

NOTICE

A meeting of the City of Municipal Services Committee will be held on the date and time stated below. Notice is further given that members of the City Council, Park & Recreation Board, or Plan Commission may be in attendance. Requests for persons with disabilities who need assistance to participate in this meeting should be made by calling City Hall at (608)-882-2266 with as much notice as possible.

City of Evansville **Municipal Services Committee**
Regular Meeting
City Hall, 31 S Madison St., Evansville, WI 53536
Tuesday, August 29, 2023, 5:00 pm

AGENDA

1. Call to Order
2. Roll Call
3. Motion to Approve Agenda
4. Motion to waive the reading of the minutes from the July 25, 2023, meeting and approve them as printed.
5. Civility Reminder
6. Citizen appearances other than agenda items listed:
Berta Hansen-21 Montgomery Ct
7. New Business
 - A. Quarterly review and discussion of staff approved sanitary sewer billing adjustments (Jan, Apr, Jul, and Oct).
 - B. Disconnection Update
 - C. Discussion and motion to recommend to Common Council Ordinance #2023-07 Amending Chapter 26, Cemeteries.
 - D. Discussion and motion to recommend to Common Council Ordinance #2023-12 Amending Chapter 106, Streets Sidewalks and Other Public Places.
 - E. Discussion and motion to recommend to Common Council Resolution #2023-22 Amending the City of Evansville's fee schedule - Cemetery.
 - F. Discussion and motion to recommend to Common Council Resolution #2023-22 Amending the City of Evansville's fee schedule – Streets, Sidewalks and Other Public Places.
 - G. Discussion and motion to recommend to Common Council approve the final certified survey map for parcels that include 6-27-958.07, 6-27-959.6, 6-20219B, 6-20-318, 6-20-317.01, and 6-20-305, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the following

conditions:

1. Common Council approves Annexation Ordinance 2023-08.
 2. Final Certified Survey map adjusted to include corrected road right of way parcels, utility easements, or out lots as directed by the City.
 3. The Final Certified Survey Map is approved by City and record with Rock County Register of Deeds.
8. Administrative Staff Report
- A. Parks & Recreation Report
 - B. Update on Department / Director
 - C. AMI
 1. AMI Updates Current AMI count remaining Elec: 0 Water: 2 meters (1 Commercial and 1 Residential)
9. City Engineer Report
- A. Subdivision and Development Updates
 - B. Roadway Construction Updates
 - C. Lake Leota Dam Project Updates (Placeholder)
 - D. WPPI Report Update from Energy Services Manager
 1. CTC Funds Discussion
 - Community Contributions-\$1500.00
 - Economic Development-\$1000.00
 - School Education & Outreach-\$0
Scholarship- \$1000.00
National Theatre Company-\$1000.00
 - Customer Service & Branding-\$15189.00
Home Energy Reports-\$1516.59
National Theatre Company-\$1000.00
Customer Appreciation Giveaways-\$1682.16
 - a. Customer Appreciation Event Giveaways-\$1682.16

-James Brooks, Committee Chair

- b. Energy Star-\$875.00
 - c. EV Rebates-Ford (Placeholder) \$5000.00
 - d. EV Charger Rebate-Chevy (Placeholder) \$1500.00
- Balance \$3440.25

E. Discussion about Report from WPPI Finance class

10. Old Business

A. Aquatic Center, Splash pad, and Park Improvement Updates (Placeholder)

B. Electric Rate Case Update

11. Upcoming Meetings

A. Tuesday, September 26, 2023, at 5:00pm

12. Motion to Adjourn

-James Brooks, Committee Chair

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City of Evansville **Municipal Services Committee**
Regular Meeting
City Hall, 31 S Madison St., Evansville, WI 53536
Tuesday, July 25 2023, 5:00 pm

MINUTES

1. **Call to Order:** 5:00 PM
2. **Roll Call:** Committee Chair Jim Brooks, Alder. Joy Morrison, Adler. Ben Ladick, absent
Also in attendance: Donna Hammett, Dale Roberts, Jason Sergeant, Dianne Duggen, Kerry Lindroth, and Nick Bubolz.
3. **Motion to Approve Agenda:** Brooks/Morrison 2-0
4. **Motion to waive the reading of the minutes from the ~~May 31, 2023~~ June 27, 2023 meeting and approve them as printed.** Morrison/Brooks 2-0 with date/ typo corrections.
5. **Civility Reminder**
6. **Citizen appearances other than agenda items listed:** Erik Sharp
7. **New Business**
 - A. **Quarterly review and discussion of staff approved sanitary sewer billing adjustments (Jan, Apr, Jul, and Oct).** Hammett review the adjustments, there was nothing out of the ordinary. For information only.
 - B. **Disconnection Update:** Hammett review disconnections, we hung 65 Residential and 7 Commercial Door Knockers today, for disconnection tomorrow, at the end of the day we had 50 Residential and 3 Commercial accounts still on the list. There are still 2 services off from April and 1 off from May. We will be watching the weather for Heat advisory and will be check all the disconnected services.
 - C. **Discussion and motion to approve Write Off of \$110.53 for account 26-1020-03-SDC Uncollectable:** Hammett stated the account was returned by SDC (State Debt Collections) as uncollectable, asking for approval to write off this amount. Morrison/Brooks 2-0 Motion Carries.
 - D. **Discussion and motion to approve Refund of Yard Waste Fee.** Resident changed his mind about using the permit, felt that it was too much for the time frame that the yard waste site was open. The permit has not been used and has requested refund. Resident was present at the meeting. Motion to approve Refund of Yard Waste Fee, Morrison/Brooks 2-0 Motion Carries.
 - E. **Motion to recommend Common Council approve Land Division application LD-2023-0196 for the certified survey map for parcels 6-27-958.07, 6-27-959.6, 6-20-219B,**

6-20-318, 6-20-317.01, and 6-20-305. Sergeant went over the basics of the application, after some discussion, Motion to recommend to Common Council-Morrison/Brook 2-0 Motion Carries.

- F. Motion to recommend Madison Street Agreement with DOT:** Sergeant and Berquist have gone over the agreement, and Berquist feels it is in the best interest of the City to approve this agreement. Morrison/Brooks 2-0, Motion Carries.
- G. Discussion and Motion to Recommend Recreation Coordinator Position Description.** The description combines Youth Center, Youth Sports, and Recreation Programs/Management. Committee has decided to push this to Finance/Labor. No Motion.
- H. Discussion and Motion to recommend Municipal Services Director Position Description and discuss next steps.** 7 application came in, but none of them met the position's qualification. The only change to the description is the pay scale. Sergeant reached out to WPPI, and was told that the pay scale is about \$40,000 too low. Sergeant also looked at the City of Columbus, a comparable community, they were also looking for a Municipal Service Director, Columbus's ad for this position has pay rate starting at \$140,000 to \$150,000. Sergeant also reached out to a former W&L employee, and got good feedback as to what is needed. Morrison/Brooks 2-0 Motion Carries.
- I. Discussion and Motion to Recommend Compensation Philosophy:** Last Year the Council approved this philosophy, at that time there were only 20 grades, it is now update to a 25-grade process. There have been some typo corrections, and it should also say be looked at annually. There are some positions not included, 5-6 people not on the pay scale at all, unknown why they are not there. Morrison/Brooks 2-0 Motion Carries.
- J. Discussion and Motion to Recommend Municipal Services staff Position Descriptions revising Line worker title, Wastewater Treatment Plant Operator titles, and all pay grade.** The wage study pointed out some positions that we don't have. General Laborer that spend most of the time at the wastewater treatment plant and the same on the water side. These positions now have a line on the pay scale and descriptions: Wastewater Treatment Plant Operator and Operator in Charge. Also, Water Plant Operator and Operator in Charge. Changes to the descriptions for Lineman to Lineworker and at the end of the description is has different pay scales for work experience. Brooks asked about the future of the Cemetery Sexton. Roberts has looked into different options, still in discussion at this time. Morrison/Brooks 2-0.
- K. Updates on CIP and Budget:** Sergeant met with Roberts, Lindroth, Berquist, and Duggan, meeting went well, talking about Capitol in general and vision around local registration fee. The registration fee money has been used on some of the streets in town, are looking into the long term budget process to add more streets to the list every year. Budgets & CIP is going out to Department heads now. Sergeant point out that about \$100,000 every year for road resurfacing and overlay, also went over other road projects in the future that had been discussed.

8. Administrative Staff Report:

- A. Parks & Recreation Report:** Robert stated that Park staff has started mowing again, due to the recent rain. Last week Monday Roberts met with DSPS (OSHA) on a complaint

-James Brooks, Committee Chair

filed by a resident that we were not giving access to SVS sheets and that our employees didn't have the right training for spraying, DSPS (OHSA) was doing a follow up on that complaint, after our conversation, and after looking at our training records, Andrew from MEUW is drawing up training process for just spraying alone, instead of the broad training that is there now. DSPS (OHSA) was happy with that. There is online access to our training sheets. The same resident called the Dept of Ag and Consumer Protection and Roberts spoke to someone at Dept of Ag about the issue and it ended up not being in their jurisdiction, at the end of the conversation, it was noted that they were closing out the complaint. Sergeant was out of town, he got filled in: We have some very concerned resident that wanted to make sure that our Parks are safe. There were a lot information and accusations that were going around, and Roberts did a good job fielded all the information.

~~B. Update on Department / Director~~ Discussed 7H

C. Update on 2023 Underground Project: The boring is being done first, they have started at the creek, went up to the alley at Railroad St, and they are boring across Madison St, and Setting a pole. Going Well.

D. AMI

1. AMI Updates Current AMI count remaining Elec: 0 Water: 2 meters (1 Commercial and 1 Residential): Have an appointment set for the 1 residential meter for September.

2. Meeting with WPPI about Northstar, start date Feb, 2024 with data pull sometime in Oct 2023.

9. City Engineer Report

A. Subdivision and Development Updates: Settlers Grove discussion on going. Westfield punch list still needs to be finished.

Brooks asked about the Eastside development...there have been meeting about what needs to happen, utilities , gas, water, electric, wastewater.

B. Roadway Construction Updates: Some punch list items that still need to be complete. City is holding money until these items are finished. The Lead Service replacement program is wrapping up.

C. Lake Leota Dam Project Updates (Placeholder): Jewel sent an updated design, this will have to go to historical preservation.

10. WPPI Report

A. Update from Energy Services Manager: Hammett read Jacobson's report:

There have been 10 solar applications submitted mostly by Everlight in the past week.

A small group at WPPI has been formed to support "Project Orange", Jacobson is the point person.

The fall round for REP for Energy Efficiency is open and applications need to be

-James Brooks, Committee Chair

submitted by September 22nd. Jacobson will be sending emails to all key accounts soon.

Brooks just got back from DC from the annual Policy Makers meeting for APPA. 5 from Wisconsin meet with key congresspersons (6 out of the 9) Talked about distribution transformers and Cyber Security. In all it was a good meeting.

1. CTC Funds Discussion (placeholder)-No Actions

11. Old Business

- A. Aquatic Center, Splash pad, and Park Improvement Updates (Placeholder) Going Well**
- B. Electric Rate Case Update-Right now it is looking rate being implemented either in September or October.**

12. Upcoming Meetings

- A. Tuesday, August 22, 2023 at 5:00pm**

13. Motion to Adjourn Morrison/Brooks 2-0

-James Brooks, Committee Chair

**CITY OF EVANSVILLE
ORDINANCE #2023-12**

**AMENDING CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC
PLACES¹**

The Common Council of the City of Evansville, Rock County, Wisconsin, amend
Evansville Municipal Code Chapter 106 as follows:

Chapter 106
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES²

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.

² **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.

Article I. In General

- Sec. 106-1. Penalty.
- Sec. 106-2. Vehicles or equipment damaging streets or bridges.
- Sec. 106-3. Implements of Husbandry and Agricultural Commercial Vehicles
- Secs. 106-4--106-30. Reserved.

Article II. Streets

Division 1. Generally

- Sec. 106-31. Width of improved roadways; construction standards.
- Sec. 106-32. Use of right-of-way by abutting property owner.
- Sec. 106-33. Grades.
- Sec. 106-34. Burning material in street.
- Sec. 106-35. Pushing of snow into right-of-way
- Sec. 106-36. Pushing of yard waste into right-of-way
- Secs. 106-37--106-50 Reserved.

Division 2. Streetlights

- Sec. 106-51. Installation in new developments.
- Sec. 106-52. Installation in existing developments.
- 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.

Division 2. Snow and Ice Removal

- Sec. 106-101. Penalty.
- Sec. 106-102. Removal required.
- Sec. 106-103. Removal by city authorized; payment of costs.
- Sec. 106-104. Determination of expense for work done by city.
- Sec. 106-105. Notice of violation.
- Secs. 106-106-106-130 Reserved.

Article IV. Excavations

- Sec. 106-131. Definitions.
- Sec. 106-132. Permit required.
- Sec. 106-133. Application for permit; bond.
- Sec. 106-134. Insurance.

- Sec. 106-135. Limitation on rights granted by permit.
- Sec. 106-136. Restoration of surface.
- Sec. 106-137. Notice to police department.
- Sec. 106-138. Repair by city.
- Sec. 106-139. Inspection of sewer connections.
- Secs. 106-140-106-160 Reserved.

Article V. Obstructions

- Sec. 106-161. Prohibited.
- Sec. 106-162. Closure by order of Chief of Police
- Sec. 106-163. Closure by Application
- Secs. 106-164-106-190 Reserved.

Article VI. Street Trees

- Sec. 106-191. ~~City forester~~City Forester.
- Sec. 106-192. Authority to make additional regulations.
- Sec. 106-193. Trimming of trees overhanging street or sidewalk.
- Sec. 106-194. Authority of city to trim trees.
- Sec. 106-195. Planting permit.
- Sec. 106-196. Injuring trees or obstructing growth.
- Sec. 106-197. Attaching objects to trees or supports.
- Sec. 106-198. Hedges.
- Sec. 106-199. Trimming or removal of trees in terraces and tree courts.
- Sec. 106-200. Responsibility of property owner for trees on private property.
- Sec. 106-201. Public nuisances.
- Secs. 106-202-106-230 Reserved.

Article VII. Public Works

Division 1. Generally

- Secs. 106-231-106-250 Reserved.

Division 2. Assessments Generally

- Sec. 106-251. Sanitary sewers.
- Sec. 106-252. Sewer mains and lift stations.
- Sec. 106-253. Curbs and gutters.
- Sec. 106-254. Water mains.
- Sec. 106-255. Sidewalks.
- Sec. 106-256. Method of assessment; payment.
- Sec. 106-257. Deferred special assessments.
- Secs. 106-258-106-280. Reserved.

Division 3. Assessment Procedures

- Sec. 106-281. Alternative procedure created.
- Sec. 106-282. Initial resolution.
- Sec. 106-283. Determination and levy of assessment.
- Sec. 106-284. Notice of hearing.
- Sec. 106-285. Lien.
- Sec. 106-286. Appeals.
- Secs. 106-287-106-310 Reserved.

Division 4. Construction by City

- Sec. 106-311. Authorized.
- Secs. 106-312-106-340 Reserved.

Article VIII. Numbering System

- Sec. 106-341. Numbering of buildings required.
- Sec. 106-342. Assignment of numbers.
- Sec. 106-343. Size, color and location of numbers.
- Sec. 106-344. Altering assigned number.
- Sec. 106-345. Reassignment or correction of numbers.
- Secs. 106-346-106-379 Reserved.

Article IX. Wireless Telecommunications Facilities in the Right-of-Way

- Sec. 106-380. Definitions.
- Sec. 106-381. Purpose.
- Sec. 106-382. Scope.
- Sec. 106-383. Nondiscrimination.
- Sec. 106-384. Administration.
- Sec. 106-385. Application.
- Sec. 106-386. General Standards.
- Sec. 106-387. Application Processing and Appeal.
- Sec. 106-388. Revocation.
- Sec. 106-389. Relocation.
- Sec. 106-390. Abandonment.
- Sec. 106-391. Restoration.
- Sec. 106-392. Severability.

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.

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(Code 1986, § 8.20)

Sec. 106-2. Vehicles or equipment damaging streets or bridges.³

(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.

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(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)*

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(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.

³ **Cross references:** Streets, sidewalks and other public places, ch. 106.

(c) All streets constructed in the city shall be constructed according to the construction standards and policies adopted by the city 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 clerk-treasurer and at such other locations as the city 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 curbline and within 10 1/2 feet of the property line on all three-rod streets where there is no curbline.

(Code 1986, § 8.01(2))

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Sec. 106-33. Grades.

(a) Street grades shall be established by ordinance on file with the clerk-treasurer.

(Code 1986, § 8.015(1))

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Sec. 106-34. Burning material in street.

(a) No person shall burn any material in any street in the city.

(Code 1986, § 8.04)

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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)

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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

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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' of mid block, whichever is less.

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(Code 1986, § 8.12(1))

Sec. 106-52. Installation in existing developments.

(a) Approval for streetlight installation in existing areas will be as follows:

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- (1) The applicant will make a request to the superintendent of municipal servicesCity.
- (2) The superintendent of 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 committee- Foreperson for recommendation to the common council approval.

(4)(5) All streetlights shall be of a color and type as called out in public works standards.

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(5)(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 ~~municipal services committee~~ 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 not to exceed the amount set by resolution 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 city 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 ~~city-building~~ inspector or ~~municipal services committee~~ 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 ~~50~~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:

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- (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 clerk-treasurer, 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.

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(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.

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(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 superintendent to the city clerk-treasurer. The clerk-treasurer shall bill within 15 days of such expenditure. 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, which shall be collected in all respects like any other tax upon real estate.

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(Code 1986, § 8.08(2), Ord. 2014-02)

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 superintendent of municipal services.

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(Code 1986, § 8.08(3), Ord. 2014-02)

Sec. 106-105. Notice of violation.

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.⁴

⁴ Cross references: Definitions generally, § 1-2

(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:

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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-treasurer and paying the required fee.

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(Code 1986, § 8.06(2))

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, his agents, employees or servants in doing of the work for which the permit is granted. The 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.

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(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.

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(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 city 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.

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(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.

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(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-treasurer by the municipal services committee for collection from the contractor or person. The clerk-treasurer 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.

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(Code 1986, § 8.06(8), Ord. 2014-02)

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.

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(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.

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(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.

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(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 Chief of 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 Superintendent 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.** Submitted applications shall be referred by the City Clerk to the Municipal Services Director and the Police Chief for review and recommendation. Upon the Municipal Services Director and Police Chiefs approval the City Clerk may issue a ~~street-use-license~~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~~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.** 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~~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-Use H~~License shall be present at the meeting at which the public safety committee considers authorizing the issuance of the ~~street-use-license~~Street Use License, and failure to attend is ground for denial of the application. A ~~street-use license~~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.

(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 350 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~~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 city council shall by resolution establish and may from time to time amend a fee for a ~~street-use-license~~Street Use License, which shall be set forth in appendix A. The applicant must submit this fee with the application for a ~~s~~Street ~~u~~Use ~~L~~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~~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~~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~~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~~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~~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 clerk-treasurer shall promptly inform the applicant of the deficiency.

(h) If the City Clerk receives a properly completed application for a ~~street-use~~ 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~~ 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~~ 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.

(j) The ~~e~~City, through its ~~p~~Police ~~d~~Department or other agents, may terminate, without prior notice, any use authorized by a ~~s~~Street ~~u~~Use ~~l~~icense 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 ~~p~~Public ~~s~~Safety ~~e~~Committee when authorizing the issuance of the ~~s~~Street ~~u~~Use ~~l~~icense.

~~(k) Following the conclusion of the street closure, any traffic control materials that shall be collected and inventoried by the Municipal Services Department. shall be placed in the Right of Way, so as not to obstruct pedestrian or vehicle traffic, by the responsible party.~~

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(k) (Ord. 2005-51, Ord. 2013-03, Ord. 2014-02, Ord 2016-21, Ord 2022-04, Ord 2023-12)

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Secs. 106-164--106-190. Reserved.

ARTICLE VI. STREET TREES

Sec. 106-191. ~~City-forester~~City Forester.

(a) *Appointment.* Appointment of the ~~city forester~~City Forester shall be as provided in section 2-161.

(b) *Powers and duties.* The ~~city forester~~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~~City Forester shall enforce all ordinances pertaining to trees and shrubs.

(c) *Interference.* No person shall prevent, delay or interfere with the ~~city forester~~City Forester or any of his agents or employees 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 ~~e~~City ~~F~~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.

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(Code 1986, § 8.07(2))

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.

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(Code 1986, § 8.07(3))

Sec. 106-194. Authority of city to trim trees.

(a) The ~~C~~e~~ity~~ ~~F~~orester or his 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 assessed as a special tax against the property owner.

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(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~~City Forester and shall abide by all rules and regulations concerning the planting of such trees.

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(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.

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(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.

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(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.

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(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, and the costs thereof shall be paid by the owner of the real estate of which such terrace or tree court is a part. Not later than October 15 in each year, notice shall be given in writing by the ~~eCity eClerk-treasurer~~ to the owner or occupant of all lots or parcels of real estate of which any terrace or tree court is a part of the amount due the city for trimming or removal of trees. Unless such amount is paid by November 15 next succeeding, the amount shall be levied as a tax against such lot or parcel of real estate.

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Any such charge remaining unpaid on November 16 thereafter shall be a lien upon the lot or parcel of real estate, and the clerk-treasurer shall insert the amount unpaid as a tax against such lot or parcel of real estate. 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 such tax if the tax is not paid within the time required by law.

(Code 1986, § 8.07(9))

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 and 106-201(a).

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(Code 1986, § 8.07(10))

Sec. 106-201. Public nuisances.

(a) *Dutch elm disease.*

(1) *Declaration of nuisance.* The council, having determined that the health of the elm trees within the city is threatened by a fatal disease known as Dutch elm disease, hereby declares the following to be public nuisances:

- a. Any living or standing elm tree or part thereof infected with Dutch elm disease fungus or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh.).
- b. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material, from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(2) *Nuisances prohibited.* No person shall permit any public nuisance as defined in subsection (a)(1) of this section to remain on any premises owned or controlled by him within the city.

(3) *Inspections.* The ~~city forester~~ City Forester shall inspect or cause to be inspected all premises within the city at least twice each year to determine whether any such public nuisance exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with Dutch elm disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetle.

(4) *Abatement.*

- a. *Procedure in case of imminent danger on public property.* If the ~~city forester~~City Forester upon inspection and examination determines that any public nuisance as defined in this subsection exists in or upon any public street, alley, park or other public place, including the terrace strip between the curb and lot line, within the city, and that danger to other trees within the city is imminent, ~~he shall~~ immediately cause it to be removed and burned or shall otherwise abate the nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.
- b. *Procedure in case of imminent danger on private property.*
1. If the ~~city forester~~City Forester determines with reasonable certainty that any public nuisance as defined in this subsection exists in or upon private premises within the city and that danger to other elm trees is imminent, ~~he shall~~ immediately serve upon the owner of such property, ~~if he can be found, or or~~ upon the occupant thereof, a written notice to abate such nuisance. Such notice shall advise that the city will remove such nuisance at its expense, provided the owner within five days of the date of such notice executes in writing a request for the removal of such tree at the city's expense and waives any damages for the destruction of such tree necessarily incurred in the removal thereof, such request and waiver to be executed on forms provided by the ~~city forester~~City Forester.
 2. If the owner of the property upon which such nuisance is found neglects or refuses to execute and deliver to the ~~city forester~~City Forester such a request and waiver within such five-day period, ~~he shall, at his~~their own expense, immediately cause such nuisance to be removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease. Such nuisance shall be abated within 25 days after the date the property owner was first notified of the existence thereof; and, should the property owner fail or refuse to abate such nuisance within such period, the ~~city forester~~City Forester shall enter upon the premises and cause the nuisance to be abated. The reasonable expense of such removal or abatement shall be certified to the city clerk-treasurer and assessed, collected and enforced against the premises from which such nuisance was removed or abated as taxes are assessed, collected and enforced and shall be paid into the city treasury. No damage shall be awarded to the owner for the destruction of any such tree or for any damage necessarily incurred in the removal thereof.
- c. *Analysis of specimens.* If the ~~e~~City ~~f~~Forester is unable to determine with reasonable certainty whether or not a tree in or upon private or public premises is infected with Dutch elm disease, ~~he~~the City Forester shall forward specimens from such tree for diagnosis and report to the state

department of agriculture and shall proceed as provided in this section upon receipt of a positive report from the department.

d. *Procedure if danger not imminent.* Where the ~~city forester~~City Forester determines upon inspection that any public nuisance as defined in this subsection exists in or upon any public or private premises, but that the danger to other elm trees within the city is not imminent because of elm dormancy, ~~he~~ shall make a written report of his findings to the council, which shall proceed as provided in Wis. Stats. § 27.09(4).

(5) *Spraying of elm trees.* Whenever it is determined in accordance with subsection (a)(4) of this section that any elm tree or part thereof is infected with Dutch elm disease fungus, the ~~city forester~~City Forester may cause to be sprayed all high-value elm trees within a 1,000-foot radius thereof with an effective elm bark beetle destroying concentrate, provided such spraying shall be performed prior to July 31.

(6) *Assessment of costs of abatement and spraying.*

- a. The entire cost of abating any public nuisance as defined in this subsection or of spraying any elm tree or part thereof shall be borne by the city, except that, where any tree or part thereof has been damaged, injured or destroyed by the act or failure to act of the owner of such real estate, the entire cost of abating such public nuisance shall be borne entirely by the owner.
- b. The ~~city forester~~City Forester shall keep account of the work done under this subsection and shall report monthly to the clerk-treasurer all work done.

(7) *Transporting of elm wood.* No person shall transport within the city any bark-bearing elm wood or material without first securing the written permission of the ~~city forester~~City Forester.

(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.

(d) *Dangerous or objectionable trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public are public nuisances and may be abated as such.

(Code 1986, § 8.07(12))

Secs. 106-202--106-230. Reserved.

ARTICLE VII. PUBLIC WORKS⁵

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.

⁵ **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 city 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:

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- (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 clerk-treasurer 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))

Sec. 106-257. Deferred special assessments.

(a) Except when cost advancement is ordered by the city 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:

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- (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 city 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 city 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-treasurer 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 city council adopts a final resolution levying special assessments for public improvements described in this article, the city clerk-treasurer 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))

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

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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.

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(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.

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(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-treasurer~~city~~ 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.

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(Code 1986, § 8.091(4))

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.

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(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.

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(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.

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(Code 1986, § 8.10)

Secs. 106-312--106-340. Reserved.

ARTICLE VIII. NUMBERING SYSTEM

Sec. 106-341. Numbering of buildings required.⁶

(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.

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(Code 1986, § 8.11(1))

Sec. 106-342. Assignment of numbers.

(a) The city clerk-treasurer 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

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⁶ Cross references: Buildings and building regulations, ch. 18.

inform the owner, 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.

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(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 ~~elrk-treasurer~~ Community Development Director.

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(Code 1986, § 8.11(4))

Sec. 106-345. Reassignment or correction of numbers.

The Community Development Director ~~elrk-treasurer~~ 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 Community Development Director ~~elrk-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:

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Administrator means the Municipal Services Director or his or her designee.

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Application means a formal request, including all required and requested documentation and information, submitted by an applicant to the City of Evansville for a wireless permit.

Applicant means a person or entity filing an application for a wireless 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.

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(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.

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(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 City Council.** Any person adversely affected by the decision of the Administrator may appeal that decision to the City 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

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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.

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(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.

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(Ord. 2019-11, Ord. 2021-01, Ord. 2021-02)

**CITY OF EVANSVILLE
ORDINANCE #2023-07**

AMENDING CHAPTER 26, CEMETERIES

The Common Council of the City of Evansville, Rock County, Wisconsin, amend Evansville Municipal Code Chapter 130 as follows:

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.
- Sec. 26-12. Alcohol beverages or refreshments.
- Sec. 26-13. Maintenance of order.
- Sec. 26-14. Appeals.
- Sec. 26-15. Penalty.
- Secs. 26-16--26-40. Reserved.

Article II. Sales, and 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. **Annual assessments for care of graves. Abandonment of cemetery lots and annual assessments for care of graves.**
- Secs. 26-46--26-60. Reserved.

Article III. Perpetual Care

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

- 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.
- 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. Superintendent of municipal services 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 ~~superintendent of municipal services~~ Public Works Foreperson (PWF) and the ~~cemetery sexton~~ Cemetery Sexton. Any planting may be done only with approval from the public works director and the ~~cemetery sexton~~ 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 ~~superintendent of municipal services PWF~~ or ~~cemetery sexton~~ Cemetery Sexton may enter upon the lot containing the growth and remove what ~~he~~ they deems necessary for the benefit of the cemetery.

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

(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~~ Cemetery Sexton or the ~~public works director~~ 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~~ Cemetery Sexton or ~~superintendent of municipal services 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.~~

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(Ord. No. 2000-11, § 10(21.35), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

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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 15¹⁵.
- (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~~ 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~~ 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. ~~As far as possible, the services of existing city officials and employees shall be utilized.~~

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(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 ~~clerk~~ 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 ~~superintendent of municipal services~~ 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 eClerk-treasurer.** The ~~C~~city ~~e~~Clerk-~~tre~~asurer 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 clerk-~~tre~~asurer for such duties, and the bond of the clerk-~~tre~~asurer 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-~~tre~~asurer shall ~~keep records relating to city cemeteries consisting of:~~

~~(1) Lot, space, and niche maps.~~

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~~(2) An index of lot, space, and niche owners.~~

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~~(3) An interment register.~~

~~(4) A burial record.~~

~~(5) A lot, space, or niche ownership record.~~

~~(6) A file of burial permits.~~

~~(b) The lot, space, and niche maps shall identify each lot, space, or niche by number. be the records of Maple Hill Cemetery in accordance with state law.~~

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(Code 1986, § 21.03, Ord. 2013-11, Ord. 2023-07)

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Sec. 26-7. Maps and plats.

(a) *Official maps and plats.*

(1) The official maps or plats of Maple Hill Cemetery, as amended, filed ~~in the office of~~ are filed with the eCity eClerk-treasurer, and sections, lots, divisions, streets, alleys and paths as designated and shown on such maps, are fixed and determined beyond alteration, except by ordinance of the city council, and then only so as not to interfere with private rights, subject nevertheless to the lotting, subdividing and numbering of such portions of such grounds as have not already been lotted and numbered., 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) ~~The official map or plat of Maple Hill Cemetery is amended by the laying out of lots along the roadway heretofore running east and west from the tool house across the entire width of such cemetery in accordance with the plat prepared by the city engineer dated September 15, 1964.~~

~~(3) A copy of such map or replat shall be recorded as provided by law.~~

(b) *Platting and recording of new blocks.* Before any new block of the cemetery is opened for the sale of lots, the ~~council~~ City Clerk shall cause it to be platted and recorded in the office of the register of deeds, following Council approval. ~~Six copies of the plat shall be deposited with the superintendent of municipal services and six copies with the city clerk-treasurer. The plat shall be so designed as to provide direct access to each lot from either a road or walk.~~

(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)

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Sec. 26-9. Firearms.

(a) 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 ~~superintendent of municipal services~~ PWF.

(Code 1986, § 21.31, Ord. 2014-08, Ord. 2023-07)

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Sec. 26-10. Vehicles.²

(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 ~~cemetery-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)

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Sec. 26-12. Alcohol beverages or refreshments.³

(a) No person shall possess or consume any intoxicating liquor, ~~or fermented malt beverage, smoke or vape or refreshments~~ in the cemetery.

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² Cross references: Traffic and vehicles, ch. 122.

³ Cross references: Alcohol beverages, ch. 6.

(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 ~~superintendent of municipal services-Public Works Foreperson (PWF)~~ and/or ~~cemetary-sexton~~Cemetery Sexton shall maintain order and shall eject any person whose conduct is objectionable or who violates this chapter.

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(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 ~~superintendent of municipal services-PWF~~ or the ~~cemetary-sexton~~Cemetery Sexton may be presented to the municipal services committee.

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(Ord. No. 2000-11, § 14(21.39), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

Sec. 26-15. Penalty.

(a) Any person who ~~shall~~violates any provisions of this chapter shall be subject to a penalty as provided in section 1-11.

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(Ord. No. 2000-11, § 15(21.40), 5-9-2000, Ord. 2023-07)

Secs. 26-16--26-40. Reserved.

ARTICLE II. SALES, ~~AND 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 clerk-~~treasurer~~, subject to the rules, regulations and general supervision of the council. Any applicant shall apply to the clerk-~~treasurer~~ and, upon payment for the lot, space, or niche selected, the clerk-~~treasurer~~ 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 clerk-~~treasurer~~ 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.

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(Code 1986, § 21.06, Ord. 2013-11, Ord. 2023-07)

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Sec. 26-42. Transfer of internment and inurnment rights.

(a) The transfer, in accordance with the applicable state statutes, of lots, spaces, and niches ~~lots or spaces~~ in a city cemetery previously sold may be registered with the City.

~~eClerk-treasurer~~ 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.

~~The transfer, in accordance with the applicable state statutes, of niches in a city cemetery previously sold may be registered with the clerk-treasurer by presentation of the original niche reservation agreement, on the back of which is written "I hereby transfer to (name of owner) (the niche)," and the endorsement of the original niche 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.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

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(5) 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.

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(b)-(c) A grave or ownership transfer fee is due an 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.

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(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 ~~superintendent of municipal services-PWF~~ shall present to the municipal services committee ~~his- 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 ~~superintendent of municipal services-PWF~~ or ~~his assistants~~ 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).

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(Code 1986, § 21.05, Ord. 2013-11, Ord. 2014-08, Ord. 2023-07)

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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.

(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. Annual assessments for care of graves. Abandonment of cemetery lots and annual assessments for care of graves.

(a) In this subsection:

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(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:

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i. No owner has transferred any ownership interest in the cemetery lot to any other person.

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ii. No owner has purchased or sold another cemetery lot or a columbarium space in the cemetery.

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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.

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iv. No grave marker, monument or other memorial has been installed on the cemetery lot.

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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).

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(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.

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(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.

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(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.

(c) "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.

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(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 ~~to 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-treasurer 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 superintendent of municipal services 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 clerk-treasurer of the place where the death occurred. Such permit or certificate shall be retained by the clerk-treasurer as part of his-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)

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Sec. 26-83. Notice and supervision of interment or inurnment.

(a) Notice of interment or inurnment shall be given to the city clerk/~~treasurer~~ on a regular work day at least 2 full working days in advance of burial. The ~~superintendent of municipal services-PWF~~ or ~~cemetary-sexton~~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 ~~cemetary sexton~~Cemetery Sexton or ~~superintendent of municipal services-PWF~~ will use his/~~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)(a) Not more than one interment in one grave shall be permitted in a city cemetery. One full burial and one cremation burial or two cremation burials will be allowed in each plot.~~

~~(1) except in the case of infants/cherubs~~

~~(2) and/or urns of ashes, where two interments, single or companion, per grave will be permitted, except~~

~~that 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.~~

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~~(b)(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.~~

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~~(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)

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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 ~~superintendent of municipal services-PWF~~ or ~~cemetary-sexton~~Cemetery Sexton.

(Code 1986, § 21.20; Ord. No. 2000-11, § 4(21.20), 5-9-2000, Ord. 2014-08, Ord. 2023-07)

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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)

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Sec. 26-112. ~~Superintendent of municipal services~~ Public Works Foreperson (PWF); powers.

(a) ~~The superintendent of municipal services~~ Public Works Foreperson (PWF) or ~~cemetary-sexton~~ 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. ~~He~~ 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)

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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 structure 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 ~~cemetary-sexton~~ Cemetery Sexton or the ~~superintendent of municipal services~~ PWF and a written permit granting such approval has been issued by the city clerk/~~treasurer~~. If a monument or marker is placed before the city clerk/~~treasurer~~ 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~~Cemetery Sexton or the ~~superintendent of municipal services~~ PWE.

(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 ~~made~~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:

- (1) an engraving of the name, date of birth, and date of death of the inurned in the font provided on Addendum A.
- (2) an optional engraving of an official emblem from the list on Addendum A, or any officially recognized symbol.
- (3) An optional photo of the inurned no larger than 3" oval or a military service plaque no larger than 3" in diameter

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(l) No attached appliques 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).

(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)

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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)

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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.

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(Ord. 2013-11, Ord. 2023-07)

**CITY OF EVANSVILLE
RESOLUTION #2023-22**

Amending the City of Evansville's Fee Schedule- Cemetery

WHEREAS, Wisconsin Statutes section 66.0628(2) holds, "Any fee that is imposed by a political subdivision shall bear a reasonable relationship to the service for which the fee is imposed;"

WHEREAS, the last adjustment for fees was August 2021 for interment/inurnment for grave spaces:

WHEREAS, the last adjustment for fees was August 2018 for columbarium, open and closing fees;

WHEREAS, the last adjustment for fees was August 2016 for cemetery lots and perpetual care charges;

WHEREAS, the last adjustment for fees was August 2004 for monument/marker approval;

WHEREAS, the base charges and overtime fees for grave and ash burials will more closely be representative of fees charged by the surrounding area and provide adequate compensation for time spent during extended or late burials.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Common Council of the City of Evansville that the City of Evansville's Fee Schedule is amended, effective upon adoption, as follows:

26	Fees for interment:	Current Rate	New Rate
42	Grave/Ownership Transfer Fee	NA	\$120.00
44(a)			
(1)	Grave, cherub:		
	a. Weekday (before 2:00pm)	\$700.00	\$900.00
	b. Weekend (includes weekdays 2:00-5:00pm)	\$900.00	\$1,200.00
	c. Weekend (includes weekdays after 5:00 and holidays) Holidays (until 5:00pm) & Weekend (between 2:00pm and 5:00pm)	\$1,100.00	\$1,800.00
(2)	Grave, cherub:		
	a. Weekday (before 2:00pm)	\$300.00	\$450.00
	b. Weekend (includes weekdays 2:00-5:00pm)	\$500.00	\$1,200.00
(3)	Ashes:		
	a. Weekday	\$300.00	\$450.00
	b. Weekend (includes weekdays before 2:00 p.m.)	\$400.00	\$550.00

b.	Nonresident	\$550.00	\$1,000.00
(5)	Columbarium niches		
a.—	Top 3 rows, single	\$900.00	NA
b.—	Top 3 rows, double	\$1,500.00	NA
e.—	Bottom 2 rows, single	\$750.00	NA
d.—	Bottom 2 rows, double	\$1400.00	NA
a.	Single niche	NA	\$1,100.00
b.	Double niche	NA	\$1,800.00
113	Monument/Marker Approval	\$25.00	\$75.00

Passed and adopted this 12th day of September, 2023.

Dianne C. Duggan, Mayor

ATTEST:

Leah L. Hurtley, City Clerk

Introduced: 08/29/2023
Adopted: 09/12/2023
Published: 09/20/2023

**CITY OF EVANSVILLE
RESOLUTION #2023-23**

Amending the City of Evansville’s Fee Schedule – Chapter 106: Streets, Sidewalks and Other Public Places

WHEREAS, Evansville Municipal Code Sec. 106-163(e) provides that all street use license fees shall be set by resolution; and

WHEREAS, the last adjustment for License-Street Use was August 2008; and

WHEREAS, it is a priority for the City to cover its time and costs enforcing Chapter 106: Streets, Sidewalks and Other Public Places;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Common Council of the City of Evansville that the City of Evansville’s Fee Schedule is amended, effective upon adoption, as follows:

<u>Municipal Code</u>		<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>
106-163		Closure by Application:		
	(b.)	License-Short Term Street Closure	\$25.00	\$125.00
	(c.)	License-Long Term Street Closure	\$25.00	\$250.00

Passed and adopted this 12th day of September, 2023.

Dianne C. Duggan, Mayor

ATTEST: _____
Leah L. Hurtley, City Clerk

Introduced: 8/29/2023 (Municipal Services)
Adopted: 09/12/2023
Published: 9/20/2023



PLAN COMMISSION STAFF REPORT

Application: Land Division 2023-0196 | **Applicant:** CHS Oilseed Processing LLC

Location: 6726 County Highway M | **July 21, 2023**

Parcels:

- 6-27-958.07 (Tax ID 222 069030)
- 6-27-959.6 (Tax ID: 222 0730018)
- 6-20-219B (Tax ID: 040 04000302)
- 6-20-318 (Tax ID: 040 064006)
- 6-20-317.01 (Tax ID: 040 06400300101)
- 6-20-305 (Tax ID: 040 062001)

Prepared by: Colette Spranger, Community Development Director

Direct questions and comments to: colette.spranger@ci.evansville.wi.gov or 608-882-2263



Figure 1
Location Map

Concurrent Applications

- **Annexation 2023-0194:** brings four parcels totaling 241.45 acres from the Town of Union into the City.
- **Rezoning 2023-0197:** rezones lands in Lot 1 to I-2 Heavy Industrial
- **Comprehensive Plan Amendment 2023-0198:** Adjusts future land use map to reflect new lot boundaries and expands industrial land uses further north. Potentially will address Transportation Plan Map and its potential connections.
- **Conditional Use Permit 2023-0193:** allows for an Agricultural Service Use in the I-2 Heavy Industrial zoning district
- **Site Plan 2023-0195:** Site layout and design for buildings and infrastructure for soybean oilseed processing plant

Location: 6726 County Highway M (subject to change)

Description of request: An application to combine six parcels (cumulatively totaling 337.09 acres), adjust lot lines, and create two parcels: Lot 1 (311.49 acres) and Lot 2 (23.90 acres). See note below regarding acreage.

Existing Uses: All parcels are largely in agricultural use. There are private wells located on parcel 6-27-959.6 and 6-20-219B, which are in use for irrigation. Parcel 6-20-305 contains a dwelling unit (plus private well and septic) and several outbuildings. Parcel 6-20-317.01 contains an outbuilding. A development agreement between the City and Developer will outline the continued uses of those buildings and continuation of private wells and septic systems.

Existing Zoning: Parcels 6-27-958.07 and 6-27-959.6 are zoned in the City for A Agriculture. Parcels 6-20-219B, 6-20-318, 6-20-317.01, and 6-20-305 are zoned in the Town for A-1 Farmland Preservation.

Proposed Land Division: The six existing parcels total 337.09 acres. When combined, the applicant intends to have two parcels, Lot 1 (311.49 acres) and Lot 2 (23.90 acres).

Lot 1 is under consideration for rezoning. Lot 1 meets the bulk, lot dimensions, and intensity requirements for the I-2 zoning district. There is no maximum lot size for the I-2 zoning district.

Lot 2 will remain zoned A Agriculture until a plan for further development is proposed.

Staff Comments

- The land division and rezoning will only be valid following annexation.
- Parcel 6-20-305 extends to the centerline of County Highway M. It is divided from the rest of the parcel by a narrow tax parcel, 6-20-305.01, which is owned by the City for utility purposes. (n.b. On the ALTA survey dated 5-9-2023, this parcel is listed as D-1 or Document 1810804.) The City and applicant should work together to address this issue. Lot 2 should extend to the centerline of County Highway M in this location. See images below:
- Community Development Director and City Engineer met with the surveyor in charge of preparing this CSM to clarify how the final CSM should address the public right-of-way. They are

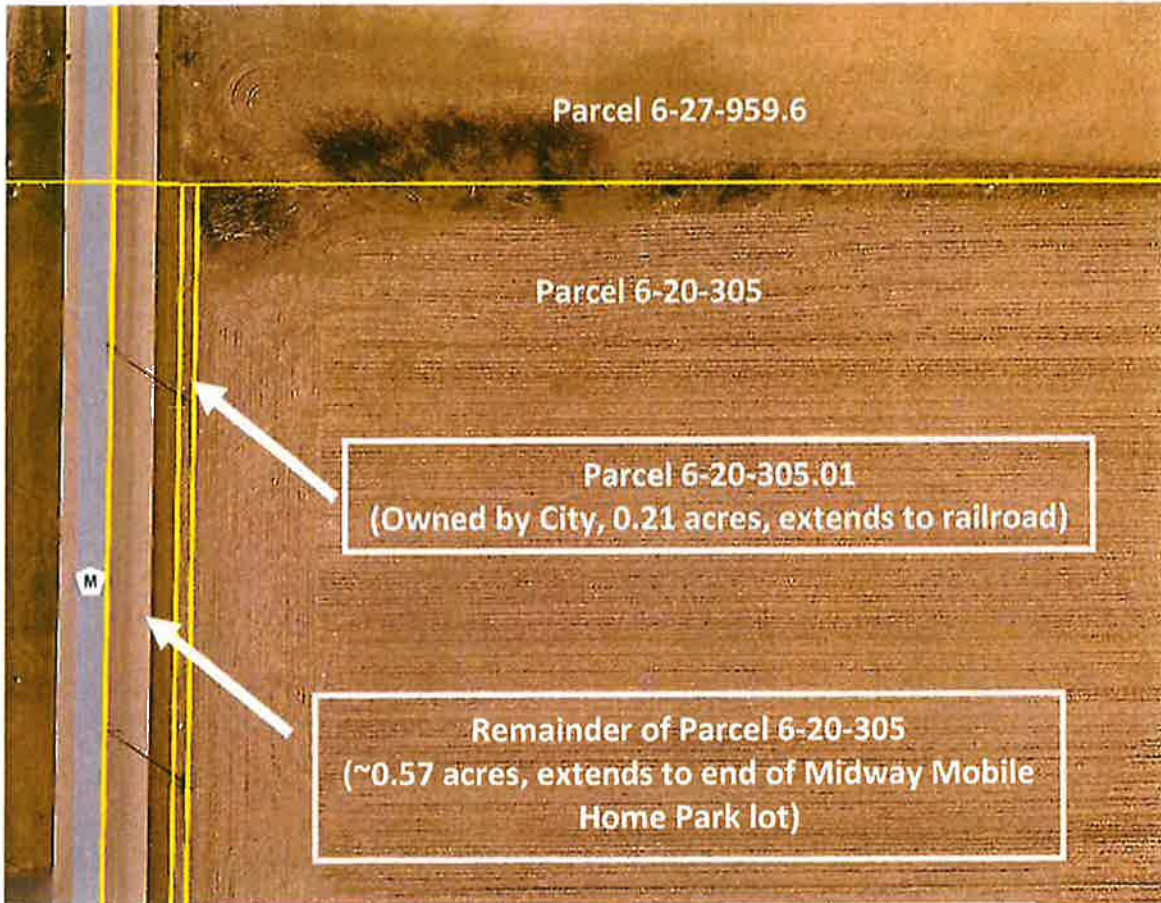


Figure 2
Parcel 6-20-305 divided by City easement strip

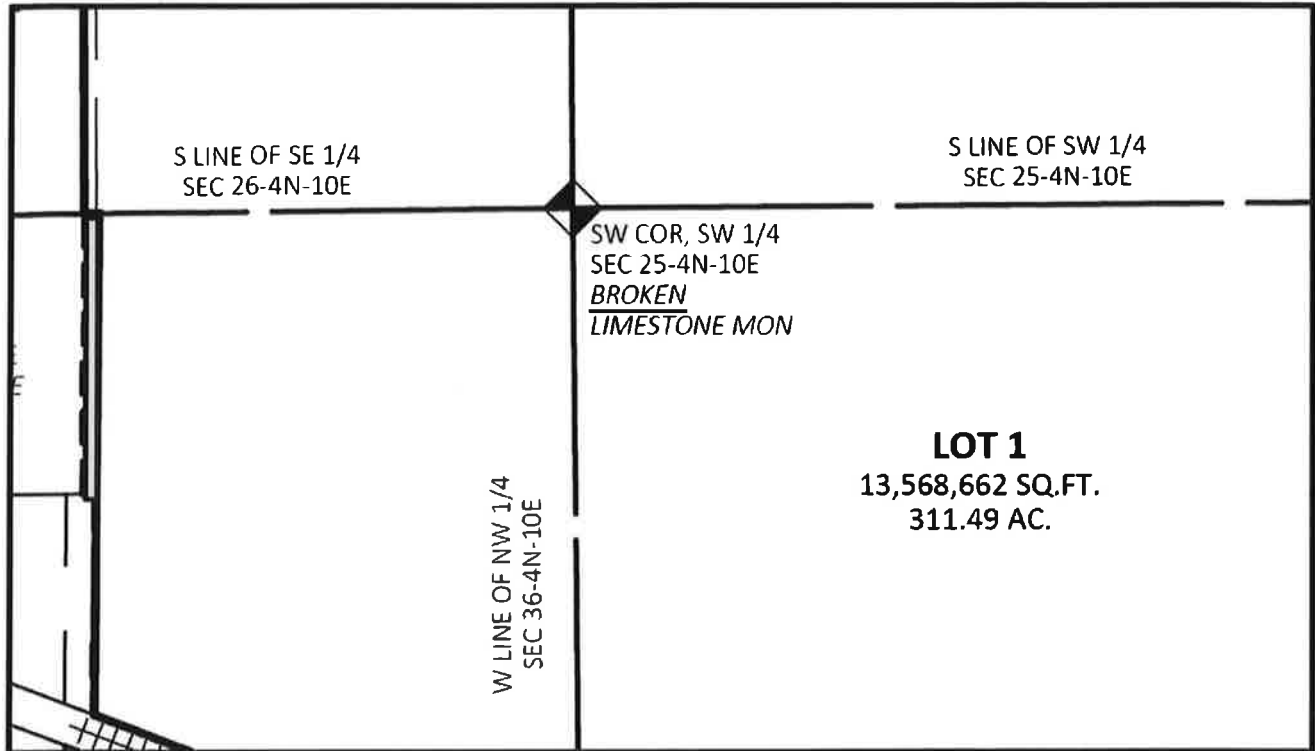


Figure 3

Area highlighted in yellow on Preliminary CSM inset

Consistency with the City of Evansville Comprehensive Plan and Municipal Code: The proposed land division is thoroughly consistent with the Future Land Use Map of the Comprehensive Plan. The proposed land use will involve an amendment to the Comprehensive Plan Future Land Use Map, which will extend lands planned for industrial and readjust the lot lines to reflect this land division. The proposal complies with the design standards and environmental considerations as set forth in the Land Division and Zoning Ordinances.

Municipal Services Recommended Motion: Motion to recommend Common Council approve the final certified survey map for parcels that include 6-27-958.07, 6-27-959.6, 6-20-219B, 6-20-318, 6-20-317.01, and 6-20-305, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the following conditions:

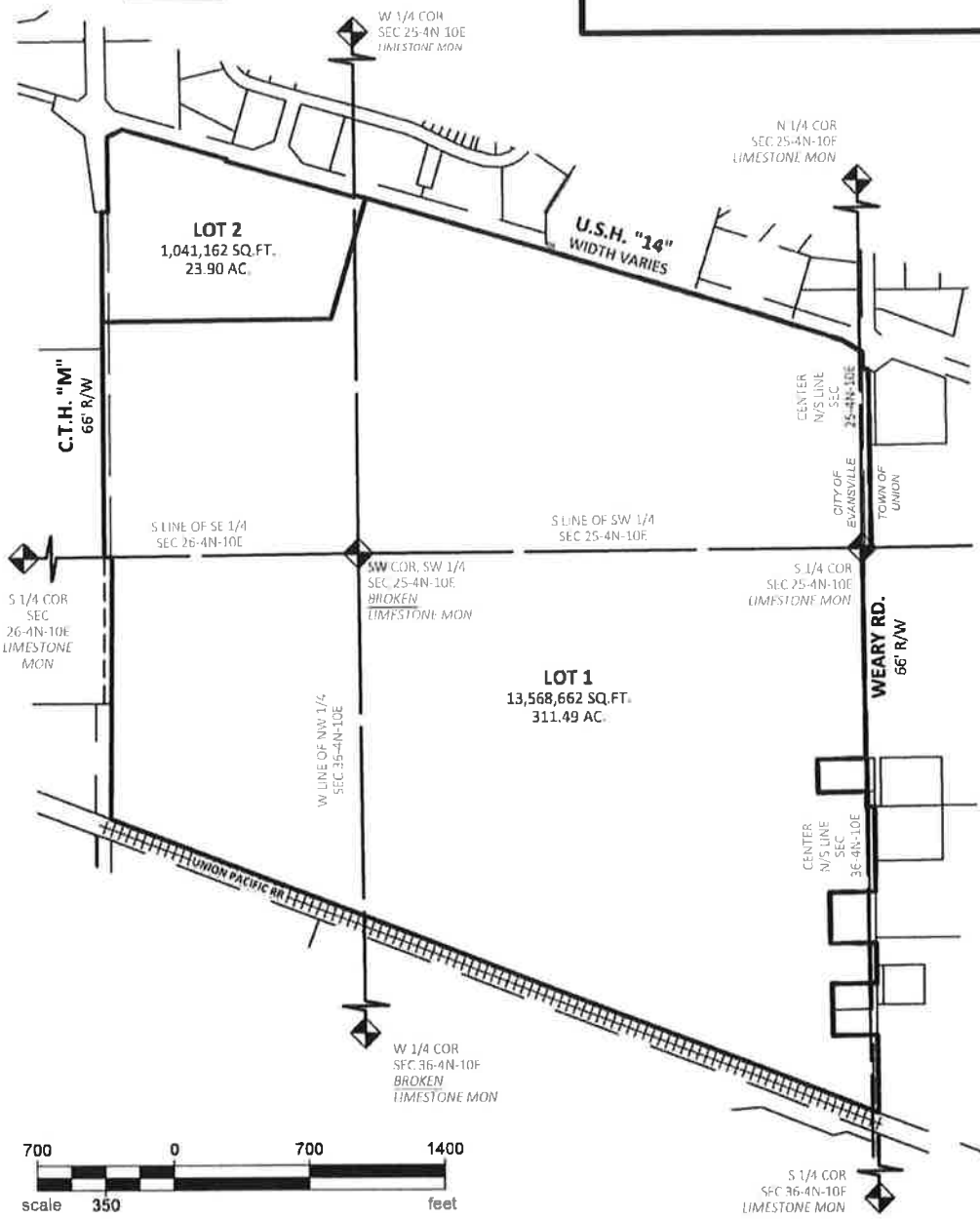
- 1) Common Council approves Annexation Ordinance 2023-08.
- 2) Final Certified Survey Map adjusted to include corrected road right of way parcels, utility easements, or out lots as directed by the City.
- 3) The Final Certified Survey Map is approved by the City and recorded with Rock County Register of Deeds.

CONCEPTUAL CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST 1/4, AND NORTHEAST 1/4, OF THE SOUTHEAST 1/4 OF SECTION 26, PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4, AND SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, PART OF THE NORTHWEST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4, AND PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4, AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4, AND PART OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 36, AND PART OF THE NORTHEAST 1/4, AND THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 10 EAST, IN THE CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN



**OVERALL
DETAIL**



CONCEPTUAL CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST 1/4, AND NORTHEAST 1/4, OF THE SOUTHEAST 1/4 OF SECTION 26, PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4, AND SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, PART OF THE NORTHWEST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4, AND PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4, AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4, AND PART OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, AND PART OF THE NORTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 10 EAST, IN THE CITY OF EVANSVILLE, ROCK COUNTY, WISCONSIN

