 130-532).

(Code 1986, § 17.41(2); Ord. No. 2002-4, § 15, 4-9-2002; Ord. No. 2003-7, § 10, 10-14-2003, Ord. 2005-28, Ord. 2023-15)

Sec. 130-1023. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-3 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Home occupation, which does not meet all of the criteria of section 130-531.
- (2) Public buildings, such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.
- (3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (4) Telephone, telegraph and electric transmission lines, buildings or structures.
- (5) Indoor institutional uses (per section 130-373) and indoor recreational uses (per section 130-376).
- (6) Group day care center (per section 130-413)
- (7) Funeral homes, undertaking establishments and cemetery memorial retail businesses.
- (8) Multiple-family dwellings greater than four units and multiple-family dwellings where there are more than one principal-land-use structures on the same lot.
- (9) Community living arrangement (16 or more residents) (per section 130-379).
- (10) Railroad line (per section 130-485).

(Code 1986, § 17.41(3), Ord. 2005-1, Ord. 2005-23, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21, Ord. 2023-15)

Sec. 130-1024. Requirements for all uses.

Within the R-3 district, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Minimum front and street side yard setback: 20 feet.
- (3) Maximum front yard and street side yard setback: 25 feet for building closest

to street.

- (4) Minimum rear yard setback: 25 feet.
- (5) Minimum side yard setback: 10 feet per side
- (6) Detached garage and accessory building side yard and street side yard setback:
 - a. 3 feet for side yards.
 - b. 20 feet for street side yards.
- (7) Minimum lot width at setback line: 70 feet.
- (8) Minimum building separation: 10 feet
- (9) Minimum lot frontage on public road: 50 feet.
- (10) Minimum lot area:
 - a. Single-family: 8,000 square feet.
 - b. Two-family: 10,000 square feet.
 - c. Multifamily dwelling units between two and four units: 3,000 square feet per unit.
 - d. Units containing more than four dwelling units: 2,500 square feet per unit.
- (11) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure
- (12) Minimum above-grade floor area for a dwelling unit: 1,000 square feet.

Sec. 130-1025. Requirements for multifamily developments. This section applies to multifamily buildings with more than four units and/or with more than one principal land use structure on a single lot:

- (1) Buildings shall have primary entrances that face the front or street side right-of-way and connect to City sidewalk with a pedestrian walk.
- (2) Parking Areas
 - a. Minimum paved surface setback: 5 feet from side or rear, 10 feet from street.
 - b. Parking areas and/or garages are not permitted in front or side yards.
 - c. Parking areas with drives in excess of 100 feet should be inter connected.
- (3) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for enjoyment by occupants of the development, but shall

not include public or private streets, drives or drainageways.

- (4) Each unit must have its own dedicated outdoor area (such as a patio or balcony) of at least 24 square feet. The total of these dedicated outdoor areas may be used towards the usable open space requirement in (c) above.
- (5) Outdoor refuse and recyclable storage areas shall be located on a concrete pad and surrounded by a fence or enclosure constructed of durable, weatherproof materials that match or compliment the materials used on the principal structures.
- (6) Building size and massing shall be compatible with other structures on the lot and of those on adjoining properties.
- (7) Building materials and exterior roofing shall be compatible with materials and colors with other buildings on the lot and on adjoining properties. Building materials shall include at least 50% durable materials (such as stone, clay or masonry brick, decorative concrete masonry) on street facing facades.
- (8) Mailbox installations shall comply with USPS regulations and are not permitted on City-owned parcels or within the right-of-way.
- (9) City Staff or Plan Commission may require building orientation to be adjusted to meet site-specific concerns or address aesthetic considerations of nearby properties.

(Code 1986, § 17.41(4); Ord. No. 2003-9, § 6, 9-9-2003; Ord. No. 2003-11, § 6, 10-14-2003, Ord. 2007-21, Ord. 2012-16, Ord. 2023-15)

Secs. 130-1026--130-1040. Reserved.

DIVISION 18. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Sec. 130-1041. Purpose.

(a) The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed planned unit developments, and to provide for the possible relaxation of certain development standards pertaining to the underlying standard zoning district.

(b) Planned unit developments are intended to provide more incentives for infill development and redevelopment in areas of the community that are experiencing a lack of significant reinvestment. Furthermore, planned unit developments are designed to forward both the aesthetic and economic development objectives of the city by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk, landscaping, and parking requirements. In exchange for such flexibility, the planned unit development shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.

(c) Planned unit developments have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this chapter. In addition to such potential, planned unit developments also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case-by-case basis. In order to prevent this from occurring, all planned unit developments are required to meet certain procedural requirements applicable only to planned unit developments, in addition to the general requirements of this chapter. A public hearing process is required to review a request for a planned unit development. This process shall essentially combine the process for a zoning map amendment with that required for a conditional use, with several additional requirements.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(1)), 1-19-1998)

Sec. 130-1042. Flexibility of development standards.

(a) *Permitted locations for planned unit developments.* Planned unit developments shall be permitted with the approval of a planned unit development overlay zoning district per the procedures of sections 130-1047 and 130-1048.

(b) *Exemptions from general development standards.* The following exemptions to the development standards of the underlying zoning district may be provided with the approval of a planned unit development:

- (1) *Land use requirements.* All land uses listed as "residential," "institutional," or "commercial" may be permitted within a planned unit development.
- (2) *Density and intensity requirements.* All requirements for residential density and nonresidential intensity may be waived within a planned unit development.

- (3) *Bulk requirements.* All bulk requirements (setbacks and height) may be waived within a planned unit development.
- (4) *Landscaping requirements.* All landscaping requirements may be waived within a planned unit development.
- (5) *Parking and loading requirements.* All parking and loading requirements may be waived within a planned unit development.

(c) *All aspects of development to be depicted on site plan.* Only development which is explicitly depicted on the required site plan approved by the city council as part of the approved planned unit development shall be permitted, even if such development (including all aspects of land use, density and intensity, bulk, landscaping, and parking and loading) is otherwise listed as permitted. Requested exemptions from these standards shall be made explicit by the applicant in the application, and shall be recommended by the plan commission and approved explicitly by the city council. If not so requested and approved, such exemptions shall not be permitted.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(2)), 1-19-1998)

Sec. 130-1043. Initiation of request for approval.

Proceedings for approval of a planned unit development shall be initiated by:

- (1) An application of the owner of the subject property;
- (2) A recommendation of the plan commission; or
- (3) Action of the city council.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(3)), 1-19-1998)

Sec. 130-1044. Application for approval.

All applications for proposed planned unit developments, regardless of the party of their initiation per section 130-1043, shall be approved as complete by the zoning administrator a minimum of two weeks prior to the initiation of the procedure described in this division. The zoning administrator shall forward copies of the complete application to the office of the city clerk-treasurer. The application shall apply to each of the process steps in sections 130-1045--130-1048. With the plan commission's approval, and generally for simple planned unit developments, the applicant may combine planned unit development process steps 1 and 2, or steps 1, 2, and 3.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(4)), 1-19-1998)

Sec. 130-1045. Step 1, preapplication conference.

(a) The applicant for approval of a planned unit development shall contact the zoning administrator to place an informal discussion item for the planned unit development on the plan commission agenda.

(b) No details beyond the name of the applicant and the identification of the discussion item as a planned unit development is required to be given in the agenda.

(c) At the plan commission meeting, the applicant shall engage in an informal discussion with the plan commission regarding the potential planned unit development. Appropriate topics for discussion may include the location of the planned unit development, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and nonresidential intensities, the general treatment of natural features, the general relationship to nearby properties and public streets, and relationship to the master plan.

(d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the applicant or the city, but should be considered as the informal, nonbinding basis for proceeding to the next step.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(5)), 1-19-1998)

Sec. 130-1046. Step 2, concept plan.

(a) The applicant for approval of a planned unit development shall provide the zoning administrator with a draft planned unit development concept plan submittal packet for a determination of completeness prior to placing the proposed planned unit development on the plan commission agenda for concept plan review. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for concept plan review:

- (1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city land use plan map.
- (2) A general written description of the proposed planned unit development including:
 - a. General project themes and images;
 - b. The general mix of dwelling unit types and/or land uses;
 - c. Approximate residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. The general treatment of natural features;
 - e. The general relationship to nearby properties and public streets;
 - f. The general relationship of the project to the master plan;
 - g. An initial draft list of zoning standards which will not be met by the proposed planned unit development and the locations in which they apply, and a complete list of zoning standards which will be more than met by the proposed planned unit development and the locations in which they apply. Essentially, the purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of

the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility; and

- (3) A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 - a. Land use exemptions.
 - b. Density and intensity exemptions.
 - c. Bulk exemptions.
 - d. Landscaping exceptions.
 - e. Parking and loading requirements exceptions.
- (4) A conceptual plan drawing (at 11 inches by 17 inches) of the general land use layout and the general location of major public streets and/or private drives. The applicant may submit copies of a larger version of the conceptual plan in addition to the 11-inch by 17-inch reduction.

(b) Within ten working days of receiving the draft planned unit development concept plan submittal packet, the zoning administrator shall determine whether the submittal is complete. Once the zoning administrator has received a complete packet, the proposed planned unit development concept plan shall be placed on the plan commission agenda.

(c) At the plan commission meeting, the applicant shall engage in an informal discussion with the plan commission regarding the conceptual planned unit development. Appropriate topics for discussion may include any of the information provided in the planned unit development concept plan submittal packet, or other items as determined by the plan commission.

(d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the applicant or the city, but should be considered as the informal, nonbinding basis for proceeding to the next step. The preferred procedure is for one or more iterations of plan commission review of the concept plan to occur prior to introduction of the formal petition for rezoning which accompanies the general development plan application.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(6)), 1-19-1998)

Sec. 130-1047. Step 3, general development plan.

(a) The applicant for approval of a planned unit development shall provide the zoning administrator with a draft general development plan (GDP) submittal packet for a determination of completeness prior to placing the proposed general development plan on the plan commission agenda for general development plan review. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for general development plan review:

- (1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city's land use plan map.
- (2) A map of the subject property showing all lands for which the planned unit development is proposed, and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current records of the register of deeds of the county. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- (3) A general written description of proposed planned unit development including:
 - a. General project themes and images.
 - b. The general mix of dwelling unit types and/or land uses.
 - c. Approximate residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio.
 - d. The general treatment of natural features.
 - e. The general relationship to nearby properties and public streets.
 - f. The general relationship of the project to the master plan.
 - g. A statement of rationale as to why planned unit development zoning is proposed. This shall identify barriers that the applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the applicant suggests are available through the proposed planned unit development zoning.
 - h. A complete list of zoning standards which will not be met by the proposed planned unit development and the locations in which they apply, and a complete list of zoning standards which will be more than met by the proposed planned unit development and the locations in which they apply. Essentially, the purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.
 - i. A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 1. Land use exemptions.
 2. Density and intensity exemptions.
 3. Bulk exemptions.
 4. Landscaping exceptions.

5. Parking and loading requirements exceptions.

- (4) A general development plan drawing at a minimum scale of one inch equals 100 feet (an 11-inch by 17-inch reduction shall also be provided by the applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
- a. A conceptual plan drawing (at 11 inches by 17 inches) of the general land use layout and the general location of major public streets and/or private drives. The applicant may submit copies of a larger version of the conceptual plan in addition to the 11-inch by 17-inch reduction;
 - b. Location of recreational and open space areas and facilities, specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the plan commission or city council; and
 - d. Notations relating the written information provided under subsections (a)(3)a--f of this section to specific areas on the general development plan drawing.
- (5) A general conceptual landscaping plan for subject property, noting approximate locations of foundations, streets, yards and paving, and landscaping, and the compliance of development with all landscaping requirements of this chapter (except as noted in the listing of exceptions), and the use of extra landscaping and bufferyards.
- (6) A general signage plan for the project, including all project identification signs and concepts for public fixtures and signs (such as streetlight fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from city standards or common practices.
- (7) A traffic impact report as described in Section 130-203.

(b) The processing fees for review and approval of the general development plan shall be as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consultant costs, and, if land is to be divided, costs for preliminary and final plats of subdivision per this Code. The approval of a general development plan shall establish a PUD/GDP overlay that is depicted as such on the official zoning map. The underlying use zoning, however, shall control development within the area of the general development plan until all or portions of the general development plan are approved as a precise implementation plan (PIP).

(c) Prior to plan commission recommendation to the city council for approval, approval with modification, or denial, a public hearing shall be held to consider the proposed general development plan. All property owners within 250 feet of the subject

property shall be notified by first class mail no later than ten days prior to the public hearing.

(d) All portions of an approved PUD/GDP not fully developed within three years of final city council approval shall expire, and no additional PUD-based development shall be permitted. The city council may extend this three-year period by up to five additional years via a majority vote following a public hearing.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(7)), 1-19-1998, Ord. 2006-30)

Sec. 130-1048. Step 4, precise implementation plan.

(a) After the effective date of rezoning to PUD/GDP, the applicant may file an application for a proposed precise implementation plan (PIP) with the plan commission. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for planned unit development review:

- (1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city's land use plan map.
- (2) A map of the subject property showing all lands for which the planned unit development is proposed, and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current records of the register of deeds of the county. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- (3) A general written description of proposed precise implementation plan including:
 - a. Specific project themes and images.
 - b. The specific mix of dwelling unit types and/or land uses.
 - c. Specific residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio.
 - d. The specific treatment of natural features.
 - e. The specific relationship to nearby properties and public streets.
 - f. A statement of rationale as to why planned unit development zoning is proposed. This shall identify barriers that the applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the applicant suggests are available through the proposed planned unit development zoning.
 - g. A complete list of zoning standards which will not be met by the proposed precise implementation plan and the locations in which they apply, and a

complete list of zoning standards which will be more than met by the proposed precise implementation plan and the locations in which they apply. The purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility. List items shall be provided in the following order:

1. Land use exemptions.
 2. Density and intensity exemptions.
 3. Bulk exemptions.
 4. Landscaping exceptions.
 5. Parking and loading requirements exceptions.
- (4) A precise implementation plan drawing at a minimum scale of one inch equals 100 feet (an 11-inch by 17-inch reduction shall also be provided by the applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
- a. A PIP site plan conforming to any and all the requirements of this chapter. If the proposed planned unit development is a group development, a proposed preliminary plat or conceptual plat shall be provided in addition to the required site plan;
 - b. Location of recreational and open space areas and facilities, specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the plan commission or city council; and
 - d. Notations relating the written information provided under subsections (a)(3)a--f of this section to specific areas on the general development plan drawing.
- (5) A landscaping plan for the subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart that provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or bufferyard) of all trees and shrubs.
- (6) A series of building elevations for the entire exterior of all buildings in the planned unit development, including detailed notes as to the materials and colors proposed.
- (7) A general signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as streetlight fixtures and/or poles

or street sign faces and/or poles), and group development signage themes which are proposed to vary from city standards or common practices.

- (8) A general outline of the intended organizational structure for a property owners' association, if any, deed restrictions, and provisions for private provision of common services, if any.
- (9) A written description which demonstrates the full consistency of the proposed precise implementation plan with the approved general development plan.
- (10) Any and all variations between the requirements of the applicable PUD/GDP zoning district and the proposed PIP development.

The applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development. The area included in a precise implementation plan may be only a portion of the area included in a previously approved general implementation plan. The precise implementation plan submission may include site plan and design information, allowing the plan commission to combine design review and review of the PIP. Design review may, at the choice of the applicant, be deferred until a later time when specific site and building developments will be brought forth. The plan commission or city council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the PIP as such may be relevant to review.

(b) The processing fees for review and approval of the precise implementation plan shall be as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consultant costs, and, if land is to be divided, costs for preliminary and final plats of subdivision per this Code. The approval of a PUD/PIP shall formally establish the PUD/PIP overlay zoning district and any such land uses and site plans included in the approved precise implementation plans.

(c) All portions of an approved PUD/PIP not fully developed within three years of final city council approval shall expire, and no additional PUD-based development shall be permitted. The city council may extend this three-year period by up to five additional years via a majority vote following a public hearing.

(d) Approved planned unit developments that have not been completed within the time limits established by section (c) of this section shall revert to the preexisting zoning designation.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(8)), 1-19-1998)

Sec. 130-1049. Implementation of project.

Upon approval of a precise implementation plan by the city council, the applicant may apply for building permits, zoning permits and use permits from the zoning administrator. Upon granting of the necessary permits, the applicant may commence construction.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(9)), 1-19-1998)

Secs. 130-1050--130-1070. Reserved.

DIVISION 19. MOBILE HOME PARKS DISTRICT (MHP)*

Sec. 130-1071. Mobile homes and mobile home parks.

(a) *Purpose and intent.* The purpose of the mobile homes park district (MHP) is to provide a means of obtaining the residential goals and objectives of the development plan of the city. The intent of the mobile homes park district (MHP) is to provide for the location of mobile home parks and travel trailer camps, and to establish regulations governing their construction and use for the health and well-being of the residents of the city.

(b) *State statutes adopted by reference.* The provisions of Wis. Stats. § 66.0435, and the definitions therein are hereby adopted by reference.

(c) *Additional definitions.* In addition to the definitions contained in Wis. Stats. § 66.0435, the following words or phrases shall have the following meanings:

Complete bathroom facilities means a minimum requirement of a flush toilet, lavatory, bath and kitchen sink.

Lot means that part of an individual mobile home space reserved and improved for the placement of one mobile home unit.

Mobile home stand means that part of an individual mobile home space reserved and improved for the placement of one mobile home unit.

Occupied area means that portion of an individual mobile home space covered by a mobile home and its accessory structures.

Park management means that person who owns or has charge, care or control of the mobile home park.

Sec. 130-1072. Conditional uses.

The following conditional uses shall be allowed only after issuance of a conditional use permit as prescribed in section 130-101.

- (1) Mobile home parks.
- (2) Travel trailer camps.

Sec. 130-1073. Procedures and applications.

(a) *Mobile home park license; approvals required.* No person shall establish, maintain or operate upon property owned or controlled by him within the city a mobile

* **Cross references:** Manufactured homes and trailers, Sec. 130-1241.

home park or travel trailer camp without first obtaining from the city a license issued by the zoning administrator after approval of the common council.

(b) *Application.* An application for a mobile home park license shall be made on the form required by the city to the zoning administrator.

(c) *Fee.* A fee as established by the council from time to time by resolution and as set forth in appendix A, per 50 spaces or fractions thereof, in a proposed mobile home park shall be paid to the city clerk-treasurer no later than the day the application is filed. A renewal fee is due January 1 of each calendar year.

(d) *License term.* A mobile home park license shall expire each year on December 31, and application for renewal and renewal fee is due no later than January 1 of each year. There shall be no apportionment of fees for use of less than one year.

(e) *Inspections.* The zoning administrator and fire chief shall inspect mobile home parks not less than once in every 12-month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the city as affected thereby and the compliance of structures and activities therein with this division and all other applicable state laws and city ordinances. For the purpose of making inspections, such officials or authorized agents shall enter on any premises at reasonable times upon reasonable advance notice on which a mobile home is located.

(f) *Standard of review.* The common council shall grant a mobile home park license only if all of the following standards are met at the time of initial application or renewal, which standards are intended to be minimum standards to create a safe, sanitary, healthful environment. However, this express enumeration shall not limit or preclude the common council from imposing additional requirements or making reasonable modifications of these requirements. Any additional requirement specifically added or modified shall be made in writing by the common council and endorsed on the mobile home park license:

- (1) The park management obtains and maintains a valid certificate from the state department of health and social services that the park complies with the provisions of Wis. Admin. Code chs. H62 and H77, applicable thereto.
- (2) The mobile home park shall be used only for the parking and occupancy of single family nondependent mobile homes and accessory structures and appurtenances and uses authorized and approved as part of the conditional use permit.
- (3) Evidence as required by the city is submitted by the park management that all equipment, roads, sanitary facilities, and other structures have been constructed, or installed in the park as required and continue in operating condition.
- (4) Evidence as required by the city is submitted by the park management that the mobile home park complies with all city, county, or state zoning requirements.
- (5) Each mobile home shall have a minimum living space of 450 square feet.

(6) Park or camp size shall meet the following requirements:

<i>Type</i>	<i>Minimum acreage</i>	<i>Maximum density</i>
Mobile home park	8	5.0 units per gross land acre
Travel trailer camp	6	7.0 units per gross land acre

(7) Minimum lot width and setback standards shall be as follows:

	<i>Mobile home lot</i>	<i>Accessory structures*</i>	<i>Travel trailers</i>
Front setback	25 feet	25 feet	25 feet
Side setback	10 feet	10 feet	10 feet
Rear setback	10 feet	10 feet	10 feet
Corner street, side yard	10 feet	10 feet	10 feet
Yard abutting open areas	10 feet	10 feet	
From any public street	50 feet	50 feet	
From any park, drive or common area	25 feet	25 feet	

*Accessory structures, such as awnings, cabanas, storage cabinets, carports, windbreaks or attached porches shall be considered part of the unit for purposes of determining compliance with this subsection.

Minimum lot width, except irregular shaped lots may be approved with lesser frontage		40 feet
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	Single wide	50 feet	
	Double wide	60 feet	
Minimum lot area			4,000 sq. feet
	Single wide	6,000 sq. feet	
	Double wide	7,200 sq. ft. feet	

(8) Utilities shall be installed underground and shall meet all codes.

(g) *Electric service.* Each mobile home and travel trailer lot shall be connected to the park or camp electrical wiring system by underground cable and by approved receptacle, disconnecting means, and over current protective equipment. The minimum service per each mobile home lot shall be 120-240 volts AC, 100 amperes. Adequate lights shall be provided in the mobile home park and travel trailer camp to illuminate streets, driveways, and walkways, for the safe movement of vehicles and pedestrians at night. A minimum of 0.1 footcandle power shall be provided for safe pedestrian and vehicle movement.

(h) *Sewer service.* The mobile home park shall be served by the city sewer service. Each mobile home lot shall be equipped with at least a four-inch sewer connection so located as to provide a suitable connection from the mobile home with a continuous grade, not subject to surface drainage. Sewer service connections are not allowed below any mobile home stand or unit. The travel trailer camp shall provide facilities for the disposal of sanitary wastes as set forth in Wisconsin Administrative Code standards. Any unit that is not connected to the city sanitary sewer system shall be unlawful and connections shall be sealed.

(i) *Water.* The mobile home park shall be served by the city water system. Each mobile home lot shall have or continues to have individual valved water service so constructed and installed so that they will not be damaged by frost or parking of the unit. Water systems shall be adequate to provide a pure, potable water supply of six gallons per minute at a minimum pressure of 20 psi and capable of furnishing a minimum of 150 gallons per unit per day. The travel trailer camp shall provide a common water system, with provision to supply water within 50 feet of each travel trailer lot. Water service connections are not allowed below any mobile home stand or unit. Any unit that is not connected to the city water supply system shall be unlawful and connections shall be sealed.

(j) *Water meter.* Water meters for each mobile home unit or a master water meter, approved by the city water utility, is required for the mobile home park.

(k) *Fire hydrant.* The mobile home park will have or continues to have fire hydrants installed within 500 feet of each mobile home stand and park or service building.

(l) *Sewer connection.* The mobile home park will have or continues to have for each space a four-inch watertight sewer connection protected from damage by heaving and thawing or parking of the unit, located within a rear one-third of the stand, with a continuous grade, which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor free.

(m) *Stand; anchor; tiedowns.* For each space there will be or continues to be a stand consisting of a concrete slab of at least six-inch concrete (3,500 psi) and concrete piers extending below frost and having tiedown and leveling devices, with six-inch gravel, 12 feet wide and 50 feet long for each mobile home. At least six anchors and tiedowns shall be provided at regular intervals on each slab. The mobile home shall be attached to the anchoring devices. Only one mobile home or travel trailer shall be placed on a lot except that an unoccupied travel trailer may be parked behind the setback line of the owner's yard to the rear of the principal building, unless otherwise approved in the final plans.

(n) *Off-street parking spaces.* The mobile home park will have or continues to have for each space a minimum of two off-street parking spaces surfaced with bituminous concrete or similar material capable of carrying a wheel load of 4,000 pounds. At least one off-street parking space shall be provided on or for each travel trailer lot. The size of each parking space shall be at least nine feet by 20 feet. Street parking on both sides of the street shall be permitted if the roadway width is at least 30 feet wide. Street parking shall be permitted on one designated side only if the roadway width is at least 24 feet wide. There shall be no parking allowed if the roadway width is less than 30 feet wide. Under special circumstance the plan commission may permit a one-way street with a width of 18 feet.

(o) *Abutment; streets.* Each space in the mobile home park will or continues to abut a street. All streets shall be constructed of a hard smooth and dense surface which shall be well drained under normal use and weather conditions. Pavement edges shall be curbed or protected to prevent raveling. Grades of streets shall be sufficient to ensure adequate surface drainage, but not more than eight percent, provided a maximum grade of 12 percent may be used if approved by the city. Streets shall be at approximate right angles within 100 feet of an intersection. There shall be no intersections of more than two streets. A district of at least 150 feet shall be maintained between centerlines of offset intersecting streets.

(p) *Soil conditions; water level; drainage.* The condition of soil, groundwater level, drainage and topography shall not create hazards to the property, health, or safety of occupants of mobile home spaces or living units. Thee site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to the unpredictable and/or flooding, or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.

(q) *Ground surface.* The ground surface in all parts of the mobile home park will be or continues to be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.

(r) *Soil erosion; prevention.* The exposed ground surface in all parts of the mobile home park will be or continues to be paved or covered with stone screening or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.

(s) *Vehicular access.* The mobile home park will provide or continues to provide safe and convenient foot and vehicular access from abutting public streets or roads, with entrances designed to minimize congestion and traffic hazards.

(t) *Park usage.* No part of a part or camp shall be used for nonresidential purposes, except for parks, playgrounds, open space, off-street parking lots, laundromats, clubhouse facilities, swimming pools, one park office and service buildings for the exclusive use of park residents.

(u) *Signs.* No signs shall be permitted except the following:

- (1) One nonflashing identification ground mounted sign or a wall sign stating only the name of the park, but not located in any setback.
- (2) One ground wall sign or on-premises wall sign per street frontage only in travel trailer camps.
- (3) Any necessary regulatory signs such as street name signs, and entrance and exit signs.

(v) *Screening buffer strip.* There shall be provided a screening buffer strip along the boundary of the mobilehome park or travel trailer camp where it abuts a residential district. Such screening shall be at least five feet in width and five feet in height. Such strip shall be densely planted hedge or shrubbery so as to effectively cause a visual barrier and still allow a breeze to pass.

(w) *Outdoor living and service area.* Each mobile home lot shall be provided with an outdoor living and service area. The area should be improved as necessary to ensure reasonable privacy and comfort. The minimum area should be not less than 300 square feet with a least dimension of 15 feet.

(x) *Recreational facilities.* Recreational facilities such as playgrounds, swimming pools, or tot lots shall be provided to meet the needs of the residents the park is designed to serve. Not less than ten percent of the total gross park area shall be devoted to recreational facilities and open space. Recreational facilities shall be convenient to the park center.

(y) *Storage buildings.* One storage building accessory to the mobile home unit will be permitted on a mobile home lot provided that the storage building does not exceed 400

cubic feet and does not exceed eight feet in height. The storage building shall be fully enclosed and located on the mobile home lot. All storage buildings in the mobile home park shall be uniform in size.

(z) *Fuel distribution system.* All fuel shall be distributed to an individual lot by an underground distribution system for a common underground fuel storage facility installed in conformity with the rules and regulations of the state department of industry, labor and human relations.

(aa) *Roads.* All roads created by a mobile home park shall be hard surfaced according to city street standards. The minimum pavement width of roadways shall be 24 feet. The minimum pavement diameter of cul-de-sacs shall be 40 feet. The alignment and gradient shall be properly adapted to topography, to safe movement of types of traffic anticipated, and to satisfactory control of surface water and groundwater. The names of roadways within the park shall not duplicate names of street within the city.

(bb) *Marked.* The limits of each mobile home and travel trailer lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means. Each mobile home in a mobile home park and each travel trailer lot in a travel trailer camp shall be clearly marked in a uniform manner with a number or designation for fire and police services and such number shall be filed with the appropriate authorities by the licensee.

(cc) *Fences and hedges.* Fences and hedges may be permitted in a mobile home park or travel trailer camp provided they do not exceed a height of three feet in the front yard or corner side yard and six feet in height in all other yards.

(dd) *Refuse and recycling containers.* Refuse and recycling shall be stored in flytight, watertight, approved containers stored within a completely enclosed building or may be permitted outside the building provided that the storage area is effectively screened from view.

(ee) *Service building.* There shall be at least one service building in a travel trailer camp to provide sanitary and laundry facilities. Such service building shall be easily accessible to all travel lots and shall be made of permanent construction in accordance with all building codes. The service building shall maintain a minimum temperature of 60 degrees Fahrenheit whenever the camp is open for business.

(ff) *Maintenance.* Every mobile home park and travel trailer camp shall be so located and maintained as to appear attractive and to be kept in a clean and sanitary manner in all respects, and all equipment shall be kept in a state of good repair.

(gg) *Adverse influences.* Condition of soil, groundwater level, drainage and topography shall not create hazards to the property, health, or safety of occupants of the mobile home park. The site shall not be exposed to objectionable noise, odors, or other adverse influences, and no portion subject to flooding subsistence or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.

(hh) *Compliance with code standards.* No mobile home shall be admitted in any mobile home park unless it can demonstrate that it meets the requirements of all construction standards.

Sec. 130-1074. Transfer of license.

A transfer of license shall be applied for and may be approved by the common council in the same manner as an application for an annual license. The fee for a license transfer shall be as authorized in Wis. Stats. § 66.0435(7).

Sec. 130-1075. Parking permit.

(a) *Permit.* There shall be a parking permit required for each occupied nonexempt mobile home located in the city.

(a) *Fee.* The amount of the parking permit shall be as allowed by Wis. Stats. § 66.0435 as amended from time to time. The fee shall be paid to the city clerk-treasurer on or before the tenth day of the calendar month following the month for which fees are due.

(b) *Collection.* The park management shall be responsible for the collection of the parking fees for all occupied nonexempt mobile homes in its park. Failure to collect and remit to the city clerk-treasurer shall be treated as default in payment of personal property taxes and subject to all procedures and penalties pursuant to Wis. Stats. Chs. 70—74. Occupants of nonexempt mobile homes outside a mobile home park shall remit monthly parking permit fees directly to the city clerk-treasurer.

Sec. 130-1076. Conditional use permit.

No person shall establish, maintain or operate upon property owned or controlled by him within the city a mobile home park or a travel trailer camp without first obtaining from the plan commission a conditional use permit. All application requirements, fees, procedures for review and standards for review shall be as defined in division 4 of the zoning code.

Sec. 130-1077. Administration.

(a) *Zoning administrator responsibilities.* It shall be the responsibility of the zoning administrator to enforce the provisions of this division by authorizing and directing inspections to be made of all mobile home parks and travel trailer camps.

(b) *Violations.* Whenever the zoning administrator determines violations of pertinent regulations exist, he shall notify the licensee or permittee of such violations. The notice shall be in writing, include specific provisions violated, and allow a reasonable time for correction of the violation, but not to exceed 90 days.

(c) *Emergency order.* Whenever the zoning administrator finds that an emergency exists which requires immediate action to protect the public health, safety and/or welfare, he may without notice or hearing issue an order reciting the existence of the emergency and requiring that action be taken as he may deem necessary to meet the emergency, including the suspension of the license. The order shall be in writing, shall be effective notwithstanding any other provisions of this division, and shall be effective immediately. Any person to whom such order is directed shall comply immediately or be subject to the revocation of the mobile home park license.

Sec. 130-1078. Duty of license holder.

(a) Every person, firm or corporation operating a mobile home park or travel trailer camp shall have an office for the person in charge of the park and maintain a register available to the zoning administrator in which there shall be included the following information:

- (1) For mobile home parks: Lot designation, occupant name, description of the mobile home and license number, dates of arrival and departure, and monthly parking fee.
- (2) For travel trailer camps: Name and address of each party entering and using the camp, description and license number of the travel trailer and motor vehicle, and dates of arrival and departure.

(b) A copy of the park license shall be prominently posted in the park office.

(c) The licensee shall furnish to the city clerk-treasurer and city assessor within five days, information of a mobile home arrival on the form required by the city clerk-treasurer pursuant to Wis. Stats. § 66.0435.

(d) The licensee shall be responsible for the collection and forwarding to the city clerk-treasurer the monthly parking fee and any required deposits from each occupied mobile home or travel trailer.

Sec. 130-1079. Revocation of license.

Upon failure to comply with any violation notice or upon complaint by any citizen of the city, the license for a mobile home park or travel trailer camp is subject to revocation pursuant to Wis. Stats. § 66.0435.

Sec. 130-1080. General provisions; prohibitions.

Every mobile home park and every travel trailer camp built or added after July 1, 1978, shall conform to and be governed by the provisions of this division. No mobile home park and no travel trailer camp shall be allowed in any district except the mobile home district. Every mobile home park and travel trailer camp shall first have an approved conditional use permit prior to being licensed.

Sec. 130-1081. Additions and alterations.

(a) *Permit required.* A permit issued by the zoning administrator shall be required before any construction on a mobile home lot or any structural addition or alteration to the exterior of a mobile home. No permit is required for addition of steps, awnings, skirting, windows, doors, or tenant storage structures.

(b) *Size of expansion.* No addition to a mobile home shall be greater than the area in square feet of the existing mobile home. No addition or alteration to the mobile home shall exceed in height the height of the existing mobile home, and all alterations or additions shall be factory built.

(c) *Conform to setbacks.* Any addition to a mobile home shall be deemed part of the mobile home and shall have the same setbacks as the existing mobile home.

(d) *Skirting required.* Vented skirting of nonflammable material for mobile homes is required. Areas enclosed by the skirting shall be maintained so as to not provide harborage for rodents or create a fire hazard. It is recommended that insulation be provided inside the skirting to prevent freezing pipes.

Sec. 130-1082. Responsibilities of mobile home park occupants.

(a) *Compliance with municipal ordinances.* Mobile home park occupants shall comply with all applicable requirements of this division and regulations issued hereunder and shall maintain their mobile home space, its facilities, and equipment in good repair and in a clean and sanitary condition. Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the city. The zoning administrator shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. A mobile home in such condition is a public nuisance. Whenever the zoning administrator so determines, he shall, notify the park management, the license holder, the land owner, or the mobile home owner in writing that such public nuisance exists within the park or on the lands owned by him giving the findings upon which his determination is based and shall order the home removed from the park or site or repaired to a safe, sanitary, and wholesome condition of occupancy within a reasonable time, but not less than 30 days.

(b) *Mobile home placement.* Mobile home park occupants shall be responsible for proper placement of their mobile homes on a mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(c) *Payment of fees.* Mobile home park occupants of a nonexempt mobile home shall remit to the park management when due the cash deposit and monthly parking permit fees.

(d) *Access.* Mobile home park occupants of a mobile home shall give park management access to the mobile home at reasonable times and upon a reasonable notice for purposes of making repairs or alterations necessary to effect compliance with this division or any state or local law or regulation.

(e) *Mobile home use.* Mobile home park occupants shall not engage in any activity or business which is not permitted in a single-family residential zoning district.

Sec. 130-1083. Mobile homes outside parks.

(a) *Restrictions.* Except as otherwise provided in this division, no person shall park, locate, or place any mobile home outside of a licensed mobile home park in the city, except unoccupied mobile homes may be parked on the premises of a licensed mobile home dealer for purposes of sale display, on the premises of a vehicle service business for purposes of servicing or making necessary repairs, on the premises leased or owned by the owner of the mobile home for purposes of sales display for not more than 120 days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of the mobile home. No person shall stop, stand or park a mobile home on any street, alley, or highway within the city, in violation of Wis. Stats. chs. 340-348, or any ordinance of the city.

(b) *Use permit.* A mobile home located on premises outside a license mobile home park prior to 1978 may continue to occupy the premises, provided the owner of the premises on which the mobile home is located shall have a use permit issued by the zoning administrator. The use shall be considered a nonconforming use and shall terminate upon discontinuance, for any reason, for 12 months, or total structural repairs and alterations to the mobile home exceed 50 percent of the mobile home net value.

Secs. 130-1084--130-1120. Reserved.

DIVISION 20. HISTORIC CONSERVATION OVERLAY DISTRICT (HC)*

Sec. 130-1121. Purpose and intent.

Within districts now existing or hereafter created, it is intended to permit the creation of historic and cultural conservation overlay districts in general areas or for individual structures and premises officially designated as having historic or cultural significance. Regulations within such districts are in addition to the regulations of the underlying zoning district. These regulations are intended to protect against destruction of or encroachment upon such areas, structures or premises; to encourage uses which will lead to their continuance, conservation, and improvement in a manner appropriate to preservation of the cultural and historic heritage of the city, to prevent creation of environmental influences adverse to such purposes, and to ensure that new structures and uses within such districts will be in keeping with the character to be preserved and enhanced, thereby to protect and promote the general welfare by maintaining and increasing property values and making the district a more attractive and desirable place in which to live.

(Code 1986, § 17.44(1))

Sec. 130-1122. Uses permitted by right.

Permitted uses in the HC district are as follows: continuation of existing uses when such use is in conformity with permitted uses of underlying zoning district.

(Code 1986, § 17.44(2))

Sec. 130-1123. Uses permitted as conditional use; standards for approval of conditional use.

(a) The following conditional uses shall be allowed in the HC district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Any use change from an existing use which would be permitted by the underlying district.
- (2) Any expansion of an existing use which is permitted by the underlying district.
- (3) Any new construction of a permitted or conditional use pursuant to the underlying zoning district.

(b) In general, the following items shall be considered in making decisions about conditional use requests within this district:

- (1) *Height.* All new structures should be constructed to a height visually compatible with the buildings and environment with which they are visually related.
- (2) *Scale.* The gross volume of any new structure should be visually compatible with the buildings and environment with which it is visually related.

* **Cross references:** Historic preservation, ch 62.

- (3) *Proportion of front facades.* In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the buildings and environment with which it is visually related.
- (4) *Proportion of openings.* The proportions and relationships between doors and windows in the street facades should be visually compatible with the buildings and environment with which they are visually related.
- (5) *Rhythm of solids to voids.* The rhythm of solids to voids created by openings in the facade should be visually compatible with the buildings and environment with which it is visually related.
- (6) *Rhythm of spacing.* The existing rhythm created by existing building masses and spaces between them should be preserved.
- (7) *Relationship of materials.* The materials used in the final facades should be visually compatible with the buildings and environment with which they are visually related.
- (8) *Relationship of textures.* The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.
- (9) *Relationship of roofs.* The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- (10) *Landscaping.* The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- (11) *Directional expression of front elevation.* All street facades should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- (12) *Relationship of architectural details.* Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(Code 1986, § 17.44(3))

Sec. 130-1124. Requirements for all uses.

Within the HC district, the following standards shall apply:

- (1) Maximum building height: Within ten percent of average of adjacent building heights.
- (2) Minimum front yard setback: As in the underlying district, or the average of adjacent yards.
- (3) Minimum rear yard setback: As in the underlying district, or the average of adjacent yards.

- (4) Minimum lot width: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.
- (5) Minimum lot frontage: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.
- (6) Minimum lot area: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.
- (7) Minimum side yard setback: As in the underlying district, or the average of adjacent yards.
- (8) Minimum lot area per dwelling unit: As specified for the underlying zoning district; provided, however, that a single-family detached dwelling unit may be permitted on existing lots containing 6,000 square feet.
- (9) Off-street parking and loading space: Off-street parking and loading space shall be as required for the underlying zoning district; provided, however, that the following regulations shall apply to the location of such parking facilities:
 - a. No required off-street parking or loading space shall be located in any front yard.
 - b. It is the intent of this division to permit off-site parking where required on-site parking is impractical or would have adverse effects on the appearance of the property or of the district. It is also intended to encourage provision of such off-site parking in grouped facilities in interior-block parking lots or courts or at other appropriate locations which will be convenient for users, reduce interference with pedestrian and vehicular traffic by minimizing curb cuts and sidewalk crossings, and make available for other purposes those areas of lots which would otherwise be required to provide driveways and parking space.

(Code 1986, § 17.44(4))

Sec. 130-1125. Review of plans by historic preservation commission.

The historic preservation commission shall be notified of all applications for conditional use permits within the HC district. The historic preservation commission shall review the plans, visit the site for which the conditional use permit is requested, and advise the plan commission as to whether or not the plans are compatible with the surrounding area.

(Code 1986, § 17.44(5))

Secs. 130-1126--130-1140. Reserved.

DIVISION 21. SPECIAL PURPOSE DISTRICT (S-P)

Sec. 130-1141. Purpose and intent.

The purpose of the S-P district is to provide a means of obtaining the goals and objectives of the development guide. The S-P district is intended to provide for those uses which create or could present special problems, hazards or other circumstances with regard to the use of land. This district is to include those uses of land which require large expanses of land, those which afford hazards to health, safety, or other aspects of the general welfare, and those for which it is desirable to have a limited number of a given land use within the community.

(Code 1986, § 17.45(1))

Sec. 130-1142. Uses permitted as conditional use.

The following conditional uses shall be allowed in the S-P district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

- (1) Refuse disposal sites, dumping grounds, sanitary landfill operations, or similar uses, with the specific provision that setbacks, screening, protective fencing, or some combination of these be provided in a manner adequate to protect the general public from any and all nuisances, hazards or other harmful conditions.
- (2) Facilities for the production, mining, processing or storage of concrete, blacktop, asphalt, or other pavings or road surfacing or building materials.
- (3) Airports open to the public, hangars, or accessory structures.
- (4) Cemeteries when they comply with the provisions of Wis. Stats. §§ 157.061--157.65.
- (5) Racetracks.
- (6) Sewage treatment facilities.
- (7) Accessory structures required by the principal use.
- (8) Junkyards and automobile salvage yards.

(Code 1986, § 17.45(2))

Sec. 130-1143. Requirements for all uses.

- (a) Within the S-P district, the following standards shall apply:
 - (1) Minimum lot area: Five acres.
 - (2) Minimum front yard setback: 50 feet.
 - (3) Minimum side yard setback: 20 feet.
 - (4) Minimum rear yard setback: 25 feet.
 - (5) Maximum slope ratio: 3:1.

- (6) Off-street parking: One space per five seats or one space per five anticipated uses at maximum uses of facility.
- (b) Abandonment procedures for mining operations shall be as follows:
 - (1) Slope: 3:1.
 - (2) Cover: Five inches of topsoil, fast-growing grass or other suitable vegetation, and erosion control as needed.

(Code 1986, § 17.45(3))

Secs. 130-1144--130-1160. Reserved.

DIVISION 22. LIGHT INDUSTRIAL DISTRICT (I-1)*

Sec. 130-1161. Intent and purpose.

(1) *Description.* The I-1 district is intended to permit both large and small scale industrial and office development at an intensity which is consistent with the overall desired character of the community. Beyond a relatively high minimum green space ratio, the primary distinguishing feature of this district is that it is geared to indoor industrial activities which are not typically associated with high levels of noise, soot, odors and other potential nuisances for adjoining properties. In order to ensure a minimum of disruption to residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

(2) *Rationale.* This district is intended to provide a location for light industrial land uses such as assembly operations, storage and warehousing facilities, offices, research and development facilities, and light manufacturing which are protected from potential nuisances associated with certain development permitted within the heavy industrial district and special industrial district. In addition, land uses shall comply with the minimum performance standards presented in this chapter.

(Ord. No. 1997-18, § 9(17.46(1)), 1-19-1998; Ord. No. 1998-12, § 1(17.46), 9-8-1998, Ord. 2011-17)

Sec. 130-1162. Uses permitted by right.

Land uses permitted by right in the I-1 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Active outdoor public recreation (per section 130-372).
- (5) Indoor institutional uses (per section 130-373).
- (6) Public services and utilities (per section 130-375).
- (7) Office (per section 130-401).
- (8) Indoor maintenance service (per section 130-405).
- (9) Indoor storage or wholesaling (per section 130-451).
- (10) Light industrial uses (per section 130-501).
- (11) Artisan studio (per section 130-423).

(Ord. No. 1997-18, § 9(17.46(2)(a)), 1-19-1998, Ord. 2007-4)

Sec. 130-1163. Uses permitted as conditional use.

* **Cross references:** Businesses, ch 22

Land uses permitted as conditional uses in the I-1 district are as follows:

- (1) Clear cutting (per section 130-347).
- (2) Outdoor institutional uses (per section 130-374).
- (3) Indoor sales or service (per section 130-403).
- (4) Commercial animal boarding (per section 130-410).
- (5) Group day care center (nine or more children) (per section 130-413).
- (6) Vehicle repair and maintenance (per section 130-417).
- (7) Group development (per section 130-418).
- (8) Outdoor storage and wholesaling (per section 130-452).
- (9) Personal storage facility (per section 130-453).
- (10) Airport/heliport (per section 130-482).
- (11) Distribution center (per section 130-484).
- (12) Railroad line (per section 130-485).
- (13) Motor vehicle storage yard (per section 130-457).
- (14) Communication towers (per section 130-503).

(Ord. No. 1997-18, § 9(17.46(2)(b)), 1-19-1998; Ord. No. 1998-12, § 1(17.46(2)(b)), 9-8-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2008-08, Ord. 2011-17, Ord. 2014-07)

Sec. 130-1164. Uses permitted as accessory use.

Land uses permitted as accessory uses in the I-1 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Company cafeteria (per section 130-525).
 - d. Indoor sales incidental to light industrial use (per section 130-529).
 - e. On-site parking lot (per section 130-535).
 - f. Exterior communication devices (per section 130-536).
 - g. Outdoor furnace (per section 130-539).
- (2) *Land uses permitted as conditional use.*
 - a. Company-provided on-site recreation (per section 130-526).
 - b. In-vehicle sales and service (per section 130-528).
 - c. Light industrial uses incidental to indoor sales (per section 130-530).

(Ord. No. 1997-18, § 9(17.46((2)(c)), 1-19-1998, Ord. 2006-36)

Sec. 130-1165. Uses permitted as temporary use.

Land uses permitted as temporary uses in the I-1 district are as follows:

- (1) Outdoor assembly (per section 130-562).
- (2) Contractor's project office (per section 130-563).
- (3) Contractor's on-site equipment storage (per section 130-564).
- (4) Relocatable building (per section 130-565).
- (5) On-site real estate sales office (per section 130-566).
- (6) Outdoor sales of farm products (per section 130-567).

(Ord. No. 1997-18, § 9(17.46(2)(d)), 1-19-1998)

Sec. 130-1166. Requirements for residential uses.

Regulations applicable to residential uses are not applicable in the I-1 district.

(Ord. No. 1997-18, § 9(17.46(3)), 1-19-1998)

Sec. 130-1167. Requirements for nonresidential uses.

The following regulations are applicable to nonresidential uses in the I-1 district:

- (1) Intensity requirements:
 - a. Maximum number of floors: Four.
 - b. Minimum landscape surface ratio: 25 percent.
 - c. Maximum floor area ratio: 0.60.
 - d. Minimum zoning district area: 40,000 square feet.
 - e. Maximum building size: Not applicable.
- (2) Bulk and lot dimension requirements:
 - a. Minimum lot area: 40,000 square feet (20,000 square feet permitted as a conditional use).
 - b. Minimum lot width: 200 feet (100 feet permitted as a conditional use).
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: 30 feet.
 - c. Building to residential rear lot line: 30 feet.

- d. Building to nonresidential side lot line: 15 feet.
 - e. Building to nonresidential rear lot line: 30 feet.
 - f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.
 - g. Minimum building separation: 30 feet.
- (4) Maximum building height: 35 feet.
 - (5) Minimum number of off-street parking spaces required on lot: As required in article XI of this chapter.
 - (6) Landscaping requirements (nonresidential, two-family and multifamily uses): As required in article IV of this chapter.
- (Ord. No. 1997-18, § 9(17.46(4)), 1-19-1998, Ord. 2011-17)

Secs. 130-1168--130-1180. Reserved.

DIVISION 23. HEAVY INDUSTRIAL DISTRICT (I-2) *

Sec. 130-1181. Intent and purpose.

(a) *Description.* The I-2 district is intended to permit both large and small scale industrial and office development at an intensity which provides ample incentive for infill development and redevelopment of industrial areas existing as of the effective date of the ordinance from which this chapter is derived. This district is designed to permit a very wide variety of industrial uses, which may occur both indoors and outdoors. In order to ensure a minimum of disruption to residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

(b) *Rationale.* This district is intended to provide a location for urban intensity heavy industrial land uses which may include outdoor storage and display uses. In addition, uses shall comply with the minimum performance standards presented in this chapter.

(Ord. No. 1997-18, § 10(17.47(1)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(1)), 9-8-1998)

Sec. 130-1182. Uses permitted by right.

Land uses permitted by right in the I-2 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Public services and utilities (per section 130-375).
- (5) Office (per section 130-401).
- (6) Indoor maintenance service (per section 130-405).
- (7) Indoor storage or wholesaling (per section 130-451).
- (8) Off-site parking lot (per section 130-481).
- (9) Distribution center (per section 130-484).
- (10) Light industrial uses (per section 130-501).

(Ord. No. 1997-18, § 10(17.47(2)(a)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(a)), 9-8-1998)

Sec. 130-1183. Uses permitted as conditional use.

Land uses permitted as conditional uses in the I-2 district are as follows:

- (1) Agricultural service use (per section 130-344).

* **Cross references:** Businesses, ch 22

- (2) Clear cutting (per section 130-347).
- (3) Outdoor display (per section 130-404).
- (4) Outdoor maintenance service (per section 130-406).
- (5) Group day care center (nine or more children) (per section 130-413).
- (6) Vehicle repair and maintenance (per section 130-417).
- (7) Group development (per section 130-418).
- (8) Outdoor storage or wholesaling (per section 130-452).
- (9) Personal storage facility (per section 130-453).
- (10) Airport/heliport (per section 130-482).
- (11) Heavy industrial uses (per section 130-502).
- (12) Communication towers (per section 130-503).
- (13) Railroad line (per section 130-485).
- (14) Motor vehicle storage yard (per section 130-457).
- (15) Artisan studio (per section 130-423)

(Ord. No. 1997-18, § 10(17.47(2)(b)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(b)), 9-8-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2007-4, Ord. 2008-08, Ord. 2013-02)

Sec. 130-1184. Uses permitted as accessory use.

Land uses permitted as accessory uses in the I-2 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Company cafeteria (per section 130-525).
 - d. Indoor sales incidental to light industrial use (per section 130-529).
 - e. On-site parking lot (per section 130-535).
 - f. Exterior communication devices (per section 130-536).
 - g. Outdoor furnace (per section 130-539).
- (2) *Land uses permitted as conditional use.*
 - a. Company-provided on-site recreation (per section 130-526).
 - b. Outdoor display, incidental (per section 130-527).

(Ord. No. 1997-18, § 10(17.47(2)(c)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(c)), 9-8-1998, Ord. 2006-36)

Sec. 130-1185. Uses permitted as temporary use.

Land uses permitted as temporary uses in the I-2 district are as follows:

- (1) Outdoor assembly (per section 130-562).
- (2) Contractor's project office (per section 130-563).
- (3) Contractor's on-site equipment storage (per section 130-564).
- (4) Relocatable building (per section 130-565).
- (5) On-site real estate sales office (per section 130-566).

(Ord. No. 1997-18, § 10(17.47(2)(d)), 1-19-1998)

Sec. 130-1186. Requirements for residential uses.

Regulations applicable to residential uses are not applicable in the I-2 district.

(Ord. No. 1997-18, § 10(17.47(3)), 1-19-1998)

Sec. 130-1187. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the I-2 district are as follows:

- (1) Intensity requirements:
 - a. Maximum number of floors: Four.
 - b. Minimum landscape surface ratio: 15 percent.
 - c. Maximum floor area ratio: 1.00.
 - d. Minimum lot area: 9,000 square feet.
 - e. Maximum building size: Not applicable.
- (2) Bulk and lot dimension requirements:
 - a. Minimum lot area: 9,000 square feet.
 - b. Minimum lot width: 75 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation, except for Agricultural Service Uses (sec 130-344):
 - a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: 50 feet.
 - c. Building to residential rear lot line: 30 feet.
 - d. Building to nonresidential side lot line: 20 feet.
 - e. Building to nonresidential rear lot line: 30 feet.

- f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.
 - g. Minimum building separation: 40 feet.
- (4) Minimum setbacks and building separation, for Agricultural Service Uses (sec 130-344):
- a. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.
 - b. Minimum paved surface setback: 5 feet from side or rear lot line; ten feet from street lot line.
 - c. Minimum building separation: 40 feet.
- (5) Maximum building height: 35 feet, except for Agricultural Service Uses (sec. 130-344) with an approved conditional use permit allowing height up to 210 feet.
- (6) Minimum number of off-street parking spaces required on lot: As required by Chapter 130, Article XI, of the Municipal Code.
- (7) Landscaping requirements (nonresidential, two-family and multifamily uses): As required by Chapter 130, Article IV, of the Municipal Code.

(Ord. No. 1997-18, § 10(17.47(4)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(4)), 9-8-1998, Ord. 2013-02)

Secs. 130-1188--130-1195. Reserved.

DIVISION 24. SPECIAL INDUSTRIAL DISTRICT (I-3)*

Sec. 130-1196. Purpose and intent.

(a) *Description.* This district is intended to permit both large and small scale industrial and office development at an intensity which provides ample incentive for infill development and redevelopment of industrial areas existing as of the effective date of the ordinance from which this section is derived. This district is designed to permit a very wide variety of industrial uses which may occur both indoors and outdoors, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties. In order to ensure a minimum of disruption to residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

(b) *Rationale.* This district is intended to provide a location for urban intensity heavy industrial land uses which may include outdoor storage and display uses. It must be emphasized that this is not a district where virtually any land use is permitted, as at all uses shall comply with the minimum performance standards presented in this ordinance. In addition, certain land uses such as extraction uses, waste disposal facilities, compositing operations, junkyards, salvage operations, and freight terminals are permitted within this district only upon the granting of a conditional use permit.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1197. Uses permitted by right.

Land uses permitted by right in the I-3 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Public services and utilities (per section 130-375).
- (5) Office (per section 130-401).
- (6) Indoor maintenance service (per section 130-405).
- (7) Indoor storage or wholesaling (per section 130-451).
- (8) Off-site parking lot (per section 130-481).
- (9) Distribution center (per section 130-484).
- (10) Light industrial (per section 130-501).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1198. Permitted as conditional use.

* **Cross references:** Businesses ch 22

Land uses permitted as conditional uses in the I-3 district are as follows:

- (1) Agricultural services (per section 130-344).
- (2) Clear cutting (per section 130-347).
- (3) Outdoor maintenance service (per section 130-406).
- (4) Outdoor commercial entertainment (per section 130-409).
- (5) Sexually oriented land use (per section 130-416).
- (6) Junkyard or salvage yard (per section 130-454).
- (7) Waste disposal facility (per section 130-455).
- (8) Composting operation (per section 130-456).
- (9) Airport/heliport (per section 130-482).
- (10) Freight terminal (per section 130-483).
- (11) Heavy industrial (per section 130-502).
- (12) Communication tower (per section 130-503).
- (13) Extraction use (per section 130-504).
- (14) Railroad line (per section 130-485).
- (15) Motor vehicle storage yard (per section 130-457).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998, Ord. 2005-44, Ord. 2006-42)

Sec. 130-1199. Uses permitted as accessory uses.

Land uses permitted as accessory uses in the I-3 district are as follows:

- (1) Land uses permitted by right:
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Company cafeteria (per section 130-525).
 - d. Indoor sales incidental to light industrial use (per section 130-529).
 - e. Outdoor furnace (per section 130-539).
- (2) Land uses permitted as conditional use:
 - a. Company provided on-site recreation (per section 130-526).
 - b. On-site parking lot (per section 130-535).
 - c. Exterior communication devices (per section 130-536).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998, Ord. 2006-36)

Sec. 130-1200. Uses permitted as temporary uses.

Land uses permitted as temporary uses in the I-3 district are as follows:

- (1) Outdoor assembly (per section 130-562).
- (2) Contractor's project office (per section 130-563).
- (3) Contractor's on-site equipment storage (per section 130-564).
- (4) Relocatable building (per section 130-565).
- (5) On-site real estate sales office (per section 130-566).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1201. Requirements for residential uses.

Regulations applicable to residential uses in the I-3 district are not applicable.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1202. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the I-3 district are as follows:

- (1) Nonresidential intensity requirements:
 - a. Maximum number of floors: Four.
 - b. Minimum landscape surface ratio: Ten percent.
 - c. Maximum floor area ratio: 1.00.
 - d. Minimum lot area: 4,800 square feet.
 - e. Maximum building size: Not applicable.
- (2) Nonresidential bulk requirements:
 - a. Minimum lot area: 4,800 square feet.
 - b. Minimum lot width: 40 feet.
- (3) Minimum setbacks:
 - a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: 50 feet.
 - c. Building to residential rear lot line: 30 feet.
 - d. Building to nonresidential side lot line: 20 feet.
 - e. Building to nonresidential rear lot line: 30 feet.
 - f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.
 - g. Minimum building separation: 40 feet.
 - h. Maximum building height: 40 feet.

- i. Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in section 13-302.
- (4) Nonresidential landscaping requirements (nonresidential, two-family and multifamily):
- a. Twenty landscaping points per 100 linear feet of building foundation.
 - b. Five landscaping points per 1,000 square feet of gross floor area.
 - c. Twenty landscaping points per 100 linear feet of street frontage.
 - d. Forty landscaping points per 10,000 square feet paved area/20 stalls.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Secs. 130-1203--130-1210. Reserved.

DIVISION 25. PLANNED OFFICE DISTRICT (O-1) *

Sec. 130-1211. Purpose and intent.

(a) *Description.* The O-1 district is intended to permit high-quality office and institutional land uses at an intensity compatible with the overall community character of the city. Significant areas of landscaping are required in this district to ensure that this effect is achieved.

(b) *Rationale.* This district is used to provide for the permanent protection of an area for those who desire a high-quality office environment which maintains the attractiveness of the site and retains enough open land in the development to ensure that the community character is maintained as long as the O-1 district designation is retained, regardless of how much development occurs within that area. Further, it is intended that a planned office district would be designed comprehensively and compatibly with its surrounding natural features, such as lakes and creeks, and manmade features, such as paths and trails.

(Ord. No. 1997-18, § 11(17.48(1)), 1-19-1998, Ord. 2004-12, Ord. 2006-11)

Sec. 130-1212. Uses permitted by right.

Land uses permitted by right in the O-1 district are as follows:

- (1) Cultivation (per section 130-341).
- (2) Selective cutting (per section 130-346).
- (3) Passive outdoor public recreation (per section 130-371).
- (4) Active outdoor public recreation (per section 130-372).
- (5) Indoor institutional uses (per section 130-373).
- (6) Public services and utilities (per section 130-375).
- (7) Office (per section 130-401).
- (8) Personal or professional services (per section 130-402).

(Ord. No. 1997-18, § 11(17.48(2)(a)), 1-19-1998)

Sec. 130-1213. Uses permitted as conditional use.

Land uses permitted as conditional uses in the O-1 district are as follows:

- (1) Clear cutting (per section 130-347).
- (2) Outdoor institutional uses (per section 130-374).
- (3) Institutional residential uses (per section 130-376).
- (4) Community living arrangement (one to eight residents) (per section 130-377).

* **Cross references:** Businesses, ch 22

- (5) Community living arrangement (nine to 15 residents) (per section 130-378).
- (6) Community living arrangement (16 or more residents) (per section 130-379).
- (7) Indoor sales or service (per section 130-403).
- (8) Indoor commercial entertainment (per section 130-408).
- (9) Group day care center (nine or more children) (per section 130-413).
- (10) Group development (per section 130-418).
- (11) Airport/heliport (per section 130-482).
- (12) Railroad line (per section 130-485).

(Ord. No. 1997-18, § 11(17.48(2)(b)), 1-19-1998, Ord. 2005-28, Ord. 2005-44)

Sec. 130-1214. Uses permitted as accessory use.

Land uses permitted as accessory uses in the O-1 district are as follows:

- (1) *Land uses permitted by right.*
 - a. Farm residence (per section 130-523).
 - b. Private residential garage or shed (per section 130-524).
 - c. Company cafeteria (per section 130-525).
 - d. Home occupation (per section 130-531).
 - e. On-site parking lot (per section 130-535).
 - f. Exterior communication devices (per section 130-536).
- (2) *Land uses permitted as conditional use.*
 - a. Company-provided on-site recreation (per section 130-526).
 - b. Outdoor commercial food and beverage service (per section 130-538).

(Ord. No. 1997-18, § 11(17.48(2)(c)), 1-19-1998, Ord. 2005-14)

Sec. 130-1215. Uses permitted as temporary use.

Land uses permitted as temporary uses in the O-1 district are as follows:

- (1) Outdoor assembly (per section 130-562).
- (2) Contractor's project office (per section 130-563).
- (3) Contractor's on-site equipment storage (per section 130-564).
- (4) Relocatable building (per section 130-565).
- (5) On-site real estate sales office (per section 130-566).

(Ord. No. 1997-18, § 11(17.48(2)(d)), 1-19-1998)

Sec. 130-1216. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the O-1 district are as follows:

- (1) Residential density and intensity requirements:
 - a. Minimum zoning district area: 40,000 square feet.
 - b. Maximum gross density: Up to 50.00 per limits of the conditional use permit.
 - c. Minimum landscape surface ratio: 50 percent.
 - d. Maximum building coverage: 40 percent.
 - e. Maximum accessory building coverage: Ten percent.
- (2) Residential bulk and lot dimension requirements:
 - a. Minimum lot area: 20,000 square feet.
 - b. Minimum lot width: 100 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Front or street side lot line to house: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Front or street side lot line to garage: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - c. Side lot line to house or garage: Ten feet.
 - d. Total of both sides, lot lines to house or garage: 20 feet.
 - e. Rear lot line to house or garage: 30 feet.
 - f. Side lot line to accessory structure: Three feet from property line, five feet from alley.
 - g. Rear lot line to accessory structure: Three feet from property line, five feet from alley.
 - h. Minimum paved surface setback: Five feet from side or rear; ten feet from street.
 - i. Minimum dwelling unit separation: 20 feet.
- (4) Maximum height of dwelling unit: 35 feet, greater with conditional use permit.
- (5) Maximum height of accessory structure: 15 feet.
- (6) Minimum number of off-street parking spaces required on lot: Three (includes garage, drives, and all designated parking surfaces).
- (7) Minimum dwelling core dimensions: 24 feet by 40 feet.
- (8) Minimum roof pitch: 3:12.

- (9) Minimum eave width: 18 inches.
- (10) Landscaping requirements: See the nonresidential landscaping requirements for multifamily residential landscaping requirements.

(Ord. No. 1997-18, § 11(17.48(3)), 1-19-1998)

Sec. 130-1217. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the O-1 district are as follows:

- (1) Intensity requirements:
 - a. Maximum number of floors: Four, except that if the development takes direct access to a residential collector street, the maximum number of floors is two.
 - b. Minimum landscape surface ratio: 25 percent.
 - c. Maximum floor area ratio: 0.30.
 - d. Minimum lot area: 20,000 square feet.
 - e. Maximum building size: Not applicable, except that if the development takes direct access to a residential collector street, the maximum aboveground floor area of any building is 10,000 square feet.
- (2) Bulk and lot dimension requirements:
 - a. Minimum lot area: 20,000 square feet.
 - b. Minimum lot width: 100 feet.
 - c. Minimum street frontage: 50 feet.
- (3) Minimum setbacks and building separation:
 - a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
 - b. Building to residential side lot line: Ten feet.
 - c. Building to residential rear lot line: 30 feet.
 - d. Building to nonresidential side lot line: Ten feet or zero feet on zero lot line side.
 - e. Building to nonresidential rear lot line: 30 feet.
 - f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.
 - g. Minimum building separation: 20 feet or zero feet on zero lot line side.
- (4) Maximum building height: 45 feet.
- (5) Minimum number of off-street parking spaces required on lot: See parking lot requirements per specific land use in article V of this chapter.
- (6) Landscaping requirements (nonresidential and multifamily uses):

- a. Forty landscaping points per 100 linear feet of building foundation.
- b. Fifteen landscaping points per 1,000 square feet of gross floor area.
- c. Forty landscaping points per 100 linear feet of street frontage.
- d. Eighty landscaping points per 10,000 square feet of paved area/20 stalls.

(Ord. No. 1997-18, § 11(17.48(4)), 1-19-1998, Ord. 2004-12)

Secs. 130-1218--130-1220. Reserved.

DIVISION 26. GROUNDWATER PROTECTION OVERLAY DISTRICT (GP)

Sec. 130-1221. Purpose and authority.

- (1) **PURPOSE.** The residents of the City of Evansville depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Wellhead Protection Ordinance is to institute land use regulations and restrictions protecting the municipal water supply of the City of Evansville and promote the public health, safety and general welfare of the residents.
- (2) **AUTHORITY.** Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

Sec. 130-1222. Application of regulations.

The regulations specified in this Wellhead Protection Ordinance shall apply to the incorporated areas of Evansville that lie within the recharge areas for municipal water supply wells as defined in section 130-1223(6), and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this ordinance and the zoning ordinance, the more restrictive provision shall apply.

Sec. 130-1223. Definitions.

- (1) **AQUIFER.** A saturated, permeable geologic formation that contains and will yield significant quantities of water.
- (2) **CONE OF DEPRESSION.** The area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.
- (3) **FIVE-YEAR TIME OF TRAVEL.** The recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five years to reach a pumping well.
- (4) **MUNICIPAL WATER SUPPLY.** The municipal water supply of the City of Evansville.
- (5) **PERSON.** An individual, partnership, association, corporation, municipality or state agency, or other legal entity.
- (6) **RECHARGE AREA.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.

- (7) **THIRTY-DAY TIME OF TRAVEL.** The recharge area upgradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take thirty days to reach a pumping well.
- (8) **WELL FIELD.** A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
- (9) **ZONE OF SATURATION.** The area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

Sec. 130-1224. Groundwater technical review committee.

- (1) The Evansville Groundwater Technical Review Committee shall consist of all of the following:
 - a. The Zoning Administrator.
 - b. The City Engineer.
 - c. The Superintendent of Municipal Services.
 - d. A local representative from the Department of Natural Resources with expertise in groundwater or groundwater contamination issues, appointed by their Department and approved by the City Council.
 - e. One member, who has at least one of the following qualifications:
 - i. Is a hydrogeologist, hydrologist or a professional engineer with a background in groundwater; or
 - ii. Is a certified groundwater professional.
- (2) The purpose of the Evansville Groundwater Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and make recommendations to the Plan Commission to grant or deny conditional use permits based upon the facts discovered in that review, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice on matters concerning groundwater.

(Ord. 2009-05, Ord. 2014-02)

Sec. 130-1225. Groundwater protection overlay district.

A Groundwater Protection Overlay District may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The district

is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

Sec. 130-1226. Supremacy of this district.

The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Groundwater Protection Overlay District are more stringent.

Sec. 130-1227. Zones.

- (1) **ZONE 1 OF GROUNDWATER PROTECTION OVERLAY DISTRICT.** Zone 1 is the area of land which contributes water to the well in question, out to a 30-day time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with Zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.
- (2) **ZONE 2 OF THE GROUNDWATER PROTECTION OVERLAY DISTRICT.** Zone 2 encompasses the area of land which contributes water to the well starting at the line which delineates the 30-day time of travel and ends at the line delineating the 5-year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with Zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.

Sec. 130-1228. Groundwater protection overlay districts boundaries.

- (1) The boundaries of the Groundwater Protection Overlay Districts shall be shown on the Evansville zoning map. The locations and boundaries of the zoning districts established by this ordinance are set forth on the City of Evansville Municipal Wellhead Protection Areas Map which is incorporated herein and hereby made a part of this ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this ordinance as though fully set forth and described herein.
- (2) Zone 1 and Zone 2 for the Evansville well fields are delineated on the Wellhead Protection Area Map which is attached and made a part of this ordinance.

Sec. 130-1229. Permitted uses.

- (1) The following permitted uses in Zone 1 are subject to the separation distance requirements, section 130-1230 and prohibited uses, section 130-1231:
 - a. Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
 - b. Wildlife and natural and woodland areas.
 - c. Biking, hiking, skiing, nature, equestrian and fitness trails.
 - d. Residential which is municipally sewered.
 - e. Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.

- (2) The following permitted uses in Zone 2 are subject to the separation distance requirements, section 130-1230 and prohibited uses, section 130-1231:
 - a. All of the uses permitted in Zone 1.
 - b. Single-family residences on a minimum lot of 20,000 square feet with a private on-site sewage treatment system receiving less than 8,000 gallons per day, which meets the County and State health standards for the effluent, and is in conformance with ch. Comm 83, Wis. Adm. Code.
 - c. Commercial establishments which are municipally sewered.
 - d. Industrial establishments which are municipally sewered.
 - e. Residential use of above ground LP gas tanks for heating, not to exceed 1,000 gallons.

Sec. 130-1230. Separation requirements.

The following separation distances as specified in s. NR 811.16(4)(d), Wis. Adm. Code, shall be maintained:

- a. Fifty feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA 600 specifications. NOTE: Current AWWA 600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State's office and the office of the Revisor of Statutes.

- b. Two hundred feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
- c. Four hundred feet between a public water supply well and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention, infiltration or drainage basin.
- d. Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.
- e. One thousand feet between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.
- f. Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

Sec. 130-1231. Prohibited uses.

- (1) The following uses are prohibited in Zones 1 and 2:
 - a. Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40CFR Part 370.)
 - b. Cemeteries.
 - c. Chemical manufacturers (Standard Industrial Classification Major Group 28).
 - d. Coal storage.
 - e. Dry cleaners.
 - f. Industrial lagoons and pits.

- g. Landfills and any other solid waste facility, except post-consumer recycling.
 - h. Manure and animal waste storage except animal waste storage facilities regulated by the County.
 - i. Nonmetallic earthen materials extraction or sand and gravel pits.
 - j. Pesticide and fertilizer dealer, transfer or storage.
 - k. Railroad yards and maintenance stations.
 - l. Rendering plants and slaughterhouses.
 - m. Salt or deicing material storage.
 - n. Salvage or junkyards.
 - o. Septage or sludge spreading, storage or treatment.
 - p. Septage, wastewater, or sewage lagoons.
 - q. Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
 - r. Stockyards and feedlots.
 - s. Stormwater infiltration basins without pre treatment, including vegetative filtration and/or temporary detention.
 - t. Motor vehicular services, including filling and service stations, repair, renovation and body working.
 - u. Wood preserving operations.
- (2) In Zone 1, the conditional uses of section 130-1232(2) are prohibited.

Sec. 130-1232. Conditional uses.

- (1) Any person may request a conditional use permit for certain uses, activities and structures within Zone 2 of the Groundwater Protection Overlay District not prohibited in section 126-1231.
- (2) The following conditional uses shall be allowed within Zone 2 only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:
 - a. Jewelry plating and metal plating.

- b. Machine or metal working shops.
 - c. Commercial establishments utilizing a private on-site wastewater treatment system receiving less than 8,000 gallons per day, which is in conformance with ch. Comm 83, Wis. Adm. Code.
 - d. Research labs, universities and hospitals.
 - e. Exposed hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR Part 370.) This shall not apply to residential LP gas tanks which are permitted under section 130-1229(2)(e).
 - f. Storage or processing of extremely hazardous substances, radioactive materials or substances listed in Table 1, ch. NR 140, Wis. Adm. Code (Extremely hazardous substances are identified by SARA/EPCRA criteria under 40 CFR Parts 302 and 355.)
 - g. Biochemical research or manufacturing facilities.
- (3) All requests for a conditional use permit shall be submitted in writing to the City of Evansville, and shall include all of the following:
- a. A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours.
 - b. A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - c. An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
 - d. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
 - e. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
- (4) The person making the request shall reimburse the City for consultant fees and technical review committee expenses associated with this review at the invoiced amount, plus administrative costs.
- (5) All conditional use permits granted shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford

adequate protection of the public water supply. These conditions shall include all of the following:

- a. Provide current copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the City.
 - b. Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
 - c. Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
 - d. Prepare, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to the City.
- (6) The Evansville Plan Commission shall decide upon a request for a conditional use permit only after full consideration of the recommendations made by the Evansville Groundwater Technical Review Committee. Any conditions above and beyond those specified in Conditional Uses, subsection (5) herein, that are recommended by the Evansville Groundwater Technical Review Committee may be applied to the granting of the conditional use permit.

Sec. 130-1233. Requirement for existing facilities which may cause or threaten to cause environmental pollution.

Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, those types listed in the Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form and all other facilities which are considered a prohibited use in prohibited uses, section 130-1231, or a conditional use in conditional uses, section 130-1232, all of which are incorporated herein as if fully set forth.

- a. Such facilities as above which exist within the district at the time of enactment of a district shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and on-going environmental monitoring results to the City.
- b. Such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining, with the City, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to

cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.

- c. Such facilities as above cannot engage in or employ a use, activity, or structure listed in prohibited uses, section 130-1231, or in conditional uses, section 130-1232, which they did not engage in or employ at the time of enactment of a district, and can only expand, replace or rebuild those present uses, activities, equipment, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a prohibited use or conditional use shall be expanded, replaced, or rebuilt unless a conditional use permit is granted for such expansion, replacement, or rebuilding. This section does not apply to normal maintenance or minor repairs.

Sec. 130-1234. Changing technology.

- (1) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods, upon petition from such use, after conferring with the Groundwater Technical Review Committee or other expert opinion, and after appropriate public notice and hearing, the City through appropriate procedures and actions to change these provisions of the Evansville Municipal Code may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (2) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible.

It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

Sec. 130-1235. Enforcement and penalty.

- (1) **PENALTY.** Any person who violates, neglects or refuses to comply with any of the provisions of this ordinance shall be subject to a penalty as provided in section 1-11 of this Municipal Code.
- (2) **INJUNCTION.** The City of Evansville may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the

provisions herein, the cost of which shall be charged to the defendant in such action.

- (3) **CLEANUP COSTS.** As a substitute for, and in addition to any other action, the City of Evansville may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a Ground Water Protection Overlay District shall immediately cease such discharge and immediately initiate clean up satisfactory to the City of Evansville and the other state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the City employees, equipment, and mileage.

Sec. 130-1236. Conflict, interpretation, and severability.

- (1) **CONFLICT AND INTERPRETATION OF PROVISIONS.** If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.
- (2) **SEVERABILITY OF CODE PROVISIONS.** If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The City Council hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

DIVISION 27. TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

Sec. 130-1237a. Definitions

Accessory dwelling unit (ADU) means a second dwelling unit that is located on the same lot as a principal dwelling unit. Characteristically, an ADU is subordinate to the principal dwelling unit. An ADU may be attached to the principal dwelling unit, detached, or located in another building (e.g., above a garage).

Between-lot walkway means a walkway situated between two tracts of land. (Figure 1)

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Building scale means the relationship between the mass of a building and its surroundings; including streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure: height, width, and depth.

Build to line means the line to which construction of a building, excluding porches, bay windows, decks, is to occur. A build-to line runs parallel to the front property line and is established to create an even building facade line on a street.

Comprehensive plan means the plan for the physical development of the city, adopted by the city pursuant to Wisconsin Statutes, Sections 62.23 and 66.1001.

Curb extension means an extension of a sidewalk into a roadway. Curb extensions are typically used at mid-block crosswalks or at street intersections to shorten the length of the crosswalk and to provide increased safety and visibility for pedestrians and motorists. (Figure 2)

Curb radius means the radius of the circle formed by the curve of the curb at the corner.

Lot width means the horizontal distance between side lot lines as measured at the minimum front yard setback required in the zoning district in which the lot

Figure 1. Between-Lot Walkway



Figure 2. Curb Extension at a Street Intersection



Figure 3. Roundabout Intersection



is located.

Mixed-use area means a portion of a traditional neighborhood development district where residential and nonresidential land uses, such as commercial, civic, institutional, and governmental are placed in close proximity to one another.

Mixed-use building means a multistory building with businesses on the first floor (at grade) and offices and dwelling units on the upper floors.

Neighborhood development plan means a city, developer, or property owner prepared plan for the future development of a part of the community, and including the proposed land use pattern, zoning, street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces, environmental corridors, trails, and a development phasing timetable.

Roundabout intersection means a street intersection designed without traffic control lights where traffic continues around a raised circular area in a counter clockwise direction. It acts like a series of “T” intersections with right-in and right-out turning movements. In contrast to a traffic circle, a roundabout is intended to substitute for a stop sign or traffic lights. (In contrast see traffic circle.) (Figure 3)

Speed hump means a raised section of a roadway that is perpendicular to the flow of traffic and which is designed to decrease the speed of motor vehicles.

Street terrace means that area between the back of a curb (or the edge of pavement where there is no curb) and the property boundary line.

Traffic circle means a small-diameter feature placed in an uncontrolled intersection where drivers proceed around it in a counter clockwise direction. Traffic circles are primarily intended to slow down, not necessarily to regulate the flow of traffic at the intersection. (In contrast see roundabout.)

Work-live unit means a building or portion thereof that houses a commercial activity (e.g., office, retail, artisan shop), which occupies the majority of the space, and a living quarters for the business operator.

Sec. 130-1237b. General design principles

Development projects in the Traditional Neighborhood Development (TND) district shall observe the following general design principles:

Exhibit 1. Examples of Housing Types

Single family detached



Accessory housing unit



Twin home / duplex



Townhouses



Multi-family



- (1) There is a mix of land uses, including residential, commercial, civic, and open space uses in close proximity to one another.
- (2) There is a variety of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes.
- (3) Buildings are designed for the human scale (sizes of buildings in proportion to sizes of people).
- (4) Buildings are placed comparatively close to the street.
- (5) Each neighborhood has a focal point which may consist of a significant civic space and /or commercial activity node.
- (6) Streets are relatively narrow and shaded by rows of trees.
- (7) Streets, sidewalks, and paths form an interconnected network of travel.
- (8) Playgrounds and other types of parks are within walking distance of residential units.

Sec. 130-1237c. Minimum project size

All projects developed in this district shall consist of at least 10 acres if not adjoining another TND project or if not adjoining a part of the city where the development pattern generally meets the general intent of this division. The plan commission may allow the submission of an application upon written petition for projects greater than 5 acres but less than 10 acres. If a development project adjoins another project and represents an extension of that project, or if a development project adjoins a part of the city that meets the general intent of this division, there shall be no minimum project size.

Sec. 130-1237d. Character of land included in a traditional neighborhood development (TND) district

The land within a traditional neighborhood development district may include one parcel or multiple parcels. If the district contains multiple parcels, they may be owned, leased, or controlled either by a single person or by any number of persons.

Sec. 130-1237e. Land uses

Those land uses in Table 130-1237e that are listed as permitted may be permitted in the district subject to the general guidelines in this section and as specified in the master development plan. Those uses that are listed as a conditional use may be permitted subject to the conditional use process in Article II, Division 5 of the zoning code (chapter 130). The following standards shall apply:

- (1) Commercial land uses shall be located at one or more nodes.
- (2) Projects exceeding 10 acres but less than 20 acres shall include two or more of the residential uses permitted in the district.

- (3) Projects that are 20 acres or larger shall include three or more of the residential uses permitted in the district.
- (4) At least 15 percent of the gross land area shall be set aside as permanently protected common open space, such as public parks, environmental corridors, trails, protected natural areas, and private parks that are permanently restricted from non-recreational development. Small neighborhood parks, playgrounds, and squares should be integrated into the development, while large outdoor recreation areas should generally be located at the periphery.
- (5) A variety of lot sizes shall be provided to facilitate housing choice and meet the requirements of people with different housing needs.
- (6) At least 90 percent of the residences shall be within ¼ mile from a permanently protected common open space area.
- (7) At least 75 percent of the residences shall be within ¼ mile from a mixed-use area within or outside of the project. At least 75 percent of the developed portion of the project shall be allocated for residential purposes. The remaining portion may be used for commercial, institutional, and governmental land uses.
- (8) Alley-loaded lots are the predominate type of residential lot. Front-loaded lots may be situated around the perimeter of the project and in those areas in the project where it is not possible to use alley-loaded lots.

Table 130-1237e. Land Uses.

Agricultural uses		
Cultivation	130-341	P
Husbandry	130-342	-
Intensive agriculture	130-343	-
Agricultural service	130-344	-
On-site agricultural retail	130-345	-
Selective cutting	130-346	P
Clear cutting	130-347	C
Residential uses		
Single-family, detached		P
Twin homes		P
Duplex units	130-322	P
Multi-family units (3 – 4 units)		P
Multi-family units (5 – 8 units)		P
Multi-family units (9 and more units)		P

Table 130-1237e. Land Uses.

Accessory dwelling unit		C
Institutional uses		
Passive outdoor public recreational uses	130-371	P
Active outdoor public recreational uses	130-372	P
Indoor institutional uses	130-373	P
Outdoor institutional uses	130-374	C
Public services and utilities	130-375	P
Institutional residential uses	130-376	C
Community living arrangement (1—8 residents)	130-377	P
Community living arrangement (9—15 residents)	130-378	P
Community living arrangement (16+ residents)	130-379	P
Commercial uses		
Office	130-401	P [1]
Personal or professional service	130-402	P [1]
Indoor sales or service	130-403	P [1]
Outdoor display	130-404	-
Indoor maintenance service	130-405	P [1]
Outdoor maintenance service	130-406	-
In-vehicle sales or service	130-407	-
Indoor commercial entertainment	130-408	P [1]
Outdoor commercial entertainment	130-409	-
Commercial animal boarding	130-410	-
Commercial indoor lodging	130-411	-
Group day care center (9+ children)	130-413	C
Campground	130-414	-
Boardinghouse	130-415	-
Sexually oriented land use	130-416	-

Table 130-1237e. Land Uses.

Vehicle repair and maintenance	130-417	-
Group development	130-418	C
Gas station/convenience store/food counter	130-419	C
Carwash	130-420	-
Large format retail store	130-422	-
Mixed uses		
Mixed use building		P
Work-live unit		P
Storage or disposal uses		
Indoor storage or wholesaling	130-451	-
Outdoor storage or wholesaling	130-452	-
Personal storage facility	130-453	-
Junkyard or salvage yard	130-454	-
Waste disposal facility	130-455	-
Composting operation	130-456	-
Transportation uses		
Off-site parking lot	130-481	-
Airport/heliport	130-482	-
Freight terminal	130-483	-
Distribution center	130-484	-
Railroad line	130-485	C
Industrial uses		
Light industrial uses	130-501	-
Heavy industrial uses	130-502	-
Communication tower	130-503	-
Extraction use	130-504	-
Accessory uses		
Bed and breakfast establishment	130-412	C
Farm residence	130-523	-
Private residential garage or shed	130-524	P

Table 130-1237e. Land Uses.

Company cafeteria	130-525	-
Company-provided on-site recreation	130-526	-
Outdoor display incidental to indoor sales and service	130-527	-
In-vehicle sales and service	130-528	-
Indoor sales incidental to light industrial use	130-529	-
Light industrial use incidental to indoor sales	130-530	-
Home occupation (conventional)	130-531	P
Home occupation (nonconventional)	130-531	C
Family day care home (4 - 8 children)	130-532	P
Intermediate day care home (9 – 15 children)	130-533	-
Migrant labor camp	130-534	-
On-site parking lot	130-535	P
Exterior communication device	130-536	P
Drive-in financial institution	130-537	-
Outdoor commercial food and beverage service	130-538	C
Outdoor furnace	130-539	-
Temporary uses		
General temporary outdoor sales	130-561	-
Outdoor assembly	130-562	-
Contractor's project office	130-563	P
Contractor's on-site equipment storage	130-564	P
Relocatable building	130-565	-
On-site real estate sales	130-566	P
Seasonal outdoor sales of farm products	130-567	-
Sidewalk café	130-568	C

Table 130-1237e. Land Uses.

Key: Uses allowed by right are indicated with a “P” and conditional uses are indicated with a “C”.

Notes: 1. The floor area of an individual business shall be less than 6,000 square feet.

Sec. 130-1238a. Dimensional requirements.

Lots shall generally conform to the standards in Table 130-1238a for lot area and build to line. Side yard and rear yard setbacks and lot width shall comply with the approved master plan and project narrative, which shall be construed to be a part of this division.

Table 130-1238a. Dimensional standards

	Minimum and Maximum Lot Area	Minimum and Maximum Build To Line
Single-family, detached (front-loaded)	5,000 to 6,500 square feet	8’ to 14’
Single-family, detached (alley-loaded)	4,500 to 6,500 square feet	8’ to 14’
Duplex and twin house	3,000 to 5,000 square feet per dwelling unit	8’ to 14’
Townhouse	3,500 square feet per dwelling unit	12’ to 16’
Multi-family	700 square feet for each one-bedroom dwelling unit, plus 300 square feet of lot area for each additional bedroom	14’ to 18’

Sec. 130-1238b. Blocks

- (a) *Design considerations.* Blocks shall be designed to:
- (1) create street continuity and an interconnected street network,
 - (2) foster bicycle and pedestrian travel,
 - (3) assure traffic safety,
 - (4) accommodate the special needs of the use contemplated, and
 - (5) take advantage of the opportunities or constraints posed by topography or natural features.

(b) *Single- and double-tier blocks.* Blocks with one tier of lots may be located on the perimeter of the project or within the interior of the project when the lots front on a common green space or similar feature. Elsewhere, blocks shall consist of two tiers of lots.

(c) *Block dimensions.* A double-tier block shall not be longer than 800 feet or less than 400 feet, except where necessary due to topography or other natural feature. The length of a single-tier block on the perimeter of the subdivision shall conform to the standards of a double-tier block, except when the street network from a previously developed area cannot be carried over into the proposed subdivision or when a street from the proposed subdivision can not be carried over into the abutting vacant land due to topography and other similar factors. When a single-tier block fronts on a linear green space that is narrower than 3 times the average width of the lots in the block, the block length shall not exceed 1,600 linear feet. There is no limitation on the length of a single-tier block fronting on a non-linear green space (e.g., park, open space).

(d) *Between-Lot Walkway.* The city may require a between-lot walkway within an easement or public right-of-way when needed to provide pedestrian access to public amenities, commercial or employment centers, or other pedestrian-oriented areas. Such walkways shall be well-lit to provide visibility.

Sec. 130-1238c. Circulation requirements.

(a) *Generally.* The circulation system shall be designed to:

- (1) allow for different modes of transportation;
- (2) provide functional and visual links among the residential areas, mixed-use area, and open space areas within the TND;
- (3) connect to existing and proposed development outside the TND;
- (4) provide adequate traffic capacity;
- (5) provide connected pedestrian and bicycle routes including off-street paths or bicycle lanes on streets;
- (6) control through traffic;
- (7) limit direct lot access on streets with higher expected traffic volumes; and
- (8) promote safe and efficient mobility.

(b) *Pedestrian circulation.* Convenient and continuous pedestrian circulation systems, including walkways and paths, that minimize pedestrian-motor vehicle conflicts shall be provided throughout the TND. Where feasible, any existing pedestrian routes through the site shall be preserved, enhanced, or relocated if necessary. Streets, except for alleys, shall be bordered by a sidewalk on both sides except that the plan commission may, in its discretion, permit a sidewalk to be constructed on only one side of a street if, and only if, the other side of the street is occupied by common open space. Clear and well-lighted walkways shall connect entrances for multi-family residential and non-residential buildings to the adjacent public sidewalk and to associated parking areas. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the

edges, raised pavement, or striping. Curb extensions, median refuges, and other related techniques shall also be incorporated along collector streets and at key intersections to shorten the pedestrian-crossing distance.

(c) *Motor vehicle circulation.* Motor vehicle circulation shall be designed to efficiently move motor vehicle traffic via multiple routes and to minimize conflicts with pedestrians and bicycles. Traffic calming features such as curb extensions, traffic circles, medians, speed humps, and on-street parking are encouraged to slow traffic speeds. Arterial streets should generally not bisect a TND. Collector streets within the TND are intended to carry traffic from minor streets to arterial streets, include the principal entrance street to a residential development component, and may be subject to access controls. Minor streets are intended to be used primarily for access to abutting properties, and are usually not subject to access controls. Alleys are special public ways affording secondary access to the rear of abutting properties. Streets and alleys shall meet the standards enumerated in the master development plan.

(d) *Street layout.* The street layout in the TND district shall maintain the existing street grid, where present, and restore any disrupted street grid where feasible. The orientation of streets shall enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, minimize street gradients, and minimize the use of double frontage lots. Notwithstanding section 110-159, all streets shall extend through the development or terminate at other streets, except minor streets may temporarily “dead end” when such streets will connect to future phases or other sites outside the TND and may permanently terminate in a cul-de-sac only where there will be a through connection via a pedestrian way or bicycle path at the end.

Sec. 130-1238d. Parking Requirements.

All TNDs shall meet the parking and loading requirements found elsewhere in this chapter, except that the city may allow adjacent on-street parking within a TND to apply toward the minimum parking requirements. For multi-family buildings and in the required mixed-use area, shared use parking lots are encouraged, off-street parking lots may not be adjacent to or opposite from a street intersection, and parking lots shall be located to the rear or sides of buildings. The edges of parking lots, “islands,” and all other areas not used for parking or vehicular circulation shall be landscaped and curbed, particularly where the parking lot is located to the side of a building.

Parking lots containing more than 30 spaces shall be broken up into smaller pods with not more than 30 spaces each, with the pods separated from one another by landscaped areas or buildings. Site plans shall provide a direct route to service or loading dock areas, while minimizing the movement of loading vehicles through parking areas. Reduction of impervious surfaces through the use of pervious pavement and interlocking pavers is encouraged, particularly for remote parking lots and parking areas for periodic uses.

Sec. 130-1238e. Other requirements.

(a) *Street lighting.* Street lighting shall be provided on both sides of all streets at intervals of no greater than 75 feet. More, smaller streetlights as opposed to fewer, higher intensity lights should be used.

(b) *Utilities.* All new public and private utility installations shall be placed underground, except that above-ground service pedestals may be used. Utilities shall be located in alleys as they may be incorporated into the project design.

(c) *Street trees.* On average, at least one tall deciduous tree or one climax tree shall be planted within the street terrace for each 50 feet of street frontage. Street trees shall be evenly spaced within the terrace, but may be clustered or adjusted to achieve a particular design objective or account for traffic visibility, curb openings, street lighting, and other obstructions. Street trees shall generally be located between the sidewalk and the curb and within the landscaped area of a boulevard. If placement of street trees within the right-of-way will interfere with pre-existing utility lines, trees may be planted within the private street yard adjacent to the sidewalk. The developer shall purchase and plant such trees at its expense, although such trees should be planted after buildings have been constructed. The developer may enter into agreements with lot purchasers requiring lot purchasers to plant such trees, but if a lot purchaser fails to do so, it continues to be the developer's obligation to plant such trees.

(d) *Existing structures.* Existing structures, if determined to be historic, architecturally, or culturally significant, shall be protected from demolition or encroachment by incompatible structures or land development, to the extent reasonably practical. The U.S. Secretary of the Interior's "Standards for Rehabilitation of Historic Properties" shall be used as criteria for renovating significant structures. The Historic Preservation Commission shall review such proposals and provide its recommendation to the Plan Commission.

Sec. 130-1239a. Application review procedure

TND districts shall be established using the procedure for planned development districts in Section 130-1044 of the Municipal Code.

Sec. 130-1239b. Extension of review period

(a) *Generally.* Prior to the final decision of the common council, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information.

(b) *Procedure.* If the common council approves the extension, the plan commission will rehear the amended application with appropriate notice.

(c) *Extension requirements.* Unless otherwise stated in writing, an extension request automatically extends the review period to 30 days beyond the date when the plan commission hears the amended application.

Sec. 130-1239c. Imposition of conditions

The plan commission may recommend and the common council may impose such conditions and restrictions as may be necessary to grant approval. Such conditions and

restrictions may relate to any of the factors it considered in reaching its recommendation or decision. In addition, the plan commission may recommend and the common council may require the provision of off-site exactions that may be necessary to approve the application.

Sec. 130-1239d. Basis of decision

The plan commission in making its recommendation and the common council in making its decision shall, at a minimum, consider the following factors:

- (1) consistency of the project with the city's comprehensive plan and neighborhood plan or other subarea plan, if any
- (2) character and intensity of non-residential land uses in the project
- (3) character and density of residential land uses in the project
- (4) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site
- (5) effects of the project on the natural environment
- (6) effects of the project on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances
- (7) overall appearance of the project
- (8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the district
- (9) the extent to which the proposed design of the buildings and other structures are compatible with the desired character of the surrounding area
- (10) appropriateness of the proposed development schedule, if any, given the scope of the project
- (11) effects on necessary public services, including public schools
- (12) adequacy of existing and planned public and private infrastructure that may be needed to support the project, including water and wastewater, stormwater management, and streets

Sec. 130-1239e. Application form and content

The application submittal shall include the following:

- (1) an application form as may be used by the city;

- (2) a master development plan of the project prepared at an appropriate scale and containing the information listed in Table 130-1239e;
- (3) a project narrative that describes the project, development standards for each of the lots to include side yard and rear yard setbacks, building height, and allowable use based Table 1, and other special development requirements and restrictions;
- (4) a preliminary draft of covenants if any are to be imposed; and
- (5) if the project is to be constructed in phases, a development schedule which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

Table 130-1239e

General Information	TND District Development Master Plan
Project name (e.g., business name, subdivision name)	X
Applicant name	X
Preparation date	X
Name of preparer	X
Survey Information	
North arrow and graphic scale	X
Address of subject parcel or legal description	X
Property boundaries	X
Acreage of subject parcel	X
Project Development Information	
Land use summary table by density/intensity and acreage	X
Easements/rights-of-ways (location, width, purpose, ownership)	X
Common areas/conservancy areas (location, purpose, ownership)	X
Land to be dedicated to the public (boundaries, area, purpose)	X
Setting	
Property boundaries within ____ feet of the subject parcel	X (150')
Land uses within ____ feet of the subject parcel	X (150')
Zoning district boundaries within ____ feet of the subject parcel	X (150')
Municipal boundaries within ____ feet of the subject parcel	X (150')
Site Features (Existing and Proposed)	
Ground contours when any slope exceeds 10 percent	X
Wetlands	X

Woodlands	X
Wildlife habitat, including critical wildlife habitat	X
Environmentally sensitive features	X
Water resources (streams, drainage ditches, ponds, etc.)	X
Floodplain boundaries	X
Environmental and man-made hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, high-pressure natural gas lines, and others as appropriate	X
Fences, buffers, and berms	X
Pervious and impervious surfaces by type	X
Site amenities (benches, fountains, etc.)	X
Existing trees and other prominent vegetation	X
Trees / shrubs to be planted, including a plant list and specs.	X
Trees / shrubs to be retained	X
Outdoor Lighting (Existing and Proposed)	
Location	X
Fixture specifications	X
Utilities (Existing and Proposed)	
Location	X
Type (sewer, telephone, etc) (buried or overhead, if applicable)	X
Size/capacity, if applicable	X

Sec. 130-1239f. Staff report content

At a minimum, the staff report shall contain the following information:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) findings for each of the decision criteria listed in this division;
- (3) a preliminary list of conditions if approval is recommended; and
- (4) a recommendation to approve the application, approve it with conditions, or deny the application.

Sec. 130-1239g. Effect of approval

If the common council approves the application, the approval shall run with the land and be binding on all subsequent property owners.

Sec. 130-1239h. Expiration of approval

If any area of a traditional neighborhood development district that can be developed consistent with an approved master plan remains substantially undeveloped 3 years after the creation of the district, the zoning for such area shall revert to the zoning designation which occurred at the time the district was created or to an equivalent zoning designation. The common council may extend this approval period up to 3 additional years upon petition and with good cause.

Sec. 130-1239i. Review of actual development within an approved traditional neighborhood development district

(a) *Land division.* After a traditional neighborhood development district is approved, the developer may initiate the process for the preliminary land division and final land division, consistent with Chapter 110 of the Municipal Code. Such approvals shall be substantially consistent with the TND district.

(b) Once a traditional neighborhood development district is approved, proposed commercial development shall be reviewed consistent with the requirements for a site plan.

Sec. 130-1239j. Amendment of an approved traditional neighborhood development district

If a property owner with land within an approved traditional neighborhood development district wishes to deviate from an approved master development plan and project narrative or amend a supporting development agreement, the review procedures described in this division shall be followed to the extent applicable.

Sec. 130-1239k. Appeal

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

[Ord. 2007-9]

Sec. 130-1240 Reserved.

ARTICLE IX. MANUFACTURED HOMES AND TRAILERS*

Sec. 130-1241. Manufactured buildings.

(a) *Applicability of building costs.* Until replaced by rules adopted by the state department of commerce under Wis. Stats. § 101.73, the provisions of chapter 18 shall apply to all applications to erect or install manufactured buildings within the city.

(b) *Definitions.*

(1) For purposes of this section, the term "manufactured building" means any structure or component thereof which is intended for use as a dwelling and:

a. Is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation at the building site; or

b. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation on the building site and for which certification is sought by the manufacturer.

(2) the term "manufactured building" does not include a building of open construction which is not subject to subsection(b)(1)b of this section. In no case may a single or double width mobile home, as defined in Wis. Stats. § 218.10(2), be considered a manufactured building, nor may such a mobile home be subject to this subsection.

(c) *Recommendation of rules and standards.* the building inspector shall periodically recommend to the city adoption of preliminary rules and standards in the process of preparation and adoption by the state department of commerce under Wis. Stats. § 101.73.

(Code 1986, § 14.26)

Secs. 130-1242—130-1269 Reserved.

* **Cross references:** Buildings and building regulations, ch. 18; flood area zoning, ch. 54; health and sanitation, ch. 58; planning, ch. 94; solid waste, ch. 102; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110; utilities, ch. 126; zoning, ch. 130.

ARTICLE X. SIGN REGULATION

Sec. 130-1270. Purpose of article.

The purpose of this article is to establish minimum standards for a first class business, commercial and historic district; to allow business identification, advertising and communication while still protecting the health, safety and welfare of the public; to ensure that signs are compatible with their surroundings and promote an aesthetically pleasing environment; to preserve and enhance property values; to encourage high standards in sign design and display through the use of well-maintained and attractive signs that do not contribute to visual clutter; and to equitably distribute the privilege of using the public environs to communicate commercial and non-commercial information through the use of a permit process with a defined review authority.

(Ord. No. 2002-9, § 1, 3-11-2003)

Sec. 130-1271. 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.

Area of sign means the area within the perimeter, calculated using a standard mathematical formula for easily recognizable geometric shapes. For irregular shapes, straight lines drawn closest to the extremities of the shape will be used. If the sign consists of more than one section or module, the perimeter of the outside area will be totaled. Supports or uprights shall not be used as part of the calculation unless they are a part of the sign. For the calculation of the allowable square footage only one side of a double-faced sign shall be considered.

Awning means a retractable or permanent shelter which projects from the wall of the building and composed of non-rigid materials except for the supporting network.

Banner means any sign of lightweight fabric or similar material that is mounted to a pole or a building without an enclosing frame, including feather/teardrop signs and excluding flags and pennants, as defined herein. A banner may not be used in place of a permanent sign.

Billboard. See off-premise sign.

Blanketing means to obstruct the view of a sign caused by placement of another sign.

Canopy/Marquee means a permanent, roof-like shelters extending from a building and constructed of a durable, rigid material such as metal, plastic or glass.

Community Event/Information sign means a sign that displays community event-related information.

Contractor sign means a sign that displays the name of individual contractors that are involved in smaller scale projects, such as single-family home construction or remodeling.

Construction sign means a sign that displays the names of contractors, engineers or architects that are involved in large-scale projects, such as public or multifamily buildings.

Directly illuminated/Backlit means a sign that is designed to give artificial light directly through a transparent or translucent material from a source of light originating within such sign (i.e. internally lit or neon sign).

Directory signs means a sign that indicates only the names and/or locations of occupants or the use of a building.

Electronic message display means a type of sign display where the message is created with a number of internal lights, such as light emitting diodes (LEDs), and which may be changed at interval by an electronic process.

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or graphics, used as a symbol of a government, political subdivision, or other public entity.

Flashing sign means a sign that is directly or indirectly illuminated on which artificial light is momentary, variable in color or intensity.

Freestanding/Ground sign means a sign where the entire bottom of the sign is generally in contact with or in close proximity to the ground.

Freestanding/Pole sign means a sign that is principally supported by a structure affixed to the ground, such as columns, poles or braces.

Identification sign means a sign that carries only the name of the business and/or principal products offered for sale on the premises.

Indirectly illuminated sign means a sign that is illuminated from a source outside of the sign.

Legal nonconforming sign means any sign located within the City of Evansville, which is lawful at the time of enactment of this ordinance, which does not conform to the regulations of this article or is annexed into the city after adoption of this article.

Off-premise sign/billboard means a sign that is permanently erected, maintained, or used in the outdoor environment for the display of any message not related to the parcel on which the sign is located.

Pennant means any lightweight plastic, fabric, or other material, not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind; also including streamers, pinwheels, balloons and other similar small objects.

Political sign means a sign that displays election-related information.

Portable sign means a sign that is not permanently attached to the ground and is designed to be easily moved from one location to another. Examples are trailers or other vehicles used principally as a sign.

Projecting sign means a sign that extends from the face of the wall of a building.

Real estate sign means a sign that is used to offer for sale, lease or rent the property upon which the sign is placed.

Roof sign means a sign that is erected upon or over the roof or parapet of a building, including signs made out of shingles.

Sandwich Board sign means freestanding signboard, sidewalk signs, or A-frame signs not permanently attached to a structure or the ground, and consisting of not more than 2 faces.

Signs means an object, device, structure or display situated outdoors on which a message or symbols appear, advertising is displayed, or which promote a business, location, person, service, organization, event or product.

Wall sign means a sign that is attached to, erected on or painted on the wall of a building.

Window sign means a sign that is (1) painted on, applied to, or affixed to the glazing of a window or exterior door, or (2) located on the interior of the building within three feet of the glazing of a window. The term does not include merchandise displayed on the interior of the building within three feet of the glazing of a window.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2006-16, Ord. 2016-02)

Sec. 130-1272. Sign permit requirements.

(a) *Application.* Except those specified in the section listing signs not requiring a permit; no signs shall hereafter be located, erected or structurally altered without a sign permit and without being in conformity with the provisions of this ordinance. Alteration is considered to be any change to the exterior appearance of any part of the sign, its frame, supporting structure or lighting including changing the materials, height or location, except for normal maintenance and repair and for changes to the messaging area of the sign. The city clerk shall not issue a permit until the zoning administrator has reviewed and approved the signed application. The zoning administrator shall make every effort to act on an application within ten days after receiving a complete application. The sign shall also meet all structural requirements of other city codes and ordinances.

(b) *Required information.* Application for a sign permit shall be made in writing upon forms furnished by the city clerk's office. The application must specify the proposed sign's dimensions (including display surface), materials, form of illumination, wiring, height above grade, distance from lot lines, the party erecting or altering the sign, and in the case of wall sign(s), a sketch plan of the signs location and relationship to the building's face.

(c) *Permit fees.* A fee in the amount established by the council from time to time by resolution and as set forth in appendix A shall be paid before application is reviewed by Zoning Administrator. If submitted as part of the site plan review process or a mobile business permit per Chapter 22, Article IV, no separate fee will be charged.

(d) *Insurance.* Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating signs shall maintain in effect at all times a policy of liability insurance. The required limits shall be \$100,000.00 for bodily injury and \$200,000.00 aggregate and \$100,000.00 property damage. Proof of insurance shall be presented to the city clerk at the time of application.

(e) *Inspection.* The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the zoning administrator who will certify in writing that the sign complies with the approved sign permit.

(f) *Appeals.* The zoning administrator may, at any time for a violation of this article, revoke a permit or require changes so the sign conforms to this article. Any such decision by the zoning administrator may be appealed by the aggrieved party to the board of zoning appeals.

(g) *Variances.* Variances to the sign regulations may be granted by the board of zoning appeals, or in the case of site plan review, the planning commission, following a recommendation by the zoning administrator, pursuant to the standards in section 130-131 of the city's zoning code.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2016-02)

Sec. 130-1273. Construction and maintenance regulations.

(a) *Construction standards.* All signs, except flat signs and those signs weighing less than ten pounds, shall be constructed to withstand a wind pressure of not less than 30 pounds per square foot and adequately support the dead load plus any anticipated live loads (i.e. ice, snow) of the sign.

(b) *Installation.* All signs, framework, anchors and supports shall be constructed of material and with workmanship to be safe and satisfactory to the zoning administrator. Electric service to ground signs shall be supplied by underground wiring. Electric service to wall signs shall be supplied by concealed wiring in a color that blends with surrounding materials.

(c) *Sign mounting.* It is always preferable for the back of any sign to be screened from public view. If this is unavoidable, then the backs of all signs or sign structures showing to public view shall be painted a neutral color that blends with the surrounding environment. Signs shall not be painted on or attached to any tree. Signs shall not be painted on or attached to any utility pole, except for official governmental signs or decorations.

(d) *Maintenance.* All signs, including supports and attachments, shall be properly maintained in good structural condition and have a neat and clean appearance. The immediate premises shall also be maintained in a clean and inoffensive condition and be kept free of all obnoxious substances, such as rubbish and weeds.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2016-02)

Sec. 130-1274. Signs not requiring a permit.

(a) *Business, Industrial, and Office Districts.* The following signs are permitted without a sign permit if they are located in a business, industrial or office district:

- (1) House or Building numbers.
- (2) Memorial signs or historic plaques when cut into any masonry surface or a metal sign affixed flat to the building.
- (3) *Banners.* Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 15 days per 90 day period. No banners shall exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade.
- (4) Warning signs not to exceed four square feet located on the premises.

- (5) Signs directing traffic toward entrances, exits, service areas, or parking areas are limited to six square feet.
- (6) Rummage sale signs not to exceed four square feet in area nor displayed longer than 72 hours per sale.
- (7) Municipal signs such as traffic control, parking restrictions, directions to points of interest under section 130-1281 or legal notices.
- (8) Political signs up to 60 days before an election, removed within ten days after said election and a maximum area of 32 square feet.
- (9) Real estate signs are limited to two signs per commercial property. The total real estate signage per property shall not exceed eight square feet in area, nor six feet in height, measured from the soil grade to the top of the signpost. Each sign shall be removed immediately upon the sale or rental of the property.
- (10) Parking area signs are limited to one sign designating each entrance or exit, with a maximum area of two square feet each. Each parking area may have one sign designating its identity or the conditions of use not to exceed nine square feet in area nor seven feet above finished grade in height.
- (11) Seasonal outdoor sales of farm produce signs for identification of the stand and advertising the agricultural products for sale therein. The sign(s) shall be limited to two and placed on the same lot as the stand. No sign shall exceed 12 square feet in area or 15 feet in height above finished grade.
- (12) Contractor signs for work being done on a lot, one sign not more than four square feet in area, displayed only during the construction period.
- (13) Holiday lights and decorations.
- (14) Copy changes to existing signs involving no structural or dimensional change.
- (15) Pennants. The display of strings of pennants, streamers, pinwheels, balloons and similar objects shall be prohibited, except said signs shall be permitted for carnivals and open-air festivals during the time of their run, and for the initial opening of a new business for a single period not exceeding 28 days after the new business's "grand opening."
- (16) Flags. Any fabric, banner, or bunting containing distinctive colors, patterns, or graphics, used as a symbol of a government, political subdivision, or other public entity.
- (17) Window signs. Window signs provided the sign area does not occupy more than 25 percent of the glazed area on which it is displayed and the sign is not an electronic message sign.
- (18) Portable Signs, which shall not be displayed more than three times per calendar year at any one location, nor more than ten days each time. The maximum area signs shall be 12 square feet.
- (19) Community Event/Information signs up to 45 days before an event, removed within 5 days after the end of the event, and a maximum area of 32 square feet.

Any Community Event/Information signs attached to or displayed on public property will require written approval from the zoning administrator.

(b) *Agricultural, Conservancy and Residential Districts.* The following signs are permitted without a sign permit if they are located in an agricultural, conservancy or residential district:

- (1) House numbers or signs identifying parks.
- (2) Memorial signs or historic plaques when cut into any masonry surface or a metal sign affixed flat to the building.
- (3) Contractor signs for work being done on a lot, one sign not more than four square feet in area, displayed only during the construction period.
- (4) Political signs up to 60 days before an election, removed within ten days after said election and a maximum area of eight square feet.
- (5) Rummage sale signs not to exceed four square feet in area nor displayed longer than 72 hours per sale.
- (6) Residential buildings are limited to one nameplate, not exceeding three square feet in area for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation.
- (7) Nonresidential buildings may have a single identification sign, not exceeding nine square feet in area and indicating only the name and address of the building. On a corner lot, two signs (one facing each street) shall be permitted. Such sign(s) shall be affixed flat against the wall of the building and not be placed higher than 15 feet above finished grade. They may be illuminated, but only indirectly, and only during business hours.
- (8) Real estate signs are limited to one sign per residential lot, except that on a corner lot two signs (one facing each street) shall be permitted. No sign shall exceed eight square feet in area nor six feet in height, measured from the soil grade to the top of the signpost. Each sign shall be removed immediately upon the sale or rental of the property.
- (9) Parking area signs are limited to one sign designating each entrance or exit with a maximum area of two square feet each. Each parking area may also have one sign designating its identity or the conditions of use not to exceed nine square feet in area nor seven feet in height above finished grade level.
- (10) Seasonal outdoor sales of farm produce signs for identification of the stand and advertising the agricultural products for sale therein. The sign(s) shall be limited to two and placed on the same lot as the stand. No sign shall exceed 12 square feet in area nor 15 feet in height above finished grade.
- (11) Holiday lights and decorations.
- (12) Copy changes to existing signs involving no structural or dimensional change.
- (13) Municipal signs such as traffic control, parking restrictions, directions to points of interest under section 130-1281 or legal notices.

- (14) Signs advertising products or services located in public parks that have been approved by the City Council, based on recommendation from the Park Board. Such signs may include, but are not limited to, signs on baseball outfield fences and signs for refreshments at the municipal swimming pool.
- (15) Signs for permitted home occupations, which are regulated under section 130-531(1)e. Such signs shall not be illuminated and shall not exceed three (3) square feet.

(Ord. No. 2002-9, § 1, 3-11-2003; Ord. No. 2003-17, § 1, 2, 2-10-2004, Ord. 2005-19, Ord. 2006-16, Ord. 2010-02, Ord. 2011-03, Ord. 2016-02)

Sec. 130-1275. Signs permitted in the historic preservation district and central business district (B-2) with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in a historic district established under section 62-2 or the central business district (B-2) are prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground signs shall have no projections, shall not exceed 50 square feet in area nor 15 feet in height above the mean centerline street grade. Pole signs are not permitted in the downtown business district.

(b) Projecting signs may extend up to two-thirds the width of a public sidewalk, not to exceed a maximum of five feet, and must maintain a vertical clearance of ten feet.

(c) Shopping center/group development sign. One freestanding sign for each street upon which the development fronts, showing only the name of said center and each represented business. Sign shall not exceed 60 square feet in area, be placed within 20 feet of the property line or exceed 15 feet in height above finished grade.

(d) Wall signs shall not project more than 16 inches from such wall. One sign is permitted on the front wall of any principal building. The total sign area shall not exceed one-tenth of the building's front face (including doors and windows), with a maximum area of 200 square feet. If a single principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportional share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. If a building is located on a corner lot, a sign may be placed on the wall facing the secondary street up to one-tenth of the wall's face in area, not to exceed 100 square feet. In no case shall the total area of all wall signs exceed 200 square feet or be more than two wall signs per business.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage shall be restricted to the flap of the awning that hangs vertically or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Directly illuminated/backlit signs are not allowed in this district, except signs with the word “open” that are less than four square feet in area. Lighting shall not create glare nor be flashing.

(h) Total signage area per parcel. Cannot exceed 200 square feet.

(i) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade. The common council may, by resolution, designate one or more locations in a public right of way where one or more off-premises sandwich boards may be displayed during a street construction project to encourage patronage of businesses negatively impacted by the construction, provided a sandwich board shall not impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement.

(j) Searchlights are not allowed in this district.

(k) Church bulletins may be indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other lot.

(l) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers, or architects and displayed only during the time of construction.

(m) Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-20, Ord. 2005-34, Ord. 2005-35, Ord. 2006-16, Ord. 2016-02)

Sec. 130-1276. Signs permitted in the local business district (B-1), community business district (B-3), special use business district (B-5), and planned office district (O-1) with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in the local business district (B-1), community business district (B-3), special use business district (B-5), or planned office district (O-1) and not in a historic preservation district are prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground/pole signs shall have no projections and are limited to one per parcel. They shall not exceed 50 square feet in area nor 15 feet in height measured from the mean centerline street grade to the top of the sign. Exception: height may be up to 20 feet if sign is set back at least ten feet from the property line.

(b) Shopping center/group development/office park signs. One freestanding sign, showing only the name of said center and each represented business. They shall not exceed

60 square feet in area, 15 feet in height above finished grade, nor be placed within 20 feet of the property line.

(c) Projecting signs shall not extend over a public sidewalk and must maintain a clear vertical clearance of ten feet.

(d) Wall signs shall not project more than 16 inches from such wall. One sign is permitted on the front wall of any principal building. The sign area shall not exceed one-tenth building's front face (including doors and windows), with a maximum area of 200 square feet. If a single principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportional share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. If the building is located on a corner lot, a sign may also be placed on the side wall facing the secondary street up to one-tenth of the wall's face in area, not to exceed 100 square feet. In no case shall the total area of all wall signs be in excess of 200 square feet or there be more than two wall signs per business.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage may be placed on the flap of the awning that hangs vertically and/or on the sloping portion of the awning, provided the signage does not occupy more than 50 percent of such area or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing.

(h) Total signage area per parcel cannot exceed 250 square feet.

(i) Electronic message signs may only be used to advertise activities conducted on the premises or to present public information and cannot exceed 20 percent of the face of the sign. Electronic signs must also meet the following specific standards:

- (1) The display area is a part of a freestanding ground sign.
- (2) The display area does not exceed 25 square feet.
- (3) The message shall be in one color and the background for the message shall be one color.
- (4) The message shall remain static at least two minutes before the next message appears. No part of the message shall give the appearance of movement.
- (5) There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading)
- (6) There shall be no more than one electronic message display per parcel of land.

(j) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade.

(k) Church bulletins may be directly illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other zoning lot.

(l) Searchlights are not allowed in this district.

(m) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the time of construction.

(n) Banners. Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-44, Ord. 2006-8, Ord. 2006-16, Ord. 2010-02, Ord. 2016-02)

Sec. 130-1277. Signs permitted in the regional business district (B-4) and industrial districts with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in the regional business district (B-4) or an industrial district and not in a historic preservation district are prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground/pole signs cannot have projections, are limited to one per parcel, and cannot exceed 50 square feet in area nor 15 feet in height measured from the mean centerline street grade to the top of the sign. Exception: height may be up to 20 feet if the sign is set back ten feet from the property line.

(b) Shopping center/group development/industrial park. One freestanding sign, showing only the name of said center/park and each represented business. Such signs shall not exceed 60 square feet in area, be placed within 20 feet of the property line, or exceed 15 feet in height. For those signs showing only the name of said center/park and each represented business to be located within 75 feet of a public street right-of-way where the posted speed limit is 45 miles per hour or higher, the plan commission may, upon a written request submitted by the property owner, allow a sign that exceeds the dimensional standards specified in this part. In determining whether to grant such special exception, the plan commission shall evaluate whether (1) the proposed signage is absolutely necessary to make known the businesses on the parcel on which the sign is located given the prevailing traffic flow on the roadway, and (2) the proposed sign location is as close to the street right of way as is practicably feasible. Special exceptions shall be reviewed on a case by case basis. Therefore, no prior decision shall be deemed to limit or otherwise control subsequent decisions.

(c) Shopping center/group development/industrial park – name only. Up to two ground signs showing only the name of said center/park and not exceeding a total of eight square feet are allowed, provided such sign is not located within 100 feet of another freestanding/ground/pole sign on the subject property or within 50 feet of the principal building. (Editor’s note: This provision allows one ground sign with eight square feet of signage, or two ground signs provided the total sign area of the two signs does not exceed eight square feet.)

(d) Wall signs shall not project more than 16 inches from said wall. One sign is permitted on the front wall of any principal building. The sign area shall not exceed one-tenth of the building's front face area (including doors and windows), with a maximum area of 200 square feet. A 12 square foot front wall sign is permitted for building faces of less than 120 square feet. A side wall sign area is limited to one-tenth of the area of the side wall, not to exceed 100 square feet. A rear wall sign area shall not exceed 50 percent of the maximum area permitted for a front wall sign of the same building. The maximum sign area for all walls combined shall not exceed 200 square feet and a limit of two signs per building are allowed.

If a principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportionate share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. The zoning administrator may, upon a written request submitted by the property owner, exceed the maximum signage area specified in this part and section 130-1277 (g), when it can be shown that such limitation(s) will not allow each tenant to have a wall sign. Such sign shall not exceed 10 percent of the wall façade on which the sign is to be located.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage may be placed on the flap of the awning that hangs vertically and/or on the sloping portion of the awning, provided the signage does not occupy more than 50 percent of such area or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Projecting signs shall not extend over a public sidewalk and shall maintain a clear vertical clearance of ten feet.

(h) Total signage area per parcel. Cannot exceed 350 square feet.

(i) Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing.

(j) Electronic message displays are permitted provided they meet the following specific standards: The display area is a part of a freestanding ground sign.

(1) The display area does not exceed 25 square feet.

- (2) The message shall be in one color and the background for the message shall be one color.
- (3) The message shall remain static at least two minutes before the next message appears. No part of the message shall give the appearance of movement.
- (4) There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading)
- (5) There shall be no more than one electronic message display per parcel of land.

(k) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade.

(l) Searchlights are permitted for advertising purposes for a period of no more than five days in any six month period. However, the searchlight cannot be located outside a property line, closer than ten feet to an adjacent property or cause a hazard to traffic or adjoining properties.

(m) Church bulletins may be directly illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other lot.

(n) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the construction period.

(o) Signage on a cupola, provided (1) the plan commission has determined through the site plan review process that the cupola is located on the ridge of a peaked roof and is otherwise integral to and consistent with the architectural design of the building on which it is located, (2) the sign area does not occupy more than 75 percent of the wall face on which it is located, (3) the top of the sign face is no more than eight feet from the roof ridge, (4) the side of the sign face is eight inches or more from the vertical edge of the wall face, (5) each sign face does not exceed 35 square feet, (6) the sign face does not directly face a residentially zoned district that is within 200 feet, and (7) the total signage placed on a cupola is subtracted from the allowable area for wall signage.

(p) *Banners.* Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-29, Ord. 2006-8, Ord. 2006-16, Ord. 2007-19, Ord. 2016-02)

Sec. 130-1278. Signs permitted in residential districts with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in a residential district and not in a historic preservation district are prohibited except a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Temporary subdivision signs are permitted for the identification of homes or non-residential uses for sale or rent in a subdivision under construction. They shall be limited to two per subdivision, 50 square feet each in area. They shall observe the front yard setback of the principal use, be located at least 50 feet from all other boundaries of the site and not exceed eight feet in height above finished grade. Owner shall remove the sign(s) within two years of the date of the sign permit.

(b) Subdivision identification signs shall only bear the subdivision name, with a maximum of one located at each entrance. No sign shall exceed 32 square feet in area nor 12 feet in height above finished grade. The location of said signs will be reviewed by the zoning administrator prior to approval.

(c) Nonresidential signs. Signs for nonresidential, permitted uses (i.e. church bulletins, schools, municipal buildings, public parks, nursing homes, etc.) may be directly illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight (8) feet from any other zoning lot. This excludes signs for permitted home occupations, which are regulated under section 130-531(1)e.

(d) Signs for legal nonconforming commercial uses. Signs for legal nonconforming commercial uses may not be directly illuminated/backlit, and are limited to one sign per lot, six feet in height above finished grade, 10 square feet in area and must be at least eight (8) feet from any other zoning lot. The plan commission shall review and approve other aspects of the sign (e.g., sign materials, color scheme, placement on the lot) to ensure it is compatible with the surrounding properties to the greatest extent practicable. This excludes signs for permitted home occupations, which are regulated under section 130-531(1)e.

(e) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the construction period.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2007-1, Ord. 2016-02)

Sec. 130-1279. Prohibited signs.

The following signs are prohibited:

(a) Traffic interference. Signs shall not resemble or obstruct railroad or traffic signs. No sign shall prevent free ingress/egress from any door, window or fire escape. No sign shall inhibit traffic visibility nor interfere with surrounding properties.

(b) Signs on public rights-of-way shall not be permitted, except for municipal signs such as traffic control, parking, directions to points of interest under section 130-1281 or legal notices and as otherwise specified in this article. Such signs must not be located within five feet of a property line.

(c) Flashing signs. Except electronic message signs.

(d) Blanketing is not allowed by this ordinance.

(e) Roof signs above the parapet line or incorporated into the roofing material.

(f) All signs for a terminated business, including any signs for a business that has ceased to operate at a particular location.

(g) Adjacent to residential district. Illuminated signs shall not be permitted if they cast bright light upon property located in any residential district. Bright light shall be defined as exceeding one half foot candles at the residential property line.

(h) Off premise/billboard signs, except for (1) sandwich boards to the limited extent provided in section 130-1275(i) and (2) any sign placed in a public right of way pursuant to a resolution adopted by the common council designating one or more locations in a public right of way where one or more off-premises signs may be displayed during a street construction project to encourage patronage of businesses negatively impacted by the construction, provided any such sign shall comply with any size restriction or appearance requirement in such resolution and shall not impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement. (3) business directory signs serving a group of businesses that are specifically approved by the Plan Commission. (4) off-premise signs in City parks that are specifically approved by the Common Council, based on recommendation from the Park Board.

(i) If a sign is not explicitly prohibited under the list above and not explicitly permitted under this article, the zoning administrator shall determine which kind of potentially permitted sign the sign in question is most similar to and apply to the sign in question the regulations applicable to the most similar kind of sign.

(Ord. No. 2002-9, § 1, 3-11-2003; Ord. No. 2003-17, § 3, 2-10-2004, Ord. 2005-19, 2005-20, Ord. 2005-34, Ord. 2005-35, Ord. 2010-02, Ord. 2011-03, Ord. 2016-02)

Sec. 130-1280. Legal nonconforming signs.

(a) *Loss of legal nonconforming status.* A sign loses its legal nonconforming status when any of the following occurs:

- (1) If the sign is altered in any way, except for normal maintenance and repair and for changes to the messaging area of the sign. Alteration is considered to be any change to the exterior appearance of any part of the sign, its frame, supporting structure or lighting including changing the materials, height or location.
- (2) The sign is damaged by fire, flood, explosion or act of God to an extent of 50 percent or more of its replacement value. If it is damaged to an extent of less than 50 percent of its replacement value, it may be reconstructed and used as before within three months after such calamity.
- (3) The sign fails to conform to the article provisions regarding maintenance and repair, abandonment or public safety.
- (4) Termination of a business, including a business that has ceased to operate a particular location.

(b) *Consequence of loss of legal nonconforming status.* On the date of the occurrence of any event listed in paragraph (a), the sign shall be immediately brought in compliance with the article with a new permit secured therefore or shall be prohibited.

(c) *Removal of prohibited sign.* The owner of a property on which is located a formerly legal nonconforming sign that has become prohibited under paragraph (b) shall immediately remove the prohibited sign, except as provided in section 130-1283.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19)

Sec. 130-1281. Municipal directional signs.

(a) The City may place signs in public rights-of-way property or adjoining property to direct residents and visitors to points of interest, including (1) municipal buildings, (2) public parks, (3) golf courses owned and operated by the municipality or a not-for-profit corporation, (4) schools (5) collaborative efforts of multiple businesses, such as a parade of home, but not the location of an individual for-profit business, or (6) business directory signs. A sign under this section may be permanent or temporary.

(b) A local government, such as the Evansville School District, a not-for-profit organization, including a religious organization or a collaborative effort of multiple businesses, such as a parade of homes may request that the City place signs directing residents and visitors to their locations at street intersections selected by the local government, not-for-profit organization or collaborative effort of multiple businesses, and the City shall place such signs, provided the local government, not-for-profit organization or collaborative effort provides the signs at its own cost or agrees to pay the City the cost of the signs. The City shall attempt to locate each such directional sign as near as practical to the selected intersection.

(c) A permanent or temporary sign under this section shall be no larger than 30 inches by 36 inches.

(d) The Common Council may by resolution establish and from time to time amend uniform standards for the appearance of permanent signs under this section. In the absence of such a resolution, all such permanent signs shall be made of metal and have a blue face with white lettering and border.

(Ord. No. 2003-17, § 4, 2-10-2004, Ord. 2010-02)

Sec. 130-1282. Sign code violations.

(a) *Construction without permit.* Any person, firm or corporation who begins, erects or completes the erection, construction or alteration of any sign controlled by this Ordinance prior to obtaining a sign permit shall be subject to a fee as established by the council from time to time by resolution and as set forth in appendix A.

(b) *Illegal signs* Illegal signs shall be made to conform or be removed within 30 days of receipt of written notice from the zoning administrator, except those illegal signs which can be readily rectified (e.g., readily moveable signs such as sandwich board or banners) shall be removed or made to conform within two days of receipt of written notice from the zoning administrator. A sign placed on city property (e.g., street right-of-way, park) may be removed immediately by city personnel without advance notice to the person who authorized the installation of the sign. Such sign shall be disposed of within 72 hours of removal, unless claimed by the owner of the sign. A sign placed on private property without the authorization of the property owner may be removed by the property owner without

advance notice to the person who authorized the installation of the sign. Such sign may be disposed of at the discretion of the property owner.

(c) *Dangerous signs.* A sign that poses a threat to public safety shall be made to conform or be removed within five days of receipt of written notice from the zoning administrator, unless a shorter compliance period as specified in the notice is required to protect public safety.

(d) *Penalties.*

- (1) **Violations.** No person shall construct or use any structure in violation of any of the provisions of this chapter. In case of any violation, the city council, the zoning administrator, or the plan commission may institute an appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be removed.
- (2) **Penalties.** Any person who fails to comply with or violates any of the provisions of this chapter shall be subject to the provisions of section 1-11. Each day a violation exists or continues shall constitute a separate offence.
- (3) **Civil remedies.** Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, prevent unlawful construction, recover damages, restrain, correct or abate a violation, and these remedies shall be in addition to the penalties described in subsection (2) of this section.
- (4) **Removal by city.** If the owner of an illegal sign under paragraph (b) of this section or dangerous sign under paragraph (c) of this section fails to comply within the time period herein specified, the city may remove it and charge the property owner for all costs related to removal and disposal. If not paid, the clerk treasurer shall add such amount to the tax roll as a special tax against such lot or parcel of land.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-46)

Editor's note: Ord. No. 2002-9, § 1, adopted March 11, 2003, set out provisions intended for use as 130-1281. For purposes of classification and clarity, and at the editor's discretion, these provisions have been included as 130-1282.

Sec. 130-1283. Removal of signs for terminated businesses.

If a business terminates, including a business that ceases to operate at a particular location, the owner of the property where the business was located shall remove all signs for the business from public view within six months from the date of termination. If the sign is not removed during that time, the zoning administrator shall give the property owner an additional thirty (30) days to appeal for an extension under section 130-1272(f) or remove it. If the owner fails to comply, the owner shall be subject to penalties under section 130-1282(d). In addition, the zoning administrator may elect to cause the sign to be removed and the expense of so doing shall be charged to the owner of the property. If not paid, the city clerk-treasurer shall add such amount to the tax roll as a special tax against such lot or parcel of land.

(Ord. 2005-19)

Sec. 130-1284. Table Summary of Article X.

A summary of Signage regulations found in Article X are as follows:

TABLE I: SIGNS NOT REQUIRING A PERMIT. (All Zoning Districts)

Zoning Districts	Sign Type	Maximum		
		Time	Quantity/ Area/ Percent	Height
Permit Not Required Business, Industrial, and Office Districts	Banners	15 days/ 90 day period	32 ft ²	15 ft. above finished grade
	Warning Signs	N/A	4 ft ²	N/A
	Signs Directing Traffic	N/A	6 ft ²	N/A
	Rummage Sale Signs	72 hrs./ sale	4 ft ²	N/A
	Political Signs	60 days before election. Removed within 10 days of election.	32 ft ²	N/A
	Real Estate Signs	Removed upon sale/rental	(2)signs/cumulative 8 ft ²	6 ft. above soil grade
	Parking Area Signs	N/A	(1) 2 ft ² sign/entrance or exit. –and– (1) 9 ft ² identification/ conditions of use sign	7 ft. above finished grade
	Seasonal Outdoor Sales-Farm Produce	N/A	(2) 12 ft ² signs	15 ft. above finished grade
	Contractor Signs	Construction Period	(1) 4 ft ² sign	N/A
	Pennants	28 days after grand opening	N/A	N/A
	Window Signs	N/A	25 % of glazed area	W/I 3 feet of window
	Agricultural, Conservational, and Residential	Portable Signs	10 days/ 3 times/ year	12 ft ²
Community Event/Information Signs		45 days before an event. Removed within 5 days of event.	32 ft ²	N/A
Contractor Signs		Construction Period	(1) 4 ft ² sign	N/A
	Political Signs	60 days before election. Removed within	8 ft ²	N/A

		10 days of election.		
	Rummage Sale Signs	72 hrs./ sale	4 ft ²	N/A
	Residential Nameplates	N/A	(1) 3 ft ²	N/A
	Nonresidential Identification Signs	N/A	(1) 9 ft ² / street face	15 ft. above finished grade
	Permitted Home Occupation signs per Sec 130-531	N/A	(1) 3 ft ² / dwelling	N/A
	Real Estate Signs	Removed upon sale/rental	(1) 8 ft ² / street face	6 ft. above soil grade
	Parking Area Signs	N/A	(1) 2 ft ² sign/entrance or exit. -and- (1) 9 ft ² identification/ conditions of use sign	7 ft. above finished grade
	Seasonal Outdoor Sales-Farm Produce	N/A	(2) 12 ft ² signs	15 ft. above finished grade

TABLE II: SIGNS REQUIRING A PERMIT. (B-2 DISTRICT)

B – 2 District ¹				
Permit Required	Sign Type	Maximum Per Parcel		
		Time	Quantity/ Area/ Percent	Height/Width/ Distance
	Awning/Canopy/Marquee²	N/A	(2) per business	N/A
	Banners²	30 days/ 90 day period	Cumulative of 32 ft ²	15 ft. above finished grade
	Church Bulletins^{1, 2}	N/A	(1) 16 ft ²	6 ft. above finished 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft ²	N/A
	Freestanding/Ground Sign²	N/A	50 ft ²	15 ft. above grade
	Projecting Signs²	N/A	N/A	Vertical clearance of 10 ft. Extend 2/3 width of public sidewalk up to 5 ft.
	Sandwich Board²	Business Hours	12 ft ² / face	4 ft. above finished grade
	Shopping Center/Group Development²	N/A	(1) 60 ft ² / street face	15 ft. above finished grade 20 ft. from property line
Wall Signs^{2, 3}	N/A	(2) for each business ≤ 10% building front face, maximum 200 ft ²	≤ 16 in. from wall	
Window Signs²	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window	
<ol style="list-style-type: none"> 1. Lighting. Directly illuminated/backlit signs are not allowed in this district, except signs with the word “open” that are less than four square feet in area. Lighting shall not create glare nor be flashing. Church bulletins may be indirectly illuminated, except neon. 2. Total signage area per parcel. Cannot exceed 200 ft² 3. On a corner lot, a sign may be placed on the wall facing the secondary street up to 10% of the wall's face in area, not to exceed 100 square feet. Total area of all wall signs cannot exceed 200 square feet, nor be more than two wall signs per building. 				

TABLE III: SIGNS REQUIRING A PERMIT. (B-1, B-3, B-5, O-1 DISTRICTS)

B – 1, B – 3, B – 5, O – 1 Districts ¹				
Permit Required	Sign Type	Maximum Per Parcel		
		Time	Quantity/ Area/ Percent	Height/Width/ Distance
	Awning/Canopy/Marquee²	N/A	(2) per business	N/A
	Banners²	30 days/ 90 day period	Cumulative of 32 ft ²	15 ft. above finished grade
	Church Bulletins^{1,2}	N/A	(1) 16 ft ²	6 ft. above finished grade 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft ²	N/A
	Electronic Message Signs²	Information must remain static for at least 2 min before next message.	Information cannot exceed 20% face of sign (1) 25 ft ²	N/A
	Freestanding/ Ground Sign²	N/A	50 ft ²	15 ft. above grade 20 ft. above grade when set back at least 10 ft. from property line.
	Projecting Signs²	N/A	N/A	Vertical clearance of 10 ft. Must not project over public sidewalk
	Sandwich Board²	Business Hours	12 ft ² / face	4 ft. above finished grade
Shopping Center/Group Development²	N/A	(1) 60 ft ²	15 ft. above finished grade 20 ft. from property line	
Wall Signs^{2, 3}	N/A	(2) for each business ≤ 10% building front face. Maximum 200 ft ²	≤ 16 in. from wall	
Window Signs²	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window	

1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing. Church bulletins may be directly or indirectly illuminated/backlit, except neon.
2. Total signage area per parcel. Cannot exceed 250 ft²
3. On a corner lot, a sign may be placed on the wall facing the secondary street up to 10% of the wall's face in area, not to exceed 100 square feet. Total area of all wall signs cannot exceed 200 square feet, nor be more than two wall signs per building.

TABLE IV: SIGNS REQUIRING A PERMIT. (B-4, I-1, I-2, I-3 DISTRICTS)

B – 4 District , I-1, I-2, I-3 Districts ¹				
Permit Required	Sign Type	Maximum Per Parcel		
		Time	Quantity/ Area/ Percent	Height/Width/ Distance
	Awning/Canopy/ Marquee²	N/A	(2) per business	N/A
	Banners²	30 days/ 90 day period	Cumulative of 32 ft ²	15 ft. above finished grade
	Church Bulletins^{1, 2}	N/A	(1) 16 ft ²	6 ft. above finished grade 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft ²	N/A
	Electronic Message Signs²	Information must remain static for at least 2 min before next message.	Information cannot exceed 20% face of sign (1) 25 ft ²	N/A
	Freestanding/ Ground Sign²	N/A	50 ft ²	15 ft. above grade 20 ft. above grade when set back at least 10 ft. from property line.
	Projecting Signs²	N/A	N/A	Vertical clearance of 10 ft. Must not project over public sidewalk
	Sandwich Board²	Business Hours	12 ft ² / face\	4 ft. above finished grade
Shopping Center/ Group Development/ Industrial park^{2, 4}	N/A	(1) 60 ft ²	15 ft. above finished grade 20 ft. from property line	
Wall Signs^{2, 3}	N/A	(1) Front wall, (1) Side wall, or (1) rear wall for each business. (2) Sign and 200 ft ² max. ≤ 10% building front face. Maximum 200 ft ² ; ≤ 10% building side face. Maximum 100 ft ² ; Rear wall sign shall not exceed 50% of the maximum area permitted for a front wall sign.	≤ 16 in. from wall	
Window Signs²	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window	

1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing. Church bulletins may be directly or indirectly illuminated/ backlit, except neon.
2. Total signage area per parcel. Cannot exceed 350 ft²
3. A 12 square feet front wall sign is permitted for building faces of less than 120 square feet.
4. Exception to the maximum dimension and quantity are available, as per Sec. 130-1277 (b) and Sec. 130-1277 (c)

TABLE V: SIGNS REQUIRING A PERMIT. (RESIDENTIAL DISTRICTS)

Residential Districts				
Permit Required	Sign Type	Maximum Per Parcel		
		Time	Quantity/ Area/ Percent	Height/Width/ Distance
	Temporary Subdivision	2 years of Sign Permit	(2) 50 ft ² per subdivision	Front yard setback, > 50 ft. from all other boundaries. 8 ft. above finished grade.
	Subdivision Identification	N/A	(1) 32 ft ² per entrance	12 ft. above finished grade
	Nonresidential Signs^{1,2}	N/A	(1) 16 ft ² per lot	8 ft. from adjacent lots
	Legal nonconforming commercial uses³	N/A	(1) 10 ft ² per lot	8 ft. from adjacent lots
Construction Signs	During Construction	(1) 32 ft ² per lot	N/A	
<ol style="list-style-type: none"> 1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated, except neon. 2. Signs for nonresidential permitted uses (i.e. church bulletins, schools, municipal buildings, public parks, nursing homes, etc.) 3. Lighting. Signs may not be directly illuminated/backlit. 				

(Ord. No. 2016-02)

Secs. 130-1285 – 130-1299. Reserved.

**ARTICLE XI
TRAFFIC VISIBILITY, LOADING, PARKING AND ACCESS**

Sec. 130-1300. Traffic visibility.

- (a) On a corner lot in all zoning districts, no fence, wall, parking, vegetation, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the edge of right-of-way street lines of such corner lots and a line joining the points along such street lines 15 feet from the point of intersection.
- (b) If arterial streets intersect with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 30 feet.
- (c) This section shall not apply to the trunks of trees and posts not over six inches square or in diameter.

[Ord. 2010-02]

Sec. 130-1301. Loading requirements.

- (a) *Loading space required.* On every lot on which a business, commercial, or industrial use is established, space with access to a public street or alley shall be provided as indicated in the following table for the loading and unloading of vehicles off the public right-of-way:

<i>USE</i>	<i>FLOOR AREA (SQ. FT.)</i>	<i>LOADING SPACE</i>
Retail/wholesale warehouse, service manufacturing, and industrial establishments	2,000--10,000	1
	10,000--20,000	2
	20,000--40,000	3
	40,000--60,000	4
	Each additional 50,000	1
Hotels, offices, hospitals, places of public assembly	5,000--10,000	1
	10,000--50,000	2
	50,000--100,000	3
	Each additional 25,000	1
Funeral homes	2,500--4,000	1
	4,000--6,000	2
	Each additional 10,000	1

- (b) *Multiple or mixed uses.* Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required

for a loading space but the aggregate floor area of such uses is above such a minimum, off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

- (c) *Location.* Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- (d) *Surfacing.* All open off-street loading berths shall be improved with a compacted gravel base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material.
- (e) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.
- (f) *Utilization.* Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (g) *Central loading.* Central loading facilities may be substituted for loading berths on the individual zoning lots, provided the following conditions are filled:
 - (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing the number of loading berths.)
 - (3) No zoning lot served shall be more than 300 feet removed from the central loading area.
 - (4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and shall have a clearance of not less than seven feet.

[Ord. 2010-02]

Sec. 130-1302 Parking requirements.

All new nonresidential parking lots in excess of four stalls and all alterations of existing lots shall be subject to the approval of the plan commission. Requests for such parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provision, and driveway locations. In all districts there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) *Access.* Adequate access to a public street shall be provided for each parking space.
- (b) *Design standards.* The size of each parking space shall be not less than 162 square feet (9 feet by 18 feet) exclusive of the space required for ingress and egress. Handicapped parking stalls may be 8 feet wide with the required access aisle

specified under (k) below. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for 30-degree parking; and 20 feet for 90-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street. The plan commission may authorize stalls sized for smaller vehicles (eight feet by 16 feet) where the number of stalls being provided exceeds the minimum number required and where all of the minimum required stalls are full sized (nine feet by 18 feet).

(c) *Location.*

- (1) Location shall be on the same lot as the principal use or not over 500 feet from the principal use.
- (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts, but shall not be closer than five feet to a nonresidential side lot line, right-of-way line, or rear lot line. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line.
- (3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard only on the driveway. No parking is allowed on the front yard lawn areas.

(d) *Surfacing.* All off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of Portland cement will meet this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the plan commission. Completion of surfacing is required prior to the issuance of an occupancy permit. However, for required surfacing during the period between November 1 and June 1, the owner shall enter into an agreement with the City agreeing to complete all required surfacing by no later than the following June 1.

(e) *Repair and service.* No commercial motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residence districts.

(f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three foot-candles measured at the lot line.

(g) *Curbs.* Concrete curbing is required for parking lots in excess of four stalls. Such curbing should be positioned to facilitate the direction and flow of storm water and to maintain the pavement edge. Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

(h) *Number of stalls.* The minimum number of parking stalls required are shown in the following table. Apart from one and two family dwelling units, no land use may

exceed fifteen (15) percent of the minimum required number of parking stalls.

<i>LAND USE</i>	<i>PARKING REQUIREMENT</i>
One and Two Family Dwelling	2 spaces per dwelling unit
Accessory Dwelling Unit (ADU)	1 space per ADU
Apartment – 2 and 2+ bedroom units	2 spaces per dwelling unit
Apartment - Studio and 1 bedroom dwelling unit	1.5 spaces per dwelling unit
Apartment - Senior	1 spaced per dwelling unit
Institutional Living	1 space per resident or patient capacity
Community Living	1 space per resident capacity
Hospital	1 space per patient bed
Institutional Uses	1 space per 4 persons maximum seating capacity
Churches	1 space per 4 persons maximum seating capacity
Community or Recreation Center	1 space per 4 persons maximum seating capacity
Funeral Home	1 space per 4 persons maximum seating capacity
Library or Museum	1 space per 300 square feet of gross floor area
Day Care	1 space per 5 students
School - Elem or Middle	1 space per staff, plus 2 spaces per classroom
School - High School	1 space per staff, plus 1 space per 5 students
College or Trade School	1 space per staff, plus 1 space per 2 students at peak attendance period.
Golf Course	36 spaces per 9 holes, plus 50 percent of spaces otherwise required for any accessory uses (e.g. bars, restaurant)
Swimming Pool	1 space per 75 square feet of gross water surface area
Tennis court	3 spaces per court
Retail Sales And Services	1 space per 300 square feet of gross floor area.
Business or Professional Offices	1 space per 300 square feet of gross floor area.
Drive-Up or In-Vehicle Sales and Service	2 spaces per drive-up lane
Indoor Eating and Drinking Establishments	1 space per 300 square feet of gross floor area
Outside Eating or Drinking Areas	1 space per 300 square feet of serving area.
Commercial Animal Boarding	1 space per 1,000 square feet of gross floor area.
Motels and Hotels	1 space per bedroom
Bed & Breakfast Establishment	1 space per bedroom
Campground	1.5 spaces per campsite
Mini-Warehouse Storage Facility	1 space per 1,000 square feet of gross floor area
Warehouse and Distribution Center	1 space per 1,000 square feet of gross floor area.
Industrial and Manufacturing	1 space per 1,000 square feet of gross floor area.
Utilities	1 space per 1,000 square feet of gross floor area.

- (i) *Uses not listed.* For structures or uses not mentioned, the provision for a use that is similar shall apply or the plan commission may rely on standards and parking ratios that appear in the most recent edition of the Institute of Traffic Engineers Parking Generation Manual. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated in the table in subsection (8) of this section as a basis for determining the amount of off-street parking required.
- (j) *Combined uses.* Combinations of any of the uses in the table in subsection (8) of this section shall provide the total of the number of stalls required for each individual use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:
- (1) The proposed joint parking space is within 500 feet of the use it will serve.
 - (2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - (3) A properly drawn legal instrument approved by the Plan Commission, executed by the parties concerned and recorded with the County Register of Deeds against the property or properties in question, for joint use of off-street parking facilities. Such instrument shall be approved by the City attorney prior to Plan Commission review, and shall contain language that specifies that the instrument may not be altered without approval by the Plan Commission. The document shall be provided to the Zoning Administrator within 30 days of recordation.
- (k) *Handicapped parking requirements.* The following chart shall be used to determine the number of required handicapped parking stalls.

<i>Total Parking in Parking Facility</i>	<i>Required Minimum Number of Accessible Spaces</i>
1 to 25*	1*
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100, or fraction thereof, over 1000

* Parking lots with fewer than five stalls do not have to have an accessible parking space reserved, but must maintain a space that meets the dimensional requirements for

For every six or fraction of six accessible spaces required by the above chart at least one shall be a van accessible parking space and served by an access aisle at least 96 inches wide; other handicapped parking stalls must have an access aisle at least 60 inches wide. Required stalls shall be striped and signed according to relevant state and federal law, and shall be located on the shortest accessible route from the parking lot to an accessible entrance. In addition to any other requirements relating to parking spaces contained in this Code, accessible parking for proposed development shall comply with the ADA Standards for Accessible Design promulgated by the US Department of Justice. Proposed development shall also comply with provisions contained in Wisconsin Statutes and any Wisconsin Administrative Code pertaining to provision and design of handicapped parking, including, but not limited to, Wis. Stats. §101.13, §346.503 and §346.56.

(l) *Changes in buildings or use.* Whenever a building or use is changed, structurally altered, or enlarged to create a need for an increase of 25 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50 percent or more in the floor area, such building or use shall then comply with the parking requirements set forth in the district in which it is located.

(m) *Off-site parking.*

- (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-site, provided the parking spaces are located in the same district and not over 500 feet from the principal use. When off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the office of the county register of deeds requiring such owner, the owner's heirs or assigns to maintain the required facilities for the duration of the use served.
- (2) Off-site parking spaces for residential uses shall be within 250 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 400 feet of the entrance of the establishment.
- (3) Accessory parking may be located in residential districts, provided that such lots or property are immediately adjacent to a commercial, business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

- (n) *Signs.* Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this chapter.
- (o) *Reduction of parking areas.* Off-street parking spaces shall not be reduced in number unless such number exceeds the requirement set forth in this section.
- (p) *Exceptions.*
- (1) The plan commission may authorize exceptions to the parking standards or other requirements of section 106-923 where the applicant can demonstrate that the proposed use will generate less parking demand than the parking standard requirements, or where an exception from the requirements would result in a site plan and development that would benefit the City and be consistent with the intent of this chapter. An applicant requesting an exception to the parking requirements shall be required to demonstrate and document the projected parking demand based on an analysis of similar or comparable uses.
 - (2) The plan commission may require additional parking stalls where it is determined that the proposed use is likely to generate a demand for more parking stalls than this chapter would require.
 - (3) In granting exceptions to the parking standards, the plan commission may grant conditional exceptions, subject to future review and reconsideration.

[Ord. 2010-02, Ord. 2012-14, Ord. 2023-15]

Sec. 130-1303. Highway access.

(a) *Private access.* No direct private access shall be permitted to the existing or proposed rights-of-way of expressways or to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes or to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes, such as exit and entrance ramps. No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.

(b) *Barriers.* Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the streets or highways specified in subsection (a) of this section.

(c) *Temporary access permit.* Temporary access to the rights-of-way specified in subsection (a) of this section may be granted by the zoning administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

[Ord. 2010-02]

Sec. 130-1304. Storage and parking of recreational vehicles.

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

- (1) *Boat.* Every description of watercraft used or capable of being used as a means of transportation on water.
- (2) *Recreational vehicle.* Any of the following:
 - (3) *Travel trailer.* A vehicular, portable structure built on a chassis and on wheels that is between ten and 36 feet long, including the hitch, and eight feet or less in width, designated to be used as a temporary dwelling for travel, recreation, vacation, or other uses and towed by a car, station wagon, or truck. It includes so-called fifth-wheel units.
 - (4) *Pickup coach.* A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation, or other uses.
 - (5) *Motor home.* A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.
 - (6) *Camping trailer.* A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation, or other uses.
 - (7) *Chassis mounts, motor homes and mini-motor homes.* Recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated.
 - (8) *Converted and chopped vans.* Recreational structures that are created by altering or changing an existing auto van to make it a recreational vehicle.
 - (9) *Boat or snowmobile trailer.* A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this section, is termed an "unmounted boat or snowmobile."

(b) *Permitted parking or storage.* In all residential and commercial districts, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in the following manner:

- (1) No part of the unit may extend over the public sidewalk or into public right-of-way.
- (2) Parking is permitted only for purposes of storage or temporary dwelling. Except as provided in Section 130-1304(b)(4), recreational vehicles, trailers, or boats shall not be:
 - a. Used for dwelling purposes.

- b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (3) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.
 - (4) Recreational vehicles may be used for purposes of temporary dwelling of no more than fifteen (15) consecutive days or thirty (30) days in any twelve (12) month period.

[Ord. 2010-02]

Sec. 130-1305. Storage of trucks, tractors and road machinery.

- (a) *Truck parking in residential areas.* No motor vehicle with an empty weight in excess of 12,000 pounds, over 18 feet in length, or having a height of more than 8 feet from the roadway, bearing a commercial license, including school buses, and no commercially licensed trailer, including semitrailers, shall be parked or stored in a residential district, except when loading, unloading, or rendering a service.
- (b) *Tractors and road machinery.* No person shall park, keep, or maintain on properties zoned as residential or multiple residential dwellings the following types of vehicles: tractors, tractor-trailers, semitrailers, dump trucks, auto wreckers, and road machinery. Such vehicles may not be kept or parked on the premises, whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

[Ord. 2010-02]

Section 130-1306. Exterior Lighting Standards.

- (a) *Purpose.* The regulations of this section establish lighting levels for various permitted uses that promote visual surveillance, reduce the potential for criminal activity, and prevent unnecessary glare and light trespass onto adjacent properties.
- (b) *Light trespass.*
 - (1) Outdoor lighting shall be designed, installed, and maintained to confine illumination to the subject property. Compliance with these regulations must be achieved by fixture shielding, directional control designed into fixtures, fixture locations, height, aim, or a combination of these or other factors.
 - (2) Maximum light trespass (spillover) is limited to the following levels according the zoning district of the lot receiving the spillover light:
 - a. All residential districts: 0.50 footcandles
 - b. All other zoning districts: 3 footcandles
 - (3) Spotlights and floodlights must be aimed so that they do not shine (aim point) across property lines.

(c) *Dark Sky Compliant Lighting.*

- (1) New lighting fixtures shall use dark sky compliant lighting fixtures and installation practices in all areas of the City.
- (2) Changes in existing lighting shall follow this ordinance in all areas of the City.
- (3) This ordinance does not apply to cosmetic or decorative lighting below 250 lumens.
- (4) This ordinance does not apply to lighting approved by the Historic Preservation Commission by issuance of a Certificate of Appropriateness.

[Ord. 2024-05]

