Chapter 106

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Article I. In General

Article II. Streets

Division 1. Generally

Division 2. Streetlights

Article III. Sidewalks

Division 1. Generally

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[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.

Division 2. Snow and Ice Removal

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Division 1. Generally

Secs. 106-231-106-250 Reserved.

Division 2. Assessments Generally

Secs. 106-258-106-280. Reserved.

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Division 4. Construction by City

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Article VIII. Numbering System

Secs. 106-346-106-379 Reserved.

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

ARTICLE I. IN GENERAL

Sec. 106-1. Penalty.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-11.

(Code 1986, § 8.20)

Sec. 106-2. Vehicles or equipment damaging streets or bridges.[2]

No person shall operate any vehicle or equipment over the streets, alleys or bridges which could reasonably be expected to damage such streets, alleys or bridges.

(Code 1986, § 8.03)

Sec. 106-3 Implements of Husbandry and Agricultural Commercial Vehicles

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)*

(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.

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[2] **Cross references:** Streets, sidewalks and other public places, ch. 106.

(b) On all three-rod streets, the improved roadway shall be not less than 28 1/2 feet.

(c) All streets constructed in the city shall be constructed according to the construction standards and policies adopted by the 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.

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))

Sec. 106-33. Grades.

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

(Code 1986, § 8.015(1))

Sec. 106-34. Burning material in street.

No person shall burn any material in any street in the city.

(Code 1986, § 8.04)

Sec. 106-35. Pushing of snow into right-of-way.

For the safety of the public during snow events, persons or entities engaged in snow and ice removal shall not push, plow, or blow the same onto or across City streets. Snow and ice shall be placed or deposited upon the private property of the owner or resident causing such placement or deposit, or upon the right-of-way abutting the same property from which it was removed.

(Ord. 2018-04)

Sec. 106-36. Pushing of yard waste into right-of-way.

In the public's interest, to reduce flooding caused by storm water system blockage and reduce costs to clear such blockage, persons or entities engaged in gathering leaves and yard waste shall not place or blow the same onto or across City streets. Yard waste includes but is not limited to lawn clippings, leaves, dirt, straw, ashes, rubbish, debris, litter or other refuse matter. Yard waste shall be placed or deposited upon the private property of the owner or resident causing such placement or deposit, or upon the right-of-way abutting the same property from which it was removed. Yard waste gathered for collection by the City or other service provider shall be contained in bags or containers so as to not cause yard waste debris to be blown or spilled onto or across City streets. This subsection shall not apply when leaves and yard waste are blown from the originating property of placement by wind or when placed as instructed by the City for seasonal collection.

(Ord. 2018-04)

Secs. 106-37--106-50. Reserved.

(Ord. 2018-04)

DIVISION 2. STREETLIGHTS

Sec. 106-51. Installation in new developments.

Streetlights and streetlight easements shall be planned and recorded before final approval of a land division map or certified survey.

(Code 1986, § 8.12(1))

Sec. 106-52. Installation in existing developments.

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

(1) The applicant will make a request to the superintendent of municipal services.

(2) The superintendent of municipal services 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 for recommendation to the common council.

(5) 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)

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.

(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 permit therefor from the city 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.

(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 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 inspector or municipal services committee. 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% or greater than the assessed 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.

No person shall, except when crossing at a constructed driveway:

(1) Obstruct a sidewalk so as to prevent or impede its use for pedestrian purposes.

(2) Use a sidewalk for selling merchandise without a permit obtained from the 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.

If it is necessary to serve a notice of violation under this division, the owner or occupant shall be subject to punishment as provided in section 1-11, in addition to the cost prescribed in this division.

(Code 1986, § 8.08(5))

Sec. 106-102. Removal required.

Every occupant of a lot or parcel of land and every owner of an unoccupied lot or parcel of land having a sidewalk abutting thereon shall keep such walk and the crosswalks connecting therewith free from snow and ice, but 24 hours shall be allowed after each snowfall for the removal of snow which fell during such snowfall. When ice is formed on any sidewalk so that it cannot be removed, the ice shall be sprinkled with ashes, salt or sand within 24 hours after such formation. Removal of snow or ice or sprinkling with ashes, salt or sand as required under this section shall require removal or sprinkling from edge to edge of the paved surface.

(Code 1986, § 8.08(1))

Sec. 106-103. Removal by city authorized; payment of costs.

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.

(Code 1986, § 8.08(2), Ord. 2014-02)

Sec. 106-104. Determination of expense for work done by city.

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.

(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.[3]

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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[3] **Cross references:** Definitions generally, § 1-2

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.

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.

(Code 1986, § 8.06(2))

Sec. 106-133. Application for permit; bond.

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.

(Code 1986, § 8.06(3), Ord 2022-01)

Sec. 106-134. Insurance.

The applicant for a permit under this article shall provide to the city a certificate of insurance in such an amount as the municipal services committee may determine, naming the city as an insured, to protect the city from all damages, costs and charges that may accrue from the applicant's use of the right-of-way.

(Code 1986, § 8.06(4), Ord. 2014-02)

Sec. 106-135. Limitation on rights granted by permit.

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.

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.

(Code 1986, § 8.06(6))

Sec. 106-137. Notice to police department.

Before any excavation, opening or cut in any right-of-way is made by any person, 48 hours' advance notice shall be given by the contractor or the person to the police department, except in case of emergency.

(Code 1986, § 8.06(7))

Sec. 106-138. Repair by city.

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.

(Code 1986, § 8.06(8), Ord. 2014-02)

Sec. 106-139. Inspection of sewer connections.

Before connection is made to any main or lateral of the sanitary sewer system of the city, such connection shall be inspected by such official as designated by the city for the purpose of ensuring the proper connection.

(Code 1986, § 8.06(9))

Secs. 106-140--106-160. Reserved.

ARTICLE V. OBSTRUCTIONS

Sec. 106-161. Prohibited.

Except as provided in section 106-162, 106-163, or 130-568, no person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the city in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress to or egress from any place of business or amusement, church, public hall or meeting place.

(Code 1986, § 9.06, Ord. 2005-32, Ord. 2005-51)

Sec. 106-162. Closure by order of chief of police.

The chief of police or the chief's designee, without prior notice, may order the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, or part thereof for city purposes or in case of emergency.

(Ord. 2005-51)

Sec. 106-163. Closure by application.

(a) **Temporary placement on right-of-way**. Upon written application and review by the Municipal Services Department Police Chief and 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.

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 authorizing the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, except federal or state highways, for a period of no more than four (4) hours in a 24 hour time period. A street use license does not authorize the serving or consumption of alcoholic beverages in the area of the closed street; such a license may be obtained separately under section 6-43.

(c) **Long-Term Closure.** Excluding City sponsored activities and repairs, all closures of the traveled portion of a right-of-way for more than four (4) hours in a 24 hour time period shall require a license. Submitted applications shall be referred by the City Clerk to the Municipal Services Director and the Police Chief for review and recommendation. Upon receiving the recommendations the application must go before the Public Safety Committee for a public hearing. After a public hearing, the Public Safety Committee may authorize the City Clerk to issue a street use license authorizing the closing, obstruction, encroachment, occupation or physical encumbrance of any street, highway, alley, and sidewalk, except federal or state highways. The person or an authorized representative of the organization making the application for a street use license shall be present at the meeting at which the public safety committee considers authorizing the issuance of the street use license, and failure to attend is ground for denial of the application. A street use license does not authorize the serving or consumption of alcoholic beverages in the area of the closed street; such a license may be 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 30 days prior to the proposed use of the street. The application form shall contain a statement that the applicant agrees to indemnify the city as provided in paragraph (i) of this section and require the applicant to provide the following information:

1. The name, address and telephone number of the applicant or applicants;
2. The name address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street if different than the applicant(s);
3. The date and duration of time for which the requested use of the street is proposed to occur;
4. An accurate description of the portion of the street proposed to be used;
5. The proposed use, described in detail, for which the street use license is requested and a description of the security measures, if any, the applicant will provide during the use of the street.
6. Any other information deemed necessary.

(e) The city council shall by resolution establish and may from time to time amend a fee for a street use license, which shall be set forth in appendix A. The applicant must submit this fee with the application for a street use license. In addition, the council shall by resolution establish and may from time to time amend a clean-up deposit for a street use license, which shall be set forth in appendix A. The applicant must submit the clean-up deposit with the application for a street use license. Upon completion of the use of the street, the municipal services department shall inspect the portion of the street subject to the street use license to determine if the area has been cleaned and restored by the applicant to its pre-use condition, in which event the deposit shall be refunded to the applicant; otherwise, the deposit shall be forfeited to defray the clean-up cost incurred by the city.

(f) If the applicant submits with the application for a street use license a petition on a form provided by the City Clerk and signed by at least one resident or business owner from at least two-thirds of the addresses on the portion of the street to be used, no additional fees are required for mailing notices under paragraph (h).

(g) Upon receiving a street use license application and a petition under paragraph (f), if any, the City-Clerk shall review the application and petition and determine if they have been properly completed. If either the application or petition has not been properly completed, the clerk-treasurer shall promptly inform the applicant of the deficiency.

(h) If the City Clerk receives a properly completed application for a street use license under paragraph (c) with a properly completed petition under paragraph (f), the City Clerk shall cause to be published a notice of public hearing on the application at least 14 days before the public hearing. If the City Clerk receives a properly competed application for a street use license under paragraph (c) without a properly completed petition under paragraph (f), the City Clerk shall cause to be published a notice of public

hearing on the application and mail a copy of the public hearing notice to each owner of a parcel that is adjacent to the portion of the street proposed to be used at least 14 days before the public hearing.

(i) By applying for and receiving a street use license, the applicant agrees to indemnify, defend and hold the city and its employees and agents harmless against all claims, liability, loss, damage or expense asserted against or incurred by the city on account of any injury or death of any person or damage to any property caused by or resulting from the activities for which the license is granted. As evidence of the applicant's ability to perform the conditions of the license, the public safety committee may require the applicant to furnish a certificate of comprehensive general liability insurance with the city and its employees and agents as an additional insured. The insurance shall include coverage for a contractual liability with minimum limits in an amount as required by the public safety committee. The certificate of insurance shall provide 30 days written notice to the city upon cancellation, non-renewal or material change in policy.

(j) The city, through its police department or other agents, may terminate, without prior notice, any use authorized by a street use license if the health, safety or welfare of the public appears to be endangered by activities generated by or associated with the use or if there are activities that violate any condition specified by the public safety committee when authorizing the issuance of the street use license.

(k) Following the conclusion of the street closure, any traffic control materials that collected 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.

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

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

ARTICLE VI. STREET TREES

Sec. 106-191. City forester.

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

(b) *Powers and duties.* The city forester shall have jurisdiction and control over all trees and shrubs upon all streets, public parks, cemeteries and other public grounds in the city. The city forester shall enforce all ordinances pertaining to trees and shrubs.

(c) *Interference.* No person shall prevent, delay or interfere with the city forester or 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.

The city forester may, subject to the approval of the council, make rules and regulations for planting, pruning, caring for, treating and controlling trees and shrubs upon any street or on other public grounds in the city. After publication in the official city newspaper, such rules shall have the force and effect of ordinances, including penalty for violation.

(Code 1986, § 8.07(2))

Sec. 106-193. Trimming of trees overhanging street or sidewalk.

All trees standing in the streets of the city or upon private property shall be trimmed and pruned so that no branch thereof grows or hangs lower than 14 feet above the level of the street or lower than nine feet above the sidewalk. No trees shall be permitted to stand or grow in such a manner as to obstruct the proper diffusion of light from any streetlight.

(Code 1986, § 8.07(3))

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

The city forester 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 assessed as a special tax against the property.

(Code 1986, § 8.07(4))

Sec. 106-195. Planting permit.

Any person wishing to plant upon any city street (terrace) any tree shall obtain a permit therefor from the city forester and shall abide by all rules and regulations concerning the planting of such trees.

(Code 1986, § 8.07(5))

Sec. 106-196. Injuring trees or obstructing growth.

No person shall allow any gas or other harmful substance to come into contact with the soil surrounding the roots of any tree or shrub in the public right-of-way in such a manner as to injure such tree or shrub, nor shall any person construct any structure in such manner as to retard or interfere with the growth of any such tree or shrub.

(Code 1986, § 8.07(6))

Sec. 106-197. Attaching objects to trees or supports.

No person shall attach to any tree in any public right-of-way in the city, or to the guard or stake intended for the protection of such tree, any rope, wire, sign or other device except for the purpose of protecting such tree or the public.

(Code 1986, § 8.07(7))

Sec. 106-198. Hedges.

No hedge or shrubbery shall be planted closer than 18 inches to the sidewalk, and all hedges and shrubbery shall be kept trimmed so that no part thereof projects over the sidewalk. No shrub or hedge shall be permitted to grow so as to obstruct the view of pedestrian or vehicular traffic.

(Code 1986, § 8.07(8))

Sec. 106-199. Trimming or removal of trees in terraces and tree courts.

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 city clerk-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. 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.

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).

(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 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 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 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 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.

2. If the owner of the property upon which such nuisance is found neglects or refuses to execute and deliver to the city forester such a request and waiver within such five-day period, he shall at his 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 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 city 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 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 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 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 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.

(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 WORKS[4]

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.

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

(Code 1986, § 8.09(2))

Sec. 106-253. Curbs and gutters.

(a) *Original construction.* The assessment rate on original construction of curb and gutter shall be 100 percent of the cost per front foot of property benefited, including both sides of corner lots.

(b) *Replacement.* When existing curb and gutter is to be replaced in all cases where there is no unusual damage, the assessment shall be determined by the 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.

The water utility will extend water mains for new customers and will decide whether the extension is to be a six-inch or larger pipe where fire protection service is needed, or a two-inch pipe as a minimum size or larger where only general service is needed, on the following basis:

(1) Where the cost of the extension is to be immediately assessed against abutting property, the procedure set forth under Wis. Stats. § 66.60 will apply. Present practice is to assess two-thirds of the cost of the extension against abutting properties. Corner lots are assessed only for the frontage from which the service is connected.

(2) Where the city is unwilling to make a special assessment because of low density of prospective consumers or for some other reason, extensions will be made on a customer-financed basis as follows:

a. *Definitions.* For purposes of this subsection, the following definitions shall apply:

1. *Customer* means the owner of premises to which water is now or is to be furnished, unless specific written agreements specify otherwise. The customer at all times means the property owner at the time the contribution is to be made or a refund becomes available.

2. *Contributor* means the owner of property at the time of a contribution or refund unless otherwise specified by written agreement.

b. *Basis for determining contributions from original customer.* The applicant (or applicants, pro rata) will advance the amount that would have been assessed under subsection (1) of this section. The contribution must be paid in advance of construction.

c. *Additional customers; refunds.* When additional customers are connected to a water main that was originally financed in part by customers, the utility will require a contribution from each new customer equal to the existing average contribution. When the amount of customer contribution computed under subsection (2) of this section is less than would have been assessed under subsection (1) of this section, the applicant for service shall pay an amount equivalent to the assessment. This amount shall then be refunded pro rata to all contributors along the extension whose remaining contribution still exceeds what would have been assessed under subsection (1) of this section. When refunds have reduced the contribution of any contributor to the applicable assessment per front foot, no further refund will be made to that individual. After all refunds have been made, the remaining premises that may connect will be charged at the rate per front foot established for the extension.

d. *Limit of extension.* When an extension beyond an existing extension is required to serve a new customer, and the cost for a customer exceeds the average remaining contribution in the original extension, the new extension will be considered as an entirely new project, without refunds, or other connection with the original extension.

(3) When customers connect to a transmission main or connecting loops laid at utility expense, there will be a contribution of an amount equivalent to the applicable assessment as determined under subsection (1) of this section.

(4) The development period during which refunds shall be made will be limited to 20 years.

(Code 1986, § 8.09(4))

Sec. 106-255. Sidewalks.

(a) *Original construction.* The total cost involved in the original construction of sidewalks shall be assessed on the basis of 100 percent of the cost per front foot of property benefited, including both sides of corner lots.

(b) *Replacement.* When the city determines that existing sidewalks are to be repaired or because they are no longer serviceable they must be completely replaced, the cost thereof shall be assessed in full as though it were original construction. When existing sidewalks which have remaining useful life must be replaced, the cost thereof shall be assessed in the manner as the council in its discretion directs.

(Code 1986, § 8.09(5))

Sec. 106-256. Method of assessment; payment.

(a) Total cost of all improvements shall be assessed equally on a front foot basis unless otherwise specified in this article or in such instances as the council determines to be of such an unusual nature that they would involve expenditures which would be exorbitant or in excess of that which would ordinarily be expected. In all such instances the council may review the situation or project and may in such unusual or exceptional cases modify the assessments if in its opinion the facts and conditions warrant.

(b) All such special assessments shall be paid to the city 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.

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:

(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.

Pursuant to the authority vested in it by Wis. Stats. § 66.62, the council provides that, in addition to other methods provided by law or ordinance, special assessments for the city's costs of public works or improvements, including street or sidewalk improvements

constructed, reconstructed or improved with state or federal aid or any current service, may be levied in accordance with the provisions of this division.

(Code 1986, § 8.091(1))

Sec. 106-282. Initial resolution.

Whenever the council shall determine to finance or defray the cost of any public work or improvement or any current service undertaken by the city, any portion of the cost of which is borne by the city, in whole or part, by special assessments under this division, it shall adopt a resolution setting forth such intention, the amount or percentage of the cost to be financed by assessments, and whether the assessment shall be determined and levied before or after completion of the work or improvement, rendition of the service or letting of the contract therefor.

(Code 1986, § 8.091(2))

Sec. 106-283. Determination and levy of assessment.

The provisions of Wis. Stats. §§ 66.54 and 66.60 shall apply to the determination and levy of special assessments under this division, except that when the council determines by resolution, as provided in subsection 106-282, that the assessments shall be levied subsequent to completion of the work or improvement, rendition of the service, or letting of a contract therefor, the report required by Wis. Stats. § 66.60(3) shall contain a statement of the final or city cost of the work, improvement or service in lieu of an estimate of such costs.

(Code 1986, § 8.091(3))

Sec. 106-284. Notice of hearing.

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 in accordance with the provisions of Wis. Stats. §§ 66.60(7), 66.60(8)(d) and 106-283, by publication of a class 1 notice under Wis. Stats. ch. 985 in the assessment district and by mailing to every person whose property is affected by such special assessment and whose mailing address is known or can be determined with reasonable diligence.

(Code 1986, § 8.091(4))

Sec. 106-285. Lien.

Any special assessment levied under this division shall be a lien against the property assessed from the date of the final resolution determining the amount of such levy.

(Code 1986, § 8.091(5))

Sec. 106-286. Appeals.

The provisions of Wis. Stats. §§ 66.60(12) and 66.62(2) relating to appeals shall apply to any special assessment levied under this division.

(Code 1986, § 8.091(6))

Secs. 106-287--106-310. Reserved.

DIVISION 4. CONSTRUCTION BY CITY

Sec. 106-311. Authorized.

Any class of public construction or any part thereof may be done directly by the city and its employees pursuant to Wis. Stats. § 62.15(1), without submitting the work for bids.

(Code 1986, § 8.10)

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

ARTICLE VIII. NUMBERING SYSTEM

Sec. 106-341. Numbering of buildings required.[5]

The owner, agent or person in possession of every building in the city shall number such building in the manner provided in this article.

(Code 1986, § 8.11(1))

Sec. 106-342. Assignment of numbers.

The 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 inform

[5] **Cross references:** Buildings and building regulations, ch. 18.

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.

All numbers placed on houses and buildings shall be not less than three inches in height, including background, shall be distinctly legible, of a color which contrasts with the background, and shall be posted in a conspicuous place on the front of each house, building or premises, so as to be easily seen and read from the public way. The number proper, where a background is used, shall be not less than two inches in height.

(Code 1986, § 8.11(3))

Sec. 106-344. Altering assigned number.

Whenever any building has been numbered or renumbered in accordance with the provisions of this article, such number shall not be changed or altered without the consent of the clerk-treasurer.

(Code 1986, § 8.11(4))

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

The clerk-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 clerk-treasurer shall direct and make the proper adjustment of the numbers.

(Code 1986, § 8.11(5))

Secs. 106-346 – 106-379. Reserved

ARTICLE IX. WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY

Sec. 106-380: Definitions

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

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

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

In the exercise of its police powers, the City of Evansville has priority over all other uses of the right-of-way. The purpose of this Article is to provide the City of Evansville with a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the right-of-way consistent with the City of Evansville's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless facilities. The City of Evansville recognizes the importance of wireless facilities to provide high-quality communications and internet access services to residents and businesses within the City of Evansville. The City of Evansville also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, Wis. Stat. § 196.58, and Wis. Stat. § 66.0414, as amended, and this Article shall be interpreted consistent with those provisions.

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

Sec. 106-382: Scope

(a) **Applicability**. Unless exempted by subsection (b), below, every person who wishes to place a wireless facility in the right-of-way or modify an existing wireless facility in the right-of-way must obtain a wireless permit under this Article.

(b) **Exempt Facilities**. The provisions of this Article (other than Sections 160-139 thru 160-392) shall not be applied to applications for the following:

(1) Installation, maintenance, operation, or replacement of a small wireless facility strung on cables between two existing utility poles in compliance with the National Electrical Safety Code, provided that the small wireless facility does not exceed 24 inches in length, 15 inches in width, and 12 inches in height and has no exterior antenna longer than 11 inches.

(2) Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities. (3) Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the City of Evansville. See Section 13 of this Chapter.

(3) Placement or modification of a wireless facility by City of Evansville staff or any person performing work under contract with the City of Evansville.

(4) The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.

(5) Routine maintenance of a wireless facility.

(c) **Placement on City of Evansville-Owned or –Controlled Support Structures**. Any applicant who wishes to place wireless equipment on a support structure owned or controlled by the City of Evansville, including governmental poles and utility poles for designated services, must obtain a wireless permit under this Article and enter into an agreement with the City of Evansville. The agreement shall include provisions regarding make-ready work and specify the compensation to be paid to the City of Evansville for use of the support structure in accordance with the standards set out in Wis. Stat. § 66.0414(4), as amended. Unless prohibited by state or federal law, the person or entity seeking the agreement shall reimburse the City of Evansville for all costs the City of Evansville incurs in connection with its review of and action upon the request for an agreement.

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

Sec. 106-383: Nondiscrimination

In establishing the rights, obligations, and conditions set forth in this Article, it is the intent of the City of Evansville to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

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

Sec. 106-384: Administration

(a) **Administrator**. The Administrator is responsible for administering this Article.

(b) **Powers**. As part of the administration of this Article, the Administrator may:

(1) Recommend for approval wireless regulations governing the placement and modification of wireless facilities in addition to but consistent with the requirements of this Article, including regulations governing collocation, the resolution of conflicting applications for placement of wireless facilities, and aesthetic standards. The regulations must be adopted by Common Council.

(2) Interpret the provisions of the Article and the wireless regulations.

(3) Develop forms and procedures for submission of applications for wireless permits consistent with this Article.

(4) Collect any fee required by this Article.

(5) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations.

(6) Issue notices of incompleteness or requests for information in connection with any wireless permit application.

(7) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.

(8) Coordinate and consult with other City of Evansville staff, committees, and governing bodies to ensure timely action on all other required permits under Section 160-385(b)(11) of this Article.

(9) Negotiate agreements for the placement of wireless equipment on governmental poles or utility poles for designated. Such agreement shall be approved by Common Council.

(10) Subject to appeal as provided in Section 160-387(e) of this Article, determine whether to grant, grant subject to conditions, or deny an application.

(11) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

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

Sec. 106-385: Application

(a) **Format.** Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.

(b) **Content**. In order to be considered complete, an application must contain:

(1) All information required pursuant to the wireless regulations.

(2) A completed application cover sheet signed by an authorized representative of the applicant.

(3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative and of all duly authorized representatives and consultants acting on behalf of the applicant with respect to the filing of the application. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless facility must also be provided.

(4) A statement of which state or federal deadline(s) apply to the application.

(5) A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.

(6) A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

(7) A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.97 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.

(8) A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.13, as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(9) A structural report performed by a professional engineer registered in the State of Wisconsin evidencing that the support structure on which the wireless equipment will be mounted will structurally support the equipment, or that the structure may and will be modified to meet structural requirements, in accordance with applicable codes, including the National Electric Safety Code and the National Electric Code.

(10) If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. This is not required if the support structure is a governmental pole or a utility pole for designated services, as permission will be evidenced by the executed attachment agreement referenced in Section 160-382(c).

(11) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.

(12) Payment of all required fees.

(c) **Waivers.** Requests for waivers from any requirement of this Section 160-385 shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the City of Evansville will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.

(d) **Eligible Facilities Requests.** If the applicant asserts in writing that its application is an eligible facilities request, the City of Evansville will only require the applicant to provide that information set forth in subsection (b) above to the extent reasonably related to determining whether the request meets the definition of "eligible facilities request" under 47 C.F.R. § 1.6100(b)(3). The applicant will be required to submit evidence that the application relates to an existing tower or base station that has been approved by the City of Evansville. Before and after 360-degree photo simulations must be provided with detailed specifications demonstration that the modification does not substantially change the physical dimensions of the existing approved tower or base station.

(e) **Fees.** Applicant must pay an application fee in an amount set by the common council to allow recovery of the City of Evansville's direct costs of processing the application, subject to the limits contained in state and federal law, including Wis. Stat. § 66.0414(3)(d), as amended.

(f) **Public Records.** Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the City of Evansville shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and the Administrator's determination that the applicant's request for confidential or proprietary

treatment of the application materials is reasonable. The City of Evansville shall not be required to incur any costs to protect the application from disclosure.

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

Sec. 106-386: General Standards

(a) **Generally**. Wireless facilities shall meet the minimum requirements set forth in this Article and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) **Regulations**. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Article are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Article and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) **Standards**.

(1) Wireless facilities shall be installed and modified in a manner that:

(A) Minimizes risks to public safety;

(B) Ensures that placement of wireless equipment on existing support structures is within the tolerance of those structures;

(C) Ensures that new support structures will not be installed when the applicant has the right to place its wireless facility on an existing structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;

(D) Avoids installation or modification of a utility pole that would exceed the height limits set forth in Wis. Stat. § 66.0414(2)(e)2, as amended;

(E) Avoids placement of aboveground wireless facilities in historic districts and underground districts (except for placing equipment on or replacing pre-existing support structures, so long as the collocation or replacement reasonably conforms to the design aesthetics of the original support structure);

(F) Avoids placement of wireless facilities in residential areas when commercial or industrial areas are reasonably available;

(G) Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;

(H) Ensures that the City of Evansville bears no risk or liability as a result of the installations; and

(I) Ensures that applicant's use does not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare; inconvenience the public; interfere with the primary uses of the right-of-way; or hinder the ability of the City of Evansville or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.

(2) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(3) Wireless facilities and equipment shall minimize visual impacts, and ensure compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law:

(A) A new wireless facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, dark greens, dark browns, or other muted colors, earth tones, and subdued hues shall be used.

(B) Wireless equipment placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts.

(C) Wiring and cabling shall blend with the support structure or and concealed to the greatest extent possible.

(d) **Standard Permit Conditions.** All wireless permits, whether granted under this Article or deemed granted by operation of state or federal law, are issued subject to the following minimum conditions:

(1) **Compliance**. The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.

(2) **Construction Deadline.** The permit holder shall commence the activity authorized by the permit no later than 365 days after the permit is granted and shall pursue work on the activity until completion.

(3) **Contact Information**. The permit holder shall at all times maintain with the City of Evansville accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

(4) **Emergencies**. The City of Evansville shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

(5) **Indemnification.** The permit holder, by accepting a permit under this Article, agrees to indemnify and hold harmless the City of Evansville, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the "Indemnified Parties") from and against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Article, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.

(6) **Adverse Impacts on Adjacent Properties**. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.

(7) **General Maintenance**. The wireless facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

(8) **Graffiti Removal**. All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the City of Evansville.

(9) **Relocation**. At the request of the City of Evansville pursuant to Section 160-389 of this Article, the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.

(10) **Abandonment**. The permit holder shall promptly notify the City of Evansville whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section 160-390 of this Article.

(11) **Restoration**. A permit holder who removes or relocates a facility from the right-of-way or otherwise causes any damage to the right-of-way in connection with its activities under this Article must restore the right-of-way in accordance with Section 160-391 of this Article.

(12) **Record Retention**. The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the City of Evansville cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be

resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

(13) **Radio Frequency Emissions**. Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(14) **Certificate of Insurance**. A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

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

Sec. 106-387: Application Processing and Appeal

(a) **Rejection for Incompleteness**. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d) and Wis. Stat. § 66.0414(3)(c), as amended.

(b) **Processing Timeline**. Wireless permit applications (including applications for other permits under Section 160-385(b)(11) necessary to place or modify the facility) and appeals will be processed in conformity with the deadlines set forth in state, local, and federal law, as amended, unless the applicant and the City of Evansville agree to an extension.

(c) **Public Hearing**. Prior to the approval or denial of an application, a public hearing shall be held for public comment. The public hearing will be held at a City of Evansville Plan Commission meeting that allows for the issuing of a timely decision on the application pursuant to the terms of this article and pursuant to Wisconsin Statutes. The Administrator shall give public notice at least seven days prior to public hearing by publication of a class 1 notice under Wis. Stat. § ch. 985. In addition, at least ten days before the public hearing, the public notice shall be mailed to all property owners within 250 feet.

(d) **Written Decision**. In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section 160-386(d), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record. If the permit is for a small wireless facility, the applicant may cure the deficiencies identified in the written decision denying the permit and re-submit the application no later than 30 days after receipt without being required to pay an additional application fee.

(e) **Appeal to 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

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the City of Evansville, permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future City of Evansville use of the right-of-way; a public improvement undertaken by the City of Evansville; an economic development project in which the City of Evansville has an interest or investment; when the public

health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

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

Sec. 106-390: Abandonment

(a) **Cessation of Use**. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City of Evansville and do one of the following:

(1) Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Article have been lawfully assumed by another permit holder

(2) Submit to the Administrator a proposal and instruments for dedication of the facilities to the City of Evansville. If a permit holder proceeds under this section, the City of Evansville may, at its option:

(A) Accept the dedication for all or a portion of the facilities;

(B) Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section 160-391; or

(C) Require the permit holder to post a bond or provide payment sufficient to reimburse the City of Evansville for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section 160-391.

(3) Remove its facilities from the right-of-way within one year and perform the required restoration under Section 160-391, unless the Administrator waives this requirement or provides a later deadline.

(b) **Abandoned Facilities**. Facilities of a permit holder who fails to comply with Section 160-390(9) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City of Evansville may, at its option:

(1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;

(2) take possession of the facilities; and/or

(3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

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

Sec. 106-391: Restoration

In the event that a permit holder removes or is required to remove a wireless facility from the right-of-way under this Article (or relocate it pursuant to Section 160-389), or otherwise causes any damage to the right-of-way in connection with its activities under this Article, the permit holder must restore the right-of-way to its prior condition in accordance with City of Evansville specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this section, the City of Evansville at its option may do such work after providing 15 days' written notice to the permit holder. In that event, the permit holder shall pay to the City of Evansville, within 30 days of billing therefor, the cost of restoring the right-of-way.

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

Section 106-392: Severability

If any section, subsection, clause, phrase, or portion of this Article is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Article, which shall remain in full force and effect.

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