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CODE OF ORDINANCES CITY OF BRAIDWOOD, ILLINOIS

Adopted, March 11, 1997

Effective, March 11, 1997

Published in 1996 by Order of the City Council

CURRENT OFFICIALS

of the

CITY OF

BRAIDWOOD, ILLINOIS

Robert Jones
Mayor

Fay Smith
Doug Money
James Mikel
Ronald Cockcream
City Council

Mahoney, Silverman & Cross, LLC
City Attorney

Hillary Bohac
City Clerk

OFFICIALS

of the

CITY OF

BRAIDWOOD, ILLINOIS

AT THE TIME OF THIS CODIFICATION

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of the City of Braidwood, Illinois.

Source materials used in the preparation of the Code were the ordinances adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

| | |
|---------------------------|-------|
| CODE | CD1:1 |
| CODE APPENDIX | CDA:1 |
| CODE COMPARATIVE TABLE | CCT:1 |
| STATE LAW REFERENCE TABLE | SLT:1 |

| | |
|------------|-------|
| CODE INDEX | CDi:1 |
|------------|-------|

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of James S. Vaught, Supervising Editor, and Robert MacNaughton, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Thomas J. Mikulecky, Management Consultant, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Braidwood, Illinois. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Braidwood, Illinois.

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ADOPTING ORDINANCE

ORDINANCE NO. 97-10

An Ordinance Adopting and Enacting a New Code for the City of Braidwood, Illinois; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof;

Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be it Ordained by the City Council of the City of Braidwood, Will County, Illinois, As Follows:

Section 1. The Code entitled "Code of Ordinances, City of Braidwood, Illinois," published by Municipal Code Corporation, consisting of Chapters 1 through 90, each inclusive, is adopted as the Code of Ordinances of the City of Braidwood.

Section 2. All ordinances of a general and permanent nature enacted on or before June 25, 1996, and not included in the Code or recognized and continued in force by reference therein are repealed.

Section 3. The repeal of ordinances as provided for in Section 2 hereof shall not revive any ordinance or part thereof repealed by an ordinance repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not less than \$75.00 and not more than \$750.00. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty by this Section, unless another penalty is expressly provided, shall apply to the amendment of any Code Section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the City Council to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 25, 1996, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective upon its passage, approval and publication as provided by law.

AYES: 4

NAYS: 1

ABSENT: 0

Passed this 11th day of March, 1997.

/s/ Sue Grygiel
City Clerk

Approved this 11th day of March, 1997.

/s/ Richard Girot
Mayor

Attest:

/s/ Sue Grygiel
City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the City Council of the City of Braidwood, Illinois held on the 11th day of March, 1997.

/s/ Sue Grygiel
City Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the code's historical evolution.

| Ord. No. | Date Adopted | Include/Omit | Supp. No. |
|----------|--------------|--------------|-----------|
| 08-33 | 12- 9-08 | Omit | 14 |
| 09-01 | 3-10-09 | Omit | 14 |
| 09-02 | 3-24-09 | Omit | 14 |
| 09-03 | 3-24-09 | Omit | 14 |
| 09-04 | 3-24-09 | Omit | 14 |
| 09-05 | 4-28-09 | Include | 14 |
| 09-06 | 4-14-09 | Omit | 14 |
| 09-07 | 6-23-09 | Omit | 14 |
| 09-08 | 9-22-09 | Omit | 14 |

| | | | |
|---------|----------|---------|----|
| 09-09 | 10-27-09 | Omit | 14 |
| 09-10 | 12- 8-09 | Include | 14 |
| 10-01 | 1-12-10 | Omit | 14 |
| 10-02 | 3- 9-10 | Omit | 14 |
| 2010-03 | tabled | Omit | 14 |
| 10-04 | 4-13-10 | Omit | 14 |
| 2010-04 | 5-11-10 | Omit | 14 |
| 2010-05 | 5-11-10 | Include | 14 |
| 10-06 | 6- 8-10 | Include | 14 |
| 10-07 | 6-22-10 | Omit | 14 |
| 10-08 | 6-22-10 | Omit | 14 |
| 10-10 | 8-10-10 | Include | 14 |
| 10-11 | 8-10-10 | Omit | 14 |
| 10-12 | 8-24-10 | Omit | 14 |
| 10-13 | 8-24-10 | Omit | 14 |
| 10-14 | 8-24-10 | Omit | 14 |
| 10-15 | 8-24-10 | Omit | 14 |
| 10-16 | 8-24-10 | Omit | 14 |
| 10-17 | 8-24-10 | Omit | 14 |
| 10-19 | 10-26-10 | Omit | 14 |

| | | | |
|-------------|----------|---------|----|
| 10-20 | 11- 9-10 | Omit | 14 |
| 10-21 | 11- 9-10 | Omit | 14 |
| 10-10(Res.) | 10-12-10 | Omit | 14 |
| 11-01 | 3- 8-11 | Omit | 14 |
| 11-02 | 2-22-11 | Omit | 14 |
| 11-03 | 2-22-11 | Omit | 14 |
| 11-04 | 3- 8-11 | Include | 14 |
| 11-05 | 3-22-11 | Omit | 14 |
| 11-06 | 3-22-11 | Include | 14 |
| 11-08 | 4-28-11 | Include | 14 |
| 11-09 | 5-10-11 | Include | 14 |
| 11-10 | 5-10-11 | Include | 14 |
| 11-11 | 5-10-11 | Include | 14 |
| 11-12 | 5-10-11 | Include | 14 |
| 11-13 | 5-24-11 | Include | 14 |
| 11-14 | 5-24-11 | Include | 14 |
| 11-15 | 5-24-11 | Include | 14 |
| 11-16 | 6-14-11 | Omit | 14 |
| 11-17 | 6-14-11 | Include | 14 |
| 11-18 | 6-14-11 | Include | 14 |

| | | | |
|-------|----------|---------|----|
| 11-19 | 6-14-11 | Omit | 14 |
| 11-20 | 6-14-11 | Omit | 14 |
| 11-21 | 6-14-11 | Omit | 14 |
| 11-22 | 6-14-11 | Omit | 14 |
| 11-23 | 6-14-11 | Omit | 14 |
| 11-24 | 6-14-11 | Omit | 14 |
| 11-27 | 6-14-11 | Omit | 14 |
| 11-28 | 6-14-11 | Include | 14 |
| 11-29 | 7-12-11 | Omit | 14 |
| 11-30 | 7-26-11 | Omit | 14 |
| 11-31 | 7-26-11 | Include | 14 |
| 11-32 | 8- 9-11 | Omit | 14 |
| 11-33 | 8-23-11 | Omit | 14 |
| 11-34 | 8-23-11 | Include | 14 |
| 11-35 | 8-23-11 | Include | 14 |
| 11-36 | 8-23-11 | Include | 14 |
| 11-37 | 9-13-11 | Include | 14 |
| 11-38 | 9-27-11 | Omit | 14 |
| 11-39 | 10-11-11 | Omit | 14 |
| 11-40 | 10-11-11 | Include | 14 |

| | | | |
|-------|----------|---------|----|
| 11-41 | 10-11-11 | Omit | 14 |
| 11-42 | 10-25-11 | Include | 14 |
| 11-43 | 10-25-11 | Omit | 14 |
| 11-44 | 10-25-11 | Omit | 14 |
| 11-45 | 10-25-11 | Omit | 14 |
| 11-50 | 11-22-11 | Omit | 14 |
| 11-57 | 11-22-11 | Omit | 14 |
| 11-60 | 12-13-11 | Omit | 14 |
| 11-61 | 12-27-11 | Omit | 14 |
| 11-62 | 12-27-11 | Omit | 14 |
| 11-63 | 12-27-11 | Omit | 14 |
| 12-01 | 1-10-12 | Omit | 14 |
| 12-02 | 1-10-12 | Omit | 14 |
| 12-03 | 1-10-12 | Include | 14 |
| 12-04 | 1-10-12 | Omit | 14 |
| 12-05 | 1-10-12 | Omit | 14 |
| 12-06 | 1-24-12 | Omit | 14 |
| 12-7 | 2-28-12 | Omit | 14 |
| 12-8 | 2-28-12 | Omit | 14 |
| 12-9 | 2-28-12 | Include | 14 |

| | | | |
|-------|----------|---------|----|
| 12-10 | 3-13-12 | Include | 14 |
| 12-11 | 3-27-12 | Include | 14 |
| 12-12 | 3-27-12 | Include | 14 |
| 12-13 | 4-10-12 | Include | 14 |
| 12-14 | 4-26-12 | Include | 14 |
| 12-15 | 4-26-12 | Include | 14 |
| 12-16 | 5-22-12 | Omit | 14 |
| 12-17 | 5-22-12 | Omit | 14 |
| 12-18 | 5-22-12 | Include | 14 |
| 12-19 | 6-12-12 | Include | 14 |
| 12-20 | 6-12-12 | Omit | 14 |
| 12-22 | 6-26-12 | Include | 14 |
| 12-25 | 7-24-12 | Include | 15 |
| 12-31 | 11-13-12 | Include | 15 |
| 12-32 | 11-27-12 | Include | 15 |
| 13-01 | 1- 8-13 | Include | 15 |
| 13-02 | 1-22-13 | Omit | 15 |
| 13-3 | 2-12-13 | Omit | 15 |
| 13-4 | 2-26-13 | Omit | 15 |
| 13-5 | 2-26-13 | Omit | 15 |

| | | | |
|----------------|----------|---------|----|
| 13-6 | 3-12-13 | Omit | 15 |
| 13-7 | 3-26-13 | Include | 15 |
| 13-8 | 4-25-13 | Include | 15 |
| 13-9 | 4-25-13 | Include | 15 |
| 13-10 | 5-28-13 | Omit | 15 |
| Res. No. 13-10 | 10- 8-13 | Omit | 15 |
| 13-11 | 5-28-13 | Include | 15 |
| 13-12 | 5-28-13 | Omit | 15 |
| 13-13 | 5-28-13 | Omit | 15 |
| 13-14 | 6-11-13 | Include | 15 |
| 13-15 | 6-11-13 | Omit | 15 |
| 13-16 (Denied) | 6-11-13 | Omit | 15 |
| 13-17 | 6-11-13 | Omit | 15 |
| 13-18 | 6-11-13 | Include | 15 |
| 13-19 | 8-13-13 | Include | 15 |
| 13-20 | 8-13-13 | Omit | 15 |
| 13-21 | 8-13-13 | Omit | 15 |
| 13-22 | 8-13-13 | Omit | 15 |
| 13-23 | 8-13-13 | Omit | 15 |
| 13-24 | 8-27-13 | Include | 15 |

| | | | |
|-------|----------|---------|----|
| 13-25 | 9-10-13 | Omit | 15 |
| 13-26 | 9-10-13 | Omit | 15 |
| 13-27 | 10- 8-13 | Include | 15 |
| 13-28 | 12-10-13 | Omit | 15 |
| 13-29 | 12-10-13 | Omit | 15 |
| 13-30 | 12-10-13 | Omit | 15 |
| 14-01 | 2-11-14 | Include | 15 |
| 14-02 | 2-11-14 | Omit | 15 |
| 14-03 | 2-25-14 | Omit | 15 |
| 14-04 | 5-27-14 | Omit | 15 |
| 14-05 | 6-10-14 | Omit | 15 |
| 14-06 | 6-10-14 | Include | 15 |
| 14-07 | 6-10-14 | Omit | 15 |
| 14-08 | 6-10-14 | Omit | 15 |
| 14-09 | 7- 8-14 | Omit | 15 |
| 14-10 | 7-22-14 | Include | 15 |
| 14-11 | 7-22-14 | Include | 15 |
| 14-12 | 7-22-14 | Omit | 15 |
| 14-13 | 7-22-14 | Omit | 15 |
| 14-14 | 8-12-14 | Omit | 15 |

| | | | |
|---------|----------|---------|----|
| 14-17 | 12- 9-14 | Include | 16 |
| 2015-05 | 6-23-15 | Include | 16 |
| 2015-06 | 6-23-15 | Include | 16 |
| 2015-07 | 7-14-15 | Include | 16 |
| 2015-08 | 10-13-15 | Include | 16 |
| 2016-01 | 4-12-16 | Include | 16 |
| 16-02 | 4-12-16 | Include | 16 |
| 16-03 | 4-12-16 | Include | 16 |
| 16-04 | 4-12-16 | Include | 16 |
| 16-07 | 5-10-16 | Include | 16 |
| 16-08 | 6-28-16 | Include | 16 |
| 16-10 | 9-13-16 | Include | 16 |
| 16-11 | 9-13-16 | Include | 16 |
| 16-12 | 9-13-16 | Include | 16 |
| 16-13 | 9-13-16 | Include | 16 |
| 16-14 | 9-13-16 | Include | 16 |
| 16-16 | 9-27-16 | Omit | 16 |
| 16-17 | 11- 7-16 | Include | 16 |
| 16-19 | 12-27-16 | Omit | 16 |
| 17-03 | 4-25-17 | Include | 16 |

| | | | |
|-------|----------|---------|----|
| 17-12 | 9-12-17 | Include | 16 |
| 17-14 | 10-10-17 | Include | 16 |
| 17-15 | 11-28-17 | Include | 16 |
| 17-17 | 12-12-17 | Include | 16 |
| 17-18 | 12-21-17 | Omit | 16 |
| 17-19 | 12-21-17 | Include | 16 |
| 18-01 | 1- 9-18 | Include | 16 |
| 19-06 | 8-13-19 | Omit | 17 |
| 19-08 | 8-27-19 | Omit | 17 |
| 19-09 | 8-27-19 | Include | 17 |
| 19-10 | 8-27-19 | Include | 17 |
| 19-11 | 10-22-19 | Include | 17 |
| 19-12 | 10-22-19 | Omit | 17 |
| 19-13 | 11-12-19 | Include | 17 |
| 19-14 | 11-12-19 | Omit | 17 |
| 19-15 | 11-12-19 | Omit | 17 |
| 19-16 | 11-12-19 | Omit | 17 |
| 19-17 | 12-23-19 | Omit | 17 |
| 19-18 | 12-23-19 | Omit | 17 |

CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

ARTICLE I. - IN GENERAL

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Code of Ordinances, City of Braidwood, Illinois," and may be so cited. Such Code may also be referred to as the "Braidwood City Code."

State Law reference— Revision and codification of ordinances, 65 ILCS 5/1-2-3 et seq.

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

- (a) In the construction of this Code, and of all ordinances, the rules of construction and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the city council. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out.
- (b) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Action. The term "action" shall include suits, prosecutions and all judicial proceedings.

City. The word "city" shall mean the City of Braidwood, Illinois.

City council, council. Whenever the words "council" or "city council" are used, they shall be construed to mean the city council of the City of Braidwood, Illinois.

Code. The term "Code" or "this Code" shall mean the Code of Ordinances, City of Braidwood, Illinois, or the Braidwood City Code.

Computation of time. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this state, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday, then such succeeding day shall also be excluded.

Corporate or city limits. The term "corporate limits" or "city limits" shall mean the legal boundaries of the City of Braidwood, Illinois.

County. The term "county" or "the county" shall mean Will County in the State of Illinois.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender may be applied to females.

ILCS. ILCS shall mean the Illinois Compiled Statutes, as now or hereafter amended.

In the city. The words "in the city" or "within the city" mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

Month. The word "month" shall mean a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular.

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

Occupant or tenant. The word "occupant" or "tenant," applied to a building or land, means any person who holds a written or an oral lease of or who actually occupies the whole or a part of such building or land, either alone or with others.

Officers, departments, etc. Officers, departments, boards, commissions, committees and employees referred to in this Code shall mean officers, departments, boards, commissions, committees and employees of the city, unless the context clearly indicates otherwise.

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

Owner. The word "owner," when applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land.

Person. The word "person," as well as all words referring to or importing persons, may extend and be applied to bodies politic and corporate as well as individuals.

Personal property. The term "personal property" means and includes every species of property, except real property as defined by this section.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Shall, may. The word "shall" is mandatory; "may" is permissive.

Sidewalk. The word "sidewalk" means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

Signature or subscription. The word "signature" or "subscription" includes a mark when the person cannot write.

State. The term "state" or "the state" shall mean the State of Illinois.

Street. The word "street" shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right for purposes of vehicular traffic.

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

Written, in writing. The term "written" or "in writing" may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any

official or public writing or bond required by law, it shall be in the proper handwriting of such person, or if he is unable to write, by his proper mark.

Year. The word "year" means a calendar year unless otherwise expressed.

State Law reference— Similar rules of statutory construction, 5 ILCS 70/1 et seq.

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

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

Sec. 1-4. - Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or as omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the city council.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Braidwood, Illinois, is hereby amended to read as follows:...." The new provisions shall then be set out in full.
- (c) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Braidwood, Illinois, is hereby amended by adding a section (or article or chapter) to be numbered _____, which section (or article or chapter) reads as follows:...." The provisions shall then be set out in full.
- (d) All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-5. - Effect of repeal of ordinances.

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

Sec. 1-6. - Severability of parts of Code.

Should any section, paragraph, sentence, clause, phrase or word of this Code be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

Sec. 1-7. - Unauthorized alteration or tampering with Code.

It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Sec. 1-8. - General penalty for violation of Code; continuing violations; judicial enforcement of Code upon conviction.

- (a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be a misdemeanor and punished by a fine not exceeding \$750.00 and/or imprisonment not exceeding six months. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense. A penalty imposed for violation of an ordinance may include, or consist of, a requirement that the defendant perform some reasonable public service work, such as, but not limited to, the picking up of litter in public parks or along public highways or the maintenance of public facilities. The provisions of this section which allow imposition of imprisonment in addition to a fine or the imposition of public service work shall not apply to the violation of ordinances enacted pursuant to 65 ILCS 5/11-5-1, 5/11-5-2, 5/11-5-3, 5/11-5-4, 5/11-5-5, 5/11-5-6, 5/11-40-1, 5/11-40-2, 5/11-40-2a, 5/11-40-3, 5/11-80-9 or 5/11-80-16, as amended, nor to sections hereafter adopted which replace or add to such sections, nor to ordinances adopted pursuant to authority granted by 625 ILCS 5/11-208.
- (b) Upon conviction of any persons or business entity for violation of any of the provisions contained in this Code, the court, upon entry of a judgment of conviction, shall:
 - (1) Impose a fine of not less than \$20.00 nor more than \$750.00; or
 - (2) Continue the case for a period not to exceed 30 days and require that the defendant comply with the relevant provision of this Code or abate the condition which is the basis for the conviction, within a period specified by the court, not to exceed 30 days.
- (c) If the court orders compliance or abatement and the defendant fails to comply with the provisions of this Code or abate the conditions within the specified time period, the court:
 - (1) Shall impose a fine of not less than \$20.00 nor more than \$750.00 for each day from the date of conviction through the specified date of compliance;
 - (2) Shall retain jurisdiction for imposition of a continued daily fine of not less than \$20.00 nor more than \$750.00 per day until there is compliance with this Code or abatement of the condition which is the basis for the conviction; and
 - (3) May use its powers of contempt as the court deems appropriate.
- (d) If the defendant complies with the terms of this Code or abates the condition which is the basis for the conviction within the time period specified by the court, the court may:
 - (1) Require the defendant to pay court costs only; or
 - (2) Require the defendant to pay a fine of not less than \$20.00 nor more than \$750.00, together with costs of court.

Cross reference— Alcoholic beverages, ch. 10; civil emergencies, ch. 30; emergency services, ch. 34; law enforcement, ch. 50; offenses, ch. 58; traffic and vehicles, ch. 82.

State Law reference— Penalties authorized, 65 ILCS 5/1-2-1, 5/1-2-1.1.

Sec. 1-9. - Use of "P" tickets.

- (a) The city's police officers and/or other appropriate agents, officers or employees are authorized to charge certain municipal ordinance violations by use of a "P" ticket form, as set forth on Exhibit A, attached hereto and by reference incorporated in this section.
- (b) There is hereby established a due date, two business days after the issuance of the "P" ticket and a final notice date, five business days after the due date.
- (c) There is hereby established a before due date fine for "P" tickets paid before the due date, an after due date fine for "P" tickets paid after the due date but before final notice date. For "P" tickets paid after the final notice date, the fine shall be as otherwise provided by law.
- (d) All municipal ordinances shall be subject to charging by "P" tickets except for violations of those provisions of this Code derived from Ordinance Nos. 77-17, 82-12, 84-1, 76-14 and 76-15.

(Ord. No. 90-5, §§ 1—4, 5-22-90)

Editor's note— The exhibit referred to in section 1-9 is not printed in section 1-9 but is on file in the city offices.

Sec. 1-10. - City officers and employees not liable to fine for failure to perform duties.

No provision of this Code designating the duties of any city officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this Code for a failure to perform such duty, unless the intention of the city council to impose such a fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

Sec. 1-11. - Acts punishable under different sections.

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, however, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Sec. 1-12. - Price and cost of ordinances printed in book or pamphlet form.

Whenever an ordinance imposing any fine, penalty, imprisonment or forfeiture, or making any appropriation shall be printed in book or pamphlet form, published by authority of the city council, the head of the department charged with the administration of such ordinance may impose a reasonable price commensurate with the cost of the printing thereof for the distribution of such book or pamphlet to the public.

Sec. 1-13. - Enforcement proceedings.

The various chapters of this Code shall be enforced pursuant to the procedures described therein. In addition, the city shall have all other legal rights of action including, but not limited to, injunction; the general penalties found in section 1-8; and all other appropriate forms of legal relief found in the city's ordinances, state or federal statutes, or otherwise.

Sec. 1-14. - References and notes.

Cross references, state law references, editor's notes and history notes are by way of explanation only and shall not be deemed a part of the text of any section.

Sec. 1-15. - Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions.
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections or the alphabetical arrangement of new chapters inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-16. - Ordinances not affected by adoption of Code.

The repeal provided for in the ordinance adopting this Code shall not affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code. If any penalty, forfeiture or punishment is mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city.
- (3) Any right or franchise granted by any ordinance of the city, except as this Code may contain provision for such matters, in which case this Code shall be considered as amending such ordinance in respect of such provisions only.
- (4) Any ordinance dedicating, accepting the dedication of, naming, establishing, locating, opening, paving, widening, vacating, etc., any street, alley, public way or public park in the city.
- (5) Any appropriation ordinance.
- (6) Any ordinance levying or imposing taxes or special assessments, or authorizing tax fund transfers not inconsistent with this Code.
- (7) An ordinance rezoning specific property or any amendment thereto.

- (8) Any ordinance establishing or prescribing grades in the city.
- (9) Any ordinance providing for local improvements and assessing taxes therefor.
- (10) Any ordinance dedicating or accepting any plat or subdivision in the city.
- (11) Any ordinance establishing the boundaries of any wards in the city, or extending or contracting the boundaries of the city.
- (12) Any ordinance prescribing the number, classification or compensation of any city officers or employees, not inconsistent herewith.
- (13) Any ordinance declaring certain property to be a public nuisance and authorizing procedures for the demolition of such property.
- (14) Any ordinance adopted by reference by any provision of this Code or any amendments to such ordinances.
- (15) Any ordinance establishing fire lanes on private property.
- (16) Any ordinance establishing traffic or parking regulations for a street or portion of a street or any other location in the city.
- (17) Any temporary or special ordinance.
- (18) Any ordinance respecting conveyance or acceptance of real property or easements in real property.
- (19) The zoning ordinance of the city or any amendment thereto, or any ordinance zoning or rezoning specific property.
- (20) The administrative ordinances not in conflict or inconsistent with this Code.

Sec. 1-17. - Returned check.

In the event that any form of payment, including check, credit card or debit card is returned unpaid for any reason, including insufficient funds, an additional charge of \$25.00 shall be assessed against the account. Such additional charge must be paid or any services or license obtained with the payment shall be void.

(Ord. No. 03-7, § 1, 4-22-03)

Editor's note— Ord. No. 03-7, § 1, adopted April 22, 2003, amended the Code by adding provisions designated as § 1-20. At the discretion of the editor, the provisions of said Ord. No. 03-7 have be included herein as § 1-17.

Secs. 1-18—1-60. - Reserved.

ARTICLE II. - MISCELLANEOUS PROVISIONS

Sec. 1-61. - Placement and use of donation boxes.

(a) *Definitions.*

Donation box: Any receptacle or container located outside of an enclosed building designed, intended or used for collection and storage of donated items or materials including, but not limited to, furniture, clothing, shoes, books and other like items.

(b) *Donation boxes prohibited.* No person shall place, use or allow the installation or operation of a donation box within the City of Braidwood. The owners, lessee or other person or legal entity in control

of the property where a donation box is maintained in violation of this ordinance and the owner or operator of said box shall each be liable for any violation of this section.

- (c) *Penalty.* Any person, business entity, firm or corporation violating the provisions of this section shall be fined no less than \$75.00 nor more than \$750.00 for each violation, and each day such violation shall continue shall be deemed a separate offense.

(Ord. No. 13-14, §§ 2—4, 6-11-13)

Editor's note— Ordinance 13-14, §§ 2—4, adopted June 11, 2013, did not specifically amend the code. At the editor's discretion, such provisions have been included as section 1-61. See Code Comparative Table for complete derivation.

Chapter 2 - ADMINISTRATION^[1]

Footnotes:

--- (1) ---

Cross reference— Certificate of registration for contractors, § 22-196; emergency services and disaster agency, § 30-31 et seq.; administration and enforcement of flood control regulations, § 42-36 et seq.; police department, § 50-31 et seq.; offenses against governmental operations, § 58-31 et seq.; planning commission, § 62-31 et seq.; taxation, ch. 78; administration and enforcement of traffic regulations, § 82-36 et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Fees for copying; certification of public records.

- (a) There is hereby established a fee of \$0.25 per page for copying any public record.
- (b) There is hereby established a fee for certification of documents in the sum of \$2.00 per document.
- (c) The city clerk, or anyone acting in his behalf or at his direction, shall be authorized to receive any of such fees in advance of copying or certifying documents.
- (d) If the documents to be copied and/or certified exceed ten in number, the clerk or agent, prior to retrieval, may estimate the total fee therefor and request that such sum is deposited with the clerk prior to copying. Upon completion of copying and/or certification, any additional fee shall be paid to the clerk prior to delivery or a refund, where applicable, shall likewise be made upon delivery.

(Ord. No. 91-12, §§ 1—4, 6-11-91)

Sec. 2-2. - Residency requirement for appointed officers and employees.

- (a) All appointed officers of the city shall establish domicile within the city no later than four months following their initial appointment and shall continuously maintain domicile within the city thereafter.
- (b) All employees of the city shall establish domicile within 25 miles of the city no later than 18 months following their initial employment and shall continuously maintain domicile within 25 miles of the city thereafter.
- (c) Failure of any employee or appointed officer to establish or maintain required domicile shall constitute grounds for discharge.
- (d) Domicile shall be established and maintained under the following principles:

- (1) A person can have only one domicile;
 - (2) Once a domicile is established, it continues until a new one is acquired;
 - (3) There must be actual abandonment of a former domicile with no intent to return; and
 - (4) The new domicile must be acquired with the intent of making it a true and permanent home.
- (e) For the purpose of this section, "appointed officer" shall mean any officer of the city appointed by the mayor with the advice and consent of the city council except those requiring professional or technical training such as the city engineer and city attorney.
- (f) In cases of special need of the city, the city council by motion at a meeting may waive the requirements of this section.

(Ord. No. 83-9A, §§ 1, 2, 10-25-83; Ord. No. 99-11, §§ 1, 2, 4-20-99; Ord. No. 99-16, § 1, 5-25-99; Ord. No. 02-12, § 1, 10-22-02)

Sec. 2-3. - Municipal retirement fund; participation elected.

The city does hereby elect to participate in the state municipal retirement fund, effective January 1, 1979.

(Ord. No. 78-12, § 1, 7-11-78)

Sec. 2-4. - Sale/disposal of personal property.

The mayor may authorize the sale of personal property that is no longer necessary or useful to the city. The mayor may authorize:

- (1) The sale with or without advertisement;
- (2) With or without auction;
- (3) The conversion into some other form that is useful to the city by using the material in the personal property;
- (4) The trade in of the personal property as part payment on a purchase of a similar article; or
- (5) The sale in conjunction with other units of government.

In the event that an item of personal property has no value or the cost of selling the same would exceed the sale price, the mayor may authorize the donation or junking of such personal property. No personal property may be sold or transferred to any officer or employee of the city except pursuant to public bidding. The mayor shall report in writing to the city council with regard to any personal property disposed of under the provisions of this section within ten days after disposition.

(Ord. No. 99-25, § 1, 9-14-99)

Sec. 2-5. - Reserved.

Editor's note— Ord. No. 08-04, adopted Feb. 26, 2008, repealed § 2-5, which pertained to retirement insurance benefits and derived from Ord. No. 99-34, § 1, 12-28-99.

Secs. 2-6—2-30. - Reserved.

ARTICLE II. - CITY COUNCIL

Sec. 2-31. - Meeting dates and times.

The city council shall hold regular meetings on the second and fourth Tuesday of each and every month at the time of 7:00 p.m. at Braidwood City Hall, 141 West Main Street, Braidwood, Illinois.

(Ord. No. 91-9, 4-29-91)

State Law reference— Inaugural meeting, 65 ILCS 5/4-5-12.

Sec. 2-32. - Presiding officer.

The mayor shall preside over each city council meeting. In the absence of the mayor, the commissioner of accounts and finance shall preside.

(Ord. No. 98-16, § 1, 4-28-98)

Sec. 2-33. - Agenda.

No person other than a member of the council shall address the council during a meeting concerning an agenda item unless that person is recognized by the mayor or presiding officer.

(Ord. No. 98-16, § 2, 4-28-98)

Sec. 2-34. - Public comment.

- (a) At the beginning of each city council meeting before action is taken on any item, except for approval of the minutes, there shall be a portion allowed for public comment. Public comment is allowed on any subject matter pertaining to city business and is not restricted to matters on the agenda.
- (b) No prior registration shall be required for any person giving public comment, but before speaking the person shall state his name and address. There shall be a three-minute time limit to the public comment of each person, but the mayor may waive such time limit.

(Ord. No. 98-16, § 3, 4-28-98; Ord. No. 99-13, § 1, 4-27-99)

Sec. 2-35. - Rules of order.

Roberts' Rules of Order, as amended, shall govern the deliberations of the city council except when in conflict with any provision of this Code.

(Ord. No. 13-24, § 1, 8-27-13)

Sec. 2-36. - Suspension of rules.

The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the council members during a city council meeting.

(Ord. No. 13-24, § 2, 8-27-13)

Secs. 2-37—2-55. - Reserved.

ARTICLE III. - DEPARTMENTS

Sec. 2-56. - Established.

The departments of the city government, except as otherwise provided in other chapters of this Code, shall consist of the accounts and finance, public buildings and property, public health and safety, and the streets and alleys departments, with such duties as provided by the council from time to time.

Secs. 2-57—2-85. - Reserved.

ARTICLE IV. - OFFICERS AND EMPLOYEES^[2]

Footnotes:

--- (2) ---

Cross reference— Subdivision developers may employ city engineer, § 74-9.

DIVISION 1. - GENERALLY

Subdivision I. - City Officials^[3]

Footnotes:

--- (3) ---

Editor's note— Ord. No. 08-22, § 1, adopted Aug. 26, 2008, enacted provisions intended for use as art. IV, div. I, subdiv. II. To preserve the style of this Code, and at the discretion of the editor, art. IV, div. I, subdiv. I was created.

Sec. 2-86. - Inauguration of newly elected officers.

All newly elected officers of the city shall be inaugurated at the first regular meeting following the canvassing of votes and the proclamation of results thereof.

(Ord. No. 95-11, § 1, 4-11-95; Ord. No. 08-01, § 1, 1-22-08)

State Law reference— Authority to establish, 65 ILCS 5/3.1-10-15.

Sec. 2-87. - Mayor.

- (a) The mayor shall be the chief executive officer of the city. He shall be a citizen of the United States, a qualified elector, reside within the city limits and shall hold his office for four years and until his successor is elected and qualified.
- (b) The mayor, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of mayor of the City of Braidwood, Illinois, according to the best of my ability."

Which oath, so subscribed, shall be filed in the office of the clerk. He shall also execute a bond to the city in the penal sum of \$3,000.00, with such sureties as the city council shall approve, conditioned for the faithful performance of the duties of the office.

- (c) The mayor shall devote as much time to the duties of his office as a faithful and efficient discharge thereof may require, shall see that all ordinances of the city are duly enforced, shall preside at all meetings of the city council, and shall supervise all departments and report to the council for its action all matters requiring attention in any department.
- (d) The mayor, being the commissioner of public affairs, shall
 - (1) Appoint, with the advice and consent of the city council, the city clerk, the city attorney, the city administrator, the chief of police, and members of the board of fire and police commissioners, zoning board of appeals, and the planning commission.
 - (2) Be the local liquor control commissioner, and shall be charged with the administration of the provisions of such ordinances and resolutions relating to alcoholic liquor as may be enacted. However, such mayor may appoint a person or persons to assist him in the exercise of the powers and the performance of the duties herein provided for such local liquor control commissioner.
 - (3) Supervise the work of the city clerk, the city attorney, the code official, zoning officer, code inspectors, the board of fire and police commissioners, the zoning board of appeals, the planning commission, public affairs and public relations, and economic development.
 - (4) Hire, suspend, terminate and otherwise control the work of all employees who exercise duties for the city attorney, the code official, zoning officer, code inspectors, the board of fire and police commissioners, the zoning board of appeals, the planning commission, public affairs and public relations, and economic development.
- (e) The mayor shall sign all commissions, licenses, permits and warrants granted, issued or drawn by order of the city council, or authorized by the ordinance of the city. In all contracts where the city is a party, he shall sign the contract on behalf of the city. It shall be his special duty to see that the other contracting party faithfully complies with the contract, and in all suits where the city is a party, it shall be the duty of the mayor to advise with and assist the city attorney in prosecuting or defending the suits, as the case may be.
- (f) In addition to the above and foregoing, the mayor shall perform all other and further duties pertaining to his office as are or may be required of him by the laws of the state or the ordinances of the city.
- (g) The mayor shall receive such annual salary as established by the city council pursuant to 65 ILCS 5/4-6-1.

(Ord. No. 08-01, § 1, 1-22-08)

Sec. 2-88. - Commissioners.

- (a) *Election.* Candidates for commissioner shall be elected for the following specific offices:
 - (1) Commissioner of accounts and finances.
 - (2) Commissioner of public health and safety.
 - (3) Commissioner of streets and public improvements.
 - (4) Commissioner of public property.
- (b) *Mayor.* The mayor shall be commissioner of public affairs.
- (c) *Bond.* Before entering upon the duties of office, each commissioner shall execute a bond to the city in the amount of \$3,000.00 with sureties approved by the city council.
- (d) *Compensation.* Each commissioner shall receive a salary as determined by ordinance passed by the city council.

- (e) *Commissioner of accounts and finances.* The commissioner of accounts and finances shall:
 - (1) Be vice president of the city council and in case of vacancy in the office of the mayor or the absence or inability of the mayor, shall perform the duties of the mayor.
 - (2) Supervise the conduct of the office of the city treasurer.
 - (3) Supervise the financial operations of the city including all tax increment financing districts.
 - (4) Appoint with the advice and consent of the city council, the city treasurer.
 - (5) Hire, suspend, terminate and otherwise control the conduct of all employees in the office of the city treasurer.
- (f) *Commissioner of public health and safety.* The commissioner of public health and safety shall:
 - (1) Supervise the conduct and operation of the police department, emergency dispatching and telecommunications, code enforcement, animal control, and health regulations.
 - (2) Hire, suspend, or terminate all employees who exercise duties for the police department, code enforcement, animal control, and health regulations except those employees under the jurisdiction of the board of fire and police commissioners.
- (g) *Commissioner of streets and public improvements.* The commissioner of streets and public improvements shall:
 - (1) Be superintendent of the street department and all matters pertaining to the city streets, alleys, sidewalks, drainage, storm sewer system, and roadways.
 - (2) Be ex-officio commissioner of public works.
 - (3) Appoint, with the advice and consent of the city council, the supervisor of public works and such manager(s) as the city council may provide for in the annual budget.
 - (4) Hire, promote, demote, suspend, terminate, and otherwise control the work of the supervisor of public works and all employees who exercise duties for the street department.
- (h) *Commissioner of public property.* The commissioner of public property shall:
 - (1) Be superintendent of the department of public property.
 - (2) Supervise the conduct of the water and sanitary sewer departments, all real estate, including the city hall, and all personal property which is not used by a specific department.
 - (3) Appoint, with the advice and consent of the city council, the water and sewer plant operator.
 - (4) Hire, promote, demote, suspend, terminate and otherwise control the work of the water and sewer plant operator, the superintendent of water and all employees who exercise duties for the water and sewer departments.

(Ord. No. 97-35, §§ 6, 7, 11-11-97; Ord. No. 98-27, § 3, 11-24-98; Ord. No. 99-18, § 1, 7-13-99; Ord. No. 04-30, § 1, 1-11-05; Ord. No. 08-01, § 1, 1-22-08; Ord. No. 08-22, § 1, 8-26-08; Ord. No. 11-06, 3-22-11; Ord. No. 13-9, § 1, 4-25-13)

Sec. 2-89. - City clerk.

- (a) *Qualifications; term.* The city clerk shall be a citizen of the United States, and shall hold his office until a successor has been appointed and qualified.
- (b) *Duties.* The city clerk shall:
 - (1) Before entering upon the duties of his office, take the oath as nearly as may be in form prescribed herein for the mayor, and shall execute a bond to the city in the penal sum of \$2,000.00, with such sureties as may be approved by the council, conditioned for the faithful performance of the

duties of his office as city clerk, and for the payment of all moneys that may be received by him according to law and the ordinances of the city, which bond shall be filed with the finance director.

- (2) Be ex officio city collector and shall perform the duties of city collector as fixed by law and the ordinances of the city, in addition to his duties as city clerk.
- (3) Collect all special assessments levied by the city council, and shall receive and collect all moneys due the city from any source whatsoever, preserve all warrants which are returned into his hands, and keep proper books and accounts so as to exhibit at all times the amount or amounts of money collected, to what fund or funds it belongs when and from what source collected and when paid over to the city treasurer and when paying money over to the city treasurer shall take a receipt from such treasurer and keep the receipt on file in his office; and such books, accounts, receipts, warrants and vouchers shall always be subject to inspection and examination of the mayor or any member of the city council, or city attorney. He shall weekly, and oftener, if required by the city council, pay over to the city treasurer all moneys collected by him from any source whatever, taking such treasurer's receipt therefor, which receipt he shall immediately file in his office.
- (4) Not keep any moneys of the city in his hands, or in the hands of any person or corporation for his use, beyond the time of one week, and any violation of this provision will subject him to immediate removal from office.
- (5) Attend all meetings of the city council and keep in a suitable book to be styled "the Record of the City Council," a full and faithful record of its proceedings. He shall issue and cause to be served upon the mayor and commissioners notices of all special meetings of the city council.
- (6) Keep the corporate seal, to be provided under the direction of the city council, and all papers belonging to the city; and copies of all papers duly filed in his office and transcripts from the records and files of his office, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced.
- (7) Record and properly index in a book kept for that purpose, all ordinances passed by the city council, and at the foot of the record of each ordinance so recorded, make a memorandum of the date of the passage and of the publication of such ordinance, which record and memorandum or a certified copy thereof, shall be prima facie evidence of the passage and legal publication of such ordinance for all purposes.
- (8) Cause all ordinances passed by the city council, imposing any fine, penalty, or making any appropriation, to be published in pamphlet form, and file and preserve in his office one or more copies of the paper containing every ordinance so published.
- (9) Prepare all commissions, licenses, permits and other official documents required to be issued by him under law or ordinances of the city, and attest the same with the corporate seal.
- (10) Have the charge, custody and control of all deeds, leases, warrants, contracts, bonds, obligations, vouchers, books and papers of all kinds, the custody of which is not herein given to any other officer.
- (11) Exercise a general supervision over all city officers charged in any manner with the receipt, collection or disbursement of corporate revenues, and the collection and return of all such revenues into the city treasury. He shall have the charge, custody and control of all deeds, leases, warrants, contracts, bonds, obligations, vouchers, books and papers of all kinds, the custody of which is not herein given to any other officer.
- (12) Keep in his office in a book or books kept expressly for that purpose a complete list of licenses and permits issued by the city, with the names of the licensees, the purpose for which each license or permit is issued and the date of its issue and expiration, and where a bond is required, the amount of the bond and the names of the sureties thereon.
- (13) Keep a complete set of books in which shall be kept a detailed account of the city revenues, and of each separate fund crediting the same with all receipts or appropriations, and charging it with all warrants thereon, and charge each warrant to the fund or appropriation against which it is drawn. He shall also keep an accurate account of all debts due from or owing to the city, and

shall keep a correct list of all notes or obligations given by or payable to the city, with the date thereof, the person to whom or by whom payable, the rate of interest and the time and manner in which the principal and interest are payable. Such books and all other contracts, bonds, deeds, warrants, vouchers, receipts and other papers kept in his office shall be subject to examination by the mayor or any member of the city council.

- (14) Keep in a suitable book, an accurate list of all warrants drawn upon the city treasurer, showing the dates, number and amount of each, and the name of the person in whose favor drawn.
 - (15) Carefully preserve in his office all books, records, papers, maps and effects of every description belonging to the city or appertaining to his office, and not in use or possession of other officers and, upon the expiration in any way of his term, he shall, on demand, deliver all such books, papers and affects to his successor in office.
 - (16) In addition to the duties hereinbefore specified, perform all other and further duties pertaining to his office as are or may be imposed upon him by law or by resolution of the city council.
- (c) *Deputy.* The city clerk may, appoint such deputies as may be authorized by the city council in the annual budget, who during the temporary absence or disability of the clerk, shall be empowered to perform all the duties of the clerk.
- (d) *Salary.* The city clerk shall receive such monthly salary as the city council may from time to time fix and designate.

(Ord. No. 97-35, §§ 4, 5, 11-11-97; Ord. No. 08-01, § 1, 1-22-08; Ord. No. 11-08, § 1, 4-28-11; Ord. No. 11-14, § 2, 5-24-11)

Sec. 2-90. - City attorney.

The city attorney shall:

- (1) Be licensed to practice in all the courts of the state, and shall hold his office until his successor has been appointed and qualified.
- (2) Before entering upon the duties of his office, take the oath as nearly as may be in form prescribed herein for the mayor.
- (3) Be the legal adviser of the city and, when required, advise the council and all city officers in all matters of law in which the interests of the city are involved, and, when required by the mayor, city clerk, city treasurer, comptroller or any member of the city council, furnish written opinions upon any subjects submitted to him pertaining to the city or its interests.
- (4) Draw such ordinances, deeds, leases, bonds, contracts, notices or such other instrument in writing as may be required of him by the mayor, or city council or any committee thereof, and examine and pass upon the legality of any and all papers pertaining to the city or its interests, when required so to do by the mayor and city council thereof.
- (5) Prosecute or defend, in behalf of the city, all cases in which the interest of the city is involved; and the city clerk shall furnish him with certified copies of any ordinance, bond or other papers in his keeping to be filed or used in any suit or proceeding.
- (6) Immediately upon being informed of the happening of an accident which may result in an action against the city, investigate the facts in connection therewith, and, as far as possible, secure and preserve statements of all witnesses.
- (7) Receive such annual salary as the city council shall from time to time fix and designate.

(Ord. No. 97-35, § 3, 11-11-97; Ord. No. 08-01, § 1, 1-22-08)

Sec. 2-91. - City treasurer.

- (a) The city treasurer shall:
- (1) Be a citizen of the United States, a qualified elector, reside within the city limits, and hold his office until his successor has been appointed and qualified.
 - (2) Before entering upon the duties of his office, take the oath as nearly as may be in form prescribed for the mayor and shall execute a bond to the City of Braidwood in such penal sum of not less than \$6,000.00.
 - (3) Receive all moneys belonging to the city, and shall keep a separate account of each fund or appropriation and debits and credits belonging thereto. He shall give to every person paying money into the city treasury a receipt therefor, specifying the date of the payment and what account paid and he shall file copies of such receipts with the city clerk at the date of his monthly report.
 - (4) Keep all moneys in his hands belonging to the city separate and distinct from his own moneys, and is hereby expressly prohibited from using, either directly or indirectly, the city moneys in his custody or keeping, for his own use and benefit, or that of another person or persons whomsoever; and any violation of this provision shall subject him to immediate removal from office by the city council.
 - (5) Keep his books and accounts in such manner as to accurately show all moneys received and disbursed by him for the city, for whom and on what account received and to whom and on what account paid out, and in such way that such books and accounts will exhibit the true financial condition of the city, and in such manner as may be readily investigated and understood; and the same, together with the files and papers of his office shall at all times be open to examination by the mayor, city clerk or member of the council.
 - (6) At the first regular meeting of each month, render an account, under oath, showing the state of the treasury at the date of such account, the condition of each fund and the balance of money in the treasury. He shall also accompany such accounts with a statement of all the moneys received into the treasury, and on what account, together with vouchers held by him, shall be delivered to the clerk, and filed with his account in the clerk's office upon the day of such settlement.
 - (7) Annually, between the first and 15th day of May, make and file with the city clerk, a full and detailed account of all the receipts and expenditures of the city, and of all his transactions as such treasurer during the preceding fiscal year, which statement shall exhibit, under separate and appropriate headings, the state of each of the several funds and the balance in the treasury at the close of the fiscal year; which account the clerk shall immediately cause to be published in a newspaper in this city.
 - (8) The city treasurer shall receive such salary as the city council shall from time to time fix and designate.
- (b) All warrants drawn upon the treasury must be signed by the mayor and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable and the person to whom payable; and no money shall be otherwise paid than upon such warrants so drawn, except as provided by law.

(Ord. No. 11-14, § 3, 5-24-11)

Sec. 2-92. - Reserved.

Editor's note— Ord. No. 08-01, § 2, adopted Jan. 22, 2008, repealed § 2-92, which pertained to comptroller and derived from Ord. No. 97-35, §§ 1, 2, adopted Nov. 11, 1997.

Sec. 2-93. - Reserved.

Editor's note— Ord. No. 11-14, § 1, May 24, 2011, repealed § 2-93, which pertained to finance director and derived from Ord. No. 06-06, § 1, 3-28-06; Ord. No. 08-01, § 1, 1-22-08.

Sec. 2-94. - City administrator.

The position of city administrator is hereby created. The mayor shall appoint the city administrator with the advice and consent of the city council. The administrator shall have the duties more specifically defined below:

- (1) To advise the mayor and city council of recently passed legislation affecting local municipalities;
- (2) Periodically do a needs assessment for the City of Braidwood;
- (3) To assist the mayor and city council in resolving personnel conflicts if and when they occur;
- (4) To assist the mayor and city council with annexation agreements and/or boundary agreements;
- (5) To assist with the development of intergovernmental agreements and projects;
- (6) To assist the mayor and city council with public relations strategies;
- (7) Act as ethics officer when the need arises;
- (8) Listen to concerns of the city residents and refer concerns to proper city personnel;
- (9) Provide all other services as requested by the mayor and/or the city council such as attending professional meetings and developing municipal in-service education programs.

(Ord. No. 05-10, § 1, 11-8-05; Ord. No. 08-01, § 1, 1-22-08)

Sec. 2-95. - Office of purchasing agent established.

There is hereby established in the city, the office of purchasing agent. The purchasing agent shall be appointed by the mayor with the advice and consent of the city council. The term of office of the purchasing agent shall run concurrently with the elective term of the mayor and shall expire on the date that the mayor's term of office expires. Compensation for this office shall be set by the city council. The purchasing agent shall assist the city and the city council with regard to purchasing, contracts, inter governmental grants, the coordination of tax increment financing funds and disbursements, prepare bids, prepare and monitor grants, monitor municipal tax revenue, assist mayor and city administrator with regard to economic growth issues, and oversee marketing and website development. The purchasing agent shall also perform any duties as assigned by the mayor.

(Ord. No. 12-13, § 1, 4-10-12)

Secs. 2-96—2-100. - Reserved.

Subdivision II. - Supervisor of Public Works and Water and Sewer Plant Operator¹⁴¹

Footnotes:

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Editor's note— Ord. No. 08-22, § 1, adopted Aug. 26, 2008, enacted provisions intended for use as art. IV, div. II. To preserve the style of this Code, and at the discretion of the editor, said division was reassigned as art. IV, div. I, subdiv. II.

Section 2-101. - Supervisor of public works.

The position of supervisor of public works is hereby created. The supervisor of public works shall be appointed by the commissioner of streets and public improvements, with the advice and consent of the city council. The supervisor shall perform his ordinary duties as an employee of both the department of streets and alleys and the department of public buildings and property and, in addition to any duties imposed from time to time by the commissioner of streets and alleys or the commissioner of public buildings and property, shall have the following additional duties:

- (1) General supervisory authority over all employees of the department of streets and alleys and the department of public buildings and property;
- (2) Preparing and enforcing the work schedule;
- (3) Authorizing time off, vacations, sick leave, etc., as otherwise provided by ordinance or resolution;
- (4) Preparing weekly time sheets and submitting such time sheets to the proper authority;
- (5) Conducting a safety meeting of approximately one-half hour duration each Monday morning with all employees supervised;
- (6) Attending one city council meeting per month without compensation;
- (7) Arranging for attendance and assignments in emergency situations; and
- (8) Performing his regular duties as a city employee.

(Ord. No. 08-22, § 1, 8-26-08; Ord. No. 13-8, § 1, 4-25-13)

Sec. 2-102. - Water and sewer plant operator.

There is hereby established the position of water and sewer plant operator. The water and sewer plant operator shall be appointed by the commissioner of public buildings and property with the advice and consent of the city council. The water and sewer plant operator and any assistants shall be qualified and certified by the appropriate authority to operate water treatment facilities and sewer treatment facilities. The water and sewer plant operator shall be responsible for the operation and maintenance of the city water supply, water treatment plant and the sewer treatment plant.

(Ord. No. 08-22, § 1, 8-26-08; Ord. No. 13-8, § 2, 4-25-13)

Secs. 2-103—2-120. - Reserved.

DIVISION 2. - BUDGET OFFICER⁵

Footnotes:

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Editor's note— Ord. No. 08-01, § 2, adopted Jan. 22, 2008, repealed Div. 2, §§ 2-101, 2-102, which pertained to supervisor of public works and derived from Ord. No. 94-5A, §§ 1, 2, adopted April 26, 1994. Section 3 of said ordinance renumbered Divs. 3 and 4 as Divs. 2 and 3.

Sec. 2-121. - Office established.

There is hereby established in the city, the office of budget officer. The budget officer shall be the duly elected financial commissioner of the city. The term of office of the budget officer shall run concurrently with the elective term of the finance commissioner and shall expire on the date that the finance commissioner's term of office expires. No additional compensation shall be afforded the finance commissioner for his duties as the budget officer.

(Ord. No. 96-14, § 1, 4-9-96; Ord. No. 08-01, § 1, 1-22-08; Ord. No. 11-14, § 4, 5-24-11)

Sec. 2-122. - Powers and duties.

The budget officer shall have the following powers and duties:

- (1) Permit and encourage the use of efficient planning, budgeting, auditing, reporting, accounting and other fiscal management procedures.
- (2) Compile an annual budget in accordance with 65 ILCS 5/8-2-9.3 and any subsequent amendments thereto.
- (3) Examine all books and records of all city departments, commissions and boards which relate to monies received by the city, city departments, commissions and boards, and paid out by the city, city departments, commissions and boards, debts and accounts receivable and amounts owed by or to the city, city departments, commissions and boards.
- (4) Obtain such additional information from the city, city departments, commissions and boards as may be useful to the budget officer for purposes of compiling a city budget, such information to be furnished by the city, city departments, commissions and boards in the form required by the budget officer. Any department, commission or board which refuses to make such information as is requested of it available to the budget officer shall not be permitted to make expenditures under any subsequent budget for the city, until such city department, commission or board shall comply in full with the request of the budget officer.
- (5) Establish and maintain such procedures as shall ensure that no expenditures are made by the city, city departments, commissions or boards, except as authorized by the budget.

(Ord. No. 96-14, § 2, 4-9-96; Ord. No. 08-01, § 1, 1-22-08)

Secs. 2-123—2-140. - Reserved.

DIVISION 3. - CODE OF ETHICAL CONDUCT^[6]

Footnotes:

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Editor's note— Formerly Division 4. See editor's note at Division 2.

Subdivision I. - Reserved^[7]

Footnotes:

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Editor's note— Ord. No. 08-01, § 2, adopted Jan. 22, 2008, repealed §§ 2-141—2-144, which pertained to Gift Ban Act and derived from Ord. No. 99-14, §§ 1—4, adopted May 25, 1999.

Secs. 2-141—2-144. - Reserved.

Subdivision II. - State Officials and Employees Ethics Act

Sec. 2-145. - Definitions.

For purposes of this division, the following terms shall be given these definitions:

Campaign for elective office means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

Candidate means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

Collective bargaining has the same meaning as that term is defined in section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

Compensated time means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this division, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

Compensatory time off means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

Contribution has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

Employee means a person employed by the City of Braidwood, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

Employer means the City of Braidwood.

Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

Leave of absence means any period during which an employee does not receive (i) compensation for employment, (ii) service, credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

Officer means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

Political activity means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

Political organization means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

Prohibited political activity means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.
- (15) Participating in any recount or challenge to the outcome of any election.

Prohibited source means any person or entity who:

- (1) Is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
- (2) Does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
- (3) Conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
- (4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

(Ord. No. 04-07, § 1, 5-11-04)

Sec. 2-146. - Prohibited political activities.

- (a) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the City of Braidwood in connection with any prohibited political activity.
- (b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).
- (c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.
- (d) Nothing in this section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this division.
- (e) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

(Ord. No. 04-07, § 2, 5-11-04)

Sec. 2-147. - Gift ban.

Except as permitted by this division, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this section.

- (1) *Exceptions.* This section is not applicable to the following:
 - a. Opportunities, benefits, and services that are available on the same conditions as for the general public.
 - b. Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
 - c. Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
 - d. Educational materials and missions.
 - e. Travel expenses for a meeting to discuss business.
 - f. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

- g. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship, In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- h. Food or refreshments not exceeding \$75.00 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- i. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- j. Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- k. Bequests, inheritances, and other transfers at death.
- l. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.00.

Each of the exceptions listed in this section is mutually exclusive and independent of every other.

- (2) *Disposition of gifts.* An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this division if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(Ord. No. 04-07, § 3, 5-11-04)

Sec. 2-148. - Penalties.

- (a) A person who intentionally violates any provision of section 2-142 of this division may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.00.
- (b) A person who intentionally violates any provision of section 2-143 of this division is subject to a fine in an amount of not less than \$1,001.00 and not more than \$5,000.00.
- (c) Any person who intentionally make a false report alleging a violation of any provision of this division to the local enforcement authorities, the state's attorney or any other law enforcement official may be

punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.00.

- (d) A violation of section 2-142 of this division shall be prosecuted as a criminal offense by an attorney for the City of Braidwood by filing in the Circuit Court of Will County any information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

A violation of section 2-143 of this division may be prosecuted as a quasi-criminal offense by an attorney for the City of Braidwood, or, if an ethics commission has been created, by the commission through the designated administrative procedure.

- (e) In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of sections 2-142 or 2-143 of this division is subject to discipline or discharge.

(Ord. No. 04-07, § 4, 5-11-04)

Sec. 2-149. - Reserved.

Sec. 2-150. - Racial or gender profiling.

It shall be unlawful for any employee, including any full-time, part-time or auxiliary police officer, to engage in the practice of racial or gender profiling while in the investigation or enforcement of any laws of the State of Illinois or the city. For purposes of this section, the term "racial or gender profiling" shall mean any action taken during a traffic stop or the enforcement of any law based upon racial, ethnic or gender stereotypes which has the effect of treating that person differently than a non-minority person.

(Ord. No. 00-18, § 1, 7-11-00)

Secs. 2-151—2-175. - Reserved.

ARTICLE V. - BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. - GENERALLY

Secs. 2-176—2-190. - Reserved.

DIVISION 2. - BOARD OF LOCAL IMPROVEMENTS^[8]

Footnotes:

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State Law reference— Authority to provide for appointment, 65 ILCS 5/9-2-7.

Sec. 2-191. - Established.

There is hereby established a board of local improvements of the city consisting of the mayor, and the four commissioners.

(Ord. No. 92-2, 2-25-92)

Secs. 2-192—2-200. - Reserved.

DIVISION 3. - BOARD OF FIRE AND POLICE COMMISSIONERS

Sec. 2-201. - Board established.

There is hereby established in the city the board of fire and police commissioners.

(Ord. No. 98-27, § 1, 11-24-98)

Sec. 2-202. - Duties; powers.

The board of fire and police commissioners shall have such duties and powers as are provided in 65 ILCS 5/10-2.1-1—5/10-2.1-30.

(Ord. No. 98-27, § 2, 11-24-98)

Secs. 2-203—2-204. - Reserved.

Sec. 2-205. – Citizen’s Beautification Committee of Chapter 2 Article V, Division 4 is hereby created on June 8, 2021

(a) CREATION

- (1) The standing committee referred to as the Citizen’s Beautification Committee is hereby created, consisting of three persons to be appointed by the mayor, with advice and consent of City Council.
- (2) The term of office of all Committee members shall be three years with each term expiring on April 30th; but the terms of the first appointees to these positions shall expire on the schedule below in order to provide for staggered terms in the future.
 - (i) Position #1 expires April 30, 2022 (next term May 1, 2022 through April 30, 2025).
 - (ii) Position #2 expires April 30, 2023 (next term May 1, 2023 through April 30, 2026).
 - (iii) Position #3 expires April 30, 2024 (next term May 1, 2024 through April 30, 2027).
- (3) Reappointment shall be at the discretion of the mayor. The members of the Committee shall elect the Chairman and Vice-Chairman on an annual basis.

(b) ORGANIZATION; MEETING.

- (1) The Committee shall hold a meeting at a regular place of meeting at least once a month and at other times at a time and place designated by the Committee. Two members of the Committee shall constitute a quorum.
- (2) All meetings shall be conducted in accordance with the Open Meetings Act
- (3) All meetings shall be open to the public.

- (4) The Chairperson shall provide all members and the City Clerk with a written agenda of these meetings not less than forty-eight (48) hours in advance of the meeting.
- (5) The City Clerk shall be responsible for causing the agenda to be posted for the public.
- (6) Any member missing three (3) meetings without notice to the Chairperson may be automatically removed from the Committee and replaced by the mayor's appointment with advice and consent of City Council. The Committee may have additional members without voting rights.
- (7) The mayor shall appoint one member of the Committee as the Chairperson and the Chairperson shall assign the remaining members as a Vice Chairperson and a Secretary. The Chairperson shall preside over all meetings; the Secretary shall keep minutes of each meeting, a copy of which shall be filed in the City office and the Vice Chairperson shall be responsible for purchasing and the handling of any monies as authorized by the Council.

(c) DUTIES.

The duties of the Committee shall consist of the power and duty to advise the City Council concerning the expenditure of city monies in the promotion of beautification, and more specifically:

- (1) To hold public hearing or to otherwise solicit public participation whenever necessary, with respect to the Committee plan and program for tourism and beautification promotion;
- (2) To make an annual report to the City Council at the time the budget request is submitted including a plan of expenditures based on anticipated transient assessment receipts, and such other reports as from time to time may be requested;
- (3) To recommend to the City Council all programs of any description or variety calculated to enhance the appearance of the city, including but not limited to recommendations for priorities of City action, and changes in both the city or other ordinances adopted by the City Council;
- (4) To recommend to the Council planned purchases and action deemed appropriate to promote beautification in the community;
- (5) To work with appropriate City personnel to establish means to elicit volunteer participation in beautification projects;
- (6) To elicit citizen cooperation in carrying out beautification projects whether on a city wide or localized scale which involve landscaping on public or private property;
- (7) To serve as an advisory body to the City Council and the City Administrator and other City officials in developing plans for projects involving City beautification;

- (8) To request, receive and utilize staff assistance from the City Administration to enable the Committee to carry out its responsibilities;
- (9) TO request, receive and utilize City funds to carry out its responsibilities if;
 - (i) Such requests are submitted in writing to the City Administrator, and
 - (ii) Such requests are accounted for in the City’s annual budget, and any supplement thereto; and
 - (iii) Such requests are approved in writing by the City Administrator
- (10) To receive gifts and donations of any variety from other public or private groups or individuals, which gifts or donations would assist the Committee in carrying out its duties and functions.

(d) APPLICATION, MANAGEMENT AND DIRECTION.

The actual application, management, and direction of the program of beautification promotion planned by the Committee shall be the responsibility of the City Council, various elements of which it may choose to delegate to city officers or others.

(e) FUNDS.

All funds budgeted and appropriated by the city for beautification promotion shall be expended in the same manner as are other city funds.

SECTION 3. SEVERABILITY

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder shall remain and continue in full force and effect

SECTION 4. REPEALER

Any policy, resolution, or ordinance that conflicts with the provisions of this ordinance shall be and is hereby repealed to the extent of such conflict.

SECTION 5. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage, approval, publication, and filing with the City Clerk as provided by law.

PASSED this 8 day of June, 2021 with 3 members voting aye, 0 members voting nay, the mayor voting aye with 0 members abstaining or passing and said vote being:

| | AYE | NSY | ABSTAIN |
|-------------------------|--------|-----|---------|
| | ABSENT | | |
| Commissioner Doug Money | √ | | |

Commissioner James Mikel, Jr. ✓

Mayor Bob Jones ✓

Commissioner Fay Smith ✓

APPROVED THIS 8TH day of June, 2021

(Ord No. 21-10, § 4, 6-8-21)

ARTICLE VI. - FINANCE

DIVISION 1. - GENERALLY

Sec. 2-206. - Fiscal year.

The fiscal year of the city is hereby established as the period commencing on May 1 of a given year and ending on April 30 of the following year.

Secs. 2-207—2-225. - Reserved.

DIVISION 2. - ANNUAL BUDGET

Sec. 2-226. - Compilation.

The city budget officer shall compile a budget. Such budget shall contain estimates of revenues available to the city for the fiscal year for which this budget is drafted, together with recommended expenditures for the city and all of the city's departments, commissions and boards. The budget shall be itemized in a manner consistent with a chart of accounts as may now or in the future be approved by the auditor of public accounts of the state. The budget shall contain actual or estimated revenues and expenditures for the two years immediately preceding the fiscal year for which the budget is prepared. So far as is possible, the fiscal data for such two-year period preceding fiscal years shall be itemized in a form consistent with the chart of accounts approved by the auditor of public accounts for the state. Each budget shall show the specific fund from which each anticipated expenditure shall be made.

(Ord. No. 96-14, § 3, 4-9-96)

Sec. 2-227. - Effect of passage.

Passage of the annual budget by the corporate authorities of the city shall be in lieu of passage of the appropriation ordinances required by 65 ILCS 5/8-2-9. The annual budget shall be published in a manner consistent with 65 ILCS 5/8-2-9.

(Ord. No. 96-14, § 4, 4-9-96)

Sec. 2-228. - Changes.

By a vote of two-thirds of the members of the city council then holding office, the annual budget for the city may be revised by deleting, adding or changing budgeted items. No revision of the budget shall be made increasing the budget if funds are not available to effectuate the purpose of the revision.

(Ord. No. 96-14, § 5, 4-9-96)

Sec. 2-229. - Funds for contingency purposes.

The annual budget may contain money set aside for contingency purposes not to exceed ten percent of the total budget, less the amount set aside for contingency purposes, which monies may be expended for contingencies upon a majority vote of the members of the city council then holding office.

(Ord. No. 96-14, § 6, 4-9-96)

Sec. 2-230. - Adoption.

The annual budget shall be adopted by the mayor and city council on or before April 30 of each year, for the next fiscal year running from May 1 to April 30.

(Ord. No. 96-14, § 7, 4-9-96)

Sec. 2-231. - Publication and hearing.

The city clerk shall make the tentative annual budget conveniently available for public inspection for at least ten days prior to passage of the annual budget, by making a copy of the tentative budget available for inspection at the offices of the city clerk. Not less than one week after the publication of the tentative annual budget, and prior to final action on the budget, the mayor and city council shall hold at least one public hearing on the tentative annual budget. After the hearing, the tentative budget may be further revised and passed without further inspection, notice or hearing. Notice of this public hearing shall be given by publication in a newspaper having general circulation in the city at least one week prior to the date of the hearing.

(Ord. No. 96-14, § 8, 4-9-96)

Secs. 2-232—2-249. - Reserved.

ARTICLE VII. - ADMINISTRATIVE ADJUDICATIVE SYSTEM

Sec. 2-250. - Definitions.

As used in this article, unless the context requires otherwise:

Code means any city ordinance or law, except for (i) building code violations that must be adjudicated pursuant to chapter 22 of this Code and (ii) any offense under chapter 82 of this Code, the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under § 6-204 of the Illinois Vehicle Code.

Hearing officer means a [city] employee or an officer or agent of the [city], other than a law enforcement officer, whose duty it is to:

- (a) Preside at an administrative hearing called to determine whether or not a code violation exists;
- (b) Hear testimony and accept evidence from all interested parties relevant to the existence of a code violation;
- (c) Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and

(d) Issue and sign a written finding, decision, and order stating whether a code violation exists.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-251. - Code hearing division established.

The city hereby adopts division 2.2 — Code Hearing Department, 65 ILCS 5/1-2.2, and all amendments and modifications thereto and establishes a code hearing division within the department of public affairs. The function of the code hearing division is to expedite the production and correction of code violations in the same manner set forth in this article.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-252. - Hearing procedures not exclusive.

This article does not preclude the city from using all other lawful methods to enforce the provisions of its Code.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-253. - Instituting code hearing proceedings.

When a police officer or other individual authorized to issue a code violation finds a code violation to exist, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the defendant, (ii) the type and nature of the violation, (iii) the date and time the violation was observed, (iv) the names of witnesses to the violation, and (v) that the violation will be prosecuted pursuant to chapter 2 article VII of this Code.

The violation report form shall be forwarded to the code hearing department where a docket number shall be stamped on all copies of the report and a hearing date shall be noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 or more than 40 days after the violation is reported.

One copy of the violation report form shall be maintained in the files of the code hearing department and shall be part of the record of hearing, one copy of the report form shall be returned to the individual representing the city in the case so that he or she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one copy of the report form shall be served by first class mail to the defendant along with a summons commanding the defendant to appear at the hearing.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-254. - Subpoenas; defaults.

At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of either party, direct witnesses to appear and give testimony at the hearing. If on the date set for hearing the defendant or his or her attorney fails to appear, the hearing officer may find the defendant in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-255. - Continuances; representation at code hearings.

No continuances shall be authorized by the hearing officer in proceedings under this article except in cases where a continuance is absolutely necessary to protect the rights of the defendant. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this article shall not exceed 25 days. The case for the city may be presented by an attorney designated by the municipality or by any other city employee, except that the case for the city shall not be presented by an employee of the code hearing department. The case for the defendant may be presented by the defendant, his or her attorney, or any other agent or representative of the defendant.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-256. - Hearing; evidence.

At the hearing a hearing officer shall preside, shall hear testimony, and shall accept any evidence relevant to the existence or nonexistence of a code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this article.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-257. - Findings, decision, and order.

At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision, and order. The findings, decision, and order shall include:

- (1) The hearing officer's findings of fact;
- (2) A decision of whether or not a code violation exists based upon the findings of fact; and
- (3) An order that states the sanction or dismisses the case if a violation is not proved.

A monetary sanction for a violation under this [article] shall not exceed the amount provided for in ILCS § 5/1-2-1 of the Illinois Municipal Code, 65 ILCS 5/1-2-1. A copy of the findings, decision, and order shall be served on the defendant within five days after it is issued. Service shall be in the same manner that the report form and summons are served under section 2-253 of this article. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the code, unless the corporate authorities adopting this article provide otherwise.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-258. - Review under administrative review law.

The findings, decision, and order of the hearing officer shall be subject to review in the circuit court of the county in which the municipality is located. The provisions of the administrative review law, and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of the findings, decision, and order of a hearing officer under this article.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-259. - Judgment on findings, decision and order.

- (a) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under

the administrative review law shall be a debt due and owing the [city] and, as such, may be collected in accordance with applicable law.

- (b) After expiration of the period within which judicial review under the administrative review law may be sought for a final determination of the code violation, the municipality may commence a proceeding within the circuit court of the county for purpose of obtaining a judgment on the findings, decision, and order. The city may consolidate multiple findings, decisions, and orders against a person in such a proceeding. Upon commencement of the action, the city shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decisions, and orders was issued in accordance with this article and the applicable city ordinance and state laws. Service of the summons and a copy of the petition may be by any method provided for by § 2-203 of the Code of Civil Procedure, or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions, and costs imposed by the findings, decision, and order does not exceed \$2,500.00. If the court is satisfied that the findings, decision, and order was entered in accordance with the requirements of this article and the applicable city ordinance and that the defendant had an opportunity for a hearing under this article and for judicial review as provided in this article:
- (1) The court shall render judgment in favor of the [city] and against the defendant for the amount indicated in the findings, decision and order, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money.
 - (2) The court may also issue any other orders and injunctions that are requested by the [city] to enforce the order of the hearing officer to correct a code violation.

(Ord. No. 11-13, § 1, 5-24-11)

Sec. 2-260. - Administrative hearing costs.

- (a) There is hereby established a \$20.00 administrative hearing cost established for each case administered by the administrative adjudication system.
- (b) This cost shall be in addition to any fines assessed in the administrative hearing matter.

(Ord. No. 11-40, § 1, 10-11-11)

Secs. 2-261—2-299. - Reserved.

ARTICLE VIII. - BIDDING AND CONTRACT PROCEDURES

Sec. 2-300. - Competitive bidding required.

Any work or other public improvement that is not to be paid for in whole or in part by special assessment or special taxation, and all purchases of and contracts for supplies, materials, and services shall, except as specifically provided herein, be based whenever possible on competitive bids.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-301. - Formal contract procedure.

All work or other public improvement that is not to be paid for in whole or in part by special assessment or special taxation when the estimated cost thereof shall exceed \$20,000.00, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds (2/3) of the commissioners then holding office.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-302. - Advertisements for bids.

A notice inviting bids shall be published at least once in a newspaper with general circulation within the city. The city shall also advertise all pending work or purchases by posting a notice in city hall.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-303. - Scope of notice.

The newspaper notice required herein shall include a general description of the work to be performed or the articles to be purchased, shall state where specifications may be secured, and shall specify the time and place for opening bids.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-304. - Bid deposits.

When deemed necessary by the city council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of their bid deposits upon the award of the contract by the city council. A successful bidder shall forfeit any bid deposit upon failure on his part to enter into a contract within ten days after the award.

Such bid deposit may be in the form of a certified check, bond, or letter of credit in an amount as specified in the advertisement for bids to ensure finalization of the contract and to indemnify the city against all loss, damages, and claims that may accrue against the city as a consequence of the granting of the contract.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-305. - Bid opening procedures.

- (a) *Sealed.* Bids shall be submitted sealed to the city and shall be identified as bids on the envelope.
- (b) *Opening.* Bids shall be opened in public at the time and place stated in the public notice.
- (c) *Tabulation.* A tabulation of all bids received shall be made by the city council or by a city employee in which event a tabulation of the bids shall be furnished to the city council at its next meeting.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-306. - Rejection of bids.

The city, through its corporate authorities, shall have the authority to reject all bids or parts of all bids when the public interest will be served thereby.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-307. - Bidders in default to city.

The city shall not accept the bid of a contractor who is in default on the payment of any taxes, licenses, or other money due the city.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-308. - Award of contract.

- (a) *Authority in city.* The city council shall have the authority to award contracts within the purview of this article.
- (b) *Lowest responsible bidder.* Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interest of the city to accept. In awarding the contract, in addition to price, the city council shall consider:
 - (1) The ability, capacity, and skill of the bidder to perform the contract or provide the services required;
 - (2) Whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (4) The quality of the performance of previous contracts or services;
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 - (7) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
 - (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (9) The number and scope of conditions attached to the bid.
- (c) *Performance bonds.* The city council shall have the authority to require a performance bond, before entering into a contract, in such amounts as it shall find reasonably necessary to protect the best interest of the city and to conform to the statutory requirements for such bonds.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-309. - Open market procedure.

All work and purchases of supplies, materials, and services of less than the estimated value of \$20,000.00 shall be made in the open market, without newspaper advertisement and without observing the procedures prescribed by this article for the award of formal contracts in such a manner so as to ensure the best interest of the public after solicitation of bids on proposals by mail, telephone, facsimile transmission, or otherwise.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-310. - Professional services exempt from bidding requirements.

All contracts for professional services, including, but not limited to, attorneys, engineers, real estate appraisers, and architects, and any other profession whose ethical code involved prohibits or discourages

involvement in normal bidding procedures, may be entered into by the city without observing the bidding procedures prescribed by this article for the award of formal contracts.

Regular employment contracts in the municipal service shall likewise be exempt from the provisions of this article.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-311. - Emergency purchases.

In case of an apparent emergency that requires immediate work or purchase of supplies, materials, or services, the city council shall be empowered to secure by open market procedure as herein set forth, at the lowest obtainable price, any work, supplies, materials, or services regardless of the amount of the expenditure. A finding of such an emergency shall be made in an affirmative vote of at least two-thirds (2/3) of the city council at the time of such emergency contract or no later than the first regular city council meeting thereafter.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-312. - Cooperative purchasing.

The city shall have the authority to join with the other units of government in cooperative purchasing plans when the best interests of the city would be served thereby.

(Ord. No. 13-7, § 1, 3-26-13)

Sec. 2-313. - Construction project bids.

- (a) *Responsible bidders.* "Responsible bidder for construction contracts" means a bidder who meets all of the following applicable criteria, and submits evidence of such compliance:
- (1) All applicable laws prerequisite to doing business in Illinois;
 - (2) Evidence of compliance with:
 - a. Federal employer tax identification number or social security number (for individual).
 - b. Provisions of section 2000(e) of chapter 21, title 42 of the United States Code and federal executive order 11246 as amended by executive order 11375 (known as the equal opportunity employer provisions).
 - (3) Certificates of insurance indicating the following coverage: general liability, workers' compensation, completed operations, automobile, hazardous occupation, product liability, and professional liability.
 - (4) Compliance with all provisions of the Illinois prevailing wage act, including wages, medical and hospitalization insurance and retirement for those trades as covered by the act.
 - (5) Participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.
- (b) *Cost.* The terms and conditions set forth herein shall only apply to the construction of new facilities, renovation of existing facilities and road construction projects that exceed \$20,000.00 in expense.

(Ord. No. 13-7, § 1, 3-26-13)

Chapter 6 - ADVERTISING¹¹

Footnotes:

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Cross reference— Businesses generally, ch. 26.

Sec. 6-1. - Distribution and posting of handbills.

- (a) It shall be unlawful for any person to cast, throw or place in or upon or along any of the streets, alleys or public places in the city any handbills, pamphlets, circulars, books or advertising for the purpose or with the intent of advertising or making known any commercial business, occupation, profession, medical treatment or medicine.
- (b) It shall be unlawful for any person, without the consent of the owner or occupant of the premises, to post up, stick or place any handbill, placard or notice upon any building, wall, fence, telegraph, telephone or electric lightpole, or to mark, scratch, cut or otherwise deface any part of any building or fence.

(Ord. No. 77-17, § 2.050, 10-25-77)

Chapter 10 - ALCOHOLIC BEVERAGES¹¹

Footnotes:

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Cross reference— General penalty for code violations, § 1-8.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

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

Alcohol and alcoholic liquor means any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes.

Club means a corporation organized under the law of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale and consumption of alcoholic liquors which conforms to the definition of a club, as provided by state statute.

Hotel means every building or other structure, kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed for pay and sleeping accommodations are offered for pay to travelers and guests, whether transient or residential, in which ten or more rooms are used for the sleeping accommodations and dining rooms being conducted in the same buildings in connection therewith and such buildings or structures being provided with kitchen and dining room equipment and capacity.

Liquor commissioner means the mayor of the city and/or his designee.

Premises means the building or area described in an application for license where alcohol is served, stored, or sold, and those areas integrally connected to that use.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve such food for its guests.

Retail sale means the sale for use or consumption and for resale.

(Ord. No. 96-20, § 1, 7-23-96)

Cross reference— Definitions generally, § 1-2.

Sec. 10-2. - Penalty for violation of chapter; enforcement.

- (a) Unless otherwise expressly provided, any person convicted of violating any provisions of this chapter shall be fined not less than \$100.00 and not more than \$750.00. Each individual violation shall be deemed to be a separate offense.
- (b) Whenever a person shall neglect or refuse to procure the license required by article II of this chapter, or shall otherwise violate the terms of this chapter, the mayor is authorized to cause appropriate legal action and proceedings to be instituted to enforce the license requirement.
- (c) The clerk shall take all necessary and appropriate action to compel compliance with the regulatory provisions of this chapter. When necessary and expedient, he may call on the chief of police to assist in such enforcement, and it shall be the duty of the chief of police to perform such enforcement acts as may be required of him. All municipal employees duly authorized and acting as license inspectors shall be conservators of the peace with police powers for the purpose of enforcing the provisions of this chapter.

(Ord. No. 96-20, § 26, 7-23-96)

Sec. 10-3. - Sanitary conditions.

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in full compliance with all ordinances and statutes regulating the condition of premises used for the storage or sale of food for human consumption.

(Ord. No. 96-20, § 15, 7-23-96)

Sec. 10-4. - Premises and location restrictions; exceptions.

No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, funeral home, or home for the aged or indigent persons; provided, however, that this section shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on therein.

(Ord. No. 96-20, § 16, 7-23-96)

Sec. 10-5. - Nuisances.

- (a) *Generally.* No business or establishment, issued a license under this chapter shall be so conducted or operated as to constitute a nuisance in fact; and no building, vehicle, structure, yard, lot, premises, or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance, or so as to be dangerous to life or detrimental to health. Any charge of conducting or operating a nuisance may be made under this chapter or under the provisions of city ordinances prohibiting nuisances generally.
- (b) *Unsafe or unhealthful business.* Unsafe or unhealthful business shall mean that:
 - (1) No building or structure utilized, constructed, or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe, or dangerous condition.
 - (2) No substance, matter, or thing of any kind whatever that shall be inherently dangerous or detrimental to health shall be allowed to exist in connection with any business or occupation licensed under this chapter.
- (c) *Refuse disposal.* Refuse disposal shall meet the following standards:
 - (1) *Refuse containers.* The standard refuse container required by this chapter shall be a receptacle of not less than 30-gallon capacity, constructed of impervious and sturdy material, with a tightfitting cover and equipped with handles properly placed to facilitate handling. All refuse placed for collection service outside any building or structure must be kept in standard refuse containers, or in containers of a larger size meeting the same standards expressed in this subsection (c)(1), unless another type of container is approved by the liquor commissioner in writing due to the nature of the refuse produced by the business.
 - (2) *Refuse removal.* It shall be the duty of the occupant of every building, structure, or premises used or maintained in connection with any business or occupation to cause to be removed at his own cost and expense at least twice each week all refuse produced therein.
 - (3) *Removal of refuse by some businesses or occupations.* Every person owning or controlling any hotel, restaurant, cafe, retail food establishment, or other business or occupation licensed under this chapter, where more than 64 gallons of refuse are normally produced weekly shall cause all substances deposited in such containers to be removed as often as shall be necessary, including daily removal from the premises if needed, to ensure the healthful environment surrounding such establishment. Such removal shall be at the person's own expense.

(Ord. No. 96-20, § 17, 7-23-96)

Sec. 10-6. - Premises conditions.

- (a) *Safety and comfort requirements.* No owner, lessee, manager, or superintendent of any store, or other place licensed under this chapter shall allow or cause any room or part of a room to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.
- (b) *Sanitation.* All such places of employment shall be kept in a clean condition, free from the effluvia of a sewer, drain, privy, stable, or other nuisance; also, as far as practicable, such premises shall be free from all gases, vapors, dust, or otherwise that are injurious to health. Sufficient washroom facilities for all employees and patrons shall be provided, and such facilities shall be properly ventilated.
- (c) *Heat required.* It shall be the duty of every person owning or controlling the heating plant that furnishes heat to any establishment licensed hereunder to maintain a temperature when workers or patrons are present of not less than 68 degrees Fahrenheit or 20 degrees Celsius without such undue restriction of ventilation as to interfere with proper sanitary conditions therein.
- (d) *Inspection.* The appropriate city officials, including police officers in the performance of their duties, shall visit or cause to be visited all such places possessing liquor licenses as often as they shall deem necessary to ensure compliance with the provisions of this section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees and patrons thereof.

(Ord. No. 96-20, § 18, 7-23-96)

Sec. 10-7. - Businesses open to public.

All establishments licensed under this chapter that invite the public generally into their establishments shall be subject to the following regulations, in addition to all other applicable provisions of this Code:

- (1) All areas within the licensed premises where the public may enter shall be kept in a safe and sanitary condition.
- (2) All establishments subject to this section shall refrain from all deceptive trade practices as defined by state or federal law or regulation and shall comply with all applicable laws and regulations regarding consumer protection and deceptive trade practices. In the event of any such violation, the liquor and business license of the establishment may be revoked pursuant to the provisions of article II of this chapter.
- (3) It shall be unlawful to employ in any premises licensed under this chapter any person who the employer knows or should have known, based on reasonable observation, was afflicted with, or who is a carrier of, any contagious or infectious disease that may be transmitted through casual contact, and it shall be unlawful for any person who knows or should have known that he was afflicted with or a carrier of any such disease to work in or about any such premises.

(Ord. No. 96-20, § 19, 7-23-96)

Sec. 10-8. - Closing hours.

- (a) It shall be unlawful to sell or offer for sale at retail or to give away in or upon any licensed premises any alcoholic liquor after the hour of 1:00 a.m. and before the hour of 6:00 a.m. on each and every Monday, Tuesday, Wednesday, Thursday and Friday, except as provided in this section, nor after the hour of 2:00 a.m. and before the hour of 6:00 a.m. on each and every Saturday and Sunday, except as provided in this section.
- (b) On the following holidays: January 1 of each year, St. Patrick's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day, it shall be lawful to sell or offer for sale at retail or to give away in or upon any class A or B licensed premises any alcoholic liquor until 4:00 a.m. on any day of the week that the holiday falls upon. For purposes of this subsection, if the aforementioned holidays are celebrated on different days by the state and the United States of America, the extended hours stated in this subsection shall apply to both designated days.
- (c) No licensee shall sell, offer for sale or deliver any alcoholic liquor after the closing hour. After the closing hour all doors directly opening into or out of the licensed premises shall be securely locked and no patrons, customers or persons shall be allowed into the premises. All premises shall be vacated within 20 minutes after the closing hour.
- (d) Licensed premises that remain open for another primary business, such as restaurants, grocery stores, gas stations, bowling alleys and hotels, may be kept open during closing hours provided that no alcoholic liquor may be sold to or consumed during the closing hours and provided that no patrons are seated at or allowed to remain at a bar.
- (e) All licensees shall be required to allow police officers into the licensed premises after the closing hour in order to determine compliance with this chapter.

(Ord. No. 96-20, § 20, 7-23-96; Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-9. - Interior lighting requirements of premises.

All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial light so that all parts of the interior of the premises shall be clearly visible.

(Ord. No. 96-20, § 21, 7-23-96)

Sec. 10-10. - Dispensing or consumption of liquor after hours.

- (a) After any liquor dispensing establishment, including any tavern, club, restaurant or package liquor retail outlet, is required to close for any particular business day, the owners, operators and employees of the liquor dispensing establishment shall cause no sale or transfer of any kind of alcoholic beverage or soft drink to be made, and shall further prevent any other person from making a sale or transfer of any alcoholic beverage or soft drink.
- (b) The owners, managers, and employees shall not allow any person, including themselves, patrons, or anyone else at the liquor dispensing establishment to consume any alcoholic beverage or soft drink after the liquor dispensing establishment is required to close pursuant to section 10-8.
- (c) After the hour of closing required of the liquor dispensing establishment under section 10-8, no owner, manager, or employee of any liquor dispensing establishment shall allow any patron of the liquor dispensing establishment to remain on the premises of the establishment. For purposes of this Code, liquor dispensing establishments include, but are not limited to, taverns, clubs and restaurants possessing a license to offer for sale alcoholic beverages under section 10-41 and package liquor stores.
- (d) None of the provisions of this section shall prevent a restaurant possessing a liquor license from remaining open for business after the hours allowed for dispensing and sale of liquor for the sole purpose of offering, selling and serving food and nonalcoholic beverages.

(Ord. No. 96-20, § 22, 7-23-96)

Sec. 10-11. - Inspections.

- (a) The possession of a license issued under this chapter acts as the implied consent of an operator of an establishment so licensed to inspection of the premises of the establishment at any time without notice. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this Code, or any ordinance, or are reasonably necessary to ensure compliance with the provisions of any ordinance or regulation of the municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto for the purpose of making the inspection any officer or employee of the municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.
- (b) In addition to any other penalty that may be provided, the mayor may revoke under the provisions of this chapter the license of any owner or operator of a licensed business in the municipality who refuses to permit any duly authorized officer or employee to make such inspection or who interferes with such officer or employee while in the performance of those duties.

(Ord. No. 96-20, § 23, 7-23-96)

Sec. 10-12. - Prohibited acts designated.

- (a) It is unlawful for any person under 21 years of age to draw, pour, mix or serve any alcoholic liquors as an employee of any licensee, and further it is unlawful for any person under 21 years of age at any time to attend any bar and draw, pour, mix or serve any alcoholic liquors in any licensed premises.

However, any person who has attained the age of 18 years or older, but has not attained the age of 21 years, may serve alcoholic liquors in a restaurant or other establishment which holds a liquor license to patrons who have ordered or intend to order food, so long as the person is employed by the establishment for the principal purpose of serving food to patrons, and further, so long as the principal function of the establishment is the service of food to patrons. Persons under the age of 21 years shall not be allowed to serve to patrons who do not intend to order food, nor shall they be allowed to draw, pour or mix alcoholic beverages or tend bar.

- (b) No person under the age of 21 years shall, for the purpose of buying, accepting or receiving alcoholic liquor from a licensee, represent that he is 21 years of age or over.
- (c) Any person to whom the sale, gift or delivery of alcoholic liquor is prohibited because of age shall not purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his possession. This subsection shall not prevent any person who has attained the age of 18 from serving alcoholic liquors while in the course of his employment by and on duty under any employer licensed to sell alcoholic beverages.
- (d) If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the nonage of the prospective recipient, they shall, before making such sale or delivery, demand presentation of some form of positive and legitimate identification, containing proof of age, issued by a public officer in the performance of his official duties. No delivery shall be made unless it is placed in the hand of a person of an age to purchase legally the delivered alcoholic liquor.
- (e) No person shall transfer, alter or deface such identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section. Alcoholic liquor shall not be consumed by any person under 21 years of age.
- (f) The possession and dispensing, or consumption, by anyone under 21 years of age, of alcoholic liquor in the performance of a religious service or ceremony is not prohibited by this section.
- (g) No person shall possess any alcoholic liquor in any open or unsealed container in any parking lot designated by a tavern or other liquor dispensing establishment for patrons' parking, or upon the sidewalk or street or any grounds adjacent to the building wherein the tavern or liquor dispensing establishment is located.
- (h) No licensee or his agents or employees shall allow any person under the age of 21 years into a liquor dispensing establishment owned or operated by him or his agents or employees, except that a liquor dispensing premises shall allow persons under the age of 21 years upon the premises where the licensee is actively engaged in operating the premises for the purpose of dispensing and selling food to the patrons of the premises. However, that a licensee or his agents may, in the exercise of sound discretion, allow a person under the age of 21 years into a liquor dispensing establishment if he is accompanied by his parent so long as the parent has attained the age of 21 years. In any case, no licensee or his agent or employee may allow a person who has not attained the age of 21 years to sit or stand at a bar where liquor is being served.
- (i) No person who has not attained the age of 21 years shall enter or remain in a liquor dispensing establishment unless he is accompanied by his parent and the parent has attained the age of 21 years. In any case, no person who has not attained the age of 21 years may sit or stand at a bar where liquor is being served.
- (j) No licensee or his agents or employees shall permit any person, while on the premises and in public view, to expose his or her genitals, pubic hair, buttocks, anus, or anal cleft; or employ any device or covering which is intended to give the appearance of or simulate his or her genitals, pubic hair, buttocks, anus, or anal cleft; or appear without a fully opaque covering of his or her genitals, pubic hair, buttocks, anus, or anal cleft, nor shall they permit any female person, while on the premises and in public view, to expose that area of the human breast below the top of the areola; or employ any device or covering which is intended to give the appearance of or simulate that area of the human breast below the top of the areola; or appear without a fully opaque covering of that area of the human breast below the top of the areola.

- (k) No person, while on the premises and in public view, shall engage in the following conduct: Expose his or her genitals, pubic hair, buttocks, anus or anal cleft; or employ any device or covering which is intended to give the appearance of or simulate his or her genitals, pubic hair, buttocks, anus, or anal cleft; or appear without a fully opaque covering of his or her genitals, pubic hair, buttocks, anus, or anal cleft. No female person, while on the premises and in public view, shall engage in the following conduct: expose that area of the human breast below the top of the areola; or employ any device or covering which is intended to give the appearance of or simulate that area of the human breast below the top of the areola; or appear without a fully opaque covering of that area of the human breast below the top of the areola.
- (l) Every licensee shall immediately report to the police any act by any person or patron rendering himself or herself objectionable, causing undue noise or disturbance, breach of peace, unusual conduct, or a person with a firearm, knife, bludgeon or deadly instrument.
- (m) A licensee shall immediately report to the police a violation of any city ordinance, Illinois statute or federal law occurring in the licensed premises, or outside the licensed premises, but adjacent thereto, involving the conduct of his business or patrons.

(Ord. No. 96-20, § 25, 7-23-96; Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-13. - Appeal; hearing.

Any person aggrieved by the decision of the mayor in regard to the denial of an application for a license, as provided in article II of this chapter, or in connection with the revocation of a license, or the closing of an establishment dangerous to the public, as provided in this chapter, shall have the right to appeal to the corporate authorities. Such appeal shall be taken by filing with the clerk, within ten days after the notice of a denial of an application or a revocation of a license, a written statement under oath setting forth specifically the grounds for appeal. The corporate authorities shall thereupon set the time and place for a hearing on such appeal, and the notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in section 10-55. The decision of the corporate authorities on such appeal shall be final.

(Ord. No. 96-20, § 28, 7-23-96)

Sec. 10-14. - Minors.

- (a) No person under the age of 21 years shall consume, purchase or accept delivery of alcoholic liquor or have alcoholic liquor in his or her possession, excepting the possession and dispensing, or consumption by a person under the age of 21 years of alcoholic liquor in the performance of a religious service or ceremony, the consumption by a person under the age of 21 years under the direct supervision and approval of the parent or legal guardian of such underage person in the privacy of the parent's or guardian's home, or the possession and delivery of alcoholic liquors in pursuit of a person's employment by a licensee as allowed by state law.
- (b) No person shall sell, give or deliver such alcoholic liquor to a person under the age of 21 years, except as allowed in paragraph (a) above.
- (c) It shall be unlawful for any person under the age of 21 years to use false identification or the identification of another to obtain admittance to or to obtain alcoholic liquor from any liquor establishment.
- (d) It shall be unlawful for any person to sell, give or furnish any person under the age of 21 years any identification which is used by any other person for the purpose of gaining entrance into a liquor establishment or which is used for the purpose of purchasing or attempting to purchase any alcoholic beverage.

- (e) It shall be unlawful for any person to employ or permit the employment of any person under the age of 21 years in any licensed premises where alcoholic liquor is sold where that person is involved in the sale or delivery of alcoholic liquor. Persons under the age of 21 may be employed in any licensed premises where their employment does not require them to sell, accept money for, check identification for, or serve alcoholic liquor.
- (f) It shall be unlawful for any owner or occupant of any premises to knowingly allow any person under the age of 21 years to violate any provisions of this chapter.
- (g) It shall be unlawful for any parent or guardian to knowingly suffer or permit any person under the age of 21 years of which he may be the parent or guardian to violate any provisions of this chapter.

(Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-15. - Teen dances.

- (a) It shall be unlawful for any licensee to conduct or allow a teen dance on any part of a licensed premises at any time during the period for which a liquor license is issued to those premises.
- (b) For the purposes of this section a teen dance is any dance or party which restricts admissions to persons under the age of 21 or under any other age less than 21 years of age.
- (c) This section shall not prohibit any teen dance operated by any unit of government, any school located within the City of Braidwood, or any religious organization whose church or religious facility is located within the City of Braidwood.

(Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-16. - Entertainment.

- (a) Contact sporting entertainment or events (such as boxing, kick boxing, wrestling, mud wrestling, jello wrestling) between humans, between animals, or between humans and animals are prohibited in any premises licensed for the sale of alcoholic liquor.
- (b) Non-contact sporting entertainment or events (such as, darts, bowling, pinball machines and video games) are permitted in any premises licensed for the sale of alcoholic liquor provided that the machines are properly licensed.
- (c) Entertainment such as live or recorded music, dancing, disc jockeys, comedians, plays and theater are permitted in any premises licensed for the sale of alcoholic liquor upon the approval of the local liquor control commission.
- (d) Fashion shows and lingerie shows are prohibited in any premises licensed for the sale of alcoholic liquor except where such shows are restricted to viewing by patrons who have previously purchased a ticket off the premises and the price of the ticket includes a charge for a meal which is served to all the patrons.

(Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-17. - Open view into licensed premises.

Each licensed premises shall have an unobstructed window from which the interior of the premises can be observed from the outside by a police officer. Such window must remain unobstructed during open and closed hours.

(Ord. No. 00-19, § 1, 8-8-00)

Secs. 10-18—10-40. - Reserved.

ARTICLE II. - LICENSES

Sec. 10-41. - Liquor license required.

- (a) It shall be unlawful to sell or offer for sale in the city any alcoholic liquor without having been issued a license under this chapter, or in violation of the terms of such license.
- (b) No alcoholic beverage shall be sold, offered for sale, kept for sale, displayed, advertised for sale at retail, or delivered to any person, except at the location, place or premise described in a liquor license. All alcoholic beverages shall be sold and consumed inside of the licensed premises and not outside of any building on the licensed premises except where specific approval has been obtained for a "beer garden" or other similar outdoor seating area.

(Ord. No. 96-20, § 2, 7-23-96; Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-42. - Application; contents.

Applications for such licenses shall be made to the liquor commissioner in writing on a form approved by him, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a club or corporation, verified by oath or affidavit, and shall contain the following statements and information:

- (1) The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and if a majority interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person.
- (2) The citizenship of the applicant, his place of birth, and if a naturalized citizen, the date and place of his naturalization. Resident aliens must supply proper documentation of that status as provided by the federal Immigration and Naturalization Service.
- (3) The type of business of the applicant is or intends to engage in, and in the case of a corporation, the objects for which it was formed.
- (4) The length and time the applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.
- (5) The location and description of the premises or place of business which is to be operated under such license.
- (6) A statement whether the applicant has ever made application for a municipal, county, state or federal license which was refused, and if so, the reason for such refusal to the best of the applicant's knowledge.
- (7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the laws of this state or this chapter.
- (8) Whether a previous license by any state or subdivision of a state, or by the federal government has been revoked, and the reasons.
- (9) A statement that the applicant will not violate any of the laws of the state, or of the United States, or any ordinance of the city in the conduct of his place of business.
- (10) The applicable fee shall be paid as provided in section 10-49.
- (11) The number of the certificate of registration required under the Retailer's Occupation Tax Act, the Service Occupation Tax Act and/or the Use Tax Act, if applicable.

- (12) Such additional information as may be needed by the liquor commissioner in the evaluation of such application, including proof of any insurance policy or bond required by this ordinance or by state statute.

(Ord. No. 96-20, § 3, 7-23-96)

Sec. 10-43. - Evidence of insurance required for operators of dram shops.

- (a) Before any liquor license shall issue, the applicant for such license shall satisfy the liquor commissioner that he has provided adequate dram shop insurance, providing adequate coverage to protect the licenseholder from legal liability arising under and by virtue of the provisions of chapter 235 of the Illinois Compiled Statutes, as are in effect on the date of the application.
- (b) Evidence of compliance with this section shall consist of the filing of a certificate of insurance with the liquor commissioner.

(Ord. No. 96-20, § 4, 7-23-96)

Sec. 10-44. - Photographs to accompany application.

All applications for licenses required by this chapter shall be accompanied by photographs of the applicant, if an individual and a manager, if the applicant is a corporation. In addition, the application shall be accompanied by photographs of all bartenders to be employed by the applicant, or so many as are known at the time of the application.

(Ord. No. 96-20, § 5, 7-23-96)

Sec. 10-45. - Restrictions on issuance.

No license shall be issued to:

- (1) A person who is not of good character and reputation in the community in which he resides.
- (2) A person who has been convicted of a felony.
- (3) A person who has been convicted of being the keeper or is keeping a house of prostitution.
- (4) A person who has been convicted of pandering or other crime of misdemeanor regulating public decency, health, safety and morality.
- (5) A person whose license under this chapter has been revoked for cause.
- (6) A person who at the time of application for renewal of any license issued under this chapter would not be eligible for such license upon a first application.
- (7) A copartnership, unless all of the members of such are eligible to receive a license.
- (8) A corporation, if any officer, manager or director of a corporation, or any stockholders owning, in the aggregate, more than five percent of the stock of such corporation, would not be eligible to receive a license under this chapter for any reason.
- (9) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee.
- (10) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or who shall have forfeited his bond to appear in court to answer charges for any such violation.

- (11) A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.
- (12) Any person not eligible for a state retail liquor dealer's license.

(Ord. No. 96-20, § 6, 7-23-96)

Sec. 10-46. - Examination of applicant.

- (a) The liquor commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a liquor license or renewal of such license, or any licensee upon whom notice of revocation or suspension has been served, as provided by ordinance, and to examine or cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof of his information in the performance of his duties. The liquor commissioner shall make or cause to be made all necessary investigations and inspections.
- (b) The applicant for a liquor license shall be fingerprinted and a complete set of fingerprints maintained on file with the police department. In case of corporations or other forms of business ownership, all persons having an ownership interest of five percent or more and the manager or person in charge shall be fingerprinted. The local liquor control commissioner may issue a temporary liquor license pending a full and complete report on the fingerprints of the applicant. In the event that the fingerprints check reveals information that the local liquor control commissioner determines to be detrimental or was omitted from the application, the local liquor control commissioner may immediately revoke such temporary liquor license without notice and without a public hearing.

(Ord. No. 96-20, § 7, 7-23-96; Ord. No. 00-19, § 1, 8-8-00)

Sec. 10-47. - Approval; disapproval.

- (a) If, after due consideration of the information contained within the application and related investigative and inspection reports, the liquor commissioner shall determine that the applicant is satisfactory, he shall approve the application. Thereupon, the city clerk shall notify the applicant that the application has been approved. The liquor license shall be signed by the mayor, attested to by the clerk, and then issued to the licensee.
- (b) If, after due consideration of the information contained in the application and related investigative and inspection reports, the liquor commissioner shall determine that the matters concerning the application are unsatisfactory, he shall disapprove the application, indicating the reasons therefor. Thereupon, the city clerk shall notify the applicant that the application has not been approved and that no liquor license will be issued.

(Ord. No. 96-20, § 8, 7-23-96)

Sec. 10-48. - Term; expiration; renewal.

- (a) Each license shall indicate its term. The term of all class A, B, C and D liquor licenses shall commence on January 1 of each year. No license shall be granted for a period of longer than one year. Except where otherwise provided in this article, every license shall expire on December 31 following the date of issuance.
- (b) The city clerk shall endeavor to notify each annual licensee of the expiration of time of the license held by the licensee at least 21 days prior to the expiration date; provided, however, that failure to make such notification or the licensee's failure to receive it shall not exclude the licensee from the obligation to obtain a new license or a renewal.

- (c) Except as otherwise provided in this article, each license may be renewed upon proper application and payment of the required fee. The requirements and procedures for granting and issuing a license renewal shall be the same as the requirements and procedures for granting a new license.

(Ord. No. 96-20, § 9, 7-23-96)

Sec. 10-49. - Classes; fees.

- (a) Class A licenses shall permit the sale of alcohol for consumption on the premises where sold and the sale of alcohol in its original packaging for consumption off the premises. The fee for such license shall be \$ 1,500.00 per year.
- (b) Class B licenses shall permit the sale of alcohol for consumption on the premises where sold only. The fee for such license shall be \$ 1,200.00 per year.
- (c) Class C licenses shall permit the sale of alcohol in original packages for consumption off the premises only. The fee for such license shall be \$ 1,500.00 per year.
- (d) Class D licenses shall permit the sale of beer and wine only in its original packages for a consumption off the premises where sold. The fee for such license shall be \$1,100.00 per year.
- (e) Class E licenses shall permit the sale of alcohol by civic, charitable, governmental or other not-for-profit organizations on specified premises or areas defined in the license for a period of not to exceed five consecutive days. The fee for such license shall be \$75.00 for each license. No more than two Class E licenses may be issued to any organization in any 12-month period.
- (f) Class F licenses shall permit the sale of wine in its original packaging for consumption off the premises where sold in connection with the preparation and sale of what is commonly referred to as gift baskets consisting of fruit, nuts, cheeses, flowers, or other similar items where the wine is not the primary product being sold with the gift basket. The fee for such license shall be \$350.00 per year.
- (g) Class G licenses shall permit the sale of beer and wine only on the premises where sold, in an outdoor "beer garden" as hereinafter described. A Class G license may be issued only to a person or business entity also holding a Class A, Class B or Class G license, shall be applied for separately and a separate fee shall be paid for the Class G license. A Class G license shall not be issued for any premises within 150 feet of a residence, and shall permit sale in the "beer garden" only between the hours of 11:00 a.m. and 9:00 p.m. A "beer garden" shall be an area behind or beside a building for which a Class A, B or D license has been issued, fully enclosed by a solid fence not less than six feet in height, which may not be entered except through the building, with an emergency exit operable only from within the fence. No music or other entertainment shall be permitted within a "beer garden" which may be heard at a distance of more than 75 feet from the fenced area. Any lighting in the "beer garden" shall not be permitted to fall or project into adjacent property owned by any person other than the licensee, and shall not flash or move in any manner. Every Class G license shall be issued on the express condition that it may be suspended and the operation of the "beer garden" shut down on one-hour's notice by the liquor commissioner or by any city police officer for excessive noise if, after one warning, the licensee fails to curtail the disturbing noise. Any Class G licensee whose license has been so suspended shall be entitled to a hearing before the liquor commissioner within ten days of request to show cause why the Class G license should be reinstated. The fee for such license shall be \$500.00 per year, in addition to any other license fee imposed by this section.
- (h) All license fees shall be paid in full at the time of application. If a civic, charitable, governmental, or other not-for-profit licensee ceases to engage in the sale of alcohol prior to the expiration of a license, except when that license has been suspended revoked for any reason, the licensee may apply to the liquor commissioner for refund of a pro rata portion of the license fee for the unexpired term of the license. However, no licensee or any person or business entity associated with the licensee who has received a refund of any portion of a license fee pursuant to this paragraph may receive another liquor license without repaying to the city the full amount of the refund received.

(Ord. No. 96-20, § 10, 7-23-96; Ord. No. 03-15, § 2, 9-9-03; Ord. No. 05-11, § 1, 11-8-05; Ord. No. 08-02, 3-25-08; Ord. No. 09-10, § 1, 12-8-09; Ord. No. 12-19, § 1, 6-12-12)

Sec. 10-49.1. - Limitation on number of licenses.

The maximum number of licenses to be issued in each class shall be as follows:

| Class | Description | Number |
|-------|---|----------|
| A | Consumption on premises and package sales | 6 |
| B | Consumption on premises only | 5 |
| C | Package sales only | 7 |
| D | Package sales only of beer and wine | 5 |
| E | Temporary license | No limit |
| F | Gift baskets | 3 |
| | Total | 26 |

(Ord. No. 02-10, § 1, 10-22-02; Ord. No. 03-3, § 1, 3-11-03; Ord. No. 05-11, § 2, 11-8-05; Ord. No. 07-01, § 1, 3-27-07; Ord. No. 2015-05, § 1, 6-23-15)

Sec. 10-50. - Recordkeeping.

The city clerk shall keep a complete record of all such licenses issued and shall furnish the chief of police with a copy. Upon revocation or suspension of any license, the city clerk shall immediately give written notice to the chief of police.

(Ord. No. 96-20, § 11, 7-23-96)

Sec. 10-51. - Transfer.

A license shall be a purely personal privilege, good for not to exceed one year after issuance unless sooner revoked as provided in section 10-55, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or pledged to secure indebtedness. Such license shall cease upon the death of the licensee or in the event of a corporate or partnership license, upon the dissolution of such entity, and shall not descend by the laws of the testate or intestate devolution, provided that executors or administrators of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, the estate may continue the business of

the sale of alcoholic liquor under the order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but in no event longer than six months after the death, bankruptcy or insolvency of such licensee.

(Ord. No. 96-20, § 12, 7-23-96)

Sec. 10-52. - Change of location.

A license issued under this chapter shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon application and a written permit to make such change being issued by the liquor commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the terms of this chapter.

(Ord. No. 96-20, § 13, 7-23-96)

Sec. 10-53. - Renewal.

Any licensee may apply to renew his license before the time of expiration, provided that he is then qualified to receive a new license and the premises for which such renewal license is sought are suitable for such purpose; provided, however, that the renewal privilege provided in this section shall be construed so as to prevent the liquor commissioner and city council from decreasing the number of liquor licenses to be issued in an effort to prevent the renewal of a qualified renewal applicant's liquor license.

(Ord. No. 96-20, § 14, 7-23-96)

Sec. 10-54. - Posting, destruction and removal.

- (a) It shall be the duty of any person conducting business licensed under this chapter to keep his license displayed at all times in a prominent place on the premises used for such business.
- (b) No person shall destroy, obliterate, take, remove, or carry away without the consent of the owner any license, certificate, plate, or sticker that has been issued by the municipality except when such license, certificate, plate, or sticker has been discontinued or the licensed premises has been abandoned. Nothing in this section shall prevent the mayor or his duly authorized representative from removing any license, certificate, plate or sticker from the possession of a former licensee and his premises, when such license has been revoked under the provisions of this Code.

(Ord. No. 96-20, § 24, 7-23-96)

Sec. 10-55. - Suspension and revocation.

- (a) The local liquor control commissioner may revoke or suspend any license upon the determination that the licensee has violated any of the provisions of the Liquor Control Act of 1934, any ordinance of the city, any rule or regulation of the local liquor control commissioner, or any rule or regulation of the Illinois Liquor Control Commission.
- (b) Notice of charges, the conduct of hearings, and penalties shall conform to the requirements of the Liquor Control Act of 1934.
- (c) All proceedings before the local liquor control commissioner shall be taken and prepared by a certified court reporter. Any appeal from such proceedings shall be limited to a review of the official record of proceedings of the local liquor control commissioner.

(Ord. No. 96-20, § 27, 7-23-96; Ord. No. 99-32, § 1, 12-14-99)

Chapter 14 - AMUSEMENTS AND ENTERTAINMENTS¹¹

Footnotes:

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Cross reference— Businesses generally, ch. 26.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-30. - Reserved.

ARTICLE II. - AMUSEMENT CENTERS

DIVISION 1. - GENERALLY

Sec. 14-31. - Definitions.

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:

Amusement center means a place or establishment where a pool table, pingpong table, or amusement device is provided for the use of customers and patrons of such place.

Amusement device means any type of manual, electronic or mechanical game or machine operated as a game or contest of skill or for amusement.

School means as defined in 105 ILCS 5/1-3, which operates within the confines of Reed-Custer Unit District 255-U.

(Ord. No. 82-11, § 2, 9-14-82)

Cross reference— Definitions generally, § 1-2.

Sec. 14-32. - Inspection.

The chief of police, any police officer, the mayor, or any person duly authorized by him shall have full and free access to the licensed premises at any time for the purpose of inspecting the licensed premises.

(Ord. No. 82-11, § 4, 9-14-82)

Sec. 14-33. - Prohibited uses.

- (a) No spirituous, malt liquors or other alcoholic beverages of any kind or description shall be kept, sold, used, consumed, or permitted upon the licensed premises, except in those places that are also licensed under provisions of chapter 10.
- (b) No gambling or wagering shall be permitted upon the licensed premises except as permitted under section 14-50 of this chapter.
- (c) No illegal or unlawful activity shall be permitted upon the premises.

(Ord. No. 82-11, § 5, 9-14-82; Ord. No. 12-22, § 1, 6-26-12)

Sec. 14-34. - Hours of operation.

- (a) No amusement center located in any establishment or place licensed to serve alcoholic liquor pursuant to chapter 10 shall be open or shall allow any person to operate or use a pool table, a pingpong table, or an amusement device during the hours during which sales of alcoholic liquor are prohibited.
- (b) No amusement center shall allow a person of less than 18 years of age to be present upon the premises or operate a pool table, a pingpong table or an amusement device during the curfew hours specified in section 58-206.
- (c) No amusement center shall allow a person of less than 18 years of age to be present upon the premises or operate a pool table, a pingpong table or an amusement device between the hours of 8:00 a.m. and 3:30 p.m. on any day in which any public, parochial or private school is in session.

(Ord. No. 82-11, § 6, 9-14-82)

Sec. 14-35. - Supervision required.

At all times an amusement center is open or in use there shall be one responsible person of at least 20 years of age, who is also an employee of the amusement center, to supervise and enforce the regulations applicable to such use.

(Ord. No. 82-11, § 7, 9-14-82)

Sec. 14-36. - Exceptions.

This article is not intended to license pool tables or billiard tables licensed under the provisions of article III of this chapter.

(Ord. No. 82-11, § 8, 9-14-82)

Sec. 14-37. - Penalty for violation of article.

Any person violating any provision of this article shall be subject to punishment as provided in section 1-8 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. This penalty shall be in addition to the revocation provisions of section 14-58.

(Ord. No. 82-11, § 10, 9-14-82)

Secs. 14-38—14-49. - Reserved.

Sec. 14-50. - Licensed video gaming.

- (a) *Licensed video gaming exemption.* The prohibitions of this chapter and any other chapter or section of this Code that may reference or govern gambling shall not apply to any video gaming terminal that has a valid video gaming terminal permit sticker and is being operated by a licensed establishment that has a valid city video gaming establishment license and is in full compliance with this section.
- (b) *Definitions.*

- (1) *Licensed establishment.* Any establishment that is both licensed to sell liquor at retail, (bar only), in the city under chapter 10 of this Code and licensed by the state gaming board to operate a video gaming terminal on its premises.
 - (2) *Video gaming terminal.* Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.
- (c) *Video gaming establishment license.* In order for a licensed establishment to operate a video gaming terminal, the licensed establishment is required to obtain an annual video gaming establishment license from the city by submitting a written application, on a form provided by the city, to the mayor or the party designated by him/her. The burden is upon each applying licensed establishment to demonstrate its suitability for licensure. All video gaming establishment licenses issued to the city shall expire April 30, next, after date of issue, with an annual license fee of \$150.00 payable in full at the time the application is filed with the city. A license shall be purely a personal privilege, good for a time period not to exceed one year after issuance, unless sooner revoked as provided by law, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered.
- (d) *Video gaming terminal permit sticker.* In order for a video gaming terminal to be operated at a licensed establishment, the licensed establishment is required to obtain an annual video gaming terminal permit sticker from the city for each video gaming terminal located on its premises by submitting a written application, on a form provided by the city, to the mayor or the party designated by him/her. Each video gaming terminal permit sticker issued by the city shall expire April 30, next, after date of issue, with an annual fee of \$25.00 per video gaming terminal payable in full at the time the application is filed with the city.
- (e) *Regulations governing licensed establishments operating video gaming terminals.* The following regulations apply to all licensed establishments operating a video gaming terminal on its premises with a valid gaming establishment license and valid video gaming terminal permit stickers for each of its video gaming terminals:
- (1) A valid city video gaming establishment license must be clearly displayed at all times.
 - (2) A valid city video gaming terminal permit sticker shall be clearly displayed at all times on each video gaming terminal.
 - (3) No more than six video gaming terminals may be located on the licensed establishment's premises.
 - (4) Other than having up to five video gaming terminals with valid video gaming terminal permit stickers, a licensed establishment is prohibited from having, anywhere on its premises, an electronic video gaming machine that may be available to play or simulate the play of poker, line up, blackjack, faro, roulette, craps, slots, or any other card or dice game or other game of chance, or that is otherwise akin to a gambling or gaming device under [this section] of this Code, even if solely for amusement purposes.
 - (5) All video gaming terminals must be located in an area restricted to persons 21 years of age or older. The entrance to such area must, at all times, be within the view of at least one employee who is at least 21 years of age.
 - (6) No licensed establishment may cause or permit any person under the age of 21 years to use, play or operate a video gaming terminal.
 - (7) No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed establishment pursuant to [chapter 10] of this Code.
 - (8) The licensed establishment must fully comply with the Illinois Video Gaming Act (230 ILCS 40/1, et seq.) and all rules, regulations and restrictions imposed by the state gaming board.

- (9) The licensed establishment must fully comply with [chapter 10] of this Code and all other provisions of this Code as well as federal and state law and regulations.
- (f) *Inspection of premises.* Every licensed establishment where a video gaming terminal is kept shall be subject to inspection by the chief of police or his/her authorized agents, at any time, to ensure compliance with this Code. This includes licensed establishments applying for a video gaming establishment license and/or video gaming terminal permit sticker. It shall be unlawful for any person to hinder, resist, oppose or attempt to hinder, resist or oppose the chief of police or his/her respective agents in the course of an inspection.
- (g) *Revocation/suspension of license and permit sticker.* The city may revoke or suspend any video gaming establishment license and any video gaming terminal permit sticker issued by the city if it determines that the licensed establishment has violated any of the provisions of this section. No license shall be so revoked or suspended, except after a public hearing before the city council, with a three-day written notice to the licensed establishment affording the licensed establishment an opportunity to appear and defend. Notwithstanding the foregoing, any licensed establishment that has a liquor license revoked or suspended by the city or by the state liquor commission, or has its video gaming license revoked or suspended by the state gaming board, shall automatically, without a hearing before the city council, have its city video gaming establishment license and all city video gaming terminal permit stickers revoked or suspended for the same time frame as its liquor and/or the state gaming board gaming license is suspended, whichever the case may be.
- (h) *Seizure of unlawful video gaming terminals.* Every video gaming terminal that does not have a valid video gaming terminal permit sticker or is otherwise unlawful shall be considered a gambling device subject to seizure, and shall be turned over to the state gaming board, in accordance with board regulations and applicable law, unless otherwise ordered by a court of competent jurisdiction.
- (i) *Monetary penalty.* Whoever violates any provision of [this section] shall be punished by a fine of not less than \$500.00 for a first offense in any 12-month period, and a fine of not less than \$750.00 for a second offense and each subsequent offense in a 12-month period. This penalty may be enforced by issuance of a "notice of violation" for the fine amount, or by issuance of a "notice to appear". Each day any violation continues shall constitute a separate offense. This monetary penalty shall be in addition to any and all other remedies which may be available to the city under [this section] or any other provision of this Code, or federal or Illinois law.

(Ord. No. 12-22, § 2, 6-26-12; Ord. No. 19-13, § 2, 11-12-19)

Secs. 14-51—14-55. - Reserved.

DIVISION 2. - LICENSE

Sec. 14-56. - Required.

No person shall establish, conduct or operate an amusement center in the city without having obtained a license therefor. Application for such license shall be in compliance with the general ordinance provisions relating to licenses.

(Ord. No. 82-11, § 1, 9-14-82)

Sec. 14-57. - Fee; emblems; transfers.

- (a) The annual license fee for the operation of an amusement center shall be computed as follows:
- (1) For each pool table, \$50.00;
 - (2) For each pingpong table, \$15.00; and

- (3) For each other amusement device, \$25.00.
- (b) Licenses shall be issued for the period of January 1 through the following December 31, and there shall be no proration of fees for a lesser time.
- (c) A license emblem shall be issued for each pool table, pingpong table or amusement device indicating that the license fee has been paid. Such license emblem shall be permanently affixed to the pool table, pingpong table or amusement device in a conspicuous place, and in the case of amusement devices such display shall be in the upper right-hand corner. Such license emblem will not be transferred except as provided in this section to any other pool table, pingpong table or amusement device, and only the current year's license emblem shall be displayed on each pool table, pingpong table or amusement device.
- (d) Whenever the owner or operator of any such pool table, pingpong table or amusement device, sells or disposes of the same, and thereafter acquires another of the same type for which a license emblem had been previously issued, he may surrender a sufficient amount of the license emblem to the city clerk to prove that the emblem had been removed, and a new license emblem shall be issued for the remaining part of the license year for a transfer fee of \$2.00.

(Ord. No. 82-11, § 3, 9-14-82)

Sec. 14-58. - Revocation.

In addition to any penalty imposed, the mayor or council may revoke the license for any violation of this article or of any ordinance pertaining to the conduct of such business.

(Ord. No. 82-11, § 9, 9-14-82)

Secs. 14-59—14-75. - Reserved.

ARTICLE III. - POOL AND BILLIARD HALLS

DIVISION 1. - GENERALLY

Sec. 14-76. - Regulations.

It shall be unlawful to operate, maintain or conduct such business regulated in this article after 1:00 a.m., Monday through Friday, and 2:00 a.m. on Saturday and Sunday, and before 8:00 a.m. It shall also be unlawful to permit gambling of any kind, and it shall be unlawful to permit any school age persons on the premises where such business is located at any time during any school lunch period. The licensee shall annually obtain information as to school hours and school lunch periods from the local school administrators.

(Ord. No. 81-9, § 3, 10-13-81)

Sec. 14-77. - Permitted uses.

Properly licensed pinball, soft drink or food dispensing machines are permitted to be operated in the licensed premises.

(Ord. No. 81-9, § 4, 10-13-81)

Sec. 14-78. - Penalty for violation of article.

Any person violating any provision of this article shall, upon conviction, be subject to punishment as provided in section 1-8 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 81-9, § 6, 10-13-81)

Secs. 14-79—14-95. - Reserved.

DIVISION 2. - LICENSE

Sec. 14-96. - Required.

No person shall operate, maintain or conduct a billiard or pool table open to the public without first having obtained a license therefor as is required in this section. All applications for such license shall state thereon the intended location of the place of business and the number of tables to be used therein.

(Ord. No. 81-9, § 1, 10-13-81)

Sec. 14-97. - Fees.

The annual fee for such license shall be \$50.00 per table, per year. Such fee shall be due and payable each January 1. Licenses purchased in any month after January shall be paid for on a pro rata basis.

(Ord. No. 81-9, § 2, 10-13-81)

Sec. 14-98. - Revocation.

In addition to any penalty imposed, the mayor or council may revoke such license for any violation of this article.

(Ord. No. 81-9, § 5, 10-13-81)

Chapter 18 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 18-1. - Animals disturbing peace.

It shall be unlawful for any person to keep or harbor any dog, cow, calf, hog or other animal which, by barking, howling or by other noises shall disturb the peace and quiet of any family, individual or neighborhood.

(Ord. No. 77-17, § 3.055, 10-25-77)

Sec. 18-2. - Animal control.

(a) *Definitions.* When used in this section, the following words, terms, and phrases and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any live creature, both domestic and wild, except humans. "Animal" includes fowl, fish and reptiles.

At large means that an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

Exotic animal means any live monkey, alligator, crocodile, cayman, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

Owner means any person having temporary or permanent custody of, sheltering, or having charge of, harboring, exercising control over, or having property rights to, any animal covered by this section. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days.

Public nuisance animal means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal that is repeatedly found running at large;
- (2) Any dog or cat in any section of a park or public recreation area unless the dog or cat is controlled by a leash or similar physical restraint;
- (3) Any animal that damages, soils, defiles or defecates on any property other than that of its owner;
- (4) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- (7) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (8) Any animal that chases motor vehicles in a public right-of-way;
- (9) Any animal that attacks domestic animals;
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (11) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

Under restraint means that an animal is secured by a leash, lead under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

- (b) *Restraint and control.* It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the city. For any dog impounded by the city, the owner shall be required to pay an impound fee of \$25.00 for the first day and \$10.00 for every day thereafter the dog remains in the city pound. The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.
- (c) *Leash requirement.* Any dog, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the consent of the owner, shall be secured by

a leash or chain of sufficient tensile strength to restrain the particular dog. The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

- (d) *Proper care required.* No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance. The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.
- (e) *Defecation.* It shall be unlawful for any owner of any dog or other animal to cause or allow, either by direct action or by failing to prevent, such dog or other animal to defecate on any property within the city or other than property of the owner of the dog or other animal. It shall be a defense to a complaint or citation for violation of this section if the owner immediately cleans up any feces resulting from the defecation.
- (f) *Keeping of exotic animals.* It shall be unlawful for anyone to own, harbor or permit at large any exotic animal without the proper permits and written permission of the code enforcement officer. Such permission shall be given only if it is demonstrated to the satisfaction of the officer that the animal will not constitute a threat to public health or safety.

(Ord. No. 98-5, § 1, 1-27-98; Ord. No. 98-15, § 1, 4-28-98; Ord. No. 99-6, § 1, 3-9-99)

Editor's note— Ordinance No. 98-5, § 1, adopted January 27, 1998, amended § 18-2 to read as herein set out. Prior to such amendment, § 18-2 pertained to allowing dangerous animals to be at large and derived from Ord. No. 77-17, § 1.020, adopted Oct. 25, 1977. Subsequently, Ord. No. 98-15, § 1, adopted April 28, 1998, and Ord. No. 99-6, § 1, adopted March 9, 1999, further amended § 18-2.

Sec. 18-3. - Animal fighting.

It shall be unlawful for any person within the city to keep or use, or be in any way connected with the management, either as owner, trainer, spectator or employee, or in any other capacity, of any place kept or used for the fighting, training or baiting of any cock or other animal, other than a dog, or to permit such place to be kept or used on premises owned, rented or controlled by him, or to frequent or be found therein for the purpose of witnessing and/or betting upon such fighting or baiting.

(Ord. No. 77-17, § 4.045, 10-25-77)

State Law reference— Dog fighting declared felony, 510 ILCS 70/16(c)(2).

Sec. 18-4. - Certain animals prohibited; exceptions.

- (a) *Livestock and the like prohibited.* No goat pen, chicken coop, runway, yard or other place for the keeping of any goat, chicken, pigeon, goose, turkey, mule, horse, donkey, sheep, bovine, swine, or other such animal or fowl of any kind shall be maintained within the city except as provided herein. No horse, mule, donkey, bovine, goat, sheep, or swine shall be raised or kept in the city. No predatory mammal or predatory bird of any species may be kept or raised within the city.
- (b) *Farm animals.* Those residents who are presently operating a farm shall be allowed to keep and/or house animals which are commonly used, housed, or kept in connection with the operation and maintenance of said farm, provided that said farm shall constitute an area in excess of ten acres, on which plants and crops are growing.

(Ord. No. 11-10, § 1, 5-10-11)

Secs. 18-5—18-30. - Reserved.

ARTICLE II. - DOGS

Sec. 18-31. - License fees.

For each dog license, the city clerk shall, at the time and before issuing the license, enforce each annual renewal of the license upon the applicant filing with the city clerk an application given the full name and residence of the applicant, together with a description of the dog by breed, if known, sex, color, and estimated approximate age, and upon the applicant presenting to the city clerk a certificate by a duly-registered veterinarian certifying that such dog has been vaccinated for rabies during the then current calendar year, collect from the applicant \$5.00 for each spayed or neutered dog, and \$10.00 for each non-spayed or non-neutered dog. Such license, having been issued, may be transferred by the city clerk, upon application, to a succeeding owner for the unexpired portion of the license year upon the payment of a fee of \$2.00. The city clerk shall endorse upon the vaccination certificate a memorandum of issuance of the license and the license number.

(Ord. No. 75-4, § 5, 4-8-75; Ord. No. 04-11, § 1, 6-8-04)

Chapter 22 - BUILDINGS AND BUILDING REGULATIONS^[1]

Footnotes:

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Cross reference— Fire prevention and protection, ch. 38; floods, ch. 42; manufactured homes and trailers, ch. 54; solid waste, ch. 58; planning, ch. 62; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; utilities, ch. 86; zoning regulations, app. A.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Adoption of international codes.

In order for the City to maintain and apply the most recent up to date standards in relation to building codes, resident codes, mechanical codes, conservation codes, electrical codes, plumbing codes and property maintenance codes, it shall be the intent to the city to adopt the most recent version the codes herein referenced. In the event of a conflict between a specific city code or the international code as adopted, the most stringent provisions of either code shall be applied unless otherwise determined by the building official and or the planning and zoning board and our city council as applicable.

(Ord. No. 16-04, § 1, 4-12-16)

Secs. 22-2—22-30. - Reserved.

ARTICLE II. - BUILDING CODE^[2]

Footnotes:

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Cross reference— Fire prevention code, § 38-41 et seq.

Sec. 22-31. - Building Code.

The 2009 International Building Code as published by the International Code Counsel, Inc., is hereby adopted as the building code of the city and as amended with the following changes, additions or insertions:

Section 101.1, insert (City of Braidwood)

Section 101.4.3 delete the last sentence and insert "Private sewage disposal system are prohibited".

Section 102.4 insert the following sentence at the end of this section "In the event of conflict between this code and any referenced code or other ordinance of the City, the most stringent provisions shall be applied unless the building official, planning and zoning board or City Council appropriate determined otherwise."

Section 103.1, delete in full.

Section 103.2, change the first sentence to read "The building official shall be the building commissioner.

Section 109.4, add the following" The additional fee for commencing work without obtaining the necessary permits shall be \$50.00 per day measured from the time that work began until the required permits are obtained. This fee shall be paid at the time the permits are issued."

Section 113.2, delete the last sentence of the that paragraph and insert the following "The Board shall have the authority to waive the requirements ofthis code for due cause and hardship situations, which decision to waive shall be not be subject to further appeal."

Section 113.3, delete in full.

Section 114.4, add the following at the end of this section" A penalty of not less than \$100 nor more than \$750.00 is hereby imposed for each violation of this Code."

Section 313.2 Automatic residential fire sprinkler systems shall not be required in one- and two-family dwellings effective September 13, 2016.

Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

(Ord. No. 96-2, § 1, 1-23-96; Ord. No. 98-7, § 1, 3-10-98; Ord. No. 01-5, § 1, 6-12-01; Ord. No. 14-01, § 1, 2-11-14; Ord. No. 16-04, § 2, 4-12-16; Ord. No. 16-11, § 1, 9-13-16; Ord. No. 17-14, § 1, 10-10-17)

Sec. 22-32. - 2009 International Residential Code.

"The 2009 International Residential Code" as published by the International Code Council, Inc. is hereby adopted as the International Residential Code (for one - and two - family dwellings) of the city with the following changes, additions or insertions:

Section R101.1, insert "City of Braidwood."

Section R102.4, change the last sentence to read "In the event of conflict between this code and any referenced code or other ordinance of the city, the most stringent provisions shall be applied unless the building official otherwise determines."

Section R103.1, delete in full.

Section R103.2, change first sentence to read "The building official shall be the building commissioner."

Section R108.4, add the following to read "The additional fee commencing work without obtaining the necessary permits shall be \$50.00 per day measured from the time the work began until the required permits are obtained. This fee shall be paid at the time that the permits are issued."

Section R112, delete in full. All appeals shall be taken as provided in the Building Code.

Section R113.4, add the following "A penalty of not less than \$100.00 nor more than \$750.00 is hereby imposed for each violation of this Code."

Section 301.2(1), Insert, "The building official shall determine the applicable criteria from the referenced maps."

Section R402.1, delete. Timber footings and wood foundations are not permitted.

Chapter 34, Water Supply and Distribution. Only materials and water services pipe allowed by the Illinois Plumbing Code is permitted.

Chapter 39 48, Only wiring methods, materials, and construction allowed under the National Electrical Code is permitted.

Table 4301.2, delete any wiring method not allowed under the National Electrical Code.

Appendix E, Manufactured Housing Used As Dwellings, is hereby adopted.

Appendix G, Swimming Pools, Spas and Hot Tubs, is hereby adopted.

Appendix H, Patio Covers, is hereby adopted.

Appendix J, Existing Buildings and Structures, is hereby adopted.

TWO-FAMILY DWELLINGS. Delete and replace with the following:

R317.1 Two-family dwellings. Dwelling units in two-family dwellings shall have 3-hour fire-rated wall/floor/ceiling assemblies between uses. All fire-rated walls shall be constructed of masonry or autoclave aerated concrete and constructed in compliance with industry and manufacturer standards and specifications.

ATTACHED DWELLINGS shall be added as follows:

R317.1.2 Attached dwellings. All attached single-family structures and multi-family structures containing two or more dwelling units or one or more dwelling units in a structure containing any other use shall have 3-hour fire-rated wall/floor/ceiling assemblies between uses. All fire-rated walls shall be constructed of masonry or autoclave aerated concrete and constructed in compliance with industry and manufacturer standards and specifications.

TOWNHOUSES shall be deleted and replaced with the following:

R317.2 Townhouses. All attached single-family structures and multi-family structures containing two or more dwelling units or one or more dwelling units in a structure containing any other use shall have 3-hour fire-rated wall/floor/ceiling assemblies between uses. All fire-rated walls shall be constructed of masonry or autoclave aerated concrete and constructed in compliance with industry and manufacturer standards and specifications.

(A) *Footings*. R403.4 shall be deleted in its entirety. Precast concrete foundations must comply with the standards set forth in R403.1.

- (B) *Foundation Materials.* R402.1 shall be deleted in its entirety. Wood is not an admissible material to be utilized within the foundation construction.
- (C) *Sprinkler Systems.* P2904.1.1 shall be amended to further limit the requirement of sprinklers within residential units. These systems shall be required as follows:

Sprinklers shall be installed to protect all dwelling units in which a dwelling unit is located atop another. For example, a 2-story apartment or condominium building must be sprinkled if the tenants occupy separate levels. In a 2-story townhome wherein the tenants share a common well, but each tenant occupies both levels, a sprinkler system shall not be required. Listed exceptions shall still apply.
- (D) *Plumbing Materials.* The city prefers the utilization of copper, Schedule L throughout the interior of residential units. If another material is selected, it must meet the minimum performance and safety aspects of CVPC.

(Ord. No. 96-2, § 2, 1-23-96; Ord. No. 98-7, § 2, 3-10-98; Ord. No. 01-5, § 2, 6-12-01; Ord. No. 14-01, § 2, 2-11-14)

Sec. 22-33. - Mechanical Code.

The "2000 International Mechanical Code" as published by the International Code Council, Inc. is hereby adopted as the Mechanical Code of the city with the following changes, additions or insertions:

Section 101.1, insert "City of Braidwood."

Section 103.1, delete in full.

Section 103.2, change first sentence to read "The building official shall be the building commissioner."

Section 106.5.2, change to read "The building official shall establish a schedule of permit fees and plan review fees."

Section 106.5.3, change to read "The building official may authorize a refund of fees."

Section 108.4, change the first sentence to read "A penalty of not less than \$100.00 nor more than \$750.00 is hereby imposed for each violation of this Code."

Section 108.5, delete the last sentence.

Section 109, delete in full. All appeals shall be taken as provided in the Building Code.

(Ord. No. 01-5, § 3, 6-12-01)

Sec. 22-34. - Energy Conservation Code.

The "2000 International Energy Conservation Code" as published by the International Code Council, Inc. is hereby adopted as the Energy Conservation Code of the city with the following changes, additions or insertions:

Section 101.1, insert "City of Braidwood."

(Ord. No. 01-5, § 6, 6-12-01)

Sec. 22-35. - Construction requirements.

The following construction requirements shall apply to all newly constructed buildings:

- (1) No metal buildings or pole barns are permitted except in the AG Agriculture District and the I-1 Industrial District.
- (2) In the B-1 Central Business District and the B-2 Outlying Business District the exterior front wall shall be of masonry or brick veneer construction for not less than one story and the exterior sides and rear walls shall be of masonry or brick veneer construction for at least five feet above the foundation.
- (3) In the RMF Multi-Family Residence District the exterior front wall, exterior side walls and exterior rear wall shall be of masonry or brick veneer construction.
- (4) Garages and storage buildings in the B-1 Central Business District and the B-2 Outlying Business District shall be used only for storage purposes which are accessory to a business operated from another building on the premises.

(Ord. No. 01-10, § 1, 6-26-01)

Editor's note— Ord. No. 01-10, § 1, adopted June 26, 2001, amended the Code by adding provisions designated as § 22-34. Inasmuch as Ord. No. 01-5, adopted June 12, 2001, added provisions designated as § 22-34, the provisions of said Ord. No. 01-10 have been included herein as § 22-35 at the discretion of the editor. See the Code Comparative Table.

Secs. 22-36—22-60. - Reserved.

ARTICLE III. - ELECTRICAL CODE^[3]

Footnotes:

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Cross reference— Fire prevention code, § 38-41 et seq.

Sec. 22-61. - Electrical Code.

The most recent National Electrical Code and any amendments thereto, are hereby adopted as the Electrical Code of the City with the following changes, additions or insertions:

Electrical Systems. It is preferred all electrical wiring for new electrical systems or additions or previously constructed systems shall be rigid conduit, Inter Metal Conduit (IMC), or electrical metallic tubing (EMT). If another material is selected, it must meet the minimum performance and safety aspects of Romex. When necessary to fish through existing partitions, flexible metallic conduit may be used. Where there is a question as to methods or materials used, the ruling of the building inspector shall govern. All conduit, on or below grade, shall be PVC, galvanized rigid or galvanized intermediate conduit. All wiring systems in new installations shall be installed and approved rigid conduit, IMC, EMT or Romex. All exposed exterior conduit shall be galvanized rigid, galvanized intermediate metal or rigid aluminum. Only wire approved by Building Inspector shall be allowed.

(Ord. No. 96-17, § 1, 4-23-96; Ord. No. 01-5, § 5, 6-12-01; Ord. No. 02-5, § 1, 5-14-02; Ord. No. 14-01, § 3, 2-11-14; Ord. No. 16-13, § 1, 9-13-16)

Secs. 22-62—22-85. - Reserved.

ARTICLE IV. - PLUMBING

Sec. 22-86. - Plumbing Code.

The most current version of the Illinois Plumbing Code is hereby adopted as the Plumbing Code of the city. Any amendments to the Illinois Plumbing Code shall be effective in the city upon their passage.

(Ord. No. 96-17, § 2, 4-23-96; Ord. No. 01-5, § 4, 6-12-01; Ord. No. 14-01, § 4, 2-11-14; Ord. No. 16-12, § 1, 9-13-16)

Cross reference— Fire prevention code, § 38-41 et seq.

Secs. 22-87—22-110. - Reserved.

ARTICLE V. - PROPERTY MAINTENANCE CODE⁽⁴⁾

Footnotes:

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Cross reference— Fire prevention code, § 38-41 et seq.

Sec. 22-111. - Property Maintenance Code.

"The 2009 International Property Maintenance Code" as published by the International Code Council, Inc. is hereby adopted as the Property Maintenance Code of the city with the following changes, additions or insertions:

Section 101.1, insert "City of Braidwood."

Section 102.3, change to read "Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Building Code, Plumbing Code, Mechanical Code, and Electrical Code adopted by the city. Nothing in this Code shall be construed to cancel, modify or negate any provision of the zoning ordinance."

Section 102.4, add "The city shall have the right to cause the demolition, repair or enclosure of unsafe buildings as provided for in Chapter 65, Article 11, Division 31, of the Illinois Compiled Statutes without following any of the procedures and notice requirements of this code."

Section 103.1, delete in full.

Section 104.1, add "the building commissioner shall be the code official. The code official may designate any employee of the city with the enforcement of this code."

Section 106.2, change to read "The code official may serve a notice of violation, but no such notice is a prerequisite to the existence of a violation or to action by the city to restrain, correct or abate such violation."

Section 106.3, change to read "The code official may institute court proceedings to restrain, correct or abate any violation, or to require the removal or termination of the unlawful occupancy of any structure, or the order or direction of the code official."

Section 106.4, change to read "Any person who violates any provision of this code shall be subject to a fine of not less than \$100.00 nor more than \$750.00 for each violation thereof. Each day that a violation occurs shall constitute a separate offense and violation."

Section 107, delete in full.

Section 108.1.1, add "No structure may be boarded up for more than six months. An unsafe structure includes any structure boarded up for more than six months."

Section 108.3, change to read "Whenever the code official has condemned a structure of equipment, notice shall be sent by first class mail to the taxpayer of record or the party responsible for paying any water bill. The notice shall include a statement of the violations and a deadline by which to correct the violations."

Section 110.1, change to read "The code official may order the demolition of any structure which is:

1. Dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy.
2. A public nuisance.
3. Vacant or abandoned for more than six months.
4. Boarded up for more than six months.
5. Under construction where there has been a cessation of normal construction activity for a period of more than six months.
6. Maintain in violation of the provisions of this code for more than six months."

Section 110.2, change to read "A notice of order of demolition shall be serviced as provided for in Chapter 65, Article 11, Division 31, of the Illinois Compiled Statutes."

Section 111, delete in full.

Section 201.3, change to read "Where terms are not defined in this code and are defined in the Building Code, Fire Code, Plumbing Code, Mechanical Code, Electrical Code, or zoning ordinance, such terms shall have the meanings ascribed to them in those codes."

Section 301.3, add "No structure shall be maintained which is:

1. Dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy.
2. A public nuisance.
3. Vacant or abandoned for more than six months.
4. Boarded up for more than six months.
5. Under construction where there has been a cessation of normal construction activity for a period of more than six months.
6. Maintain in violation of the provisions of this code for more than six months."

Section 302.7.1, delete the word "International."

Section 303.15, insert "May 1" and "October 1."

Section 303.3, add "Street numbers must be attached to the structure (or light pole or mailbox) and may not be painted thereon. Street numbers may not be painted on any stairway, stoop, sidewalk, curb, or other area."

Section 401.3, delete the word "International."

Section 505.1, delete the word "International."

Section 602.2, change to read "Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees F in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section."

Section 602.3, insert "October 1" and "May 1." Delete the last sentence in the Exception.

Section 602.4, insert "October 1" and "May 1."

Section 604.2, delete the word "ICC."

Section 702.2, delete the word "International."

Section 702.3, delete the word "International."

Section 702.4, delete the word "International."

Section 704.2, delete the word "International."

(Ord. No. 99-21, § 1, 8-10-99; Ord. No. 00-15, § 1, 5-23-00; Ord. No. 14-01, § 5, 2-11-14)

Secs. 22-112—22-140. - Reserved.

Editor's note— Ord. No. 99-21, § 2, adopted Aug. 10, 1999, repealed § 22-112, which pertained to amendments to the property maintenance code. See the Code Comparative Table.

ARTICLE VI. - BUILDING PERMITS

Sec. 22-141. - Required.

- (a) *Permit required.* Except as stated in this section, it shall be unlawful for any property owner or his agent to:
- (1) Construct or alter any building or structure;
 - (2) Excavate or build a foundation; or
 - (3) Add to, enlarge, move or extend any building or structure, in such a manner as to enlarge the size of or affect the bearing walls or the roof;

unless the owner of the property on which the construction is performed, or his agent, shall have first secured a permit therefor and paid the fees applicable thereto.

- (b) *Administrative fee.* A portion of any building permit fee shall include a nonrefundable \$100.00 administrative fee to cover city expense relating to the administration of the permit.

(Ord. No. 94-4, § 1, 4-12-94; Ord. No. 98-33, § 1, 12-22-98)

Sec. 22-142. - Exemptions.

No permits shall be required for the following:

- (1) Routine maintenance for minor repairs of buildings or structures, such as redecorating a room, painting, or re-roofing any accessory building; or

- (2) Buildings and structures or improvements thereto which are erected or constructed at a cost of less than \$750.00, computing costs for labor and materials at current contractors' prices.

(Ord. No. 94-4, § 2, 4-12-94; Ord. No. 17-12, § 1, 9-12-17)

Sec. 22-143. - Building permit application.

The application for building permits shall be made by the owner of property on forms specified by the city and shall be accompanied by a current survey, a topographical survey of the subject property and the adjoining lots, foundation elevation and property setback lines (collectively building plans). Building plans shall be certified by an Illinois licensed architect or structural engineer, except that certification is not needed for a detached single-family residence of less than 3,000 square feet or a two-family residence of wood frame construction on a single lot not more than two stories and basement in height. Any survey or topographical survey of the property required by this section shall be certified by an Illinois licensed surveyor or civil engineer.

The building plans shall show the proposed foundation elevation and a grading elevation for all lot areas. If the flow of surface water shall be changed as a result of construction, the building plans shall show how a provision has been made for collection and diversion of such surface waters into public areas, drains, or the stormwater drainage system.

When the subject property is a single lot within a subdivision and that subdivision already has an approved grading plan on file with the city, the applicant shall provide a survey including the proposed top-of-foundation elevation, elevations for both neighboring lots (survey of top-of-foundation if a structure exists), road elevations with three spot elevations, elevations of lot lines, all corners staked and property setback lines (collectively a "site plan"). However, if the applicant is requesting changes in the approved subdivision grading plan, then current building plans as described above, shall be required.

If the permit is for a single lot not within a subdivision, then the applicant shall provide a site plan as described above.

An inspection from the city will be required to ensure that the top-of-foundation survey is accurate. Additionally, the city will make a final inspection of the finished grading before an occupancy permit will be issued for any application filed under this section.

All building plans must use generally accepted engineering practices so as to reduce the likelihood of damage to adjoining properties or the flow of stormwater to adjoining properties. The city may set and determine all elevations and all topography of lot areas; they may require the installation of back yard drains and other stormwater drainage improvements to reduce the impact of the flow of stormwater.

(Ord. No. 94-4, § 3, 4-12-94; Ord. No. 00-1, § 1, 1-11-00; Ord. No. 00-9, § 1, 3-28-00; Ord. No. 04-06, § 1, 6-22-04; Ord. No. 10-10, § 1, 8-10-10)

Sec. 22-144. - Approval of plans.

Such applications with plans shall be referred to the zoning officer, or other official or employee designated by the city, who shall examine the plans to determine whether the proposed construction or alteration will comply with the ordinance provisions relative thereto. Upon approval, one set of plans shall be returned to the applicant with a permit, and the other shall be retained by the city. No permit shall be issued until after approval of the plans.

(Ord. No. 94-4, § 4, 4-12-94)

Sec. 22-145. - Variations.

It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted to the zoning officer or other official or employee designated by the city and approved by him.

(Ord. No. 94-4, § 5, 4-12-94)

Sec. 22-146. - Zoning compliance.

No permit shall be issued unless the building or structure is in compliance with the provisions of the zoning ordinance for the city, and any permit issued, either intentionally or inadvertently, for a building or structure not in compliance with the zoning ordinance is void.

(Ord. No. 94-4, § 6, 4-12-94)

Sec. 22-147. - Enforcement of article.

The zoning officer, plumbing inspector and/or electrical inspector, or other official or employee designated by the city, shall make or cause to be made such inspections as are necessary to see to the enforcement of the provisions of this article and to make any tests or examinations of materials or methods to be used for the purpose of seeing that they comply with the provisions of this article and the zoning ordinance and any other ordinance pertaining to such construction.

(Ord. No. 94-4, § 7, 4-12-94)

Sec. 22-148. - Building permit fees.

- (a) The fees to be charged for building permits for erecting, altering, repairing, or adding to buildings or structures shall be as follows:
- (1) For all new residential construction and building additions—\$0.80 per square foot.
 - (2) For new park models or mobile homes—\$0.45 per square foot.
 - (3) For all new business, commercial and industrial and building additions—\$0.50 per square foot.
 - (4) For all new miscellaneous exterior work, including concrete driveways, decks and docks—\$60.00.
 - (5) For accessory buildings:
 - a. Over 120 square feet—\$200.00 or \$0.35 per square foot, whichever is greater;
 - b. Less than 120 square feet will be charged \$60.00.
 - (6) For fences—\$60.00.
 - (7) For pools:
 - a. In-ground concrete pools—\$200.00;
 - b. Pools with foundation wall and liner—\$150.00; and
 - c. Above ground pools exceeding 30" in height—\$75.00.
 - (8) For renewal of a building permit which has expired for failure to complete construction within 12 months (provided that the construction is capable of being completed within 12 months as determined by the building inspector) or the failure to commence construction within six months—five percent of the original building permit fee for each month construction continues after the above periods.

- (9) The above building permit fees include four inspections. Each additional inspection shall be billed to the permittee at the rate of \$45.00 per inspection.
- (10) Change of contractor—If the contractor performing work changes there is a \$45.00 fee to reissue a permit in the name of the new contractor.
- (b) *Maintenance work or repairs.* There is no fee required for work performed to maintain or repair the exterior of an existing building such as replacement windows, residing, sidewalk repairs and roofing. Owner must still secure a permit from the city prior to work performed for which no fee shall be charged.
- (c) *Demolition.* To demolish an existing building—\$100.00.

(Ord. No. 94-4, § 8, 4-12-94; Ord. No. 00-1, § 2, 1-11-00; Ord. No. 04-12, § 1, 6-8-04; Ord. No. 04-14, § 1, 6-22-04; Ord. No. 11-42, 10-25-11)

Sec. 22-149. - Compensation to officers.

- (a) The plumbing inspector and/or electrical inspector, or any back-up plumbing or electrical inspector, if the services of such officials are required, shall receive the sum of \$0.06 per square foot for a complete inspection of the premises for any structure requiring a permit under section 22-148(1).
- (b) The plumbing inspector and/or electrical inspector, or any back-up plumbing or electrical inspector, if the services of such officials are required, shall receive the sum of \$20.00 for a complete inspection of the premises for any structure requiring a permit under section 22-148(2) or section 22-148(4).
- (c) The back-up building inspector shall receive the sum of \$25.00 per hour or any part thereof, for any completed inspection of a permit, not to exceed \$10,000.00 per year.
- (d) The full-time zoning officer/code enforcement officer/building inspector will receive a salary as the city council shall from time to time fix and designate.

(Ord. No. 94-4, § 9, 4-12-94; Ord. No. 07-15, 9-11-07)

Sec. 22-150. - Will County Stormwater Management Ordinance.

No development shall be allowed and no permits shall be approved for any development except in compliance with the provisions of the Will County Stormwater Management Ordinance. The developer shall provide evidence to the city from the administrator of the Will County Stormwater Management Ordinance that all permits have been issued or that no permit is required.

(Ord. No. 03-4, § 1, 3-25-03)

Secs. 22-151—22-175. - Reserved.

ARTICLE VII. - CONTRACTORS

DIVISION 1. - GENERALLY

Sec. 22-176. - Intent of article.

It is the intent of this article to provide for an effective means for the city to license and regulate contractors who operate within the city and to monitor effectively whether such contractors are in compliance with all federal, state and local law regulating their operation.

(Ord. No. 96-19, § 1, 4-23-96)

Sec. 22-177. - Definitions.

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

Contractor, means any person, including any corporation, joint venture, partnership or other legal entity, engaged in the business of constructing, altering or repairing buildings or other structures or sidewalks, streets, pavements and curbing, including but not limited to: general building contractor, cement or concrete contractors, masonry contractors, carpentry contractors, acoustical contractors, electrical contractors, drywall contractors, excavating contractor, fencing contractors, flooring contractors, garage contractors, glazing contractors, heating, air conditioner and refrigeration contractors, painting contractors, plastering contractors, plumbing contractors, porch and deck contractors, roofing contractors, sewer and drain layers, sheet metal contractors, truck painting and cleaning contractors, window contractors, wrecking contractors, black top sealer contractors, asphalt contractors, landscaping contractors, swimming pool contractors, insulation contractors, waterproof and damp proofing contractors, elevator contractors, sign contractors, but does not include any person performing as a contractor for on behalf of a governmental entity.

(Ord. No. 96-19, § 2, 4-23-96; Ord. No. 16-03, § 1, 4-12-16)

Cross reference— Definitions generally, § 1-2.

Sec. 22-178. - Penalty for violation of article.

Any person violating any provisions of this article shall, for each offense, upon conviction, be subject to punishment as provided in section 1-8.

(Ord. No. 96-19, § 9, 4-23-96)

Sec. 22-179. - Exemption.

An owner of property may perform work on property that he will occupy or has occupied continuously for a period of at least six months and shall not be considered a contractor as set forth in this article. However, any person hired by such owner to perform work on such property shall be considered a contractor.

(Ord. No. 96-19, § 3, 4-23-96)

Sec. 22-180. - Plumbing and roofing contractors.

All plumbing contractors and roofing contractors shall be duly licensed by the state.

(Ord. No. 96-19, § 10, 4-23-96)

Secs. 22-181—22-195. - Reserved.

DIVISION 2. - CERTIFICATE OF REGISTRATION

Sec. 22-196. - Required.

It is unlawful for any person, including any corporation, joint venture, or partnership to act as a contractor without having first obtained a certificate of registration therefor. A new license must be obtained for each new fiscal year, which runs between May 1 and April 30.

(Ord. No. 96-19, § 4, 4-23-96)

Cross reference— Administration, ch. 2.

Sec. 22-197. - Application; contents.

Application for such certificate of registration shall be made to the city clerk. Such application shall contain the following:

- (1) Name of person, joint venture, partnership, corporation or other legal entity making the application.
- (2) Address of the applicant, the telephone number of the applicant and, if a corporation, the name of the corporate officer responsible for the daily operation of the business.
- (3) A statement whether the applicant is a general contractor or primarily a subcontractor and, if the latter, the trade or trades involved.
- (4) A statement that the applicant is familiar with all the pertinent city ordinances, codes and regulations including the building code applicable to the business that the applicant is engaged in, and that the applicant agrees to fully comply with the same.
- (5) Proof of insurance in the following amounts:

| | | |
|----|---|--|
| a. | Bodily injury liability | \$500,000.00 |
| b. | Property damage liability | \$250,000.00 |
| c. | Worker's compensation | As required by the state industrial commission |
| d. | Business auto bodily injury liability | \$500,000.00 |
| | Business auto property damage liability | combined limit |

If insurance expires, is cancelled or otherwise lapses, during the term of the license, a renewal certificate must be mailed to the city clerk, or the license will be suspended. Any and all insurance companies used by contractors or subcontractors to comply with the provisions of this article must maintain a minimum A rating.

- (6) A bond payable to the city in the penal sum as outlined in section 22-198, with sureties to be approved by the mayor and the city council and filed with the city clerk; conditioned upon the applicant faith fully observing all of the provisions of the building code and other ordinances and regulations of the city relating to the business conducted by the contractor; conditioned further to indemnify and hold harmless the city against any cause or act upon which it may suffer or which may occur against it; and any cause of action that may be charged to or recovered by the city from or by reason of any act by any such person or by any agent or employee thereof.

(Ord. No. 96-19, § 5, 4-23-96)

Sec. 22-198. - Contractor fee and bond.

The annual fee for registration shall be as provided in this section and shall be paid to the city prior to the issuance of doing business herein. The certificate of registration shall be valid for the period from May 1 to April 30 of the ensuing year. No proration of the registration fee is permitted. The registration fee and bond requirement for all contractors, including general contractors, shall be \$125.00 per fiscal year and a surety bond of \$10,000.00.

(Ord. No. 96-19, § 6, 4-23-96; Ord. No. 00-21, § 1, 9-12-00; Ord. No. 07-09, 6-12-07)

Sec. 22-199. - Issuance.

When it appears to the city clerk that an applicant is in compliance with the requirements of sections 22-197 and 22-198, the city clerk shall issue the registration certificate forthwith.

(Ord. No. 96-19, § 7, 4-23-96)

Sec. 22-200. - Revocation.

The building and zoning officer in his discretion may revoke a contractor's registration if the contractor violates the building codes or other applicable ordinances of the city. The contractor must be notified of the intent to revoke the contractor's registration and of the alleged violations, and the contractor will then be given ten days from the date that notice is given to correct such violations, to show cause why there is no violation or to otherwise, appeal in writing to the mayor and the city council who shall conduct a hearing on such revocation. Notice shall be given as follows:

- (1) Certified mail at the address provided on the contractor's registration;
- (2) Personal delivery; or
- (3) Posting on the site within which the contractor is working.

(Ord. No. 96-19, § 8, 4-23-96)

Secs. 22-201—22-219. - Reserved.

ARTICLE VIII. - SIGNS

Sec. 22-220. - Construction of signs.

All signs shall be constructed in compliance with the requirements of Appendix H of the 2000 International Building Code.

(Ord. No. 01-2, § 1, 3-13-01)

Sec. 22-221. - Temporary signs.

- (a) *Definition.* A temporary sign or portable sign is any sign which can be moved from place to place and is not permanently attached in the ground or on a building which rests on a foundation.

- (b) *Location.* A temporary sign may not be located on the public right-of-way, within two feet of the public right-of-way, in a required parking space or parking aisle, or within ten feet of any driveway.
- (c) *Lights.* A temporary sign may not display any flashing or rotating red, blue, yellow, or green light. A temporary sign may not display any type of strobe or laser light.
- (d) *Flashing or rotating lights.* A temporary sign may display a flashing or rotating light (other than red, blue, yellow or green) provided that it is located more than ten feet from the public right-of-way.
- (e) *Length of display.* Temporary signs may not be displayed for more than a total of 30 days in a calendar year on any zoning lot, or combination thereof. However, any temporary sign existing on January 1, 2001 is exempted from the provisions of this 30-day maximum provided that all of the other provisions of this section are met.

(Ord. No. 01-2, § 1, 3-13-01)

Secs. 22-222—22-249. - Reserved.

ARTICLE IX. - CHRONIC NUISANCE PROPERTY⁶

Footnotes:

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Editor's note— Ord. No. 11-18, adopted June 14, 2011, enacted provisions intended for codification as Ch. 22, Art. IX, § 22-250, §§ 24-31—24-37. To facilitate indexing, said provisions have been redesignated as Ch. 22, Art. IX, §§ 22-250—22-257.

Sec. 22-250. - Abatement of chronic nuisance properties.

Any certain property within the City of Braidwood which becomes a chronic nuisance property is in violation of this chapter and is subject to its remedies.

Any person in charge who permits property under his or her ownership or control to be a public nuisance property shall be in violation of this chapter and subject to its remedies.

(Ord. No. 11-18, (§ 22-250), 6-14-11)

Sec. 22-251. - Definitions.

Chronic nuisance property. Property upon which three or more of the behaviors listed below have occurred during any 60-day period, as a result of any three separate factual events that have been independently investigated by any law enforcement agency.

- (1) Disorderly conduct as defined in 720 ILCS 5/26-1.
- (2) Unlawful use of weapons as defined in 720 ILCS 5/24-1 et seq.
- (3) Mob action as defined in 720 ILCS 5/25-1.
- (4) Discharge of a firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
- (5) Gambling as defined in 720 ILCS 5/28-1.
- (6) Possession, manufacture or delivery of controlled substance as defined in 720 ILCS 570/40 1 et seq.

- (7) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq.
- (8) Sexual abuse or related offenses as defined in 720 ILCS 5/12-15 et. seq.
- (9) Public indecency as defined in 720 ILCS 5/11-9 et seq.
- (10) Prostitution as defined in 720 ILCS 5/11-14 et seq.
- (11) Criminal damage to property as defined in 720 ILCS 5-21-1 et seq.
- (12) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq.
- (13) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1 et seq.
- (14) Violation of the city property maintenance code relative to solid waste - Section _ ON - 306.0 et seq. The Boca Property Maintenance Code/1993. (Ord. No. 97-38, Sec. 2; 6-16-97.)
- (15) Violation of any city ordinance or state statute controlling or regulating the sale or use of alcoholic beverages.

Control. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

Owner. Any person, agent, firm or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to:

- (1) A mortgage in possession in whom is vested:
 - a. All or part of the legal title to the property;
 - b. All or part of the beneficial ownership and the right to the present use and enjoyment of the premises;
- (2) An occupant who can control what occurs on the property.

Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly ascent or agree to the doing of an act.

Person. Any natural person, association, partnership or corporation capable of owning or using property in the city.

Person in charge. Any person in actual or constructive possession of a property, including but not limited to an owner, occupant of property under his or her domain, ownership or control.

Property. Any real property, including land in that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof, whether permitted or not.

(Ord. No. 11-18, (§ 24-31), 6-14-11)

Sec. 22-252. - Remedy.

- (a) In the event of a court determines property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30 days, but not more than 180 days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- (b) In addition to the remedy provided in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in the amount of up to \$100.00 per day, payable to the city, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain public nuisance property.
- (c) In determining what remedy or remedies shall employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:

- (1) The disturbance of neighbors.
- (2) The recurrence of loud and obnoxious noises.
- (3) Repeated consumption of alcohol in public.
- (4) The repeated sale or possession of controlled substances on the premises.

(Ord. No. 11-18, (§ 24-32), 6-14-11)

Sec. 22-253. - Abatement of nuisance.

The corporation counsel of the city or the states attorney of the county may commence an action to abate public nuisance as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.

(Ord. No. 11-18, (§ 24-33), 6-14-11)

Sec. 22-254. - Procedure.

When the chief of police of the city receives two or more police reports documenting the occurrence of nuisance activity on or within a property, the chief of police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the chief may:

- (a) Notify the person in charge in writing that the property is in danger of becoming a chronic nuisance property. The notice shall contain the following information:
 - (1) The street address or a legal description sufficient for identification of the property.
 - (2) A statement that the chief of police has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that may exist, or that have occurred. The chief of police shall offer the person in charge an opportunity to propose a course of action that the chief of police agrees will abate the nuisance activities giving rise to the violation.
 - (3) Demand that the person in charge respond to the chief of police within ten days to discuss the nuisance activities.
- (b) After complying with the notification procedures described herein when the chief of police receives a police report documenting the occurrence of a third nuisance activity at or within a property and determines that the property has become a chronic nuisance property, the chief of police shall:
 - (1) Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:
 - a. The street address or legal description sufficient for identification of the property.
 - b. A statement that the chief of police has determined the property to be chronic nuisance property with a concise description of the nuisance activities leading to his/her findings.
 - c. Demand that the person in charge respond within ten days to the chief of police and propose a course of action that the chief of police agrees will abate the nuisance activities giving rise to the violation.
 - d. Service shall be made either personally or by first class mail, postage pre-paid, return receipt requested, addressed to the person in charge at the address of the property

believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the chief of police.

- e. A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage pre-paid.
 - f. A copy of the notice shall also be posted at the property after ten days has elapsed from the service or mailing of the notice to the person in charge and the person in charge has not contacted the chief of police.
 - g. The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this chapter.
- (2) If after the notification, but prior to the commencement of legal proceedings by the city pursuant to this chapter, a person in charge stipulates with the chief of police that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the chief of police may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days, except in the case of a nuisance activity under [section 3(b)(7)] where a search warrant was executed at the property. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within 30 days, the chief of police shall request authorization for the corporation counsel to commence a legal proceeding to abate the nuisance.
- (3) Concurrent with the notification producers set forth herein, the chief of police shall send copies of the notice, as well as, any other documentation which supports legal proceedings to the corporation counsel.
- (c) When a person in charge makes a response to the chief of police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

(Ord. No. 11-18, (§ 24-34), 6-14-11)

Sec. 22-255. - Commencement of action, burden of proof.

- (a) In an action seeking closure of a chronic nuisance property, the city shall have the initial burden of showing by preponderance of the evidence that the property is a chronic nuisance property.
- (b) It is a defense to an action seeking the closure of chronic nuisance property that the owner of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading of the findings that the property is a chronic nuisance property.
- (c) In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they need be found appropriate, and shall site those found applicable:
 - (1) The action or lack of action taken by the person in charge to mitigate or correct the problem at the property.
 - (2) Whether the problem at the property was repeated or continues.
 - (3) The magnitude or gravity of the problem.
 - (4) The cooperation of the person in charge with the city.
 - (5) The cost of the city investigating and correction or attempting to correct the condition.

(Ord. No. 11-18, (§ 24-35), 6-14-11)

Sec. 22-256. - Emergency closing procedure.

- (a) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief, as is deemed by the chief of police to be appropriate. In such an event, the notification provision set forth in [section 22-254] above need not be complied with, however, the city shall make a diligent effort to notify the person in charge prior to a court hearing.
- (b) In the event that the court finds the property constitutes a chronic nuisance property as defined in this article, the court may order the remedy set out above, in addition, in the event that it also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil fine as provided above.
- (c) The court may authorize the city to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs reasonably incurred by the city to affect a closure shall be made and assessed as a lien against the property. if used herein, "costs" mean these costs actually incurred by the city for the physical securing of the property, as well as, tenant relocation costs.
- (d) The city public works department or other city entity affecting the closure shall prepare a statement of cost and the city shall thereafter submit said statement to the court for its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- (e) Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof by the city.
- (f) A tenant is entitled to their reasonable relocation costs, as those are determined by the court if, without actual notice, the tenant moved into the property, after either:
 - (1) The owner or tenant received notice as described herein of the police chief's determination as described above.
 - (2) Unknown owner or other agent received notice of an action brought pursuant to this [article].
 - (3) Any person who is assessed with costs of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the city.

(Ord. No. 11-18, (§ 24-36), 6-14-11)

Sec. 22-257. - Severability—Chronic nuisance property.

If any provision of this article or its application, or any person or circumstance held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

(Ord. No. 11-18, (§ 24-37), 6-14-11)

Chapter 23 - ZONING¹¹

Footnotes:

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Editor's note— Ord. No. 08-19, adopted Sept. 9, 2008, repealed the former Appendix A, Ch. 1, §§ 1.1—1.17; Ch. 2, § 2.1; Ch. 3, §§ 3.1, 3.2; Ch. 4, §§ 4.1—4.4; Ch. 4.5.1, §§ 4.5.1—4.5.8; Ch. 5, §§ 5.1—5.8; Ch. 6, §§ 6.1—6.3; Ch. 7, §§ 7.1—7.13; Ch. 8, §§ 8.1—8.3; Ch. 9, §§ 9.1—9.12; Ch. 10, tables, and enacted a new Ch. 23, zoning as set out herein. The former Appendix A pertained to zoning and derived from Ord. No. 93-11, 6-22-93; Ord. No. 96-21, § 1(4.5.2—4.5.4), § 1 (4.5.6—4.5.8), 5-28-96; Ord. No. 96-22, § 1, 5-28-96; Ord. No. 97-4, §§ 1—3, 1-28-97; Ord. No. 97-30, § 1, 8-26-97; Ord. No. 97-31, § 1, 9-9-97; Ord. No. 00-20, § 3, 9-12-00; Ord. No. 01-4, § 2, 7-10-01; Ord. No. 04-05, § 1, 5-6-04.

Cross reference— Buildings and building regulations, ch. 22; manufactured homes and trailers, ch. 54; planning, ch. 62; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; traffic and vehicles, ch. 82.

ARTICLE I. - GENERAL ZONING PROVISIONS

Sec. 23-1. - Purpose and intent.

This chapter 23 of the Code of Ordinances, "Zoning," is adopted for the purpose of:

- (1) Promoting the public health, safety, comfort, morals, convenience and general welfare;
- (2) Securing adequate light, pure air and safety from fire and other dangers;
- (3) Conserving the taxable value of land and buildings throughout the city;
- (4) Dividing the city into districts and restricting and regulating therein the location, construction, alteration and use of buildings, structures and land, whether for residence, business or other specified uses;
- (5) Avoiding or lessening congestion in the public streets;
- (6) Preventing the overcrowding of land, through regulating and limiting the height and bulk of buildings hereafter erected as related to land area;
- (7) Establishing, regulating and limiting the building or setback lines on or along streets or other property lines;
- (8) Regulating and limiting the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding such buildings;
- (9) Establishing standards to which buildings or structures therein shall conform;
- (10) Prohibiting uses, buildings or structures incompatible with the character of the residence or business districts;
- (11) Preventing additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;
- (12) Defining and limiting the powers and duties of the administrative officers and bodies as provided hereinafter; and
- (13) Prescribing penalties for the violation of the provisions of this chapter or any amendment thereto.

(Ord. No. 08-19 (§ 1.1), 9-9-08)

Sec. 23-2. - Interpretation and construction.

- (a) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- (b) Where the conditions imposed by any provisions of this chapter upon:
 - (1) The use of land or building;

- (2) The bulk of buildings;
 - (3) Lot area requirements are less restrictive than comparable conditions imposed by any other provision of this chapter, or of any other law, ordinance, resolution, rule or regulation of any kind, and the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (c) This chapter is not intended to abrogate any easement, covenant or other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.
- (d) No building, structure or use not lawfully existing on August 3, 1993, shall become or be made lawful solely by reason of the adoption of the regulations of this chapter and to the extent that, and in any manner that, said unlawful building, structure or use is in conflict with the requirements of this chapter, said building, structure or use remains unlawful hereunder.

(Ord. No. 08-19 (§ 1.2), 9-9-08)

Sec. 23-3. - Severability.

It is hereby declared to be the intention of the city council that the several provisions of this chapter are severable, in accordance with the following:

- (1) If any court of competent jurisdiction shall judge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter not specifically included in said judgment; and
- (2) If any court of competent jurisdiction shall judge invalid the application of any provision of this chapter to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

(Ord. No. 08-19 (§ 1.3), 9-9-08)

Sec. 23-4. - Building on lots.

In single-family residential districts, every single-family dwelling hereafter erected or structurally altered shall be located on a lot, and there shall not be more than one principal building on one lot. The front of the principal building shall face its street address. The principal building shall have a minimum of two exit exterior doors, one in the front of the principal building and one in the rear.

(Ord. No. 08-19 (§ 1.4), 9-9-08)

Sec. 23-5. - Allowable use of land or buildings.

The following uses of land or buildings are allowed in the districts indicated hereinafter in articles III—VII and article XI under the conditions specified in this chapter:

- (1) Uses lawfully established on August 3, 1993;
- (2) Permitted uses as designated in articles III—VII and article XI of this chapter; and
- (3) Special uses as designated in articles III—VII and article XI of this chapter.

(Ord. No. 08-19 (§ 1.5), 9-9-08)

Sec. 23-6. - Prohibited use of land or buildings.

No building or tract of land shall be devoted to any use other than one which is specified as a permitted or special use in the zoning district in which the building or land is located, as designated in articles III—VII and article XI. However, where a building permit for a building or structure has been legally issued in accordance with law prior to September 1, 2008, and where construction has commenced within 90 days of September 1, 2008, and diligently prosecuted to completion, said building or structure may be completed in accordance with approved plans on the basis of which the building permit has been issued and further may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated.

(Ord. No. 08-19 (§ 1.6), 9-9-08)

Sec. 23-7. - Control over use.

No building or premises shall hereafter be located, erected, raised, moved, reconstructed, extended, enlarged nor altered, except in conformity with the regulations herein specified for the district in which it is located.

(Ord. No. 08-19 (§ 1.7), 9-9-08)

Sec. 23-8. - Nonconforming uses and buildings.

Any use, building or structure lawfully existing or under construction on September 1, 2008, or of any subsequent amendment thereto, which does not conform to the provisions of this chapter or amendment shall be nonconforming. Any such nonconforming building, structure or use may be continued subject to the following provisions, maintained through ordinary repair, or changed to conform to the applicable zoning district regulations. A complete record of the location, value, nature and extent of all nonconforming uses and buildings shall be made and retained by the enforcing officer, when information becomes available.

- (1) *Restrictions applicable to nonconforming buildings.* A building or structure which is under construction and deemed to be nonconforming on August 3, 1993, or subsequent amendment thereto shall be completed within one year of August 3, 1993. A nonconforming building or structure shall not be:
 - a. Structurally altered, except where required by law, or except to make the building conform to the regulations of the district; nor
 - b. Expanded or enlarged; nor
 - c. Continued if the building or structure be destroyed or damaged to the extent of 50 percent or more of its value, as determined by the city building commissioner.
- (2) *Restrictions applicable to nonconforming uses.* A nonconforming use shall not be:
 - a. Expanded or extended into any other portion of a site, building or structure or in any way to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance, except as provided.
 - b. Moved in whole or in part to any of the portion of the lot or parcel occupied by such use as the effective date of adoption or amendment of this ordinance.
 - c. Reestablish if the use is discontinued for one year.
 - d. Continued if the building, structure or use is damaged to the extent of 50 percent or more of its value, as determined by the city building inspector or his designee.

- e. Transfer from its current owner as of the effective date of adoption or amendment of this ordinance to another owner.

(Ord. No. 08-19 (§ 1.8), 9-9-08; Ord. No. 11-04, 3-8-11; Ord. No. 11-15, § 2, 5-24-11, Ord. No. 18-16, §, 9-11-2018)

Sec. 23-9. - Accessory uses.

- (a) Reserved.
- (b) No accessory building, unless it is structurally a part of the principal building or unless it is in accordance with requirements of accessory buildings for special uses, shall be erected, altered, nor moved to, a location within ten feet of the nearest wall of the principal building, nor within the required area for front or side yard of the lot, as established for the district. In residential districts, an accessory building in a rear yard shall be not less than five feet from any property line. No principal building shall be erected, altered, nor moved to a location within ten feet of any accessory building or use (except an in-ground pool).
- (c) No accessory building shall encroach upon that side yard of a corner lot which is adjacent to the street, nor upon that side yard of a reversed corner lot which is adjacent to the street, nor upon the rear yard of a through lot.
- (d) No accessory building shall exceed 15 feet in height unless otherwise permitted as accessory to business or to authorized special uses.
- (e) Accessory uses to recreational clubs shall include the sale of sports equipment and the serving of food and beverages, including alcoholic beverages, if licensed by the city.

(Ord. No. 08-19 (§ 1.9), 9-9-08; Ord. No. 19-11, § 2, 10-22-19)

Sec. 23-10. - Special uses.

To provide for the location of certain uses hereinafter specified, which are deemed desirable for the public welfare within a given district or districts, but which might have an adverse effect upon nearby properties, or upon the character and future development of the district in which they are located, a classification of special uses is hereby established. Procedures for special uses are set forth in section 23-134.

(Ord. No. 08-19 (§ 1.10), 9-9-08)

Sec. 23-11. - Permitted obstructions: yards.

For the purpose of this chapter, the following shall not be considered as obstructions when located in the yards specified:

- (1) *In front yards and side yards abutting a street.* Open terraces and awnings adjoining the principal building, if they do not exceed 20 percent of the depth of the yard; fences not to exceed three feet in height; ornamental light standards and flagpoles. On corner lots, no obstruction of any kind, including vegetation higher than 18 inches above curb level, shall be located in any portion of a required front or side yard situated within 30 feet of the lot corner formed by the intersection of any two street lines. The above applies to all types of zoning districts.
- (2) *In side yards, except those abutting a street.* Open accessory off-street parking spaces. A side yard which adjoins a street shall be considered as a front yard.

- (3) *In rear yards.* Private garages, either attached or structurally a part of the principal building; private detached garages and open accessory off-street parking spaces; accessory sheds, tool rooms, or other similar accessory buildings; recreational equipment, arbors and trellises; and fences not to exceed six feet in height.

(Ord. No. 08-19 (§ 1.11), 9-9-08)

Sec. 23-12. - Yards, general.

- (a) The minimum yard space required for one structure shall not again be considered as yard space for another adjoining structure.
- (b) No lot shall be reduced in area so that the yards or other open spaces become less than required by this chapter.
- (c) No person, firm or corporation shall fill, grade or landscape any lot, piece or grade of the roadway, street or alley on which said lot, piece or parcel is adjacent to.

(Ord. No. 08-19 (§ 1.12), 9-9-08)

Sec. 23-13. - Floodplain area.

No building or structure shall be erected with the elevation of a habitable floor, including basement, lower than the level specified under the flood hazards ordinance or identified/specified by FEMA.

(Ord. No. 08-19 (§ 1.13), 9-9-08)

Sec. 23-14. - Fences.

No electrical or barbwire type fences shall be allowed. Fences may be installed on the property line. The finished side of all fencing shall face the exterior of the yard where it is installed. No agricultural steel fence post may be used in any fence in any zoning district other than an agricultural district. All fences in any business or residential district that enclose a specific area or yard, either separately or in connection with any other structure or foliage, shall have a functional gate installed to provide access to such enclosed area. Such gate must be at least 36 inches in width. Fence height shall be no more than 72 inches for side or rear yards including the height of any berm on which the fence is located.

No fences allowed past the front corner of the house and rear corner on the street corner of side yard. Fences are not prohibited past the front yard of interiors lots. Fences using chain link or wire mesh; the wire opening shall be no larger than three inches by three inches. Fence posts shall be buried to a depth below the frost line, approximately 42 inches. An inspection is required for all post holes. Regardless of the materials used for a fence, only one type of material may be used for the construction of a fence on a given individual parcel or site.

(Ord. No. 08-19 (§ 1.14), 9-9-08; Ord. No. 16-02, § 1, 4-12-16; Ord. No. 16-10, § 1, 9-13-16)

Sec. 23-15. - Building codes.

All buildings, whether new stick-built onsite, premanufactured offsite, reconstructed, or altered, must conform to the latest edition of the International Building Code in effect at the time a building permit is issued. Any unit that is built offsite and can be titled will be considered a mobile home and allowed only in a mobile home park. All buildings premanufactured offsite shall be certified by the manufacturer that the building conforms to the latest edition of the International Building Code in effect at the time a building permit is issued.

(Ord. No. 08-19 (§ 1.15), 9-9-08)

Sec. 23-16. - Nuisances.

In addition to any other applicable provision of law, no person shall make use of property or permit the use of property in such a way as that use of property is a nuisance, nor shall a person make use of property in such a way as that use endangers the health, safety or welfare of individual or the community. Further, no person shall keep traditionally domesticated pets in such conditions or numbers as to allow the keeping of pets to pose a nuisance or threat to health, safety or welfare of persons.

(Ord. No. 08-19 (§ 1.16), 9-9-08)

Sec. 23-17. - Driveways.

All driveways, in any zoning district must be paved with gravel, concrete, paving bricks, or asphalt. No dirt or other types of driveways shall be acceptable. All driveways are required to have a one-foot setback from side lot lines; however, the driveway cannot be raised more than two inches above the adjacent grade. The portion of the driveway one foot from the road is to be no higher than the surface of the road or it is to be flush with the curb, if present. The locations of the proposed driveways must be shown by plat of survey at the time application is made for the construction of the same.

(Ord. No. 08-19 (§ 1.17), 9-9-08)

Sec. 23-18. - Truck parking.

- (a) No semi-trailer or trailer cargo container shall be parked or stored on any zoning lot in any ER, R-1 or RMF zoning district, except while actively making a pickup or delivery at that lot.
- (b) No semi-tractor shall be parked or stored on any zoning lot in any ER, R-1 or RMF zoning district, except while actively engaged in making a pickup or delivery at that lot; provided, however, that, no more than one semi-tractor may be parked on a lot in such zoning districts under the following conditions:
 - (1) The owner or occupant of a residence within such zoning district who owns, leases or operates for hire a semi-tractor and has regularly parked such vehicle at his residence during the 90 days prior to the effective date of this section, September 9, 2008, may, within 45 days after such effective date, apply to the zoning officer for a certificate of occupancy for truck parking at his residence. The zoning officer may issue such certificate after verifying that the applicant meets the requirements of this section.
 - (2) The semi-tractor parking area must be concrete, asphalt or gravel. The semi-tractor shall not be permitted to overhang any public sidewalk or other right-of-way.
 - (3) Every semi-tractor shall be equipped with a functioning hot plug or core heater which shall be used whenever the temperature falls below 32 degrees Fahrenheit.
 - (4) The semi-tractor shall be used only for purposes of traveling to and from the owner's work place.
 - (5) The certificate of occupancy for truck parking may be permanently revoked for any violation of this section. The owner of the semi-tractor shall be entitled to a hearing before the mayor to show cause as to why the certificate should not be revoked.
- (c) No truck tractor, semi-trailer or trailer cargo container shall be parked or stored on any zoning lot in any B-1 or B-2 zoning district unless a special use permit has been granted to the owner of the lot. Any such special use permit shall terminate if the person to whom it was granted transfers title or possession of the lot.

(Ord. No. 08-19 (§ 1.18), 9-9-08; Ord. No. 08-31 (§ 1.18), 11-11-08)

Secs. 23-19—23-29. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 23-30. - Definitions.

The language set forth in the text of this chapter shall be interpreted in accordance with the following rule of construction:

- a. The singular number includes the plural, and the plural number includes the singular;
- b. The present tense includes the past and future tenses, and the future tense includes the present;
- c. The word "shall" is mandatory while the word "may" is permissive;
- d. The masculine gender includes the feminine and neutral;
- e. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in the definition thereof and any word appearing in parenthesis, between a word and its definition herein, shall be construed in the same sense as that word. Words herein not defined shall be interpreted in accordance with definitions contained in Webster's Dictionary published by Merriam-Webster Inc; and
- f. All measured distances expressed in feet shall be to the nearest integral foot; if a fraction is one-half or more, the integral foot next above shall be taken.

The following words and terms, whenever they occur in this chapter, shall be construed as here defined:

Access. A means of approach or admission.

Accessory building. A building subordinate to and located on the same lot with the main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building.

Accessory use. A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

Adult use. Any establishment having as a significant or substantial portion of its intended use that which distinguishes or characterizes with emphasis on depicting, describing or relating to specific sexual activities or specific anatomical areas.

Agribusiness. A combination of the producing operations of a farm, the manufacture and distribution of farm equipment and supplies, and the processing, storage and distribution of farm commodities.

Agriculture. The tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl and including ancillary agricultural industry or business uses necessary for the processing or sale of the crops, animals and fowl raised on the premises.

Airport including *air park*, *flight strip*, *airfield* and *heliport*. A place where aircraft may take off or land, discharge or receive cargoes and/or passengers, be repaired, take on fuel, and be stored.

Alley. A strip of land, smaller than a minor street, along the side of or in the rear of properties intended as access to these properties.

Alteration. Any change, addition or modification in construction, occupancy or use.

Amend or amendment. Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape boundary, or area of a district, or any repeal or abolition of any map, part thereof, or addition thereto.

Amortization. The process by which nonconforming uses and structures must be discontinued or made to conform to requirements of this chapter at the end of a specific period of time.

Amusement center. An establishment offering five or more amusement devices, including, but not limited to coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

Animal hospital. Any building or portion hereof, designed or used for the care, observation, or treatment of animals or pets.

Apartment house. A residential building designed or used for two or more dwelling units.

Arterial. A roadway used primarily for through traffic and so designated on the thoroughfare plan of the city comprehensive plan.

Arterial, major. A road or street, used primarily by through traffic, with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from collector streets.

Arterial, secondary. A road or street, used primarily by through traffic, with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

Automobile filling station. Automobile filling stations shall include buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:

- (1) Sales and servicing of spark plugs, batteries and distributor parts;
- (2) Tire servicing and repair, but not recapping or regrooving;
- (3) Replacement or adjustment of mufflers and tailpipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- (4) Radiator cleaning and flushing, provision of water, antifreeze and the like;
- (5) Washing and polishing, and sale of automotive washing and polishing material;
- (6) Greasing and lubrication;
- (7) Providing and repairing fuel pumps, oil pumps and tires;
- (8) Servicing and repair of carburetors;
- (9) Emergency wiring repairs;
- (10) Adjusting and repair of brakes;
- (11) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (12) Provision of cold drinks, packaged foods, tobacco, and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to principal operation; and
- (13) Provision of road maps and the other informational material to customers; provision of restroom facilities.

Uses permissible at an automobile filling station do not include major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition, or any activity involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile filling stations.

Automobile laundry (carwash). Any building or portion thereof, where automobiles are washed using a conveyor, blower, steam cleaning equipment or other mechanical device of productive line nature.

Automotive repair, major. An establishment mainly engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major

engine and engine part overhaul, which is conducted within a completely enclosed building, but not including body and fender repair or engine repair.

Automotive repair, minor. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, which is conducted within a completely enclosed building.

Automotive self-service motor fuel dispensing facility. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a freestanding automatic car wash.

Automobile parking lot, commercial. A lot or portion thereof, other than an automobile sales lot, used for the storage or parking of six or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

Bar, tavern, or cocktail lounge. A building or part of a building, where liquors are sold to be consumed on the premises, and which has a separate counter upon or over which alcoholic liquor is the principal commodity served.

Basement. That portion of a building having more than one-half of its height below lot grade.

Bed and breakfast home stay establishment. A single-family dwelling in which the principal use is permanent residential quarters; and in which, as in accessory use, no more than three bedrooms are made available for transient occupancy, generally for not more than seven days, by no more than five guests for compensation.

Bedroom. Any room (other than a living room, dining room, kitchen, bath, utility room or any storage area) which can be utilized as a sleeping area under the provisions of this chapter and the building code.

Berm. A landscaped earthen mound intended to screen, buffer, mitigate noise, and generally enhance views of parking areas, storage areas or required yards particularly from public streets or adjacent land uses.

Block. That property abutting one side of a street and lying between the two nearest intersecting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and or any other barrier to the continuity of development.

Boardinghouse. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented or are designated or intended to be rented but which rooms, individually or collectively do not constitute separate dwelling units. A rooming house or boardinghouse is distinguished from a tourist home in that the former is designated to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Buffering or screening. For the purposes of this chapter, screening or buffering shall be defined as any device or natural growth, or a combination thereof, which shall serve as a barrier to vision, light or noise between adjoining properties, wherever required by ordinance. Whenever used for screening or buffering purposes, "natural growth" shall be taken to mean coniferous trees, bushes and shrubbery.

Buildable area. The area of the lot remaining after required yards have been provided.

Building. Any structure having a roof supported by columns or walls of one or more stories, designed primarily for the shelter, support or closure of persons, animals or property of any kind.

Building Code. The International Building Code promulgated by the International Code Council as adopted by the jurisdiction.

Building coverage; lot coverage. All areas under roof or projections from buildings on a lot.

Building height. The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten feet distant from the front lot line, or from the grade in all other cases.

Building inspector. An appointed official of the city who is responsible for certifying building inspections.

Building line. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

Building, principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential zone, any dwelling shall be deemed to be a main building on the lot on which the same is located if the lot is used primarily for residential purposes.

Building setback line. The line indicating the minimum horizontal distance between the property line and buildings, either at the front or side of the lot.

Building, temporary. A building with no foundation or footing and which is intended to be removed when, the designated time period, activity or use for which the temporary building was erected has ceased.

Bulk. A composite characteristic of a given building as located upon a given lot not definable as a single quantity but involving all of the following characteristics:

- (1) Size and height of building;
- (2) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- (3) Gross floor area of the building in relation to the lot area (floor area ratio);
- (4) All open spaces allocated to the building; and
- (5) Amount of lot area provided per dwelling unit.

Business or financial services. An establishment intended for the conduct or service or administration by a commercial enterprise or offices for the conduct of professional or business service.

Campground. A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

Canopy/awning. A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.

Canopy tree. A deciduous shade tree with a minimum caliper of three inches at time of planting, as measured six inches above level ground.

Carport. Any space outside a building and attached thereto, wholly or partly covered by a roof, and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure that is more than 18 inches in height, exclusive of screens (other than the side of the building to which the carport is attached).

Cellar. That portion of a building below the first floor joists at least half of whose clear ceiling height is below the mean level of adjacent ground. Such a portion of a building shall not be used for habitation.

Child care institution. An institutional facility housing more than nine orphaned, abandoned, dependent, abused or neglected children.

Circus. A traveling or transportable show or exhibition consisting of performances by persons and animals under one tent or similar structure, with or without other side shows.

Club or lodge, private. A nonprofit association of persons who are bonafide members paying dues which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Cluster development. An arrangement of structures on adjoining lots in groupings allowing closer spacing than would be generally permitted under ordinance requirements for lot widths with the decrease in lot width or area compensated by maintenance of equivalent open space either elsewhere on the lot or in the form of common open space.

Collector street. A roadway used primarily for collecting traffic from local streets and channeling it to arterial streets and so designated on the thoroughfare plan of the city comprehensive plan.

Commercial. Any wholesale, retail, or service business activity established to carry on trade for a profit.

Commercial, heavy. An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

Commercial, light. An establishment or business that generally has retail or wholesale sales, office uses, or services, which do not generate noise or other impacts considered incompatible with less-intense uses—Typical businesses in this definition are retail stores, offices, catering services or restaurants.

Commercial center, community. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A community commercial center shall provide for the sale of general merchandise, and may include a variety store discount store or supermarket.

Commercial center, convenience. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A convenience commercial center shall provide a small cluster of convenience shops or services.

Commercial center, neighborhood. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A neighborhood commercial center shall provide for the sales of convenience goods and services, with a supermarket as the principal tenant.

Commercial center, regional. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings, and other retail sales and services, in full depth and variety.

Commercial retail sales and services. Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor "sidewalk" promotions); businesses specializing in the sale of either general merchandise or convenience goods.

Common open space. An open tract, or parcel of land owned in undivided interest, not devoted to residential uses or structures but directly related, and adjunct to a cluster development or planned development, as herein provided.

Community residence. A single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of unrelated persons with disabilities, plus paid professional support staff provided by a sponsoring agency, either living with the residents on a 24-hour basis, or present whenever residents with disabilities are present at the dwelling unit; and complies with the zoning regulations for the district in which the site is located.

Compatible. Land uses capable of existing together in harmony.

Comprehensive plan. The official document or elements thereof, adopted by the city council, and intended to guide the physical development of the city or a portion thereof. Such a plan, including maps,

plats, charts, policy statements and/or descriptive material, shall be that adopted in accordance with state statutes.

Conditional use. A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

Condominium. A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

Congregate housing. Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this Code, and may include facilities for eating and cooking for occupancy by other than a family. Congregate housing shall be permitted to be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

Contractor. A person(s) hired to construct and install required improvements.

Convenience store. A commercial establishment designed and intended to serve daily or frequent trade needs of the surrounding population, generally characterized by the retail sale of food, the rapid turnover of customers, high traffic/trip generation, and less than 5,000 square feet of retail area.

Conversion. A change in the use of land or a building.

Court. An open, unoccupied space, other than a yard with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

Cross walkway. A public right-of-way, 15 feet or more in width between property lines, which provides pedestrians access to adjacent properties.

Culvert. A drain, as under a road or sidewalk, for the passage of water.

Curb level. The level of the top of the established curb in front of a building or structure measured at the center of such front. Where no curb has been established, it shall be deemed to be the established level of the centerline of the street surface in front of the building or structure, measured at the centerline of such front.

Day care center. Any child care facility receiving more than six children for daytime care during part of a day where tuition, fees or other forms of compensation for the care of children is charged. The term "day care center," "centers," "day nurseries," "nursery schools," "kindergartens," "play groups" and "centers" or "workshops for mentally or physically handicapped" are included, with or without stated educational purposes.

Day care home. An occupied residence providing or designed to provide day care for not more than six children, including resident children less than 14 years of age.

Decibel. A prescribed interval of sound frequencies which classifies sound according to its pitch.

Density. The quantity per volume, unit area or unit length as:

- (1) The mass of a substance per unit volume;
- (2) The distribution of a quantity per unit of space; or
- (3) The average number of individuals or units per space unit.

Development. The process of erecting or causing to be erected buildings or structures on a lot.

Development plan. A plan showing the concept, character and nature of the entire proposed development as part of an application for the reclassification of land into certain zones.

Disability. A physical or mental impairment which substantially limits one or more of a person's major life activities, impairs their ability to live independently, or a record of having such an impairment, or being regarded as having such an impairment, but such term does not include current use of, nor addiction to, a controlled substance.

Dog kennel. Any premises where three or more dogs over four months of age are boarded, bred, trained or offered for sale.

Driveway. A space or area specifically designated and reserved on a lot for the movement of vehicles from one lot to another or from a lot to a public street.

Duplex. A two-family residential structure; the residential units may be arranged one above the other, or alongside each other on a single lot.

Dwelling, attached. One of two or more residential buildings having a common or party wall separating dwelling units.

Dwelling, detached. A dwelling which is not attached to any other dwelling by any means.

Dwelling, mobile. A modular unit built on a chassis, having wheels or designed to be transported on wheels, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a dwelling when attached to a permanent foundation and when connected to the required utilities.

Mobile home, class A. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of the construction and that satisfies each of the following additional criteria:

- (1) The home has a length not exceeding four times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (3) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (4) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home;
- (5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy; and
- (6) Titled and assessable as real property (as opposed as licensed by the state).

Mobile home, class B. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a class A mobile home.

Dwelling, multifamily. A building containing three or more dwelling units (an apartment house) with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, semidetached (attached). One of two buildings, arranged or designed as dwellings located on abutting walls without openings, and with each building having a separate lot with minimum dimensions required by district regulations.

Dwelling, single-family. A residential dwelling unit other than portable dwelling designed for and occupied by one family only.

Dwelling, temporary. As a portable dwelling, but not necessarily attached to a permanent foundation.

Dwelling, two-family. A residential building containing not more than two dwelling units, arranged one above the other or side by side, designed for occupancy by not more than two families.

Dwelling unit. One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities and containing not less than 600 square feet of residential floor area.

Dwelling unit, modular. A factory fabricated building designed to be used by itself or to be incorporated with similar units at a building site to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, or other prefabricated sub-elements incorporated into a structure at the site.

Dwelling unit, sectional home. A dwelling made of two or more modular units transported to the home site, put on a foundation and joined to make a single dwelling.

Easement. a grant by a property owner of the use, for a specific purpose or purposes, of a strip of land by the general public, a corporation or a certain person.

Erected. Shall be taken to mean constructed, reconstructed, moved or structurally altered.

Evergreen. A nondeciduous tree of at least five feet in height at time of planting.

Extractive industries. Extractive industries are defined as stone quarries, that is, commercial or industrial operations involving removal from a site of natural accumulations of sand, rock, soil or gravel. The meaning of extractive industries includes appurtenant structures such as crushers, screeners, and washers but does not include any other industrial use, such as concrete batching plants or asphalt mixing plants.

Face of building, primary. The wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

Facilities standards manual. The facilities standards manual of the City of Braidwood.

Farm animals. Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

Fence. A constructed barrier of material or combination of materials erected to enclose or screen areas of land.

Fence, solid. A fence, including solid entrance and exit gates, which effectively conceals from viewers, in and on adjoining properties and streets, materials stored and operations conducted behind it.

Flood hazard. The approximate regulatory 100-year floodway and floodway fringe adjoining any water body which would be inundated by the regulatory 100-year flood discharge, which has not been determined by definitive engineering studies and that is on the FIRM flood hazard boundary maps of the city as "approximate 100-year flood boundary."

Floodplain. Continuous sections of land, adjacent to bodies of water, which are subject to periodic flooding and inundation.

Floodway. The unobstructed portion of the regulatory 100-year flood hazard district (FHD) consisting of the water channel and overbank areas capable of conveying the deep and fast moving water discharge of the regulatory 100-year flood and keeping it within designated heights and velocities and that is identified on the FEMA flood hazard boundary map for the city as "floodway."

Floodway fringe. The portion of the regulatory 100-year flood hazard district (FHD) beyond the limits of the regulatory floodway subdistrict (zone A) in which the usually shallow and slow moving water discharge of the regulatory 100-year flood is retained and conveyed and that is identified on the FEMA flood hazard boundary maps for the city as "floodway fringe."

Floor area (for the purpose of determining the floor area ratio, conversions of existing structures, and maximum size of business establishments). The sum of the gross horizontal areas of the several floors measured in square feet, including the basement floor, but not including the cellar floor, of the building; measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building shall also include elevator shafts and stairwells at each floor; floor space used for mechanical equipment except equipment, open or closed, located on the roof; penthouse;

attic space having headroom of six feet, six inches or more; interior balconies and mezzanines; enclosed porches; and floor area devoted to accessory uses; provided that any space devoted to off-street parking or loading shall not be included in floor area.

Floor area (for the purpose of determining off-street parking and off-street loading requirements).

The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. The area shall include accessory storage areas located within a selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area for the purpose of determining off-street parking spaces shall not include floor area devoted primarily to storage purposes (except as otherwise noted herein); nor floor area devoted to off-street parking or loading facilities, including ramps, aisles and maneuvering space; nor basement floor area other than the area devoted to merchandising activities, to the production or processing of goods, or to business or professional offices. The gross floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks shall be computed each ten feet of height or fraction thereof as being equal to one floor.

Floor area, net (nonresidential). The sum of the total horizontal areas of the several floors of all buildings on the lot, measured from the interior faces of exterior walls and from the centerline of walls separating two or more buildings. The term "net floor area" shall include outdoor display areas for sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products, but shall exclude areas designed for permanent uses such as toilets, utility closets, malls enclosed or not, truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in 50 percent of such area is less than six feet, six inches.

Floor area, net (residential). The aggregate area of all floors included within the outer walls of a building, measured at the exterior of such walls, excluding basements not used for living or recreational purposes, cellars, rooms for heating equipment, garages and unenclosed porches, breezeways and other unheated areas, and including only such floor area under a sloping ceiling for which the headroom is not less than five feet, six inches, and then only if at least 50 percent of such floor area has a ceiling height of not less than eight feet, and provided any such floor area has access to the floor below by a permanent built-in stairway.

Floor area ratio (FAR). The gross floor area of the building or buildings on any lot divided by the lot area of such lot less the area within the 100-year floodplain. When used in this chapter, the floor area ratio multiplied by the lot area in question produces the maximum amount of floor area that may be constructed on such lot.

Foot-candles. A unit of illumination; technically the illumination at all points one foot distant from a uniform point source of one candle power.

Forestry. The planting, growing and harvesting of trees, but not including sawmilling or other processing of trees or parts thereof.

Foster home. A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

Frontage. Lot width at the front property line.

Funeral parlor. An establishment used primarily for human funeral services, which may or may not include facilities on the premises for:

- (1) Embalming;
- (2) Performance of autopsies or other surgical procedures; or
- (3) Cremation.

Garage, private (residential). An accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry connected directly or indirectly with the automotive vehicles is carried on; provided that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one-or two-car capacity may be so rented.

Garage, public. A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking or storage of vehicles and available to the general public.

Garage, repair. Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed, or stored, or otherwise serviced for compensation.

Garage, storage. A building or premises used for the housing only of motor vehicles pursuant to previous arrangements and not by transients, where no equipment or parts are sold and vehicles are not rebuilt, serviced, repaired, hired, or sold, except that fuel, grease, or oil may be dispensed, or car washing may be done, within the building to vehicles stored therein.

Grade (adjacent ground elevation). The lowest point of elevation of the existing surface of the ground, within the area between the building and a line five feet (1,524 mm) from the building.

Gross foundation area or ground floor area. The lot area covered by a building measured from the exterior faces of exterior walls but excluding open terraces, porches, and carports.

Guesthouse. Dwelling or lodging units for temporary nonpaying guests in an accessory building. No such quarters shall be occupied by the same guests for a period of more than three months in any 12-month period, and no such quarters shall be rented, leased, or otherwise made available for compensation of any kind.

Group care facility. A facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.

Habitable space (room). Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Halfway house. A temporary residential living arrangement for persons who are receiving therapy and counseling from support staff who are present at all times residents are present, to help them recuperate from the effects of drugs or alcohol addiction.

Health official. The officer of the city or county designated by the city council as the health officer.

Home occupation. An occupation conducted in a dwelling unit, provided that:

- (1) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of said floor area, if conducted in an accessory building, shall be used in the conduct of the home occupation;
- (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding one square foot in area, not illuminated;
- (4) There shall be no sales, other than items hand-crafted on the premises, in connection with such home occupation;
- (5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; and

- (6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. Boardinghouses, rooming houses, tourist homes, and private educational institutions shall not be deemed home occupations.

Horticulture. The science and art of growing fruits, vegetables, flowers, or ornamental plants.

Hospice. A temporary residential living arrangement for persons with a disease that requires full-time support, therapy and/or treatment.

Hospital, sanitarium, sanatorium. Any licensed and state-accredited institution receiving inpatients and rendering medical and/or surgical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, nose, throat, pediatric, orthopedic, dermatology, cancer, mental, tuberculosis, chronic disease, and obstetrics. The term "hospital" shall also include sanitariums and sanatoriums, including institutions wherein mentally handicapped, emotionally disturbed, epileptic, and drug dependent patients are treated or cared for under the supervision of licensed medical personnel.

Hotel/motel. Any building containing ten or more guestrooms where, for compensation, lodging, meals, or bath are provided for ten or more guests, excluding a fraternity or sorority house, school, or college dormitory, tourist home, apartment hotel, ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Hotel, apartment. A hotel in which at least 50 percent of the hotel accommodations are occupied by permanent guests for 30 days or more.

Household pets. Dogs, cats, rabbits, birds, etc., for family use only (noncommercial) with cages, pens, etc.

Impervious surface. Any material which reduces and prevents absorption of storm water into previously undeveloped land.

Improvement, public improvement. Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway strip, sidewalk, planting strip, cross walkway, offstreet parking areas, or other facility for which the city may ultimately assume the responsibility for maintenance and operation or which is constructed for general public use or benefit.

Industrial or research parks. A tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

Intermediate care home. A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate care institution. An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Junkyard. Any land or building used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

Jurisdiction. As used in this Code, jurisdiction is any political subdivision that adopts this code for administrative regulations within its sphere of authority.

Kitchen. Any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

Landscaped open space. For the purposes of this chapter, landscaped open space shall be defined as an open area which is in accordance with requirements set forth herein. Such landscaping shall include appropriate grassing of the open area, placement of shrubbery and trees, walkways, and appropriate grading such as to render the required open space area aesthetically pleasing.

Legislative body. The political entity of the adopting jurisdiction.

Livability space. Open spaces used for people, planting, and visual appeal which does not include car or parking areas.

Livable area. All areas of at least eight feet of unobstructed height with completely finished walls, ceilings and floors that are heated and insulated, that are provided with electrical and plumbing facilities as required by ordinance and that meet the lighting and ventilation requirements of the ordinances. Livable area shall be measured from the exterior face of each dwelling unit's exterior walls, and from the centerline of common walls between dwelling units or between dwelling units and common areas. Common areas or areas that are used jointly by occupants of more than one dwelling unit, such as hallways, stairways, furnace rooms, heater rooms, air conditioning rooms, utility rooms, equipment rooms and storage rooms shall not be considered livable areas. Areas with unfinished walls, ceilings, or floors that could be insulated and that have provisions for heating, electrical wiring, and plumbing and could meet the light and ventilation requirements of our ordinances may receive credit for 50 percent of the area. Attached garages may receive credit for 25 percent of the area.

Lodging room. A room rented as sleeping [or] living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms, each room shall be counted as one lodging room.

Lodging unit. Living quarters for a family which living quarters do not contain independent kitchen facilities; provided, however, that dwelling units available for occupancy on a rental or lease basis for periods of less than one week shall be considered lodging units even though they contain independent kitchen facilities.

Lot. A parcel of land occupied or to be occupied by a building and its accessory buildings or by group dwellings and their accessory buildings, together with such open spaces as are required under the provisions of this chapter, having at least the minimum area required by this chapter for a lot in the zone in which the lot is situated, and having its principal frontage on a public road within a public right-of-way. The term "record lot" means the land designated as separate plat filed among the city land records, but does not include land identified on any such plat as an out lot.

Lot area. The total horizontal area included within the rear, side and front lot lines or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses. Lot area shall not include portions under water except where the total area of a body of water is within the lot or where the width included as part of the area of the lot does not exceed 30 feet.

Lot, corner. A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135 degrees.

Lot coverage. The percentage of a lot area occupied by the ground area of principal and accessory buildings on such lot, excluding the area occupied by a solar collector.

Lot depth. The horizontal distance from the front lot line to the rear lot line measured at the center of the lot between side lot lines.

Lot, interior. A lot situated with the front lot line along a dedicated street and the side and rear lot lines abutting adjoining lots, or unsubdivided property.

Lot line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot line, front. The boundary of any lot which is along an existing or dedicated street lot line. On corner lots the front lot line shall be the boundary line along such street lot line that is established at the time of application for a building permit as the front lot line.

Lot line, rear. The boundary of a lot which is most distant from, and is or is approximately parallel to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any boundary of a lot which is not a front or rear lot line.

Lot of record. A parcel of land that is a lot in a subdivision recorded on the records of the county recorder of deeds, or that is described by a metes and bounds description which has been so recorded.

Lot, regular. A lot with direct access to a road within a public right-of-way, so located, shaped and oriented to adjacent lots as to be reasonably adapted to application of general measurements indicated below, and with location of yards by type (front, side, rear and special) logically determined by and related to adjacent street or streets and adjacent yard patterns. A regular through lot has frontage on two public roads within two public rights-of-way.

Lot, reversed corner. A corner lot where the street-side lot line is substantially a continuation of the front lot line of the first lot to its rear.

Lot, through. An interior lot, fronting on two parallel or approximately parallel streets.

Lot width (minimum frontage). The minimum horizontal distance between the side lot lines of a lot measured at the narrowest width within the first 30 feet immediately in back of the required front yard line provided that the minimum width at the front lot line shall not be less than 35 feet. For a lot with a curvilinear front lot line, the lot width shall be measured on a straight line perpendicular to a radial at the center of the lot tangent to the required setback line.

Low-volume traffic generation. Uses such as furniture stores, carpet stores, major appliance stores, etc., that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Major road. A collector or arterial road.

Manufacturing, heavy. All other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

Manufacturing, light. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

Manufacturing, medium. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

Marquee sign (canopy sign). A roof-like structure of permanent nature which projects from the wall of a building and may overhang a public right-of-way.

Minor street. A street intended primarily as access to abutting properties.

Mobile home subdivision. An area of land used or intended to be used for the placement of mobile homes as described under dwelling, mobile, class A.

Motel/hotel. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

Motor freight terminal. A building or premises in which freight is received or dispatched by motor vehicle. A terminal may include facilities for the temporary storage of loads prior to trans-shipment.

Motor vehicle. Any self-propelled wheeled vehicle designed primarily for transportation of persons or goods along public streets, alleys or other public ways.

Motor vehicle sales lots. A lot arranged, designed, or used for the storage and display for sale of any motor vehicle or any type of trailer, provided the trailer is unoccupied, and where no repair work is done except minor and incidental repair of automobiles or trailers displayed and sold on the premises.

Multiple-family dwelling. A building containing three or more dwelling units, primarily used for one or more permitted residential uses or occupied by more than one family.

Nonconforming lot. A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

Nonconforming sign. A sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not now conform.

Nonconforming structure. A building or structure or portion thereof lawfully existing at the time this code became effective which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

Nonconforming use. Any use lawfully being made of any land, building or structure, other than a sign, on August 3, 1993, or any amendment to it rendering such use nonconforming, which does not comply with all of the regulations of this chapter, or any amendment hereto, governing use for the zoning district in which such land, building or structure is located.

Nonvehicular open space. Livability space.

Noxious matter. Material which is capable of causing injury or malice to living organisms or is capable of causing detrimental effects upon the health or the psychological, social or economic well-being of human beings.

Nursery. A place where plants, trees, shrubs, etc., are grown for transplanting, for use as stocks for budding and grafting, or for sale.

Nursing home (rest home). An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Octave band. Means a prescribed interval of sound frequencies which classifies sound according to its pitch.

Odorous matter. Any matter that produces an olfactory response in a human being.

Offsite. Describing a location on an area of land which is proximate to a parcel of land defined as "onsite."

Onsite. Onsite shall be construed to be describing [a] location on all, or a portion, of a parcel of land which is the subject of an application for approval by the city council or plan commission/zoning board of appeals, and which parcel of land is in single ownership or under unified control.

Open fence. A fence, including any installed gates, which contains open spaces larger than three inches by three inches, which afford a direct view through the fence, which extend over the whole of the fence.

Open sales lots. Any land used or occupied for the purpose of buying and selling merchandise including, but not limited to, passenger cars, trucks, motor scooters, motorcycles, boats and monuments or for storing of same prior to sale.

Open space. Land areas that are not occupied by buildings, structures parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

Park. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

Parking lot. An open area, other than a street, used for the parking of automobiles.

Parking space, offsite. A space suitable for parking one automobile and including adequate driveways, if necessary, to connect such space with a public right-of-way. Space within a building or upon a roof allocated for parking, shall be included and considered a part of the required space.

Particulate matter. Material which is suspended in or discharged into the atmosphere in finely divided form as liquid or solid at atmospheric temperature and pressure including, but not limited to, dust, smoke, fumes, spray and fog.

Party wall. A commonly shared wall between two separate structures, buildings or dwelling units. Such a wall contains no openings and extends from its footing below finished ground grade to the height of the exterior surface of the roof.

Performance standards. A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

Planned development. A unified development in a single ownership or control and which includes two or more principal buildings where the specific requirements of a given district may be modified.

Planned unit development. A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

Plot plan. A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

Planning commission. The planning commission/zoning board of appeals of the City of Braidwood. Also referred to as the zoning board or the zoning board of appeals.

Porch. The term "porch" shall include any porch, veranda, gallery, terrace, portico, or similar projection from a main wall of a building and covered by a roof, other than a carport as defined in this chapter. An "unenclosed porch" is a porch with no side enclosure (other than the side of the building to which the porch is attached) that is more than 18 inches in height, exclusive of screens.

Preferred frequency octave band. Means a standardized series of octave bands prescribed by the American Standards Association in S1.6-1960 Preferred Frequencies for Acoustical Measurements.

Premises. A lot, parcel, tract or plot of land together with the buildings and structures thereon.

Primary street. A street of considerable continuity which serves or is intended to serve as a major traffic artery connecting large areas.

Prime farmland. Prime farmland is land that has the best combination of physical and chemical characteristics for producing food feed forage fiber, etc. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed according to acceptable farming methods.

Property line, front. A line running along the front of a lot from side lot line to side lot line, separating the lot from any street right-of-way or street easement.

Public facilities. Public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; scenic and historic sites; schools and other public buildings and structures.

Public services. Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, not including public utility stations or maintenance facilities.

Public street. All primary, secondary, and minor streets which are shown on the plat and are dedicatable.

Public utility station. A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treated water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

Public way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Quasi-public. Essentially a public use, although under private ownership or control.

Quorum. A majority of the authorized members of a board or commission.

Record plat. A map or chart of a city, town, section or subdivision, filed among the city land records.

Recreation area, commercial. Any establishment operated as a commercial enterprise in which seasonal facilities directly related to outdoor recreation are provided for all or any of the following: camping, lodging, picnicking, boating, fishing, swimming, outdoor games and sports, and activities. Incidental area does not include miniature golf grounds, golf driving ranges, mechanical amusement devices, or accessory uses such as refreshment stands, equipment sales or rental.

Recreational vehicle park. A parcel of land in which one or more spaces are occupied or intended for occupancy by recreational vehicles used for transient dwelling purposes.

Recreational vehicle. A travel trailer, pickup camper, motor home, tent trailer, or similar device used for temporary living, sleeping and housing.

Recycling facility. Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

Rehabilitation center (halfway house). An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

Registered design engineer. An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state in which the project is to be constructed.

Religious, cultural and fraternal activity. A use or building owned or maintained by organized religious organizations or nonprofit associations for social civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

Renovation. Interior or exterior remodeling of a structure, other than ordinary repair.

Research laboratory. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential building. A building arranged, designed, used or intended to be used for residential occupancy.

Rest home, convalescent home. Any place containing beds for two or more patients, established to render domiciliary care for chronic or convalescent patients, but not including child care homes, or facilities for the care of the feeble-minded, mental, epileptic, alcoholic patients or drug addicts.

Restaurant. Any establishment, however designated, at which food is sold for consumption on the premises. However, a snack bar or refreshment stand at a public or nonprofit community swimming pool, playground, playfield or park, operated solely by and for the agency or group operating the recreational facility, and for the convenience of patrons of the facility shall not be deemed a restaurant.

Restaurant, drive-in. Any place or premises used for sale, dispensing, or serving of food, refreshment or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshment or beverages in motor vehicles on the premises; a refreshment stand; a fast food or primarily a carryout establishment.

Restaurant drive-through. A fast food restaurant with a drive-through window or windows where food is served to the consumer in a motor vehicle.

Restaurant, fast food. A self-service eating establishment where food is served over the counter in disposable containers for consumption either on or off the premises.

Restaurant, feature. A restaurant which provides food service to customers seated only at tables, where alcohol may be served with food at the table.

Retail stores and shops. Buildings or land used for sale of merchandise at retail or for the rendering of personal services, including, but not limited to the following: barber shop, beauty parlor, drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notion store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop; but specifically excluding coal, wood and lumberyards.

Road. Shall include the terms street, avenue, way, court, drive and the like.

Road, class I. Roads which are part of the state maintained highway system as of May 28, 1996.

Road, class II. Roads meeting the state department of highway specifications, and acceptable for maintenance by the state, bonded as provided in the city subdivision ordinance, or are accepted in the state maintained highway system after August 3, 1993.

Road, class III. Private roads on a 50-foot right-of-way which are created as of May 28, 1996, and which provide easement for public access.

Road, minor. A class III road or road intended primarily for local traffic and access to abutting property.

Road, primary. An arterial road or class I road.

Road, secondary. A collector road or a class II road.

Rooming house. A dwelling in which for compensation, lodging is furnished to three or more but not exceeding nine guests; a boardinghouse.

Sanitary landfill. A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary (definition form: ASCE -Manuals of Engineering Practice No. 39, New York, ASCE, 1959: p. 612).

Screening. Whenever this term is used, it shall refer to any landscaping, screening, buffering, fencing or other barrier as required by this chapter for concealing from viewers the area behind it.

Secondary street. A street supplementary to the primary street system providing intercommunication between this system and smaller areas and streets.

Setback (building setback). The line indicating minimum horizontal distance between the property line and building, at the front, side and rear of the lot. For a lot with a curvilinear front lot line, the front yard line and the rear yard line shall be measured on a straight line perpendicular to a radial at the center of the lot tangent to the required setback line.

Shopping center. Any group of two or more commercial uses which:

- (1) Are designed as a single commercial group when located on the same lot;
- (2) Are under common ownership or management;
- (3) Are connected by party walls, partitions, canopies, or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walkways and access ways designed to facilitate customer interchange between uses;
- (4) Share a common parking area; and
- (5) Otherwise present the appearance of one continuous commercial area.

Sign. Any structure, vehicle, device, or any part thereof, which shall be used to identify, advertise, or attract attention to any product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry, or business and which shall display or include any letter, word, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction, or advertisement, and which is intended to be seen by persons in the public right-of-way.

- (1) *Advertising sign.* A sign which directs attention to a business, commodity, service, activity, idea, slogan, or entertainment, conducted, sold, offered or available elsewhere than upon the premises where such sign is located or to which it is affixed.
- (2) *Business sign.* A sign which directs attention to a business, commodity, service or activity, idea, slogan, or entertainment conducted, sold, offered or available upon the premises where such sign is located or to which it is affixed.
- (3) *Ground sign.* A sign which is supported by uprights or braces or some object on the ground with not more than two feet of clear space between the bottom of the face of the sign and the grade beneath the sign face.
- (4) *Identification sign.* A wall sign used to display, identify the name, nature, logo, trademark or other identifying symbol of the individual, business, profession, organization, or institution occupying the premises upon which such sign is located.
- (5) *Pole sign.* A sign that is supported by one or more structurally engineered pole(s).
- (6) *Residential development sign.* A sign placed at the major entrances to a subdivision or a planned unit development identifying the subdivision or planned unit development.
- (7) *Real estate sign.* A business sign placed upon a property advertising that particular property for sale or rent or lease.
- (8) *Wall sign.* A business sign attached directly to a building wall.
- (9) *Window sign.* A temporary or permanent sign which is visible to persons in the public right-of-way and which is placed within or on the outside of a window or on the inside of a glass window, or on the inside of a building and within one foot of a window or one that can be seen from the outside of a building.
- (10) *Billboard.* A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Shed (residential). An accessory building which is intended for use as a storage building of less than 120 square feet located in the rear yard only, limited to a height of less than 12 feet, not being of metal. The base of the shed has to be four inches above the ground with gravel, concrete or patio block base.

Sign, area of. The area of a sign shall be determined from its outside measurements including any wall work incidental to its decoration, but excluding as an art the height and overall width of supports, unless such supports are used to attract attention. In the case of a sign where lettering appears back to back, that is, on opposite sides of the sign, the aggregate area of both sides shall be considered that of only one face. In the case of an open sign made up of individual letters, figures, words, or designs, the spaces between the same shall be included.

Sign face. The surface of a sign or sign board upon, against, or through which a message is displayed.

Sign, illuminated. A sign or any part of a sign, which is illuminated, externally or internally, by light from a source located for the specific purpose of such lighting.

Sign, temporary. A sign advertising a candidacy for public office or an event of public interest, such as a public or general election, church or public meeting, fair, horse show, turkey shoot, entertainment for charitable purposes and other similar social activities of temporary duration or nonrecurring nature.

Site plan. A required submission, prepared and approved in accordance with the provision of article VI, division C [section 23-138], which is a detailed engineering drawing of the proposed improvement

required in the development of a given lot. For the purpose of this chapter, a site plan is not to be construed as a development plan as required by other provisions of [this chapter].

Soil mapping unit. Broad areas illustrated on a map, that have a distinctive pattern of soils, relief and drainage typically, a map unit consists of one or more major soils and some minor soils. Each map unit is a unique natural landscape. The soils making up one unit can occur in other units but in different patterns.

Sound level meter. Means an electronic instrument which includes a microphone, an amplifier and an output meter which measure noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

Stable, commercial. An establishment where animals are cared for, boarded, and/or let for hire.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling next above. A basement shall be counted as a story if it is used for business or dwelling purposes. A mezzanine floor shall be counted as a story if it covers more than one-third of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is 20 feet or more.

Street. A street which serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets.

Street, centerline of. A line established as a centerline of a street by any state, city, or other official agency or governing body having jurisdiction thereof and shown on an officially adopted or legally recorded map, or, if there be no official centerline lying midway between the street right-of-way lines thereof. Where street lines are indeterminate and a pavement or a traveled way exists, the centerline shall be established by the commission, or in the absence of a determination by the commission, shall be assumed to be a line midway between the edges of such pavement or traveled way.

Street, private. A right-of-way or easement in private ownership not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

Street width. The shortest distance between lines of lots delineating the street.

Strip development. A commercial or retail establishment, usually one store deep that fronts a major street.

Structural alteration. Any change, modification, addition or deletion to an existing structure.

Structure. Anything constructed on, or affixed or attached to land.

Substantial alteration. Work involving the removal or replacement of 25 percent or more of the structural members of any building as part of a single remodeling, or repair, or involving expansion of the total floor area.

Taverns (cocktail lounge). An establishment where liquors are sold to be drunk on the premises.

Testing station. Land and/or structures for the purpose of testing electromagnetic waves utilized for radios, television, microwave, radar, and other means of communication. This shall not include testing operations for light, X-ray, radioactive emissions, or other emissions dangerous to human health.

Theater, indoor. A building designed and/or used primarily for the commercial exhibition of motion pictures to the general public or used for performance of plays, acts, dramas by actors and/or actresses.

Theater, outdoor drive-in. An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Tourist home. A single-family dwelling in which the principal use is permanent residential quarters and in which, as an accessory use, accommodations for from six through ten guests in four through nine rooms are made available for transient occupancy for compensation, generally for not more than seven days.

Townhouse. One of a group of three or more attached single-family dwelling units, separated from each other by continuous vertical party walls without openings for human passage or visibility from basement floor to roof; with no dwelling unit directly above another; and each unit having separate entrances from the outside.

Toxic material. A substance (liquid, solid, or gaseous) which by reason of an inherent deleterious property, when emitted in any amount, is injurious to living organisms of plants, animal[s], and human beings.

Trailer. Any vehicle, house car, camp car, or any portable or mobile vehicle on wheels, skids, or rollers or blocks, either self-propelled or propelled by any other means, which is used for commercial purposes.

Trailer park. Any premises on which are parked two or more trailers, or any premises used or held out for the purpose of supplying to the public a parking space for two or more such trailers; does not include sales lots on which automobiles or unoccupied trailers, new or used, are parked for the purpose of inspection or sale.

Transportation system management plan. An organized program of strategies and techniques to reduce traffic demand and congestion and thereby improve traffic flow, by means other than the construction of new capital intensive transportation facilities.

Understory tree. A small deciduous tree with a minimum caliper of two inches at time of planting, as measured six inches above the ground.

Use. The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

Use, accessory. A subordinate use, such as a private garage, which is clearly and customarily incidental to the principal use of a building or premises, and which is located on the same lot as the principal building or use except for such accessory parking facilities as are specifically authorized to be located elsewhere.

Use, permitted. Any building, structure, and use which on August 3, 1993, complies with the applicable regulations governing permitted uses of the zoning district in which such buildings, structure, and use is located.

Use, principal. The main use of land or building as distinguished from a subordinate or accessory use.

Use, special. A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in this chapter and authorized by the plan commission/zoning board of appeals.

Variance. A grant of relief to a property owner from compliance with certain provisions of a zoning ordinance.

Wayside stand. Any structure or land used for the sale or offering for sale by the owner, or his family or tenant, on any farm, of agricultural or horticultural produce, livestock or merchandise coming from a home occupation and produced solely on said farm, and which is clearly a secondary use of the premises and does not change the character thereof.

Wholesale sales. On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

Yard. For purposes of these regulations, a yard is defined as an open space unoccupied and unobstructed by any structure or portion of structure from 30 inches above the general ground level of the graded lot upward (except as otherwise provided in this chapter).

Yard, required. A yard as defined above, located along the perimeter of a lot, the dimensions of which are set by the district regulations of this chapter.

- (1) *Front yard (street yard).* An open space on the same lot as a principal building between the principal building and the front lot or street line, and extending across the full width of the lot.

- (2) *Rear yard.* An open space on the same lot as a principal building between the rear line of the principal building and the rear lot or street line, extending across the full width of the lot.
- (3) *Side yard.* An open space between a line which is parallel to the side lot line along which the applicable yard extends and which is not nearer to such side lot line at any point than the required depth or width of the applicable yard.

Zoning officer (zoning enforcement officer). The official charged with the interpretation, administration and enforcement of this chapter, and any assistant zoning administrator appointed to assist in administration and enforcement of this chapter. The zoning officer shall be so designated in writing by such person as may be specified by the city executive.

(Ord. No. 08-19 (§ 2.1), 9-9-08; Ord. No. 12-11, § 1, 3-27-12)

ARTICLE III. - AGRICULTURE DISTRICT

Sec. 23-31. - Purpose.

The purpose of this article is to allow for agriculture uses, and agriculture related business activities under the definition of agricultural use.

(Ord. No. 08-19 (§ 3.1), 9-9-08)

Sec. 23-32. - AG agriculture districts.

Properties designated as within the agriculture district generally lie on the periphery of the community or within the city's extraterritorial zone, and are commonly used for agriculture and residential homes associated with agriculture operations.

- (1) *Permitted agricultural uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151. The table of permissible and accessory uses. Agricultural uses permitted include for-profit growing of crops, nursery stock and all activities incidental thereto.
- (2) *Accessory uses.* Accessory uses shall be compatible with and secondary to the principal use and shall not be established prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].

Additional uses and limitations:

- a. *Bulk material stockpiles.* These materials include soil, sand, peat, fertilizer, mulch, stone and related materials. The property required for these materials and stockpiles shall be screened.
- b. *Fencing.* Fencing shall be required for the onsite storage of tools, spare parts and incidental materials and for open air storage of parking to avoid view from roads and adjacent property owners. Owners shall be encouraged to utilize berms and/or landscaping to achieve the necessary buffer effect.
- c. *Number of vehicles.* The actual number of vehicles necessary for the agricultural activity in open air storage or in overnight parking is limited in relation to the amount of contiguous property. The maximum number permitted in open air is:

| | |
|------------------|----------|
| Contiguous acres | Vehicles |
|------------------|----------|

| | |
|-----------|----|
| 10 to 15 | 20 |
| 16 to 25 | 30 |
| 26 to 45 | 50 |
| 46 to 100 | 70 |
| 100+ | 80 |

Vehicles stored in inside facilities are not subject to the above calculation.

d. *Vehicle maintenance.* The maintenance activity or repair of trucks, trailers and related machinery essential to agricultural activities shall be performed offsite or onsite inside building facilities.

(3) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible and accessory uses.

Additional special uses shall include:

- a. The retail sale of crops or nursery plantings along with the wholesale operation of greenhouses and/or landscaping operation within the limitations of this Code.
- b. The onsite or offsite sale of landscape contracts for the furnishing and installing of plants and related materials and related services such as tree trimming and maintenance.
- c. Special uses shall not be allowed to utilize any portion of the required setback area for parking or loading areas.
- d. Special uses in combination with accessory uses shall not exceed 20 percent of the total land area.

(4) *Signs.* Signs in the agriculture district are subject to the regulations set out in article IX of this Chapter.

(5) *Sales of material or stock prohibited.* In both permitted and special agricultural uses, the onsite retail (consumer) sales of materials or stock other than those grown on the site is prohibited.

(6) Property use allocation for special and accessory agricultural uses. Eighty percent of the total contiguous land must be used for raising of crops or open air nursery plantings. No special or accessory use or combination thereof shall exceed 20 percent of the land area. Property outside of the city may not be used in calculating the portion of the property which can be devoted to accessory use.

- a. On all property, no building or other structure shall be located within the setback area required by the terms of the zoning classification within which the property is located.
- b. Buildings shall be completely enclosed.

(7) *Existing use.* Any existing uses which do not come within the definition of permitted agricultural uses may continue subject to the provisions hereof. All such existing uses shall either terminate within seven years of adoption of this chapter, or a special use permit shall be secured therefore

within said seven-year period. No existing uses as defined in the permitted agricultural use definition may be expanded or altered without a special use permit having been secured first.

- (8) *Area and frontage requirements.* The minimum lot area is ten acres. The minimum lot width is 300 feet.

(Ord. No. 08-19 (§ 3.2), 9-9-08; Ord. No. 14-11, § 10, 7-22-14)

Secs. 23-33—23-40. - Reserved.

ARTICLE IV. - RESIDENTIAL DISTRICTS

Sec. 23-41. - Purpose.

The residential district regulations are intended to govern the location, intensity and method of development of the residential areas of the city.

(Ord. No. 08-19 (§ 4.1), 9-9-08)

Sec. 23-42. - ER estate residence districts.

- (a) *District description.* The [ER] estate residence district is intended for large lot or "estate" residential development generally on lots greater than one-half acre.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses. Special uses shall not be allowed to utilize any portion of the required setback area for parking or loading areas.
- (e) *Signs.* Signs in the residential districts are subject to the regulations set out in article IX of this chapter.
- (f) *Parking.* One off-street parking space shall be provided per each bedroom of each dwelling unit. Off-street parking within an enclosed garage or on paved driveway may constitute required off-street parking.
- (g) *Area and height requirements.* The minimum lot area shall be 21,780 square feet. The maximum building height shall be 35 feet.
- (h) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in the table of yard requirements in section 23-152 of this chapter. All buildings constructed in this zone shall have a continuous concrete foundation. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, or other generally accepted exterior finishing product. Metal buildings or "pole buildings" are not permitted, except for storage sheds accessory to a residential use, not to exceed a size of six feet by nine feet, and that shall be constructed on a concrete slab.

Maximum lot coverage. The combined ground floor area occupied by all principal buildings together with all accessory buildings and uses, including parking lots, roadways and other impervious surfaces, shall not exceed 30 percent of the total lot area. The remaining minimum 70 percent of the lot area shall be maintained as landscaped open space.

(Ord. No. 08-19 (§ 4.2), 9-9-08)

Sec. 23-43. - R-1 single-family residence districts.

- (a) *District description.* The R-1 district is intended to create a predominantly low density single unit dwelling environment and provide for the orderly expansion of existing neighborhoods. The district accommodates single-family dwellings and does not permit any two-family or multi-family dwellings.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (e) *Signs.* Signs in the R-1 district are subject to the regulations set out in article ix of this chapter.
- (f) *Parking.* One off-street parking space shall be provided per each bedroom. Off-street parking must be located within an enclosed garage or on a paved or aggregate driveway, except that in a new subdivision with curb and gutter streets aggregate driveways are not permitted.
- (g) *Area, frontage, depth and height requirements.* The minimum lot area is 9,600 square feet. The minimum frontage is 80 feet. The minimum lot depth is 120 feet. The maximum building height is 35 feet.
- (h) *Legal lots of record.* Any lot or parcel which was legally constituted through subdivision prior to the adoption of this chapter and having access to one or more public rights-of-way, shall be deemed a legal lot of record and shall be eligible for use as a site for construction of a single-family dwelling, irrespective of any minimum lot area requirements.
- (i) *Quit-claim deeded properties.* Any properties subdivided per a quit-claim deed or quit-claimed properties shall have copies of the quit-claim deed recorded with the city within 30 days after deed completion.
- (j) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements. All buildings constructed in this zone shall have a continuous concrete foundation. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, or other generally accepted exterior finishing product. Metal buildings or "pole buildings" are not permitted, except for storage sheds accessory to a residential use, not to exceed a size of six feet by nine feet, and that shall be constructed on a concrete slab.
 - (1) *Existing side yard setbacks.* Lots improved with single-family residences prior to January 1, 1991 shall have a side yard of not less than six feet.
 - (2) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings, together with all accessory buildings and uses, including parking lots, roadways and impervious surfaces, shall not exceed 60 percent of the total lot area. The remaining 40 percent of the lot area shall be maintained as landscaped open space.

(Ord. No. 08-19 (§ 4.3), 9-9-08; Ord. No. 14-11, § 11, 7-22-14)

Sec. 23-44. - RMF multiple-family residence districts.

- (a) *District description.* The RMF district is intended for duplex and multi-family residential structures, including attached townhouses. In certain areas, it provides a transition between single-family uses and nonresidential uses.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses. Special uses shall not be allowed to utilize any portion of the required setback area for parking or loading areas.
- (e) *Signs.* Signs in the RMF district are subject to the regulations set out in article IX of this chapter.
- (f) *Landscaping.* Landscaping in the RMF district shall be as required in article VI, sections 23-74—23-76.
- (g) *Parking.* Two parking spaces shall be provided for every dwelling unit, plus one parking space for each employee. Parking within an enclosed garage or on a paved driveway serving an individual's unit may constitute required off-street parking. However, senior housing complexes shall require one parking space for every three dwelling units.
- (h) *Area, frontage, depth and height requirements.* The minimum lot size for one multi-family unit is 10,800 sq. ft. with a minimum frontage of 90 feet and minimum depth of 120 feet. The minimum lot size for two multi-family units is 12,000 sq. ft. with a minimum frontage of 100 feet and minimum depth of 120 feet. The minimum lot size for three or more units is 15,840 sq. ft. with a minimum frontage of 132 feet and minimum depth of 120 feet. The maximum building height is 35 feet.
- (i) *Legal lots of record.* Any lot or parcel which was legally constituted through subdivision prior to the adoption of this chapter and having access to one or more public rights-of-way, shall be deemed a legal lot of record and shall be eligible for use as a site for construction of a multiple-family dwelling, irrespective of any minimum lot area requirements.
- (j) *Quit-claim deeded properties.* Any properties subdivided per a quit-claim deed or quit-claimed properties shall have copies of the quit-claim deed recorded with the city within 30 days after deed completion.
- (k) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements. All buildings constructed in this zone shall have a continuous concrete foundation. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, or other generally accepted exterior finishing product. Metal buildings or "pole buildings" are not permitted, except for storage sheds accessory to a residential use, not to exceed a size of six feet by nine feet, and that shall be constructed on a concrete slab.
 - (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings, together with all accessory buildings and uses, including parking lots, roadways and other impervious surfaces, shall not exceed 75 percent of the total lot area. The remaining minimum 25 percent of the lot area shall be maintained as landscaped open space.
 - (2) *Front yard setback.* The front yard (street R.O.W. setback) shall be set by the zoning enforcement officer to conform to the average of the front yards on neighboring lots on the same side of the street, but in no case shall the front yard be less than 30 feet nor more than 40 feet. Structures which are more than 50 years old or vacant structures shall not be used in determining the average for the front yard setback. The front yard is a required minimum and maximum front yard

and any structure erected must have a foundation on the front yard line. In extraordinary circumstances the zoning enforcement officer, with the consent of the chairman of the zoning board of appeals and the mayor, may establish a front yard setback other than as determined above.

(Ord. No. 08-19 (§ 4.4), 9-9-08)

Secs. 23-45—23-50. - Reserved.

ARTICLE V. - PLANNED UNIT DEVELOPMENT REGULATIONS

Sec. 23-51. - Purpose.

- (a) The purpose of the planned unit development is to permit:
- (1) A maximum choice in the types of environment available to the public by allowing a development that would not be possible under the strict application of the other sections of the zoning regulations.
 - (2) Permanent preservation of common open space and recreation areas and facilities.
 - (3) A pattern of development to preserve natural vegetation, topographic and geologic features.
 - (4) A creative approach to the use of the land and related physical facilities that results in better development and design and the construction of aesthetic amenities.
 - (5) An efficient use of land resulting in more economic networks of utilities, streets and other facilities.
 - (6) A land use which promotes the public health, safety, comfort, morals and welfare.
- (b) The planned unit development is intended to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. The planned unit development may provide amenities not otherwise required by code and should establish facilities and open space greater than the minimums required by code. Such development may consist of conventionally subdivided lots or provide for development by a planned unit development plat which establishes the location and extent of the features of the planned unit development in keeping with the purpose of the plan.

(Ord. No. 08-19 (§ 4.5.1), 9-9-08)

Sec. 23-52. - Procedure.

- (a) *Requirements.* A planned unit development shall be granted as a special use in accord with the procedures set forth in this section and may depart from the normal procedure, standards, and other requirements of the other sections of this chapter. Applications shall be made on the forms provided by the city and shall be accompanied by the required plats and documents. The application at each step shall be reviewed and certified by the city engineer or city planner as being in accordance with the planned unit development requirements.
- (b) *Preapplication procedure.*
- (1) *Preapplication conference.* Prior to the filing of an application for approval of a planned unit development, the developer may request of the plan commission/zoning board of appeals an informal meeting to discuss the development of their land in conjunction with the city comprehensive plan. The meeting shall be part of a regularly scheduled meeting, shall be open to the public, and included on their agenda in advance of the meeting.
 - (2) The preapplication conference is not mandatory and does not require formal application, fee, or filing of a planned unit development plat.

- (c) *Approval of a preliminary plat.* A preliminary plat of the planned unit development shall be submitted to the mayor and the council members who shall refer same to the plan commission/zoning board of appeals for public hearing, report and recommendation as to whether or not the mayor and council members should issue the special use permit applied for. The required procedure for approval of the preliminary plat shall be:
- (1) Submission of the following:
 - a. Written application for approval of a planned unit development shall be made on forms and in the manner prescribed by rules of the city.
 - b. The application shall be accompanied by a fee which shall be established by the mayor and council members.
 - (2) The plan commission/zoning board of appeals shall hold a public hearing on the application for a planned unit development, giving notice of the time and place not more than 30 days nor less than 15 days before the hearing by publishing notice thereof at least once in a newspaper published or having general circulation within the city.
 - (3) Copies of the preliminary planned unit development plat and supporting data shall be submitted to the plan commission/zoning board of appeals for their review and recommendations. The report of the plan commission/zoning board of appeals shall be made within 30 days and preceding the plan commission/zoning board of appeals recommendation to the city council.
 - (4) Copies of the preliminary planned unit development plat and supporting data shall be submitted to the designated city representative, for certification as to conformity with these regulations, recommendations, and suggestions regarding the overall design, if any.
 - (5) Following the public hearing and review of the preliminary planned unit development plat and supporting data for conformity to these regulations, the plan commission/zoning board of appeals shall, within 60 days make a recommendation, or indicate why a report cannot be rendered to the mayor and the council members.
 - a. As a condition to the approval of the preliminary plat, the plan commission/zoning board of appeals shall set forth in a separate communication to the mayor and the council members, findings of fact, in accord with section 23-57, on which they base their approval and describing how the proposal meets the standards of section 23-56.
 - (6) The mayor and council members after receipt of the preliminary planned unit development plat from the plan commission/zoning board of appeals, shall approve, modify or disapprove the preliminary plat. In the case of approval with modification, the city council shall pass an ordinance granting the special use and indicate their approval upon the plat, and arrange zoning map modifications as necessary. The city council may require such special conditions as they may deem necessary to ensure conformance with the intent of all comprehensive plan elements and the stated purpose of the planned development.
 - (7) Approval of a preliminary planned unit development plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the city and subsequent recording upon the fulfillment of the requirements of these regulations and conditions of the preliminary approval, if any. The final plat shall be approved as the final land use and zoning plat if it conforms with the preliminary land use and zoning plat.
 - a. The preliminary and final plat may be filed and approved simultaneously, or the final plat may be filed and approved without the preliminary plat, if all the land is to be developed at one time and if all requirements hereof are met.
 - b. No building permit shall be issued for any structure until approval of the final plat.
- (d) *Approval of the final plat.* The final planned unit development plat shall conform substantially to the preliminary plat as approved, and if desired by the developer, it may be submitted in stages with each stage reflecting the approved preliminary plat which is proposed to be recorded and developed;

provided, however, that the portion conforms to all requirements of these regulations. The required procedure for approval of a final plat shall be:

- (1) A final planned unit development plat and other supporting data required for approval shall be submitted to the plan commission/zoning board of appeals in accord with the provisions of section 23-54.
 - a. The final plats must be submitted for approval in accordance with agreed to scheduling but not later than four years from the approval of the preliminary plat; in the event that same is not done, the plan commission/zoning board of appeals with city council approval, shall initiate such zoning changes as it deems necessary to preserve the public interest.
 - b. Final plats and supporting data shall show in detail the design, location and use of all buildings and overall land development as well as such additional information as the plan commission/zoning board of appeals may require.
 - (2) The final plat and supporting data shall be submitted to the designated city representative, for certification that the final plat is in conformity with these regulations and in agreement with the approved preliminary plat.
 - (3) After review of the final plat the plan commission/zoning board of appeals shall, within 30 days, recommend approval or disapproval and the reasons therefore to the mayor and the council members.
 - (4) The mayor and the council members, after receipt of the final plat from the plan commission/zoning board of appeals, shall approve or disapprove the final plat and shall pass an ordinance authorizing the planned unit development as a special use and allowing the issuance of a zoning certificate and all other necessary permits.
 - a. Permits are to be issued only after the final planned unit development plat and supporting data have been recorded with the recorder of deeds.
- (e) *Recording the final plat.*
- (1) The ordinance authorizing construction of the planned unit development shall be effective only upon recording of the final planned unit development plat and supporting data with the county recorder of deeds. No permit allowing construction of a building or other development shall be granted until the required recording of the final plat, and proof of filing have been provided to the city.
 - (2) The purpose of the final plat is to designate with particularity the land subdivided into conventional lots as well as the division of other lands, not so subdivided, into common open areas and building sites. The preliminary plat shall generally locate buildings, whereas the final plat shall show the exact location of each building. All streets and easements shall be shown on the final plat.
 - (3) The recording of the final plat shall inform all who deal with the planned unit development of the restrictions placed upon the land and act as a zoning control device.
- (f) *Changes in the planned unit development.* The planned unit development project shall be developed only according to the approved and recorded final plat and all supporting data. The recorded final plat and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns, and shall limit and control the use of the premises and location of structures in the planned unit development project as [set] forth herein.
- (1) *Major changes.*
 - a. Changes which alter the concept or intent of the planned unit development including increases in density, increases in the height of buildings, reductions of proposed open spaces, changes in the development schedule, changes in road standards, or changes in the final governing agreements, provisions or covenants, or other changes may be approved only by submission of a new preliminary plat and supporting data and following the preliminary approval steps and subsequent amendment of the final planned unit development plat.

- b. All changes to the final plat shall be recorded with the county recorder of deeds as amendments to the final plat or reflected in the recording of a new corrected final plat.
- (2) *Minor changes.* The city plan commission/zoning board of appeals may approve minor changes, errors or omissions in the planned unit development which do not change the concept or intent of the development without going through the preliminary approval steps. Minor changes shall be any change not defined as a major change.
- (g) *Schedule.* The mayor and council members shall consider the planned unit development subject to relocation if construction falls more than two years behind the schedule filed with the final plat. Extensions in the building schedule may be granted by the [planning] commission/zoning board of appeals with city council approval.

(Ord. No. 08-19 (§ 4.5.2), 9-9-08)

Sec. 23-53. - Fees and costs.

All applications for planned unit developments shall be accompanied by a filing fee of \$_____. All applicants for planned unit developments shall be responsible for all professional fees incurred by the city in connection with said request, including, but not limited to, engineering fees, attorney's fees and planning fees. All of said fees shall be paid to the city in care of the finance director, and the finance director shall be responsible for collecting said fees. No variances shall be approved unless and until the finance director certifies that all the above-described fees have been paid in full.

(Ord. No. 08-19 (§ 4.5.3), 9-9-08)

Sec. 23-54. - Specific contents.

- (a) The planned unit development plats and supporting data shall include the information set forth in this section, unless waived by the plan commission/zoning board of appeals.
- (b) *Preapplication stage.*
 - (1) Data regarding site conditions, available community facilities and utilities, existing covenants and other related information, including phase I environmental study.
 - (2) A drawing in simple sketch form showing the proposed location and extent of the land use, streets, lots and other features.
 - (3) A property survey and legal description of the site proposed for development.
- (c) *Preliminary plat stage.*
 - (1) *Detailed plan.* A drawing of the planned unit development shall be prepared at a scale of not less than one inch equals 100 feet and shall show such designations as proposed streets (public and private), all buildings and their use, common open space, recreation facilities, parking areas, service areas and other facilities to indicate the character of the proposed development. The submission may be composed of one or more sheets and drawings and shall include:
 - a. *Boundary lines.* Bearings and distances.
 - b. *Easements.* General location, width and purpose.
 - c. *Streets on and adjacent to the tract.* Street name, right-of-way width, existing or proposed centerline elevations, pavement type, walks, curbs, gutters, culverts and the like.
 - d. *Utilities on and adjacent to the tract.* Location, size and invert elevation of sanitary, storm, and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone lines, and streetlights; direction and distance to and size of nearest useable water mains and sewers adjacent to the tract showing invert elevation of sewers.

- e. *Ground elevations on the tract and within 100 feet of the parcel.* For land that slopes less than one-half of one percent, show one-foot contours; show spot elevations at all breaks in grades along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions; for land that slopes more than one-half of one percent, show two-foot contours.
 - f. *Subsurface conditions on the tract, if required by the plan commission/zoning board of appeals/zoning board of appeals.* Location and results of tests made to generally ascertain subsurface soil, rock and ground water conditions; depth to groundwater unless test pits are dry at a depth of five feet; location and results of soil percolation tests if individual sewerage systems are proposed.
 - g. *Other conditions on the tract.* Watercourses, floodplains, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, accessory buildings and other significant features.
 - h. *Other conditions on adjacent land.* Approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences; owners of adjacent unplatted land refer to subdivision plat by name; and show approximate percent built-up, typical lot size and dwelling type.
 - i. *Zoning on and adjacent to tract.*
 - j. *Proposed public improvements.* Highways or other major improvements planned by public authorities for future construction on or near the tract.
 - k. *Open space.* All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated.
 - l. *General location, purpose, and height, in feet or stories, of each building other than single-family residences on individually platted lots.*
 - m. *Map data.* Name of development, north point, and scale, date of preparation, and acreage of site.
 - n. *Traffic impact study.*
 - o. *Miscellaneous.* Such additional information as may be required by the plan commission/zoning board of appeals, including a phase II environmental study.
- (2) *Character.* Explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the flexibility of these regulations.
- (3) *Ownership.* Statement of present and proposed ownership of all land within the project, including present tract designation according to official records in offices of the county recorder, and identification of any Braidwood city official or employee having any ownership or financial interest in the land or the proposed development.
- (4) *Names.* The names and addresses of the persons to whom the notice of the hearing to be held by the planning agency should be sent (the subdivider, the designer of the subdivision, and the owners of the land immediately adjoining the land to be platted).
- (5) *Schedule.* Development schedule indicating:
- a. Stages in which the project will be built with emphasis on areas, density, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the plat and through supporting graphic material.
 - b. Estimated dates for beginning and completion of each stage.
 - c. If different land use types are to be included within the planned unit development, the schedule must include the mix of uses to be built in each stage.

- (6) *Covenants*. Proposed agreements, provisions or covenants which will govern the use, maintenance, and continued protection of the planned development and any of its common open space.
 - (7) *Density*. Provide information on the density of residential uses and the number of dwelling units by type.
 - (8) *Nonresidential use*. Provide information on the type and amount of ancillary and nonresidential uses in a residential development.
 - (9) *Service facilities*. Provide information on all service facilities and off-street parking facilities.
 - (10) *Architectural plans*. Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style and development, the design of the building, and the number, size and type of dwelling units.
 - (11) *Facilities plans*. Primary plans for:
 - a. Roads and roads adjacent to the parcel including classification, width of right-of-way, width of pavement and typical construction details;
 - b. Sanitary sewers;
 - c. Storm water management plan;
 - d. Water supply system;
 - e. Lighting program.
 - (12) *Need*. Provide an economic feasibility study of the proposed development, including information on land utilization and marketing potential if required by the zoning board.
- (d) *Final plat stage*.
- (1) *Final detailed plan*. A final detailed planned unit development plat suitable for recording with the county recorder of deeds shall be prepared. The purpose of the planned unit development plat is to designate with particularity the land subdivided into conventional lots as well as the division of other land not so treated into common open areas and building areas. The final planned unit development plat shall include, but not be limited to:
 - a. An accurate legal description of the entire area under immediate development within the planned development;
 - b. If subdivided lands are included, a subdivision plat of all subdivided lands in the same form and meeting all the requirements of a normal subdivision plat;
 - c. An accurate legal description of each separate unsubdivided use area, including common open space;
 - d. Designation of the exact location of all buildings to be constructed;
 - e. Certificates, seals and signatures required for the dedication of lands, and recording the document;
 - f. Tabulations on separate unsubdivided use area including land area, number of buildings, number of dwelling units and dwelling units per acre;
 - g. IEPA NFR letter, if applicable.
 - (2) *Common open space documents*. All common open space shall be either conveyed to a municipal or public corporation, conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and residents of the planned development or retained by the developer with legally binding guarantees, in a form approved by the city attorney, that the common open space will be permanently preserved as open area. All land conveyed to a not-for-profit corporation or like entity shall be subject to the right of the corporation to impose a legally enforceable lien for maintenance and improvement of the common open space.

- (3) *Public facilities.* All public facilities and improvements made necessary as a result of the planned unit development shall not be constructed in advance of the approval of the final plat and escrow deposits or performance bonds posted to guarantee construction of the required improvements.
- (4) *Guarantee deposit.* A deposit shall be made to the city in cash, or maintenance bond equal to 15 percent of the estimated cost of public facility installations. This deposit shall be a guarantee of satisfactory performance of the facilities constructed within the planned unit development and shall be held by the city until the project is completed. The deposit shall be refunded if no defects have developed, or if any defects have developed, then the balance of such deposit shall be refunded after reimbursement for amounts expended in correcting defective facilities.
- (5) *Delinquent taxes.* A certificate shall be furnished from the county collector that he finds no delinquent taxes and that all special assessments constituting a lien on the whole or any part of the property of the planned unit development have been paid.
- (6) *Covenants.* Final agreements, or provisions which will govern the use, maintenance and continued protection of the planned unit development.

(Ord. No. 08-19 (§ 4.5.4), 9-9-08)

Sec. 23-55. - Reserved.

(Ord. No. 08-19 (§ 4.5.5), 9-9-08)

Sec. 23-56. - Standards.

The planned unit development must meet the following standards:

- (a) *Comprehensive plan.* A planned unit development must conform with the intent and spirit of the proposals of the comprehensive plan.
- (b) *Size.* The site of the planned unit development must be under single ownership and/or unified control and be not less than five acres in area.
- (c) *Compatibility.* The uses permitted in a planned unit development must be of a type and so located so as to exercise no undue detrimental influence upon surrounding properties.
- (d) *Need.* A clear showing of need must be made.
- (e) *Space between buildings.* The minimum horizontal distance between buildings shall be:
 - (1) Fifteen feet between one-story, two-story, or 2½ story buildings, or combinations thereof.
 - (2) Equal to the height of the taller buildings in the case of freestanding unattached buildings other than one-story, two-story or ½ story buildings.
- (f) *Yards.* The required yards along the periphery of the planned unit development shall be at least equal in width or depth to that of adjacent zoning district. Buildings of more than 24 feet in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- (g) *Parking requirements.* Adequate parking shall be provided, and in no event shall be parking be less than that provided in other sections of this chapter.
- (h) *Traffic.* That adequate provision be made to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (i) *Density.* The density of any planned unit development shall not exceed by more than 15 percent the density allowed in the district in which the planned unit development is located. Land within the planned unit development which is used for industrial purposes, commercial purposes, and open space may be included as gross area for calculations of density.

- (j) *Other standards.* The planned unit development may depart from the strict conformance with the required density, dimensions, area, bulk, use and other regulations for the standard zoning districts and other provisions of this chapter to the extent specified in the preliminary land use and zoning plat and documents authorizing the planned unit development so long as the planned unit development will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(Ord. No. 08-19 (§ 4.5.6), 9-9-08)

Sec. 23-57. - Findings.

- (a) The plan commission/zoning board of appeals shall provide findings of fact setting forth the reasons for the recommendations, and the findings shall set forth with particularity in what respects the proposal would be in the public interest including, but not limited to, findings of fact on the requirements set forth in this section.
- (b) In what respects the proposed plan is consistent with the stated purpose of the planned unit development regulations.
- (c) The extent to which the proposed plan meets the requirements and standards of the planned unit development regulations.
- (d) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property including, but not limited to, the density, dimensions, area, bulk and use, and the reasons why such departures are deemed to be in the public interest.
- (e) The physical design of the proposed plan and the manner in which the design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.
- (f) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.
- (g) The desirability of the proposed plan to physical development, tax base and economic well-being of the entire community.
- (h) The conformity with the intent and spirit of the comprehensive plan.

(Ord. No. 08-19 (§ 4.5.7), 9-9-08)

Sec. 23-58. - Conditions and guarantees.

Prior to the granting of any planned unit development, the plan commission/zoning board of appeals may recommend and the city council may stipulate such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation and other elements of the planned unit development as deemed necessary for the protection of the public interest, improvement of the development, protection of the adjacent areas, and to secure compliance with standards specified in section 23-56. In all cases in which planned unit developments are granted, the city council shall require such evidence and guarantees as it may deem necessary as proof the conditions stipulated in connection therewith are being and will be complied with.

(Ord. No. 08-19 (§ 4.5.8), 9-9-08)

Secs. 23-59—23-70. - Reserved.

ARTICLE VI. - BUSINESS DISTRICTS

Sec. 23-71. - Purpose.

The business district regulations are intended to govern the location, type, intensity and method of development of the commercial and business uses needed to serve the residents of the city.

(Ord. No. 08-19 (§ 5.1), 9-9-08)

Sec. 23-72. - B-1 central business districts.

- (a) *District description.* A B-1 district is intended to be the focal point or activity center for the community, offering a variety of business and commercial type uses as well as second floor residences. The district is intended to enhance the community and uses are more restrictive so that the district remains compatible with the surrounding neighborhoods.
- (b) *Restriction on sale of manufactured or produced retail goods.* All goods or foodstuffs produced or manufactured on any premises situated in the B-1 district shall be sold at retail only, not wholesale, and shall be sold only in premises situated within said B-1 district; however, the incidental offsite sales of such goods or foodstuffs amounting to less than five percent of the gross annual receipts derived from the total sales of such items shall be permitted. Offsite sales in excess of five percent of annual gross receipts may be permitted only by special use.
- (c) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (d) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (e) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
 - (1) Multifamily dwellings, as identified in the table of permissible uses, shall be special uses only if constructed above first floor business or comparable uses.
- (f) *Signs.* Signs in a B-1 district are subject to the regulations set out in subsection 23-121(2) of this chapter.
- (g) *Landscaping.* Landscaping in a B-1 district shall be as required in sections 23-74—23-76 of this chapter.
- (h) *Area: frontage, lot area and height requirements.* The minimum lot area shall be 6,200 square feet. The minimum frontage is 22 feet. The maximum building height restrictions as identified in the table of area and height shall be 50 feet. Poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations.
- (i) *Yard requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements.
- (j) *Off-street parking.* Off-street parking in a B-1 district shall be as regulated in section 23-77 of this chapter.
- (k) *Additional requirements.* Every new building shall have at least one toilet and lavatory open to the public at all times the premises are open for business. Upon approval of the building commission, facilities for several buildings or individual shops may be located in one building. However, at least one toilet and lavatory shall be provided for each 1,000 square feet of building area. Building area for the purposes of this provision shall be construed to mean the total area of ground covered by the structure.
 - (1) Where more than one structure is erected and maintained on a single lot, a 20-foot separation must be maintained between structures; however, covered walkways may be constructed to connect structures if such walkways are not used as commercial areas.

- (2) No business shall be operated from a space open to the public which is less than 250 square feet.
 - (3) All building[s] constructed in this zone shall have either concrete piers or a continuous concrete foundation, or a combination of both, as approved by a registered structural engineer. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, stucco, or other generally accepted exterior finishing products as approved by the city council.
- (l) *Residential living quarters requirements.* Residential living quarters requirements in B-1 districts are as follows:
- (1) The use of the structure for business and residential living quarters shall be reviewed by the planning commission/zoning board of appeals.
 - (2) In the event that residential living quarters are utilized, an additional two parking spaces, in addition to the required spaces for the business use, shall be required.
 - (3) Full bath and kitchen facilities must be provided within the residential space.
 - (4) An approved smoke detector system must be installed.

(Ord. No. 08-19 (§ 5.2), 9-9-08)

Sec. 23-73. - B-2 outlying business districts.

- (a) *District description.* The outlying business district is intended to provide for a range of personal service and retail establishments for both convenience and occasional shopping needs. This district is also intended to be more automobile oriented than a B-1 district, which is more pedestrian oriented.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (e) *Signs.* Signs in a B-2 district are subject to the regulations set out in chapter 8 section 23-121(2) of this chapter.
- (f) *Landscaping.* Landscaping in a B-2 district shall be as required in sections 23-74—23-76 of this chapter.
- (g) *Area: frontage, lot area and height requirements.* The minimum lot area shall be 15,000 square feet. The minimum frontage is 50 feet. The maximum building height shall be 50 feet. Poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations.
- (h) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in the table of yard requirements in 23-152 of this chapter.
 - (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 80 percent of the total lot area. The remaining minimum 20 percent of the lot area shall be maintained as landscaped open space. In addition, no parking areas may be situated on any portion of the lot devoted to the setback requirement.
 - (2) *Building requirements.* All building[s] constructed in this zone shall have either concrete piers or a continuous concrete foundation, or a combination of both, as approved by a registered structural

engineer. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, stucco, or other generally accepted exterior finishing products as approved by the city council.

- (i) *Off-street parking.* Off-street parking in a B-2 district shall be as regulated in section 23-77 of this chapter.

(Ord. No. 08-19 (§ 5.3), 9-9-08)

Sec. 23-74. - B-3 region commercial district.

- (a) *Purpose and intent.* The B-3 regional commercial district provides for the development of regional shopping centers that serve the larger area. The district is generally located along I-55 and at other primary arterial thoroughfares. Uses include major big box users, car dealerships, and offices uses generally with outlots for smaller users. Due to the regional nature of this shopping area it allows for such elements as increased visible signage and buffering from surrounding users. The B-3 zoning district is consistent with the regional commercial land use designation of the comprehensive plan.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use and shall not be erected prior to the establishment of the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (e) *Signs.* Signs in a B-3 district are subject to the regulations set out in chapter 8 section 23-121(2) of this chapter. Due to the regional nature of these shopping areas, which may require visibility from major arterials and may be set back [farther] from the road, the signage height and amount may be approved, above that listed in section 23-121, through a special use permit.
- (f) *Landscaping.* Landscaping in the B-3 district shall be as required in the zoning code.
- (g) *Area: frontage, lot area and height requirements.* The minimum lot area shall be 20,000 square feet. The minimum frontage is 50 feet. The maximum building height shall be 50 feet. Poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations.
- (h) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in the table of yard requirements in 23-152 of this chapter.
 - (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 80 percent of the total lot area. The remaining minimum 20 percent of the lot area shall be maintained as landscaped open space. In addition, no parking areas may be situated on any portion of the lot devoted to the setback requirement.
 - (2) *Building requirements.* All building[s] constructed in this zone shall have either concrete piers or a continuous concrete foundation, or a combination of both, as approved by a registered structural engineer. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, stucco, or other generally accepted exterior finishing products as approved by the city council.
- (i) *Off-street parking.* Off-street parking in a B-3 district shall be as regulated in section 23-77 of this chapter.

(Ord. No. 14-11, § 2, 7-22-14)

Sec. 23-75. - OS open space districts.

- (a) *Purpose and intent.* The open space district provides for the development of recreational areas for use by the public, as well as private developments. Uses include parks, forest preserves, golf courses, water parks, and other similar uses.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses.
- (c) *Accessory uses.* Accessory uses shall be compatible with the principal use. Permitted accessory uses are identified with the letter "P" in section 23-151, the table of permissible and accessory uses, and must comply with the regulations in [article I of this chapter].
- (d) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (e) *Signs.* Signs in an OS district are subject to the regulations set out in chapter 8 section 23-121(2) of this chapter.
- (f) *Landscaping.* Landscaping in an OS district shall be as required in the zoning code.
- (g) *Area: frontage, lot area and height requirements.* The minimum lot area shall be 12,000 square feet. The minimum frontage is 50 feet. The maximum building height shall be 25 feet. Poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations. The city council may waive those requirements of area list[ed] above for such areas as parks designed as a component of a residential subdivision, part of an approved trail system are not required to meet the lot area requirements above, or other similar open space areas.
- (h) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in the table of yard requirements in 23-152 of this chapter.
 - (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 25 percent of the total lot area. The majority of the lot area shall be maintained as landscaped open space, paths, natural area, areas for natural resource management, athletic fields or other recreational uses. In addition, no parking areas may be situated on any portion of the lot devoted to the setback requirement.
 - (2) *Building requirements.* All building[s] constructed in this zone shall have either concrete piers or a continuous concrete foundation, or a combination of both, as approved by a registered structural engineer. Materials used in the construction of the exterior facade of buildings shall be brick, finished wood, vinyl siding, aluminum siding, stucco, or other generally accepted exterior finishing products as approved by the city council.
- (i) *Off-street parking.* Off-street parking in an OS district shall be as regulated in section 23-77 of this chapter.

(Ord. No. 14-11, § 9, 7-22-14)

Sec. 23-76. - Reserved.

Sec. 23-77. - Off-street parking requirements.

All developments shall provide off-street parking in accordance with the following standards. The calculations shall be based on the gross floor area.

- (1) *Required number of parking spaces.* The following minimum number of parking spaces shall be required for the uses specified below. Reference herein to "employee(s) on the largest work shift" means the maximum number of employees working at the facility during a single given day, regardless of the time period, and regardless of whether any such person is a fulltime employee.

The largest work shift may occur on any particular day of the week or during a lunch or dinner period in the case of a restaurant. The term "capacity" as used herein means the maximum number of persons that may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

Commercial uses except as specifically designated below: One space per 200 square feet of gross floor area of customer sales and service, storage and/or office; or four spaces per 1,000 square feet of gross floor area if the use has at least 100,000 square feet of gross floor area.

a. *Specific commercial uses.*

1. *Banks.* One space per 200 square feet of gross floor area, plus five spaces of off-street waiting (loading) spaces per drive-in lane.
2. *Beauty and barber shops.* Three spaces per operator or one space per 100 square feet of gross floor area, whichever is larger, plus one space per employee on the largest shift.
3. *Bowling alley.* Three parking spaces per alley, plus one space per employee, plus such additional spaces as may be required herein for affiliated uses; per employee, bars, restaurants and the like.
4. *Funeral homes.* One space per four patron seats or 25 spaces per chapel unit, whichever is greater.
5. *Grocery stores.* One space per 100 square feet of gross floor area of customer sales and service, plus one space per 200 square feet of gross floor area of storage.
6. *Restaurants, fast food.* Two spaces per three seats.
7. *Restaurants.* One space per three patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest work shift.
8. *Shopping center.* Five spaces per 1,000 square feet of floor area.
9. *Theaters, indoor.* One parking space shall be provided for each three seats, plus one space per two employees.

b. *Specific office uses.*

1. *Offices, general.* Three spaces per 1,000 square feet of gross floor area.
2. *Medical offices.* Five spaces per doctor.
3. *Personal.* One space per 200 square feet of basement and first floor gross floor area, plus one space per 300 square feet of any additional floor area for customer service, plus one space per employee on the largest shift.
4. *Office industry.* Two and one-half spaces per 1,000 square feet of gross floor area.

c. *Road service uses.*

1. *Convenience.* One space per 100 square feet of gross floor area.
2. *Fast food, drive-through.* One space per 50 square feet of gross floor area, plus one space per employee on the drive-in's largest work shift.
3. *Motels and hotels.* One parking space per each sleeping room or suite, plus one additional space for each employee.
4. *Vehicle sales.* One space per 1,500 square feet of gross floor area.
5. *Vehicle repair.* One space per 400 square feet of gross floor area, plus one space per employee on the largest work shift.

(Ord. No. 08-19 (§ 5.7), 9-9-08)

Sec. 23-78. - Off-street parking design standards.

A required off-street parking space shall be at least 180 square feet in area, exclusive of access drives or aisles, ramps, columns, or office or work areas. The length of parking spaces may include up to one and one-half feet beyond the wheel stop for the front overhang of the car. An off-street parking space must be a minimum of nine feet in width except for those in the B-1, B-2, B-3, I-1, I-2, I-3 districts which must be a minimum of ten feet in width. The parking space shall have vertical clearance of at least seven feet. Horizontal widths for parking rows, aisles and modules shall be provided at widths no less than listed in the following table:

Tables of Horizontal Widths for Parking Rows, Aisles, and Modules

| Minimum Parking Widths | | |
|-------------------------------|----------------------|------------------------|
| Angle of parking | Width of parking row | Width of driving aisle |
| Parallel | 9 ft. | 12 ft. |
| 30 degrees | 17 ft. | 12 ft. |
| 45 degrees | 19 ft. | 13 ft. |
| 60 degrees | 20 ft. | 18 ft. |
| 90 degrees | 18 ft. | 24 ft. |

| Minimum Parking Widths For B-1, B-2, B-3, 1-1, 1-2, and 1-3 Districts | | |
|--|----------------------|------------------------|
| Angle of parking | Width of parking row | Width of driving aisle |
| Parallel | 10 ft. | 12 ft. |
| 30 degrees | 17 ft. | 12 ft. |
| 45 degrees | 19 ft. | 13 ft. |
| 60 degrees | 20 ft. | 18 ft. |

| | | |
|------------|--------|--------|
| 90 degrees | 18 ft. | 24 ft. |
|------------|--------|--------|

- (1) All parking areas shall be paved and maintained in a clean and sightly manner at all times.
- (2) Adequate access to the parking spaces shall be provided. A layout of the parking area shall be submitted to the zoning officer of the city at the time application is made for a building permit It is the intent of this section that the parking layout be so designed as to avoid the backing of over a vehicles sidewalk or into a public street, and that ingress and egress to and from a parking area shall be by forward motion of the motor vehicle. The applicant shall observe this intention, and the zoning officer may make necessary changes in any proposed layout so as to comply with these requirements.

(Ord. No. 08-19 (§ 5.8), 9-9-08; Ord. No. 12-9, § 1, 2-28-12)

Sec. 23-79. - Landscaping.

All landscaping shall meet or exceed the minimums required in this section.

- (1) *Applicability.* All nonresidential and multiple-family developments shall provide perimeter landscaping in accordance with the provisions of this section.
- (2) *Nonresidential property adjacent to nonresidential property.* Where nonresidential property abuts or is located across a dedicated public right-of-way from property zoned for nonresidential use, landscaping shall be provided as follows:
 - a. *Shade trees.* Shade trees not less than 2½ inches in diameter shall be provided at the equivalent of not more than 50 feet apart along the property line. Such trees may be clustered or spaced linearly as determined appropriate by the planning commission/zoning board of appeals with city council approval. silver maples, willows and birch trees are not allowed for parkway trees.
 - b. *Other planting materials.* Except within 50 feet of a corner lot formed by the intersection of two streets, landscaping shall be provided across 50 percent of the street frontage or abutting property line to a height of 18 inches to 24 inches. Such landscaping shall consist of berms, if feasible, shade and ornamental trees, evergreens, shrubbery and/or other live planting materials. This landscaping is equivalent to the placement of shrub clusters, containing seven to nine shrubs per cluster, spaced at intervals of approximately 35 feet along the property line.
 - c. *Ground cover.* Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.
- (3) *Nonresidential property adjacent to residential property.* Where nonresidential property is adjacent to property zoned for residential use, landscaping shall be provided as follows:
 - a. *Abutting residential.* Continuous landscaping, a minimum of six feet in height and in a design satisfactory to the planning department, shall be provided along that portion of the abutting property line from the building setback line to the front lot line of the abutting residential property. Such landscaping shall consist of berms, if feasible, trees, evergreens, shrubbery, hedges and/or other live planting materials. See subsection (3)c. for shade trees.
 - b. *Across from residential.* When a nonresidential property is located across a dedicated public right-of-way from property zoned for residential use, continuous landscaping shall be provided across 100 percent of the street frontage to a minimum height of three feet. Such

landscaping shall consist of berms, if feasible, shade and ornamental trees, evergreens, shrubbery, hedges and/or other live planting material. See subsection (3)c. for shade trees.

- c. *Shade trees.* Shade trees not less than 2½ inches in diameter shall be provided at the equivalent of not more than 50 feet apart along the property line of either an abutting or an across the street property. Such trees may be clustered or spaced linearly as determined appropriate by the planning commission/zoning board of appeals with city council approval.
 - d. *Other planting materials.* Other landscaping materials including berms, ornamental trees, evergreens, shrubbery, hedges and/or other live planting materials may be provided at appropriate locations along the property line.
 - e. *Ground cover.* Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.
- (4) *Multiple-family residential property.* Where multiple-family residential property abuts or is located across a dedicated public right-of-way from another property, landscaping shall be provided as follows:
- a. *Shade trees.* Shade trees not less than 2½ inches in diameter shall be provided at the equivalent of not more than 50 feet apart along the abutting property line. Such trees may be clustered or spaced linearly as determined appropriate by the planning commission/zoning board of appeals with city council approval.
 - b. *Other planting materials.* Other landscaping materials including berms, if feasible, ornamental trees, evergreens, shrubbery, hedges and/or other live planting materials shall be provided at intermittent locations across 50 percent of the abutting property line. This landscaping is equivalent to the placement of shrub clusters containing seven to nine shrubs per cluster, spaced at intervals of approximately 35 feet along the abutting property line.
 - c. *Ground cover.* Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.

(Ord. No. 08-19 (§ 5.4), 9-9-08; Ord. No. 14-11, § 1, 7-22-14)

Sec. 23-80. - Innovative landscaping.

Innovative landscaping treatments are encouraged and shall be considered as a positive attribute in connection with any request for a variance from the requirements of this chapter.

(Ord. No. 08-19 (§ 5.6), 9-9-08; Ord. No. 14-11, § 7, 7-22-14)

Sec. 23-81. - Screening of refuse disposal areas.

All refuse disposal areas shall be screened on all four sides by a solid wood fence or an equivalent material to a height of not less than six feet, but not more than seven feet or evergreen hedge with a minimum of six feet in height.

(Ord. No. 08-19 (§ 5.5), 9-9-08; Ord. No. 14-11, § 8, 7-22-14)

Secs. 23-82—23-90. - Reserved.

ARTICLE VII. - INDUSTRIAL DISTRICTS

Sec. 23-91. - I-1 industrial districts.

- (a) *Purpose and intent.* The purpose and intent of the industrial zone is to implement the industrial category of the comprehensive plan. The industrial zone provides a location for high technology industrial and incidental commercial uses of a light intensity, which have minimal environmental impacts. Restrictive development standards of this zone are intended to result in a clean, quiet industrial development, with primary activities conducted in enclosed buildings. Developments in this zone are characterized by park-like grounds and attractive buildings, which are compatible with nearby residential and commercial land uses. In the industrial zone, no buildings or premises shall be used nor any building or structure be hereafter erected or altered unless otherwise provided in the section.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses. The city building official is to determine if compatibility exists between uses. Industrial uses are the uses of land and buildings for manufacturing, processing, fabrication, assembly, freight handling, or similar operations. In the industrial zone, all industrial operations shall:
- (1) Be carried on in such a manner and with such precaution against fire and explosion hazards as to be acceptable to the fire chief or designee;
 - (2) Store all raw materials, finished products, machinery, and equipment, including company-owned or operated trucks and motor vehicles, within an entirely closed building or sight-obscuring non-pierced fence not less than six feet in height. Liquids shall be stored in underground tanks in accordance with uniform standards prescribed by the fire chief or designee and the fire district concerned;
 - (3) Emit no obnoxious odors of any kind;
 - (4) Exhaust no waste into the air or dust created by industrial operations;
 - (5) Discharge no treated or untreated sewage or industrial waste into any surface water or onto open ground. All methods of sewage and industrial waste treatment and disposal shall be approved by the city and shall meet the requirements of the state environmental protection agency for air quality and pollution control;
 - (6) Use no industrial and exterior lighting in a manner that produces glare on public highways and neighboring property; and
 - (7) Conform to the most recent city ordinance concerning noise levels.
- (c) *Signs.* Signs in the I-1 district are subject to the regulations set out in article IX of this chapter.
- (d) *Landscaping.* Landscaping in the I-1 district shall be as required in sections 23-74—23-76 of this chapter.
- (e) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (f) *Area and height requirements.* The minimum lot area shall be 21,780 square feet and the maximum building height shall be 70 feet. Additional height may be permitted by the city council upon the recommendation of the planning commission/zoning board of appeals. The poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations.
- (g) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements.
- (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings, together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 80 percent of the total lot area. The remaining minimum 20 percent of the lot area shall be maintained as landscaped open space.

(Ord. No. 08-19 (§ 6.1), 9-9-08)

Sec. 23-92. - I-2 general industrial district.

- (a) *Purpose and intent.* The I-2 general industrial district is intended to accommodate uses allowed in the I-1 district as well as those that are more intensive in nature. Because of the more intensive industrial uses, access needs, employment generation, and automobile and truck traffic generation, there is a need to be isolated from other uses.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses. The city building official is to determine if compatibility exists between uses. Industrial uses are the uses of land and building for manufacturing, processing, fabrication, assembly, freight handling, or similar operations. In this industrial zone, all industrial operations shall:
 - (1) Be carried on in such a manner and with such precaution against fire and explosion hazards as to be acceptable to the fire chief or designee;
 - (2) Store all raw materials, finished products, machinery, and equipment, including company-owned or operated trucks and motor vehicles, within an entirely closed building or provide 100 percent opaque screening from surrounding property of not less than ten feet in height including berms. No storage of equipment or material shall exceed 14 feet in height and shall not be located in any setback area. Liquids shall be stored in underground tanks in accordance with uniform standards prescribed by the fire chief or designee and the fire district concerned;
 - (3) Emit no obnoxious odors of any kind;
 - (4) Exhaust no waste into the air or dust created by industrial operations;
 - (5) Discharge no treated or untreated sewage or industrial waste into any surface water or onto open ground. All methods of sewage and industrial waste treatment and disposal shall be approved by the city and shall meet the requirements of the state environmental protection agency for air quality and pollution control;
 - (6) Use no industrial and exterior lighting in a manner that produces glare on public highways and neighboring property; and
 - (7) Conform to the most recent city ordinance concerning noise levels.
- (c) *Signs.* Signs in the I-2 district are subject to the regulations set out in article IX of this chapter.
- (d) *Landscaping.* Landscaping in the I-2 district shall be as required in sections 23-74—23-76 of this chapter.
- (e) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (f) *Area and height requirements.* The minimum lot area shall be two acres and the maximum building height shall be 70 feet. Additional height may be permitted by the city council upon the recommendation of the planning commission/zoning board of appeals. The poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations. Minimum lot width is 80 feet.
- (g) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements.
 - (1) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings, together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 80 percent of the total lot area. The remaining minimum 20 percent of the lot area shall be maintained as landscaped open space and may include buffer areas.
- (h) *Off-street parking.* Off-street parking in an I-2 district shall be as regulated in the zoning code.
- (i) *Site-plan review.* A site-plan approved according to regulations in article X shall be required prior to the approval of a building permit for any property in the I-2 district, or prior to the rezoning of property to I-2.

(Ord. No. 14-11, § 5, 7-22-14)

Sec. 23-93. - I-3 heavy industrial districts.

- (a) *Purpose and intent.* The I-3 heavy industrial district is intended to be located in areas so that its permitted and special uses are conducted in such a manner so as to not be detrimental to the rest of the community by reason of their noise, vibration, smoke, dust, toxic or noxious materials, odor, fire, explosive hazards, glare or heat that may be incidental to their operations. Further development of residences is prohibited in this district to keep residential uses from absorbing any adverse effects of the industries and to conserve the supply of industrial land for industrial use.
- (b) *Permitted uses.* Uses permitted without action or zoning permit issued by the city are identified with the letter "P" in section 23-151, the table of permissible uses. The city building official is to determine if compatibility exists between uses. Industrial uses are the uses of land and buildings for manufacturing, processing, fabrication, assembly, freight handling, or similar operations. In the industrial zone, all industrial operations shall:
 - (1) Be carried on in such a manner and with such precaution against fire and explosion hazards as to be acceptable to the fire chief or designee;
 - (2) Store all raw materials, finished products, machinery, and equipment, including company-owned or operated trucks and motor vehicles, within an entirely closed building or provide 100 percent opaque screening from surrounding property of not less than ten feet in height including berms. No storage of equipment or material shall exceed 14 feet in height and shall not be located in any setback area. Liquids shall be stored in underground tanks in accordance with uniform standards prescribed by the fire chief or designee and the fire district concerned;
 - (3) Emit no obnoxious odors of any kind;
 - (4) Exhaust no waste into the air or dust created by industrial operations;
 - (5) Discharge no treated or untreated sewage or industrial waste into any surface water or onto open ground. All methods of sewage and industrial waste treatment and disposal shall be approved by the city and shall meet the requirements of the state environmental protection agency for air quality and pollution control;
 - (6) Use no industrial and exterior lighting in a manner that produces glare on public highways and neighboring property; and
 - (7) Conform to the most recent city ordinance concerning noise levels.
- (c) *Signs.* Signs in the I-3 district are subject to the regulations set out in article IX of this chapter.
- (d) *Landscaping.* Landscaping in the I-3 district shall be as required in the zoning code.
- (e) *Special uses.* Uses permitted by action of the city council through the issuance of a special use permit are identified with the letter "S" in section 23-151, the table of permissible uses.
- (f) *Area and height requirements.* The minimum lot area shall be five acres and the maximum building height shall be 70 feet. Additional height may be permitted by the city council upon the recommendation of the planning commission/zoning board of appeals. The poles, towers and similar distributing facilities of public utilities are exempt by statute from the above height regulations. Minimum frontage is 100 feet.
- (g) *Yard and building requirements.* Yard requirements for permitted and special uses are identified in section 23-152, the table of yard requirements.
- (h) *Maximum lot coverage.* The combined ground floor area occupied by all principal buildings, together with all accessory buildings and uses, including parking, roadways and other impervious surfaces, shall not exceed 80 percent of the total lot area. The remaining minimum 20 percent of the lot area shall be maintained as landscaped open space and includes buffers.

(Ord. No. 14-11, § 6, 7-22-14)

Sec. 23-94. - Off-street parking.

- (a) *Manufacturing and industrial.* One parking space shall be provided for each 1.5 employees present during the largest work shift, plus one parking space for each vehicle used in the enterprise.
- (b) *Warehouses and storage buildings.* One parking space shall be provided for each employee on largest work shift, plus one space for each vehicle used in the conduct of the enterprise.
- (c) *Combined manufacturing and warehousing uses.* Parking for combined manufacturing and warehousing uses shall be based on the pro rata requirements for the respective portions of each under subsections (a) and (b) this section.
- (d) *Other uses.* Parking for other uses in the industrial district shall meet the requirements for uses most similar as identified in [article VI].
- (e) *Off-street parking design standards.* Off-street parking design standards shall be as described in section 23-78 of this chapter.

(Ord. No. 08-19 (§ 6.2), 9-9-08; Ord. No. 14-11, § 3, passed 7-22-14)

Sec. 23-95. - Site plan review.

A site plan approved according to regulations in article X shall be required prior to the approval of a building permit for any property in the I-1 district, or prior to the rezoning of property to I-1.

(Ord. No. 08-19 (§ 6.3), 9-9-08; Ord. No. 14-11, § 4, passed 7-22-14)

Secs. 23-96—23-100. - Reserved.

ARTICLE VIII. - PERFORMANCE STANDARDS

Sec. 23-101. - Purpose.

It is the purpose of this article to establish regulations and standards for the installation and operation of office, medical and research uses, based upon consideration of any objectionable characteristics of such uses. Further, it is the intent of this article to prescribe procedures and methods of measurement of these characteristics subject to the performance standards established hereunder. All uses permitted in the I-1 industrial district, whether such use is permitted as a principal use or as an accessory use, shall be subject to these standards. Evidence of ability to comply shall be required prior to the issuance of a building permit or a certificate of occupancy and continued compliance shall be required during the operation of such uses and activities.

(Ord. No. 08-19 (§ 7.1), 9-9-08)

Sec. 23-102. - Noise.

- (a) *Permitted noise levels.* At no point on or beyond the boundary of any lot which abuts a lot in the same district, shall the sound pressure level resulting from any use or activity, whether open or enclosed (except noises not directly under the control of the property user, noises resulting from the construction and maintenance of buildings and facilities including site preparation, and the noises of safety signals, warning devices and railroads) exceed the maximum permitted decibel levels for the designated octave band as set forth in the table below:

| Octave Band Frequency in Cycles Per Second | Maximum Permitted Sound Pressure in Decibels |
|--|--|
| 0 to 74 | 67 |
| 75 to 149 | 59 |
| 150 to 299 | 52 |
| 300 to 599 | 46 |
| 600 to 1,199 | 40 |
| 1,200 to 2,399 | 34 |
| 2,400 to 4,800 | 32 |
| Over 4,800 | 32 |

- (b) *Method of measurement.* Sound levels shall be measured with a sound level meter and associated octave band filter and impact noise filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network and "slow" meter response of the sound level meter. Impulsive type noises shall be subject to the performance standards herein prescribed, provided that such noises are capable of being accurately measured with such equipment. Noises capable of being measured, for the purpose of this chapter, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variance of no more than plus or minus two decibels. Noises incapable of being so measured, but objectionable because of intermittence, beat, frequency or shrillness shall be controlled so as not to become a nuisance to adjacent uses.

(Ord. No. 08-19 (§ 7.2), 9-9-08)

Sec. 23-103. - Vibration.

"Steady-state" vibrations are vibrations which, for the purpose of this chapter, are continuous or vibrations in discrete pulses, more frequent than 100 per minute. Discrete pulses which do not exceed 100 pulses per minute shall not cause displacement in excess of twice the values established in subsection (1)a. below. "Impact" vibrations shall mean vibrations occurring in discrete pulses separated by an interval of at least one minute and numbering no more than eight per 24-hour period.

- (1) *Permitted vibration displacements.* At no point on or beyond the boundary of any lot shall the ground-transmitted steady-state or impact vibration caused by any use or activity (except those not directly under the control of the property user) exceed the limits as established in the following table for the I-1 industrial district boundary which is adjacent to a residential district:

a. Maximum permitted vibration displacement in inches for steady-state vibrations:

| Frequency in Cycles per Second | I-1 District | Adjacent to any Residential District |
|--------------------------------|--------------|--------------------------------------|
| Less than 10 | 0.0008 | 0.0004 |
| 10—19 | 0.0005 | 0.0002 |
| 20—29 | 0.0003 | 0.0001 |
| 30—39 | 0.0002 | 0.0001 |
| 40—49 | 0.0001 | 0.0001 |
| 50 and over | 0.0001 | 0.0001 |

b. Maximum permitted vibration displacement in inches for impact vibrations:

| Frequency in Cycles per Second | I-1 District | Adjacent to any Residential District |
|--------------------------------|--------------|--------------------------------------|
| Less than 10 | 0.0016 | 0.0006 |
| 10 through 19 | 0.0001 | 0.0003 |
| 20 through 29 | 0.0006 | 0.0002 |
| 30 through 39 | 0.0004 | 0.0001 |
| 40 through 49 | 0.0002 | 0.0001 |
| 50 and over | 0.0002 | 0.0001 |

(2) *Method of measurement.* For the purpose of measuring vibrations a three-component measuring system shall be used.

(Ord. No. 08-19 (§ 7.3), 9-9-08)

Sec. 23-104. - Smoke and particulate matter.

The emission from all sources within any lot of particulate matter containing more than five percent by weight of particles having a particle diameter larger than 44 microns is prohibited. Dust and other types of air pollution borne by the wind from such sources as storage areas, yards and roads within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, paving, oiling or other acceptable means. Emission of particulate matter from such sources in excess of the weight limitations specified herein is prohibited. The emission of smoke or particulate matter of a density equal to, or greater than, No. 2 on the Ringelmann chart is prohibited at all times, except as otherwise provided therein.

- (1) *Smoke emission.* In the I-1 industrial district, the emission of more than 12 smoke units per stack in any one hour period is prohibited. However, once during any six-hour period, each stack shall be permitted up to 12 additional units in a 15-minute period for soot blowing and fire cleaning. Only during such 15-minute period shall smoke of a density equal to, but not exceeding, Ringelmann No. 3 be permitted, and then only for fire cleaning and not for more than four minutes per period.
- (2) *Particulate matter emission.* The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed the rate established in the following table:

| Height of Emission (in feet) | Rate in Pounds per Hour per Acre |
|---------------------------------|----------------------------------|
| Under 50 | 1.00 |
| Over 50 | 1.01 |
| Over 100 | 1.06 |
| Over 150 | 1.10 |
| Over 200 | 1.16 |
| Over 300 | 1.30 |
| Over 400 | 1.50 |

- (3) *Methods of measurement.* Methods of measurement shall be as follows:
 - a. *Smoke.* For the purpose of grading the density of emission of smoke, the Ringelmann chart, published and used by the United States Bureau of Mines, shall be utilized. For the purpose of determining smoke units, the Ringelmann density reading shall be made at least every minute during the period of observation. Each reading (Ringelmann number) shall be multiplied by the time in minutes for which it is observed, and the products added together to give the total number of smoke units observed during the total period of observation.
 - b. *Particulate matter.* Determination of the total net rate of emission of particulate matter within the boundaries of any lot shall be made as follows: Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres

of lot area, thereby obtaining the hourly rate of emission in pounds per acre. Add together the individual rates of emission as derived above to obtain the total rate of emission from all sources of emission within the boundaries of the lot.

(Ord. No. 08-19 (§ 7.4), 9-9-08)

Sec. 23-105. - Odors.

No continuous, frequent or repetitive emission of odors or odor-causing substances which would be offensive to the general public at or beyond any property line will be permitted. An odor emitted no more than 15 minutes in any one day and on not more than two days in any calendar month shall not be deemed as continuous, frequent or repetitive within the meaning of these regulations. The existence of an odor shall be presumed when the concentration of the odor-causing substance in the air at any one point at or beyond the property line of the emitting source is readily detectable by an average group of observers. No emission of odors or odor-causing substances (as defined above) will be permitted in an office/research or office district.

(Ord. No. 08-19 (§ 7.5), 9-9-08)

Sec. 23-106. - Toxic and noxious matter.

No emissions which would be demonstrably injurious to human health, animals or plant life at or beyond the lot boundaries of any I-1 district will be permitted. Where an I-1 use could produce such emissions as a result of accident or equipment malfunction, adequate safeguards considered standard for safe operation in the industry involved shall be taken.

(Ord. No. 08-19 (§ 7.6), 9-9-08)

Sec. 23-107. - Radiation hazards.

The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with:

- (1) The applicable regulations of the Nuclear Regulatory Agency.
- (2) The applicable regulations of any governmental instrumentality of the State of Illinois.

(Ord. No. 08-19 (§ 7.7), 9-9-08)

Sec. 23-108. - Fire and explosive hazards.

- (a) The storage and utilization of solid materials or products ranging from free or active burning to intense burning is permitted, but only if said materials or products are stored and utilized within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system. All activities involving the use and/or storage and/or disposal of flammable or explosive material shall be provided with adequate safety and protective devices against hazards of firefighting and suppression equipment and devices standard to the industry involved.
- (b) The storage and utilization of pyrophoric and explosive powders and dusts in excess of 1,000 pounds (except in original sealed containers or storage of finished products in original sealed containers, which is not restricted) at any one time is not permitted.
- (c) The storage and utilization of flammable liquids, or of materials that produce flammable or explosive vapors or gases is permitted on any lot in accordance with the following table:

Permitted Quantities of Flammable Materials, in Gallons, for storage or distribution:

| Closed Cup Flash Point in Degrees F. | Above Ground | Below Ground | Greater than 187 | Prohibited | 100,000 |
|--------------------------------------|--------------|--------------|------------------|------------|---------|
| | | | | | |
| 105 to 187 | Prohibited | 40,000 | | | |
| Less than 187 | Prohibited | 20,000 | | | |

Note: When flammable gases are used, stored or manufactured, and measured in cubic feet, the quantity in cubic feet (at standard temperature and pressure) permitted shall not exceed 300 times the quantities listed above.

(d) Any of these activities shall also comply with the applicable regulations of any governmental unit in the state.

(Ord. No. 08-19 (§ 7.8), 9-9-08)

Sec. 23-109. - Glare and heat.

Every use and activity shall be so operated that it does not emit heat or heated air beyond the boundary of the lot on which it is located. No direct or sky reflected glare, whether from floodlights, from high temperature processes such as combustion or welding, or otherwise, shall emanate from any use or activity so as to be visible at any point on or beyond the boundary of the lot on which such use or activity is located. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter or other applicable ordinances, nor shall it apply to activities of a temporary or (such as the construction or maintenance of buildings and facilities) of an emergency nature. Night lighting necessary for safety and the protection of property, such as at entrances or occupied outdoor parking or storage areas, shall be excluded from this provision.

(Ord. No. 08-19 (§ 7.9), 9-9-08)

Sec. 23-110. - Electromagnetic interference.

There shall be no electromagnetic interference that:

- (1) Adversely affects at any point the operation of any equipment other than that belonging to the creator of such interference; or
- (2) Is not in conformance with the regulations of the Federal Communications Commission.

(Ord. No. 08-19 (§ 7.10), 9-9-08)

Sec. 23-111. - Storage of materials and equipment.

All storage of material and equipment used in conjunction with permitted uses must be enclosed and shielded from public view.

(Ord. No. 08-19 (§ 7.11), 9-9-08)

Sec. 23-112. - Enforcement.

Where, in the opinion of the building commissioner, there is a probable violation of any provision of this chapter, he is empowered to have a qualified technician perform such investigations, measurements and analyses as may be necessary to determine whether or not there is in fact a violation of this chapter.

(Ord. No. 08-19 (§ 7.12), 9-9-08)

Sec. 23-113. - Permit procedure.

Before issuing a building permit for a use in an I-1 district, the building commissioner shall be given a certificate by a registered architect or engineer qualified to practice in the state, which certifies that the proposed use shall meet all performance standards and site development standards set forth in this chapter. The building commissioner may further require the submission of the following information:

- (1) A plot plan showing the location of all present and proposed structures, drives, parking lots, waste disposal areas and other construction features of the site.
- (2) A description of the activity to be conducted, in sufficient detail to indicate the extent to which the proposed operation will produce waste products, conditions or external effects which are regulated or otherwise limited by this chapter.
- (3) The type and location of any abatement devices or recording instruments used to control or measure conformance to any of the standards set forth herein.
- (4) Such other data and certification as may reasonably be required by the building commissioner to reach a determination.

All information and evidence submitted in applications to indicate conformity with the performance standards set forth herein shall constitute a certification and an agreement on the part of the applicant that the proposed use can and will conform to such standards at all times.

(Ord. No. 08-19 (§ 7.13), 9-9-08)

Secs. 23-114—23-120. - Reserved.

ARTICLE IX. - SIGNS

Sec. 23-121. - Regulations.

All signs shall be constructed in compliance with the requirements of appendix H of the 2000 International Building Code.

Any publicly displayed sign, symbol or notice on a premises to advertise the business there transacted, or name of person or firm conducting said business on premises or directing to some other locale, shall be regulated as follows:

- (1) *Agricultural or residential districts.* In the agriculture or residential districts, the following signs shall be permitted:

- a. For each dwelling unit, one nameplate not exceeding one square foot in area.
 - b. For a structure other than a dwelling unit, one identification sign not exceeding six square feet, except a church bulletin board which shall not exceed 24 square feet.
 - c. For purposes of orientation, directional signs when established by the city, shall be per the MUTCD latest edition.
- (2) *Business districts.* In a business district, the following signs shall be permitted:
- a. *Wall signs.* Signs relating only to the name and use of buildings or premises upon which they are placed, having a total area not exceeding ten percent of the surface area of the wall upon which they are affixed.
 - b. *Window signs.* Signs within the limits of the glazed area of display windows facing a street or sidewalk, having a total area not exceeding 25 percent of the surface area of the window through which they are visible.
 - c. *Marquee signs.* Signs attached to, or hung from a marquee or canopy completely within the borderline of the outer edge of the marquee or canopy, and having no part of the sign lower than eight feet above the ground or surface over which the marquee or canopy is constructed.
 - d. *Pole and ground signs.* Signs, clocks or other advertising devices erected upon standards or separate support placed so as to be entirely within the property lines of the premises upon which it is located, and having no part of the sign or standard of a greater than 20 feet above the level of the street upon which the sign faces, or above the adjoining ground level if such ground level is above the street level, nor having any sign face of any such sign exceed an area of 100 square feet.
 - e. *Site information.* Traffic or directional signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of the premises located within the property lines of the subject lot, and having no sign face exceed an area of ten square feet.
 - f. *Real estate signs.* Signs having an area not exceeding ten square feet for each structure to be sold, leased or rented.
 - g. *Free speech signs.* Signs which allow for the expression of free speech, including those related to candidates for elected office, so long as no sign face exceeds six square feet nor a total of more than 32 square feet of such signs are displayed on any one premises.
- (3) *I-1 districts.* In an I-1 district, the following signs shall be permitted:
- a. *Wall, pole and ground signs.* Signs identifying the occupant of a building or buildings, mounted on a wall of the building or on ground mounted, and having no sign face exceed an area of 100 square feet.
 - b. *Real estate signs.* Signs related to the sale, lease or rental of property, having no face which exceeds 100 square feet in area.
 - c. *Temporary signs.*
 - 1. *Definition.* A temporary sign or portable sign is any sign which can be moved from place to place and is not permanently attached in the ground or on a building which rests on a foundation.
 - 2. *Location.* A temporary sign may not be located on the public right-of-way, within two feet of the public right-of-way, in a required parking space or parking aisle, or within ten feet of any driveway.
 - 3. *Lights.* A temporary sign may not display any flashing or rotating red, blue, yellow, or green light. A temporary sign may not display any type of strobe or laser light.

4. *Flashing or rotating lights.* A temporary sign may display a flashing or rotating light (other than red, blue, yellow or green) provided that it is located more than ten feet from the public right-of-way.
5. *Length of display.* Temporary signs may not be displayed for more than a total of 30 days in a calendar year on any zoning lot, or combination thereof. However, any temporary sign existing on January 1, 2001 is exempted from the provisions of this 30-day maximum provided that all of the other provisions of this section are met.

(Ord. No. 08-19 (§ 8.1), 9-9-08)

Sec. 23-122. - Conditions.

The following conditions shall be observed in all of the use districts:

- (1) No sign shall be permitted on any wall, fence or standard facing the side of any adjoining lot located in any residential district.
- (2) No illuminated sign shall be of the flashing or intermittent type. Signs which may conflict with public traffic signals or create a safety hazard due to placement or dangerous distraction shall not be permitted.
- (3) No portable or movable sign shall be allowed in any use district, except that a portable sign may be erected on approval of location, size and necessity and the issuance of a permit by the zoning official for a period of 30 days, after which time said permit may be renewed for an additional 30-day period upon showing of necessity by the petitioner. The permit fee for the erection of a portable sign is \$35.00 for each 30-day period. Any portable signs erected within the city shall be erected only on the property of the permittee and no applicant shall be allowed more than one permit and one extension within any one year. The permit fee may be waived by the city council upon application by a civic service or charitable organization. However, as a prerequisite of any such waiver, the city council may at its discretion limit the permit period or allow more than one permit or extension per applicant per year.
- (4) All campaign signs pertaining to elections shall be removed within seven calendar days immediately following the election for which they are displayed. Such signs shall include all signs displaying campaign advertising for public office.
- (5) Reserved.
- (6) The total aggregate area of all signs displayed on any premises shall not exceed 15 percent of the total area of the front face of the building to which the sign is associated.
- (7) No sign shall be located in any portion of a required front, side yard, or parking lot situated within 30 feet of the corner formed by the intersection of any two street lines. No sign will be located near driveways or entrances as to block the view of ingress or egress of vehicular traffic.

(Ord. No. 08-19 (§ 8.2), 9-9-08)

Sec. 23-123. - Developer/development temporary signs.

A developer's temporary signs which are non-illuminated, on premises, free standing signs shall be permitted only subject to the following requirements:

- (1) *Number.* There shall be no more than one such sign in each subdivision or planned unit development of 20 acres or less. One additional sign may be added for each additional 20 acres, but in no event shall more than a total of four such signs be permitted.

- (2) *Sign surface area.* One square foot of sign surface shall be permitted for each front foot of the premises. The maximum sign surface area of each such sign shall not exceed 200 square feet per side.
- (3) *Location.* In a residential district, no such sign shall be located closer than 20 feet to any adjacent zoning lot not owned or otherwise controlled and in the possession of the developer. If the lot upon which the sign is located is less than 50 feet wide, the free standing sign shall be located equally distant from the adjacent lot lines. Any free standing signs within three feet of a driveway, parkway area or other area intended for use by motor vehicles shall be protected on any side exposed to such vehicular traffic by curbing that is not less than three feet from the supporting structure of the sign, and not less than six inches in height.
- (4) *Content.* Such signs shall promote and describe only the sale or rental of land or buildings in the subdivision or planned unit development.

(Ord. No. 08-19 (§ 8.3), 9-9-08)

Secs. 23-124—23-130. - Reserved.

ARTICLE X. - ZONING ADMINISTRATION

Sec. 23-131. - Zoning officer.

The zoning officer shall be in charge of the administration and enforcement of this chapter. The zoning officer shall:

- (1) Issue all certificates of occupancy and make and maintain records thereof;
- (2) Conduct inspection of buildings, structures and uses of land to determine compliance with the terms of this chapter;
- (3) Maintain permanent and correct records of the title including, but not limited to, all maps, amendments and special uses, variances, appeals and applications therefore;
- (4) Receive, file and forward to the city council for action all applications for special uses or petitions for amendments to this chapter which may be filed initially in the office of the zoning officer;
- (5) Receive, from any source, applications for special uses or amendments which have been introduced in the city council, and transmit copies of same to the planning commission/zoning board of appeals for review and recommendations;
- (6) Receive, from the planning commission/zoning board of appeals, recommendations on all amendments and special uses, and transmit same to the city council together with the recommendations on amendments of the zoning officer;
- (7) Receive and file copies of all applications for appeals, variances and other matters on which the zoning officer is required to pass under this chapter; and
- (8) Provide such clerical and technical assistance as may be required by the planning commission/zoning board of appeals in the exercise of its duties.

(Ord. No. 08-19 (§ 9.1), 9-9-08)

Sec. 23-132. - Planning commission/zoning board of appeals.

- (a) *Jurisdiction and authority.* The planning commission/zoning board of appeals is hereby invested with the following jurisdiction and authority:

- (1) To receive from the office of the zoning officer copies of applications for amendments or special uses which have been introduced into the city council; to make recommendations thereon and to forward such recommendations to the city council;
 - (2) To hold public hearings on matters pertaining to amendments or special uses and submit reports to the city council setting forth its findings and recommendations in the manner prescribed in this section; and
 - (3) To initiate, direct and review, from time to time, studies of the provisions of this chapter, and to make reports of its recommendations to the city council once a year.
 - (4) To hear and decide appeals from any order, requirement, decision or determination made by the zoning officer under this chapter;
 - (5) To hear and make recommendations to the city council upon applications for variances from the terms provided in this chapter in the manner and subject to the standards set forth in this section; and
 - (6) To hear and decide all matters referred to it or upon which it is required to pass under this chapter.
- (b) *Decisions.* Decisions shall be made as follows:
- (1) All decisions and findings of the planning commission/zoning board of appeals on variances arrived at after the hearing shall in all instances be referred to the city council with report and recommendations.
 - (2) The city council, upon report of the planning commission/zoning board of appeals and without further public hearing may adopt any proposed variances or refer it back to the planning commission/zoning board of appeals for further consideration, and any proposed variance which fails to receive the approval of the planning commission/zoning board of appeals shall not be passed except by the favorable vote of two-thirds of all members of the city council.
 - (3) All decisions and findings of the planning commission/zoning board of appeals on appeals from the zoning officer, arrived at after public hearing, shall in all instances be final administrative determinations.

(Ord. No. 08-19 (§ 9.2), 9-9-08)

Sec. 23-133. - Procedures for administrative functions.

- (a) *Zoning certificates.* No permit pertaining to the use of land or buildings shall be issued unless the zoning officer has certified, after examination, that it complies with all provisions of this chapter.
- (b) *Occupancy permits and fees.* Occupancy permits shall be granted upon execution of the following:
 - (1) *Required.* No land shall be occupied or used and no building hereafter erected or structurally altered, shall be occupied or used in whole or in part for any purpose until a certificate is issued by the zoning officer, stating that the building and use of land complies with the provisions of this chapter, all building and health laws, and all ordinances of the city.
 - (2) *Change of use.* No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, that is not permitted by the provisions of this chapter. Nothing in this section shall prevent the continuance of the present lawful use of any existing building, except as may be necessary for safety of life and property.
 - (3) *Application.* Certificate of occupancy shall be applied for not later than ten days after the erection or alteration of a building has been completed. A record of all certificates shall be kept on file in the office of the zoning officer and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected.

- (4) *Fees.* A fee shall be charged for each original certificate and copy thereof in accordance with the building permit fee schedule approved by the city council (see applicable fee table). Failure to obtain a building permit may result in a late permit fee.
- (c) *Appeals.* An appeal may be taken to the planning commission/zoning board of appeals by any person or by an officer of the city aggrieved by a decision of the zoning officer.

(Ord. No. 08-19 (§ 9.3), 9-9-08)

Sec. 23-134. - Special uses.

- (a) *Purpose.* The development and execution of this chapter is based upon the division of the city into districts, within any one of which the uses of land, are essentially uniform and compatible. It is recognized, however, that there are special uses which, because of their unique character, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring lands and upon the public need for the particular use in the particular location. Such special uses fall into three categories:
 - (1) Uses operated either by a public agency or publicly-related utilities, or uses traditionally affected with a public interest;
 - (2) Uses entirely private in character but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities; and
 - (3) Planned unit developments, in accordance with the provisions of article V of this chapter.
- (b) *Authorization.* Special uses shall be authorized by the city council, provided that no application for a special use shall be acted upon by the city council until after:
 - (1) A public hearing is scheduled, and notice posted as defined in section 23-139 of this chapter, and thereafter held by the planning commission/zoning board of appeals; and
 - (2) A written report containing recommendations, findings of facts, and other appropriate commentary is prepared by the planning commission/zoning board of appeals and forwarded to the city council, in the manner prescribed herein for amendments to this chapter.
- (c) *Application.* Application for a special use shall be made as follows:
 - (1) An application for special use shall be in written form and shall be filed and processed in the manner prescribed for applications for amendments, and shall be accompanied by such information as shall be established from time to time by the planning commission/zoning board of appeals.
 - (2) The zoning officer shall process such applications in the manner prescribed herein for amendments to [this chapter].
 - (3) The application shall be accompanied by a \$200.00 filing fee. The applicant shall be responsible for all professional fees incurred by the city in connection with said request, including, but not limited to, engineering fees, attorney's fees and planning fees. All of said fees shall be paid to the city in care of the finance director, and the finance director shall be responsible for collecting said fees. No special use shall be approved until the described fees have been paid in full.
- (d) *Standards.* No special use shall be granted by the city council unless the special use:
 - (1) Is deemed necessary for the public convenience at that location;
 - (2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
 - (3) Will not cause substantial injury to the value of other property in the neighborhood in which it is located; and

- (4) Except as may be recommended by the planning commission/zoning board of appeals and approved by the city council and conforms to the applicable regulations of the district in which it is to be located.
- (e) *Conditions.* The planning commission/zoning board of appeals may recommend, and the city council may provide, such conditions and restrictions upon the construction, location and operation of a special use, including but not limited to, provisions for off-street parking and loading, as may be deemed necessary to promote the general objectives of this chapter and to minimize injury to the value of property in the neighborhood.
- (f) *Expiration.* All special uses in existence as of November 1, 1995, and all special uses granted thereafter shall expire upon a sale or transfer of title of property from the owner granted the special use to a new owner, or if the development or activity for which the special use is granted has not taken place for a period of one year.

(Ord. No. 08-19 (§ 9.4), 9-9-08)

Sec. 23-135. - Variances.

- (a) *Purpose.* The planning commission/zoning board of appeals shall recommend variances variance of the provisions of this chapter in harmony with its general purpose and intent, and shall vary them only in the specific instances hereinafter set forth, where the planning commission/zoning board of appeals shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this chapter.
- (b) *Authorization.* Variances shall be authorized by the city council, provided that no application for a special use shall be acted upon by the city council until after:
 - (1) A public hearing is scheduled, and notice posted as defined in section 23-139 of this chapter, and thereafter held by the planning commission/zoning board of appeals; and
 - (2) A written report containing recommendations, findings of facts, and other appropriate commentary is prepared by the planning commission/zoning board of appeals and forwarded to the city council, in the manner prescribed herein for amendments to this chapter.
- (c) *Standards.* The planning commission/zoning board of appeals shall not vary the provisions of this chapter, as authorized in this section, unless it shall have made findings based upon the evidence presented to it in each specific case. The planning commission/zoning board of appeals shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:
 - (1) The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out;
 - (2) The conditions upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;
 - (3) The purpose of the variance is not based exclusively upon a desire to increase return on investment of the property;
 - (4) The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
 - (5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or

- (6) The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (d) *Conditions and restrictions.* The planning commission/zoning board of appeals may recommend such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this section to reduce or minimize the injurious effect of such variance upon other property in the neighborhood and to implement the general purpose and intent of this comprehensive amendment.
- (e) *Application procedure.* All applications for variances shall be in written form and shall be accompanied by a \$200.00 filing fee. All applicants for variances shall be responsible for all professional fees incurred by the city in connection with said request, including, but not limited to, engineering fees, attorney's fees and planning fees. All of said fees shall be paid to the city in care of the city clerk, and the city clerk shall be responsible for collecting said fees. No variances shall be approved unless and until the city clerk certifies that all the above-described fees have been paid in full.

(Ord. No. 08-19 (§ 9.5), 9-9-08)

Sec. 23-136. - Amendments.

- (a) *Authority.* The regulations imposed and the district created under the authority of this chapter may be amended from time to time by ordinance, but no such amendment shall be made without a public hearing before the planning commission/zoning board of appeals which shall report its findings and recommendations to the city council.
- (b) *Initiation of amendment.* Amendments may be proposed by the city council, planning commission/zoning board of appeals, and by any owner of property.
- (c) *Processing.* Before the holding of public hearings by the planning commission/zoning board of appeals, any amendment introduced to the city council shall be forwarded by the city council to the zoning officer with a request for recommendations by both the planning commission/zoning board of appeals and the zoning officer. Upon receipt of such proposed amendment, the zoning officer shall transmit a copy of same to the planning commission/zoning board of appeals, which shall make its recommendations relative thereto and shall forward same through the zoning officer to the city council. The zoning officer, in transmitting the recommendation of the planning commission/zoning board of appeals to the city council, shall forward therewith either an indication of concurrence with such recommendation, or in the event of disagreement with same, his own separate recommendations.
- (d) *Public notice.* The procedure for public notice shall be governed by section 23-139.
- (e) *Application procedure and fees.* The application procedure and payment of fees shall be executed as follows:
 - (1) All requests for a zoning amendment for property by or on behalf of the owner shall be in written form and shall be accompanied by a filing fee as listed below. The application shall also be accompanied by a planning fee determined as follows:

| | |
|-------------------|----------|
| 0.00 to 2 acres | \$100.00 |
| 2.01 to 5 acres | \$200.00 |
| 5.01 to 10 acres | \$400.00 |
| 10.01 to 15 acres | \$600.00 |

| | |
|---------------------|---|
| 15.01 to 20 acres | \$1,000.00 |
| 20.01 acres or more | \$1,000.00, plus \$5.00 per acre in excess of 20 acres. |

- (2) Applicants for a zoning amendment shall be responsible for all professional fees incurred by the city in connection with said request, including, but not limited to, engineering fees, attorney's fees and planning fees. All of said fees shall be paid to the city in care of the city clerk, and the city clerk shall be responsible for collecting said fees. No zoning amendment shall be approved unless and until the city clerk certifies that all of the above-described fees have been paid in full.

(Ord. No. 08-19 (§ 9.6), 9-9-08)

Sec. 23-137. - Protests.

In the case of written protest against any proposed special use, variance or amendment of the regulations or zoning district classification of any property, signed and acknowledged by the owners of 20 percent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately adjoining or across an alley from, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, is filed with the city clerk, the request shall not be granted except by a favorable vote of two-thirds of the city council.

(Ord. No. 08-19 (§ 9.7), 9-9-08)

Sec. 23-138. - Site plan review.

An approved site plan shall be required prior to the issuance of a building permit for property in the I-1 district or prior to the issuance of a special use permit in any zoning district.

- (a) *Purpose.* The purpose of requiring site plan approval is to ensure that the proposed use is compatible with the surrounding area, and that off-street parking, lighting, landscaping, ingress and egress, and drainage of the site are provided in a manner that will promote safety and convenience for the public and preserve property values in the surrounding area.
- (b) *Procedure.* A written application for site plan review shall be submitted to the zoning officer who will schedule the item for review by the planning commission/zoning board of appeals. Fifteen copies of the site plan will be submitted by the property owner to the zoning officer at least 15 working days prior to the planning commission/zoning board of appeals meeting. The zoning officer shall review the site plan for conformance with this chapter and shall make a report. After reviewing the report, the planning commission/zoning board of appeals shall recommend approval or denial with or without conditions. The planning commission/zoning board of appeals shall evaluate the proposal to determine if the use or plan conforms to the purpose and intent of this section. Once a recommendation is made the site plan shall be forwarded to the city council for consideration.
- (c) *Contents of the site plan.* The site plan shall contain the following information:
- (1) Base map, drawn to scale, showing all lot boundaries and dimensions and a written description of the property;
 - (2) Present and proposed topography of the site and natural features such as trees, streams, etc.;

- (3) Proposed flow of storm drainage, and the location and planting schedule for all landscaping including grass, trees, and shrubs;
 - (4) Location and dimensions of all existing and proposed structures, building heights, number of stories, gross floor areas and entrances;
 - (5) Locations and dimensions of all existing and proposed streets, curb cuts, aisles, sidewalks and walkways and the number and location of all parking and loading areas;
 - (6) Location, height and material for all screening walls and fences, location and direction of proposed lighting, and location of each outdoor trash storage area;
 - (7) Timetable for construction of proposed improvements.
- (d) *Conditions for approval.* Prior to recommending approval of a site plan, the planning commission/zoning board of appeals shall first find that the following conditions have been met:
- (1) The proposed use is a permitted use in the district in which the property is located;
 - (2) The proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;
 - (3) The vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well;
 - (4) The site plan provides for the safe movement of pedestrians within the site;
 - (5) There is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public;
 - (6) All outdoor storage areas are screened and are in accordance with standards specified by this chapter;
 - (7) *Building permits.* Building permits for earthmoving, construction, alteration, or any other purpose shall not be issued for a site until a site plan is approved by the city council, and such approved site plan is delivered to the zoning officer.

(Ord. No. 08-19 (§ 9.8), 9-9-08)

Sec. 23-139. - Notices of public hearing.

Each applicant for zoning amendments, variances or special uses shall provide notice of public hearing as follows and present proof of such notice at the public hearing.

- (1) *Posting of notice on subject property.* Notice of all public hearings for amendments, special uses and variances required under this chapter, or any other provision of this Code relating to a particular parcel or parcels of real estate shall be posted on all frontages of the property which is the subject matter of the public hearing along a public right of way. The notice shall be posted not less than 15 days nor more than 30 days prior to the public hearing date. The notice shall be removed by the city within 15 days after the public hearing has been held. At least one sign must be posted per 500 linear feet of street frontage with a minimum of one sign on each street abutting the subject property. The sign must contain the case number and telephone number to contact for additional information regarding the matter.
- (2) *Published notice.* Notice of the time and place of such hearing shall be published not more than 30 nor less than 15 days before the hearing, in a newspaper of general circulation within the city. The published notice shall contain the time and place of such public hearing as well as notice of the location and extent of the property in question and the changes proposed.

- (3) *Personal notice.* Not more than 30 nor less than 15 days before the hearing the applicant, his agent or attorney, shall notify the person who last paid the general real estate taxes on each property located within 250 feet, exclusive of public right-of-way, from the boundaries of the subject hearing site:
- a. By personal service; or
 - b. By first class mail, addressed to such taxpayers at the address shown on the most recent record of the county collector.

Such notification shall include the address of the location for which the variance or special use is requested, the name and address of the applicant for variance or special use, subject, time and place of the hearing.

(Ord. No. 08-19 (§ 9.9), 9-9-08; Ord. No. 2015-07, § 1, 7-14-15)

Sec. 23-140. - Penalty.

A person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this chapter shall be fined not less than \$25.00 nor more than \$500.00. A separate violation shall be deemed committed on each day during which a violation occurs or continues. Issuance of violation citations will be executed by city police, in conjunction with the enforcing offices, according to the "P" ticket ordinance.

(Ord. No. 08-19 (§ 9.10), 9-9-08)

Sec. 23-141. - Stop orders and right of inspection.

- (a) The zoning officer shall have the authority to order all work stopped on the construction, alteration or moving of a building or other structure or change of grade of land in the city when such work is being done without the necessary permit, or is otherwise in violation of the provisions of [this chapter]. Work shall not be resumed after the issuance of a stop order except upon the written consent of the zoning officer.
- (b) The zoning officer may issue an oral stop order, which shall be followed by the issuance of a written stop order within 24 hours of the oral order.
- (c) The zoning officer shall inspect all buildings, structures and land within the corporate limits of the city, as frequently as may be necessary to ensure compliance with the provisions of this chapter.

(Ord. No. 08-19 (§ 9.11), 9-9-08)

Sec. 23-142. - Access to property.

Property must have access from either a dedicated and accepted public street or a permitted driveway or private road, before a permit will be issued.

(Ord. No. 08-19 (§ 9.12), 9-9-08)

Secs. 23-143—23-150. - Reserved.

ARTICLE XI. - TABLES

Sec. 23-151. - Table of permitted and accessory uses.

Table of Permitted and Accessory Uses

| | | AG | ER | R-1 | RMF | B-1 | B-2 | B-3 | I-1 | I-2 | I-3 | OS |
|----------|--|----|----|-----|-----|-----|-----|-----|-----|-----|-----|----|
| 1 | RESIDENTIAL | | | | | | | | | | | |
| 1.1 | Single-family dwellings: | P | P | P | P | | | | | | | |
| 1.1.1 | Single-family detached, one dwelling unit per lot | P | P | P | P | | | | | | | |
| 1.1.2 | Site built and modular structures | S | | | | | | | | | | |
| 1.1.3 | Class A mobile home | S | | | | | | | | | | |
| 1.1.4 | Class B mobile home | | | | | | | | | | | |
| 1.2 | Two-family dwellings: | | | | | | | | | | | |
| 1.2.1 | Two-family conversion | | | | P | | | | | | | |
| 1.2.2 | Commercial with 2nd floor | | | | | S | S | | | | | |
| 1.2.3 | Duplex | | | | P | | | | | | | |
| 1.3 | Multifamily dwellings: | | | | P | | | | | | | |
| 1.3.1 | Multifamily conversion | | | | S | | | | | | | |
| 1.3.2 | Multifamily townhomes | | | | P | | | | | | | |
| 1.3.3 | Multifamily apartments | | | | P | | | | | | | |
| 1.4 | Homes emphasizing special services, treatment, or supervision: | | | | | | | | | | | |
| 1.4.1 | Group, homes for handicapped or infirm | P | S | S | S | S | S | S | | | | |
| 1.4.2 | Nursing care, intermediate care home | | S | S | S | S | S | S | | | | |
| 1.4.3 | Foster home | P | P | P | S | S | S | S | | | | |
| 1.4.4 | Day care homes | S | S | S | S | S | S | S | | | | |

| | | | | | | | | | | | | |
|----------|---|---|---|--|--|---|---|---|---|---|---|--|
| 3.1.1 | Convenience stores | | | | | P | P | P | P | P | P | |
| 3.1.2 | Wholesale sales | S | | | | P | P | P | P | P | P | |
| 3.2 | Storage and display of goods outside fully enclosed building allowed: | | | | | S | S | S | S | | | |
| | | | | | | | | | | | | |
| 4 | OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE | | | | | | | | | | | |
| 4.1 | All operations conducted entirely within fully enclosed building: | | | | | P | P | P | P | P | P | |
| 4.1.1 | Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, physicians, dentists, other professions, insurance and stock brokers, travel agents, government office buildings, etc. | | S | | | P | P | P | P | P | P | |
| 4.1.2 | Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use. | | | | | P | P | P | P | P | P | |
| 4.2 | | | | | | | | | | | | |
| 4.2.1 | Operations designed to attract and serve customers or clients on the premises. | | | | | P | P | P | | | | |
| 4.2.2 | Operations designed to attract little or no customer or client traffic other than the employees of the entity operating the principal use. | | | | | P | P | P | | | | |
| 4.2.3 | Banks with drive-up windows and/or ATM Machines. | | | | | P | P | P | P | P | P | |
| | | | | | | | | | | | | |
| 5 | MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT | | | | | | | | | | | |
| 5.1 | All operations conducted entirely within fully enclosed building: | | | | | S | S | S | P | P | P | |
| 5.1.1 | Majority of dollar volume of business done with walk-in trade. | | | | | S | S | S | P | P | P | |
| 5.1.2 | Majority of dollar volume of business not done with walk-in trade. | | | | | S | S | S | P | P | P | |
| 5.2 | Operations conducted within or outside fully enclosed building: | | | | | S | S | S | P | P | P | |

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| | | | | | | | | | | | | | | |
| 6 | EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES | | | | | | | | | | | | | |
| 6.1 | Schools: | | | | | | | | | | | | | |
| 6.1.1 | Elementary and secondary (including associated grounds and athletic and other facilities) | P | P | P | P | | | | | | | | | |
| 6.1.2 | Trade or vocational schools | | | | | P | P | P | P | P | P | | | |
| 6.1.3 | Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.). | S | | | S | S | S | S | S | S | S | S | | |
| 6.2 | Churches, synagogues, and temples (including associated residential structures for religious personnel and associated buildings but not including elementary school or secondary school buildings). | P | | P | P | S | S | S | S | S | S | S | | |
| 6.3 | Libraries, museums, art galleries, art centers, and similar uses (including associated educational and instructional activities). | | | S | S | S | S | S | | | | | | |
| 6.3.1 | Located within a building designed and previously occupied as a residence or within a building having a gross floor area not exceeding 3,500 square feet. | S | S | S | S | P | P | P | | | | | | |
| 6.4 | Social, fraternal clubs and lodges, union halls, and similar uses. | S | | S | S | S | S | S | S | S | S | S | | |
| | | | | | | | | | | | | | | |
| 7 | RECREATION, AMUSEMENT, ENTERTAINMENT | | | | | | | | | | | | | |
| 7.1 | Activity conducted entirely within building or substantial structure: | | | | | P | P | P | P | P | P | | | |
| 7.1.1 | Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses. | | | | | P | P | P | P | P | P | | | |
| 7.1.2 | Movie theatres: | | | | | | | | | | | | | |
| 7.1.2.1 | Seating capacity of not more than 500. | | | | | P | P | P | P | P | P | | | |
| 7.1.2.2 | seating capacity. OVER 500 | | | | | S | S | S | P | P | P | | | |
| 7.1.2.3 | Coliseums, stadiums, and all other facilities listed in the 7.100 classification designed to seat or accommodate simultaneously more than 1,000 people. | S | | | | | | | | S | S | S | | |

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|----------|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7.1.3 | Adult Use Establishment | | | | | | | | | S | S | S | |
| 7.2 | Activity conducted primarily outside enclosed buildings or structures: | | | | | | | | | | | | |
| 7.2.1 | Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not constructed pursuant to a permit authorizing the construction of some residential development. | | | | | | | | | | | | |
| 7.2.2 | Publicly owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school. | S | S | S | S | | | | | | | | S |
| 7.2.3 | Golf driving ranges not accessory to golf courses, par 3 golf courses, miniature golf courses, skateboard parks, water slides, and similar uses. | S | | | | | | S | S | P | P | P | P |
| 7.2.4 | Horseback riding; stables (not constructed pursuant to permit authorizing residential development). | P | | | | | | | | | | | P |
| 7.2.5 | Automobile and motorcycle racing tracks. | S | | | | | | | | S | S | S | |
| 7.2.6 | Drive-in movie theatres. | | | | | | | | | S | P | P | |
| | | | | | | | | | | | | | |
| 8 | INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES | | | | | | | | | | | | |
| 8.1 | Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area. | P | | | | | | | | P | P | P | |
| 8.2 | Nursing care institutions, convalescent homes, intermediate care institutions, handicapped or infirm institutions, child care institutions. | P | S | S | S | S | S | S | | | | | |
| 8.3 | Penal and correctional facilities. | S | | | | | | | | S | S | S | |
| | | | | | | | | | | | | | |
| 9 | RESTAURANTS, BARS, NIGHTCLUBS | | | | | | | | | | | | |
| 9.1 | Restaurants with no substantial carryout or delivery service, no drive-in service, no service or consumption outside fully enclosed structure. | | | | | | P | P | P | P | P | P | |
| 9.2 | Feature restaurants with no substantial carryout or delivery service, no drive-in service, no service infirm institutions, child care institutions. | | | | | | P | P | P | P | P | P | |

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| 9.3 | Fast food restaurants with carryout and delivery service, consumption outside fully enclosed structure allowed. | | | | | P | P | P | P | P | P | |
| 9.4 | Fast food restaurants with carryout and delivery service, drive-in service, drive-through service, service or consumption outside fully enclosed structure allowed. | | | | | P | P | P | P | P | P | |
| 9.5 | Bar, taverns, cocktail lounge. | | | | | | | S | S | S | S | |
| | | | | | | | | | | | | |
| 10 | MOTOR VEHICLE RELATED SALES AND SERVICE OPERATIONS | | | | | | | | | | | |
| 10.1 | Motor vehicle sales or rental; mobile home sales. | | | | | S | P | P | P | P | P | |
| 10.2 | Sales with installation of motor vehicle parts or accessories (e.g. tires, mufflers, etc.). | | | | | S | S | S | P | P | P | |
| 10.3 | Motor vehicle repair and maintenance, not including substantial body work. | | | | | S | S | S | P | P | P | |
| 10.4 | Motor vehicle painting and body work. | | | | | S | S | S | S | S | S | |
| 10.5 | Gas sales. | P | | | | P | P | P | P | P | P | |
| 10.6 | Car wash. | P | | | | P | P | P | P | P | P | |
| 10.6.1 | TRUCK WASH | P | | | | | | | P | P | P | |
| | | | | | | | | | | | | |
| 11 | STORAGE AND PARKING | | | | | | | | | | | |
| 11.1 | Automobile parking garages or parking lots not located on a lot on which there is another principal use to which the parking is related. | | | | | P | P | P | P | P | P | |
| 11.2 | Storage of goods not related to sale or use of those goods on the same lot where they are stored. | | | | | S | S | S | S | S | S | |
| 11.2.1 | All storage within completely enclosed structures. | | | | | S | S | S | P | P | P | |
| 11.2.2 | Storage inside or outside completely enclosed structures. | | | | | S | S | S | P | P | P | |
| 11.3 | Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making | P | | | | | P | P | P | P | P | |

| | | | | | | | | | | | | | |
|-----------|--|---|---|---|---|---|---|---|---|---|---|---|---|
| | use of lot; and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot. | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| 12 | SCRAP MATERIALS SALVAGE YARDS, JUNKYARDS, RECYCLING, REBUILDING, AUTOMOBILE GRAVEYARDS | | | | | | | | | | S | S | S |
| | | | | | | | | | | | | | |
| 13 | SERVICES AND ENTERPRISES RELATED TO ANIMALS | | | | | | | | | | | | |
| 13.1 | Veterinarian | P | | | | P | P | P | P | P | P | | |
| 13.2 | Kennel | P | | | | S | S | S | P | P | P | | |
| | | | | | | | | | | | | | |
| 14 | EMERGENCY SERVICES | | | | | | | | | | | | |
| 14.1 | Police stations | P | P | P | P | P | P | P | P | P | P | | |
| 14.2 | Fire stations | P | P | P | P | P | P | P | P | P | P | | |
| 14.3 | Rescue squad, ambulance service, and ESDA | P | P | P | P | P | P | P | P | P | P | | |
| | | | | | | | | | | | | | |
| 15 | AGRICULTURAL, SILVICULTURAL, EXTRACTIVE OPERATIONS | | | | | | | | | | | | |
| 15.1 | Agricultural operations, farming | P | | | | | | | | | | | |
| 15.1.1 | Excluding livestock | P | | | | | | | | | | | |
| 15.1.2 | Including livestock | S | | | | | | | | | | | |
| 15.1.3 | Experimental farms | S | | | | | | | | | | | |
| 15.2 | Silvicultural (Forestry) operations | P | | | | | | | | P | P | P | P |
| 15.3 | Mining or quarrying operations, including onsite sales of products | S | | | | | | | | S | S | S | |
| 15.4 | Reclamation landfill | S | | | | | | | | S | S | S | |

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| | | | | | | | | | | | | | | |
| 16 | MISCELLANEOUS PUBLIC AND SEMIPUBLIC FACILITIES | | | | | | | | | | | | | |
| 16.1 | Post office | | | S | | | P | P | P | P | P | P | | |
| 16.2 | Airport | S | | | | | | | | S | S | S | | |
| 16.3 | Sanitary landfill | | | | | | | | | S | S | S | | |
| 16.4 | Military reserve, National Guard centers. | | | | | | P | P | P | P | P | P | | |
| | | | | | | | | | | | | | | |
| 17 | DRY CLEANER, LAUNDROMAT | | | | | | P | P | P | P | P | P | | |
| | | | | | | | | | | | | | | |
| 18 | UTILITY FACILITIES | | | | | | | | | | | | | |
| 18.1 | Neighborhood | P | S | S | S | S | S | S | S | S | S | S | | |
| 18.2 | Community or regional | | | | | | | | | S | S | S | | |
| | | | | | | | | | | | | | | |
| 19 | TOWERS AND RELATED STRUCTURES | | | | | | | | | | | | | |
| 19.1 | Towers and antennas 50 feet tall and receive only earth station | P | | | | | S | S | S | P | P | P | | |
| | | | | | | | | | | | | | | |
| 20 | OPEN AIR MARKETS AND HORTICULTURAL SALES | | | | | | | | | | | | | |
| 20.1 | Open air markets (farm and craft markets, flea markets, produce markets) | P | | | | | P | P | P | P | P | P | | |
| 20.2 | Horticultural sales with outdoor display | P | | | | | P | P | P | P | P | P | | |
| | | | | | | | | | | | | | | |
| 21 | FUNERAL HOME | | | | | | P | P | P | P | P | P | | |

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| 22 | CEMETERY AND CREMATORIUM | | | | | | | | | | | | | | | | | | |
| 22.1 | Cemetery | S | S | | | | | | | | | S | S | S | | | | | |
| 22.2 | Crematorium | S | | | | | S | S | S | S | S | S | S | S | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| 23 | NURSERY SCHOOLS, DAY CARE CENTERS | S | S | S | S | S | S | S | S | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| 25 | BUS STATION, TRAIN STATION | | | | | | P | P | P | P | P | P | P | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| 26 | COMMERCIAL GREENHOUSE OPERATIONS | | | | | | | | | | | | | | | | | | |
| 26.1 | No on-premises sales | P | | | | | S | S | S | P | P | P | | | | | | | |
| 26.2 | On-premises sales permitted | P | | | | | S | S | S | P | P | P | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| 27 | SPECIAL EVENTS | S | S | S | S | S | S | S | S | S | S | S | S | S | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| 28 | OFF-PREMISES SIGNS | S | | | | | S | S | S | S | S | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

(Ord. No. 08-19 (ch. 10), 9-9-08; Ord. No. 12-03, (Exh. A), 1-10-12; Ord. No. 14-11, § 12, 7-22-14)

Sec. 23-152. - Table of yard requirements.

Table of Yard Requirements

| Districts | Street R.O.W. Setback (in feet) | Rear Setback (in feet) | Interior Side Setback (in feet) |
|-----------|---------------------------------|------------------------|---------------------------------|
| AG | 50 | 50 | 25 |
| ER | 30 | 35 | 10 |
| R-1 | 30 | 30 | 10 |
| RMF | 30 | 25 | 10 |
| B-1 | 0 | 30 | 0 |
| B-2 | 30 | 30 | 15 |
| I-1 | 50 | 20 | 20 |

(Ord. No. 08-19 (ch. 10), 9-9-08)

Chapter 24 - WIND ENERGY CONVERSION SYSTEM ("WECS") REGULATIONS¹

Footnotes:

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Editor's note— Ord. No. 12-15, §§ 1—4, adopted Apr. 26, 2012, enacted provisions which did not specify manner of inclusion. At the direction of the city, and to facilitate indexing, said provisions have been codified herein as Ch. 24, §§ 24-1—24-4.

Sec. 24-1. - WECS towers.

Pursuant to 65 ILCS 5/11-13-26, the City of Braidwood may regulate wind farms and electric-generating wind devices within its zoning jurisdiction and within the 1.5 mile radius surrounding its zoning jurisdiction. The city desires to prohibit WECS towers within its zoning jurisdiction and within certain areas of the 1.50 mile radius surrounding its zoning jurisdiction. All other areas within the 1.50 mile radius surrounding the city's zoning jurisdiction that the city has not prohibited WECS towers, the city defers the construction, erection and installation of WECS towers within this area of the county to the county regulations which require special use permits that are regulated by the zoning enforcing officer of the county.

(Ord. No. 12-15, § 1, 4-26-12)

Sec. 24-2. - Quadrants of the city for WECS purposes.

- (a) For the purposes of sections 24-1 and 24-3 of this chapter, the city is hereby divided into four quadrants determined as follows:
 - (1) The east and west is divided by Division Street, which runs in a northerly and southerly direction through the city; and
 - (2) The north and south is divided by Main Street, which runs in an easterly and westerly direction through the city.
- (b) That part of the city lying north of Main Street and west of Division Street shall hereinafter be referred to as quadrant 1. That part of the city lying north of Main Street and east of Division Street shall hereinafter be referred to as quadrant 2. That part of the city lying south of Main Street and east of Division Street shall hereinafter be referred to as quadrant 3. That part of the city lying south of Main Street and west of Division Street shall hereinafter be referred to as quadrant 4.

(Ord. No. 12-15, § 2, 4-26-12)

Sec. 24-3. - Prohibition of WECS.

- (a) *Quadrant 1.* In quadrant 1, no WECS tower shall be constructed, erected, installed nor located within the city limits of the city, nor within a distance of 1.5 miles from the legally established boundaries of the city, such boundary is to be determined as of the date 180 days prior to filing of an application for a special use permit for a WECS tower with the city or with the county, which distance shall be measured from the closest city corporate limit boundary line to the center of the WECS tower foundation..
- (b) *Quadrant 2.* In quadrant 2, no WECS tower shall be constructed, erected, installed nor located within the city limits of the city, nor within a distance of 1.5 miles from the legally established boundaries of the city, such boundary is to be determined as of the date 180 days prior to filing of an application for a special use permit for a WECS tower with the city or with the county, which distance shall be measured from the closest city corporate limit boundary line to the center of the WECS tower foundation.
- (c) *Quadrant 3.* In quadrant 3, no WECS tower shall be constructed, erected, installed nor located within the city limits of the city, nor within a distance of 1.5 miles from the legally established boundaries of the city, such boundary is to be determined as of the date 180 days prior to filing of an application for a special use permit for a WECS tower with the city or with the county, which distance shall be measured from the closest city corporate limit boundary line to the center of the WECS tower foundation.
- (d) *Quadrant 4.* In quadrant 4, no WECS tower shall be constructed, erected, installed nor located within the city limits of the city, nor within a distance of 1.5 miles from the legally established boundaries of the city, such boundary is to be determined as of the date 180 days prior to filing of an application for a special use permit for a WECS tower with the city or with the county, which distance shall be measured from the closest city corporate limit boundary line to the center of the WECS tower foundation.

(Ord. No. 12-15, § 3, 4-26-12)

Sec. 24-4. - Special use variations.

A special use variation to the above provisions may be granted pursuant to and subject to the requirements of section 23-134 of this Code.

(Ord. No. 12-15, § 4, 4-26-12)

Chapter 26 - BUSINESSES¹¹

Footnotes:

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Cross reference— Advertising, ch. 6; amusements and entertainments, ch. 14; manufactured homes and trailers, ch. 54; taxation, ch. 78.

State Law reference— Authority to regulate various businesses, 65 ILCS 5/11-42-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 26-1. - License—Required; fee.

Each business in the city, whether established, itinerant or transient, shall obtain a yearly business license from the city clerk. The fee for such license shall be \$50.00 per year unless otherwise provided for in this Code.

(Ord. No. 98-3, § 1, 1-27-98; Ord. No. 98-11, § 1, 4-14-98)

Sec. 26-2. - Exemptions.

- (a) *Home occupations.* A home occupation shall not be required to obtain a business license, provided that:
- (1) It is conducted within the dwelling area by a person residing in the dwelling and only when such home occupation is incidental and secondary to the use of the dwelling for dwelling purposes.
 - (2) The entrance to the space devoted to such occupation is from within the dwelling and the portion of the dwelling devoted to such occupation shall not exceed 30 percent of the gross floor area of the dwelling.
 - (3) There is no display, activity or storage of equipment that will indicate from the exterior of the dwelling that it is being used in whole or in part for any use other than a dwelling.
 - (4) No produce assembled or made on the premises shall be offered for sale in any dwelling unit.
 - (5) Teaching of musical instruments, arts and crafts and dancing shall be conducted only in a single-family detached dwelling and then, to not more than four pupil[s] at one time.
 - (6) Farming shall be considered a home occupation for the purposes of sections 26-1 through 26-12 of this chapter.

Home occupations not meeting the above criteria shall be required to obtain a permit.

- (b) *Certain professions.* Certain professions specifically exempted from licensing fees by state law are not required to obtain a license.

(Ord. No. 98-11, § 2, 4-14-98; Ord. No. 11-31, 7-26-11)

Sec. 26-3. - Same—Term.

- (a) All annual licenses shall be operative and the license year for the city shall commence on January 1 each year and shall terminate on December 31 of the same year, where no provision to the contrary is made. There shall be no proration of permit fees for partial years, except that in 2020, all business license renewals shall be prorated to pay a proportion from its renewal date to January 1, 2021.
- (b) The city clerk shall notify all annual licensees of the city of the time of expiration by December 1; provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new license, or a renewal thereof, or a renewal thereof, nor shall it be a defense in action based upon the operation without a license.

(Ord. No. 98-11, § 3, 4-14-98; Ord. No. 20-01, §, 01-14-2020)

Sec. 26-4. - Same—Application.

Applications for all licenses required by ordinance shall be made in writing, under oath, to the city clerk. Each application shall contain the name of the applicant; the type of license desired; the location to be used, if any; the time covered; the fee to be paid; and the address to which any notice provided herein is to be mailed. Each application shall contain the number of the certificate of registration required under the Retailers' Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the city officials in the assuming of the license.

(Ord. No. 98-11, § 4, 4-14-98)

Sec. 26-5. - Same—Posting.

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times.

(Ord. No. 98-11, § 5, 4-14-98)

Sec. 26-6. - Same—Investigation.

Upon receipt of an application for a license or permit where the ordinances of the city necessitate an inspection or investigation before the issuance of a permit or license, the city clerk shall refer the application to the proper office to make an investigation within 48 hours of the time of the receipt of the application. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten days after receiving the application or a copy thereof.

(Ord. No. 98-11, § 6, 4-14-98)

Sec. 26-7. - Same—Compliance of buildings and premises.

No license shall be issued for the conduct of any business or permit for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the city. No license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning code.

(Ord. No. 98-11, § 7, 4-14-98)

Sec. 26-8. - Same—Transfer.

Licenses issued may be transferred by the original licensee provided written notice thereof is given to the city clerk within ten days before the transfer is made. No more than one transfer of any license shall be made within any license year. It shall be unlawful to transfer any peddler's, itinerant merchant's or chauffeur's license. Any attempted transfer of such a license shall have no effect.

(Ord. No. 98-11, § 8, 4-14-98)

Sec. 26-9. - Nuisances.

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.

(Ord. No. 98-11, § 9, 4-14-98)

Sec. 26-10. - Inspections.

- (a) Whenever inspections of the premises used for [or] in connection with the operation of a permitted business or occupation are provided for or required by ordinance, or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the city, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of the city who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.
- (b) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to furnish, to any duly authorized officer or employee of the city requesting the same, sufficient samples of such commodity or material.
- (c) In addition to any other penalty which may be provided, the mayor may revoke the license of any owner or operator of a licensed business in the city who refuses to license any duly authorized officer or employee to make such inspection or to take an adequate sample of such commodity or material, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of the city after first having presented a written authorization from the mayor, or his designee, for such entry.

(Ord. No. 98-11, § 10, 4-14-98)

Sec. 26-11. - Revocation of license or permit.

Any license or permit for a limited time may be revoked by the mayor at any time during the life of the license or permit for any violation by the licensee or permittee of the ordinance provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied. The revocation may be in addition to any fine imposed.

(Ord. No. 98-11, § 11, 4-14-98)

Sec. 26-12. - Penalty.

In addition to all other remedies to the city at law or in equity, any person who violates or fails to comply with any of the provisions of this chapter shall be fined not less than \$50.00 or not more than

\$750.00 for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. No. 98-11, § 12, 4-14-98)

Secs. 26-13—26-30. - Reserved.

ARTICLE II. - HOTELS AND BOARDINGHOUSES

Sec. 26-31. - Guest register required.

- (a) All hotel or boardinghouse keepers or managers keeping houses of accommodations for travelers or guests are hereby required to keep a register in which shall be recorded the name, residence and date of arrival and departure of such travelers or guests.
- (b) Any keeper or manager failing to comply with this section shall be subject to punishment as provided in section 1-8.

(Ord. No. 165, §§ 1, 2, 10-3-1881)

Secs. 26-32—26-55. - Reserved.

ARTICLE III. - PEDDLERS AND SOLICITORS

DIVISION 1. - GENERALLY

Sec. 26-56. - Definitions.

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:

Peddler means any person who, going from place to place, shall at retail sell, offer for sale, sell and deliver, barter or exchange any goods. It shall not include a serviceman who, responding to a prior call, sells replacement merchandise.

Solicitor means any person who, going from place to place, without prior appointment or prearrangement with the customer, shall take orders for future delivery at retail of any merchandise or other article or thing, or any service.

(Ord. No. 85-7, § 1, 6-25-85)

Cross reference— Definitions generally, § 1-2.

Sec. 26-57. - Penalty for violation of article.

Any person violating the provisions of this article shall, upon conviction, be subject to punishment as provided in section 1-8.

(Ord. No. 85-7, § 14, 6-25-85)

Sec. 26-58. - Registration of peddlers and solicitors of books, periodicals and publications.

No person shall engage in the business of peddler or solicitor of books, periodicals and publications within the city without first registering with the city clerk. Such registration shall include the name and address of such person; the name and address of the employer of such person; the name and address of the publisher and the names of the books, periodicals and publications involved; the sales area; and the duration of sales. No such registration shall be valid for a period of more than five days, but the registration may be renewed.

(Ord. No. 85-7, § 3, 6-25-85)

Sec. 26-59. - Fraud.

It shall be unlawful for any peddler or solicitor to cheat, deceive, or fraudulently misrepresent, whether through himself or through an employee, while acting as a peddler or solicitor in the city, or to barter, sell or peddle any goods, merchandise or wares other than those specified in his application for a license.

(Ord. No. 85-7, § 9, 6-25-85)

Sec. 26-60. - Hours of operation.

No soliciting or peddling shall be permitted before the hour of 9:00 a.m. or after the hour of 6:00 p.m., within the city, and no peddling or soliciting shall be conducted on Sundays; provided, however, that vending of food from trucks on the public way shall be on all days between sunrise and sunset. No person required to be licensed by any other ordinance of the city shall be required to be licensed under this article.

(Ord. No. 85-7, § 10, 6-25-85)

Sec. 26-61. - Notice regulating.

Notice of the determination of the occupant's refusal of invitation to any solicitors or peddlers shall be given in the following manner: A weatherproof card, at least three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing applicable words, as follows: "No solicitors or peddlers allowed." The letters shall be at least one-third inch in height. For the purpose of uniformity, the cards shall be provided by the city clerk to persons requesting them, at the cost of such cards. Such card, so exhibited, shall constitute sufficient notice to any solicitor or peddler of the determination of the occupant of the residence of the information contained thereon.

(Ord. No. 85-7, § 11, 6-25-85)

Sec. 26-62. - Signs at city limits.

The commissioner of streets and public improvements is hereby directed to post appropriate signs at the limits of the city with the following language: "Solicitors, peddlers, and contractors must be licensed and registered at the Braidwood City Hall."

(Ord. No. 85-7, § 12, 6-25-85)

Secs. 26-63—26-75. - Reserved.

DIVISION 2. - LICENSE

Sec. 26-76. - Required.

No person shall engage in the business of a peddler or solicitor within the city without first having obtained a license therefor as provided in this division, provided that no such license shall be required for peddlers and solicitors dealing only in books, periodicals and publications, and such persons dealing therein shall be registered as provided in section 26-58.

(Ord. No. 85-7, § 2, 6-25-85)

Sec. 26-77. - Application; contents.

An application for a peddler's or solicitor's license shall be made by each person intending to solicit or peddle within the city to the city clerk. Such applications shall set forth the number of vehicles, if any, intended to be operated; the kind of merchandise to be peddled or offered for order; the permanent address of the applicant; the name of the partnership, corporation or proprietorship for whom the applicant works; the name of supervisor of the applicant; the telephone number of the parent firm; cities of previous solicitation; and further, whether the applicant has ever had a revocation of any peddler's or solicitor's licenses, whether he has ever been arrested or convicted of a misdemeanor or a felony, and if so, when and where. The application shall state the exact specific consecutive dates such applicant desires to peddle or solicit, not in excess of 14 consecutive days, and the license, if issued, shall be limited to only those dates specified. Each application shall be accompanied by the fee as prescribed in section 26-79. The applicant shall register in the office of the city clerk.

(Ord. No. 85-7, § 4, 6-25-85)

Sec. 26-78. - Investigation of applicant.

The chief of police shall, upon request from the city clerk, make or cause to be made an investigation to determine the character and reputation of the applicant. No license shall be issued to any applicant who is not found to be a person of good character and reputation or to any firm, corporation, partnership or association which is not represented in the city by a person found to be of good character and reputation. The chief of police shall certify to the city clerk the issuance or denial of a permit under the provisions of this article within 30 days of the application.

(Ord. No. 85-7, § 6, 6-25-85)

Sec. 26-79. - Fee—Rate per day.

The fee for a peddler's or solicitor's license shall be the sum of \$10.00 for each day of the term of the license.

(Ord. No. 85-7, § 7, 6-25-85)

Sec. 26-80. - Same—Application for waiver for not-for-profit organization.

Any not-for-profit organization may make application to the city council for a waiver of the daily fee for its members whose activities on behalf of the not-for-profit organization are covered by section 26-76. Such application shall be in person at a regularly scheduled council meeting. In granting a waiver of the daily license fee, the council may limit the term of the license to a period less than 14 days. If the council

grants a waiver of the daily fee, the members of the not-for-profit organization shall comply with all of the other provisions of this article.

(Ord. No. 85-7, § 8, 6-25-85)

Sec. 26-81. - Term.

All licenses issued to peddlers and solicitors under this article shall be for a specified term of consecutive days, not exceeding 14 consecutive days. License fees shall not be paid for any Sundays within the 14 consecutive days, but Sundays shall be counted in determining when a license commences and expires.

(Ord. No. 85-7, § 5, 6-25-85)

Sec. 26-82. - Revocation.

Any such license or registration may be revoked by the mayor because of any violation of this article or of any other ordinance of the city, or of any state or federal law, or whenever the licensee or registrant shall cease to possess the qualifications and character required in this article for the original license or registration.

(Ord. No. 85-7, § 13, 6-25-85)

Secs. 26-83—26-89. - Reserved.

ARTICLE IV. - ADULT USES

Sec. 26-90. - Definitions.

For the purposes of this article, the following definitions shall apply:

Adult bookstore means an establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for rent, sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such materials; or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

Adult entertainment cabaret means a public or private establishment which:

- (1) Features topless dancers strippers, male or female impersonators;
- (2) Not infrequently features entertainers who display "specified anatomical areas";
- (3) Features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron; or
- (4) Entertainers who engage in or are engaged in explicit simulation of "specified sexual activities."

Adult motion picture theater means a building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult use means adult bookstores, adult motion picture theaters, adult entertainment cabarets, and other similar uses.

Specified sexual activities means:

- (1) Human genitals in the state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; and
 - c. Female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. No. 99-17, § 1, 5-25-99)

Sec. 26-91. - Adult uses prohibited.

It shall be unlawful for any person to permit, allow, maintain, conduct or provide an adult use.

(Ord. No. 99-17, § 1, 5-25-99)

Sec. 26-92. - Penalty.

The penalty for violation of this article shall be as set out in section 1-8 of this Code.

(Ord. No. 99-17, § 2, 5-25-99)

Secs. 26-93—26-99. - Reserved.

ARTICLE V. - MACHINE LICENSES

Sec. 26-100. - License required.

It shall be unlawful for any person to maintain or allow the operation of an amusement device, vending machine or machine which is required to be licensed by section 26-102 without having a current city license therefor. The liability and responsibility for a license shall be on the owner of the machine and shall also be on the owner/operator of the premises where such machine is located.

(Ord. No. 01-9, § 1, 7-10-01)

Sec. 26-101. - License provisions.

A license shall be valid for a term of May 1 through the following April 30. License fees shall not be prorated based upon the date of issuance. Licenses shall be issued for a specific machine and are not transferable except as permitted herein.

(Ord. No. 01-9, § 1, 7-10-01)

Sec. 26-102. - License fees.

The license fee is hereby established for the following machines:

- (1) Vending machine (all items \$0.25 or less)\$15.00
- (2) Vending machine (any item more than \$0.25)30.00
- (3) Cigarette vending machine100.00
- (4) Juke box30.00
- (5) Billiard, pool or snooker table50.00
- (6) Dart board30.00
- (7) Coin operated amusement device75.00
- (8) Video amusement device75.00
- (9) Pinball machine35.00

During a license year, a licensed machine may be moved from one location to another without the purchase of a new license. A license may be transferred from one machine to another upon the payment of a \$10.00 transfer fee.

(Ord. No. 01-9, § 1, 7-10-01)

Secs. 26-103—26-109. - Reserved.

ARTICLE VI. - RAFFLES

Sec. 26-110. - Definitions.

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:

Chamber shall mean a voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

Charitable shall mean an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

Charitable raffle license shall mean a license to conduct a raffle issued pursuant to this article.

Educational shall mean an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

Fraternal shall mean an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

Labor shall mean an organization composed of workers organized with the objective of betterment of the conditions of a higher degree of efficiency in their respective occupations.

Net proceeds shall mean the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, license fees, and other reasonable operating expenses incurred as a result of operating a raffle.

Non-profit shall mean an organization or institution organized and conducted on a not for-profit basis with no personal profit inuring to anyone as a result of the operation.

Raffle shall mean a procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes in which:

- (1) The persons pay or agree to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance; and
- (2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the raffle, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

Religious shall mean any church, congregation, society, or organization founded for the purposes of religious worship.

Veterans shall mean an organization or association comprised of members of which substantially all are individuals who are veterans of military service, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-111. - Charitable raffle license required.

No person, firm, corporation or other entity shall conduct a raffle in the city without having first obtained a charitable raffle license therefor pursuant to this article. A raffle shall be deemed to occur in the city if the determination of one or more winners thereof is made or announced within the corporate limits in the city.

The application for, and acceptance of, a raffle license shall constitute an irrevocable agreement by the raffle licensee to indemnify and hold the city and its officials and employees harmless from and against any and all claims related to the raffle.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-112. - Limitations.

The maximum aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall be \$150,000.00 unless the applicant files a procedure that is established in this section.

The maximum retail value of each prize awarded by the licensee in a single raffle shall be \$150,000.00 unless the applicant files a procedure that is established in this section.

The maximum price which may be charged for each raffle chance issued or sold shall be \$25.00.

The maximum number of days during which chances may be issued or sold for any raffle shall be 364 days.

An applicant requesting a license for a raffle in which the maximum aggregate retail value of all prizes or the maximum retail value of each individual prize will exceed \$150,000.00 must receive prior approval of the city council. The application for a raffle in which prizes exceed the value of \$150,000.00 shall be made and investigated in this article. Following the investigation, the city administrator shall

cause the application to be placed on the meeting agenda for action by the city council prior to the issuance of said license.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-113. - License fee.

The license fee for a raffle for the maximum aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle that does not exceed \$150,000.00 shall be \$50.00 paid at the time of the application for the licensee and shall be nonrefundable if the application for the license is denied.

The license fee for any applicant requesting a license for a raffle in which the maximum aggregate retail value of all prizes or the maximum retail value of each individual prize that exceeds \$150,000.00 shall be no more than \$1,000.00 and shall be determined by the city council when the application is heard.

Where an applicant is a not-for-profit entity, the applicant need only pay one license fee per calendar year (defined as January 1 through December 31). If the same applicant seeks to hold more than one raffle in a calendar year, then the applicant must submit a separate application for each raffle, but shall only be required to pay one license fee per year as established in this section. If an applicant requests an additional raffle during the calendar year in which the maximum aggregate retail value of all prizes or maximum retail value of each individual prize exceeds \$150,000.00, the applicant may be required to pay an additional license fee as determined by the city council at the time of hearing the application.

(Ord. No. 17-15, § 1, 11-28-17; Ord. No. 18-01, § 1, 1-9-18)

Sec. 26-114. - License application.

Applications for a raffle license shall be submitted to the city administrator, in writing, on a form provided for that purpose. Application shall be made available by the city administrator at city hall.

The application for a license must specify the area or areas within the City in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determining of winning chances and the location or locations at which winning chances will be determined. The application shall also contain a sworn statement attesting to the not-for-profit character of the prospective licensee organization, signed by the presiding officer and the secretary of that organization.

The application shall contain such other information as necessary to determine eligibility.

The city administrator shall issue or deny a charitable raffle license within 30 business days of the submittal of proper application.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-115. - Eligibility for license.

A charitable raffle license may only be issued to a bona fide chamber, charitable, educational, fraternal, labor, religious or veterans' organization as defined in the Raffles Act (230 ILCS 15/1 et seq.), as amended.

In addition, a qualifying organization must have operated without profit to their members and have been in existence continuously for a period of five years immediately before making application for a license and which have had during that entire five-year period a bona fide membership engaged in carrying out their objectives, or to a non-profit fund raising organization that the licensing authority

determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardships as the result of an illness, disability, accident or disaster.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-116. - Ineligibility for license.

A charitable raffle license shall not be issued to any of the following:

- (a) Any person who has been convicted of a felony;
- (b) Any person who is or has been a professional gambler or gambling promoter;
- (c) Any person who is not of good moral character;
- (d) Any firm or corporation in which a person defined in (a), (b), or (c) has a proprietary, equitable or credit interest, or in which such a person is active or employed;
- (e) Any organization in which a person defined in (a), (b), or (c) is an officer, director or employee, whether compensated or not;
- (f) Any organization in which a person defined in (a), (b), or (c) is to participate in the management or operation of a raffle;
- (g) Any person or organization that has failed to pay a raffle license fee as required by this article or that has a claim pending under a manager's bond.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-117. - Conduct of raffles.

All raffles shall be conducted in strict compliance with applicable laws and ordinances. In addition, all raffles shall be subject to the following requirements:

- (a) The entire net proceeds of the raffle must be exclusively devoted to the lawful purposes of the licensee;
- (b) No person except a bona fide member of the licensee may participate in the management or operation of the raffle;
- (c) No person may receive any remuneration or profit for participating in the management or operation of the raffle;
- (d) Winning chances may only be determined only at those locations specified on the license;
- (e) Raffle chances may be sold or issued only within the area specified on the license;
- (f) No person under 18 years of age may participate in the conducting of raffles or purchase of chances, unless such person has the approval of a parent or legal guardian.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-118. - Records.

- (a) Each organization licensed to conduct raffles shall keep records of its gross receipts, expenses and net proceeds for each raffle. All deductions from gross receipts for each raffle shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment;

- (b) Gross receipts from the operation of raffles programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license therefore issued by the state department of revenue, and shall be placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization;
- (c) Each organization licensed to conduct raffles shall report no later than 45 days after the conclusion of each raffle to its membership, and to the city administrator, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required in this section;
- (d) Records required by this section shall be preserved three years, and organizations shall make available their records relating to operation of raffles for inspection by the city administrator at reasonable times and places.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-119. - Raffle manager; manager's bond.

All operation of and conduct of raffles shall be under the supervision of a single raffles manager designated by the organization. The manager shall give a fidelity bond in the sum of the aggregate retail value of all prizes or merchandise to be awarded by the licensee in the raffle, conditioned upon his honesty in the performance of his duties.

Such bond shall be given before the issuance of a license under this article: shall be in the name of the licensee and shall be in the form and with a surety acceptable to the city.

Terms of the bond shall provide that notice shall be given in writing to the city not less than 30 days prior to its cancellation.

The city administrator shall be authorized to waive the bond requirement and to include a waiver provision in the license issued to an organization under this article, provided that (1) all requirements of this article have been met by the applicant; (2) the applicant has complied with the provisions of 230 ILCS 15/5 of the Act; and (3) the organization provides a resolution adopted by a unanimous vote of the organization requesting such a waiver. An appeal of the decision of the city administrator with regard to waiving bond may be made to the city council within five days of said decision.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-120. - Suspension or revocation.

A raffle license issued under the provisions of this article may be revoked or suspended by the city administrator if the licensee or raffle manager has:

- (a) Violated any of the provisions of this article;
- (b) Violated any ordinance of the city or any state law of the State of Illinois, or any federal law of the United States, violation of which reflects unfavorably on the fitness of the licensee or raffle manager to continue to conduct the licensed raffle within the city; or
- (c) The licensing requirements are no longer met.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-121. - Non-liability of city.

The City of Braidwood expressly assumes no liability or responsibility whatsoever with regard to the collection of monies, the conduct of, the result of, or any matter relating to, any raffle conducted pursuant to this article.

(Ord. No. 17-15, § 1, 11-28-17)

Sec. 26-122. - Enforcement.

It shall be unlawful for any person to knowingly conduct a raffle in violation of this article. Violations shall be subject to the penalties set forth in section 1-8.

(Ord. No. 17-15, § 1, 11-28-17)

Secs. 26-123—26-130. - Reserved.

Chapter 30 - CIVIL EMERGENCIES¹

Footnotes:

--- (1) ---

Cross reference— General penalty for code violations, § 1-8; emergency services, ch. 34; fire prevention and protection, ch. 38; floods, ch. 42; health and sanitation, ch. 46; law enforcement, ch. 50; offenses, ch. 58; planning, ch. 62; traffic and vehicles, ch. 82; utilities, ch. 86.

ARTICLE I. - IN GENERAL

Secs. 30-1—30-30. - Reserved.

ARTICLE II. - EMERGENCY SERVICES AND DISASTER AGENCY²

Footnotes:

--- (2) ---

Cross reference— Administration, ch. 2.

Sec. 30-31. - Established; composition.

- (a) There is hereby created the city ESDA to prevent, minimize, repair, and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with the Illinois Emergency Management Agency Act (20 ILCS 3305/1 et seq.).
- (b) This ESDA shall consist of the coordinator and such additional members as may be selected by the coordinator.

(Ord. No. 76-13, § 1, 8-24-76)

Sec. 30-32. - Coordinator.

The coordinator of the city ESDA shall be appointed by the mayor and shall serve until removed by the mayor. The coordinator shall have direct responsibility for the organization, administration, training, and operation of the ESDA, subject to the direction and control of the city council. In the event of the absence, resignation, death or inability to serve as the coordinator, the mayor or any person designated by him shall act as the coordinator until a new appointment is made as provided in this article.

(Ord. No. 76-13, § 2, 8-24-76)

Sec. 30-33. - Functions.

The city ESDA shall perform such ESDA functions within the city as shall be prescribed in and by the state ESDA plan and program prepared by the governor, and such orders, rules and regulations as may be promulgated by the governor, and, in addition, shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasimunicipality entered into as provided by the Illinois Emergency Management Agency Act (20 ILCS 3305/1 et seq.).

(Ord. No. 76-13, § 3, 8-24-76)

Sec. 30-34. - Service of members as mobile support team.

- (a) All or any members of the city ESDA organization may be designated as members of a mobile support team created by the director of the state ESDA as provided by law. The leader of such mobile support team shall be designated by the coordinator of the city ESDA organization.
- (b) Any member of a mobile support team who is a city employee or officer while serving on call to duty by the governor, or the state director, shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the city, while so serving, shall receive from the state reasonable compensation as provided by law.

(Ord. No. 76-13, § 4, 8-24-76)

Sec. 30-35. - Agreements with other political subdivisions.

The coordinator of ESDA may negotiate mutual aid agreements with other cities or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the city council and by the state director of ESDA.

(Ord. No. 76-13, § 5, 8-24-76)

Sec. 30-36. - Emergency action.

If the governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the state of a major disaster resulting from enemy sabotage or other hostile action, or from manmade or natural disaster, it shall be the duty of the city ESDA to cooperate fully with the state ESDA and with the governor in the exercise of emergency power as provided by law.

(Ord. No. 76-13, § 6, 8-24-76)

Sec. 30-37. - Compensation of members.

Members of the ESDA who are paid employees or officers of the city, if called for training by the state director of ESDA, shall receive for the time spent in such training the same rate of pay as is attached to the position held. Members who are not such city employees or officers shall receive for such training time such compensation as may be established by the city council.

(Ord. No. 76-13, § 7, 8-24-76)

Sec. 30-38. - Reimbursement by state.

The city treasurer may receive and allocate to the appropriate fund, any reimbursement by the state to the city for expenses incident to training members of the ESDA as prescribed by the state director of ESDA, compensation for services and expenses of members of a mobile support team while serving outside the city in response to a call by the governor or state director of ESDA, as provided by law, and any other reimbursement made by the state incident to ESDA activities as provided by law.

(Ord. No. 76-13, § 8, 8-24-76)

Sec. 30-39. - Purchases and expenditures.

- (a) The city council may, on recommendation of the city coordinator of ESDA, authorize any purchase or contracts necessary to place the city in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from manmade or natural disaster.
- (b) In the event of enemy caused or other disaster, the city coordinator of ESDA is authorized, on behalf of the city, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency, without regard to the statutory procedures or formalities normally prescribed by law pertaining to city contracts or obligations, as authorized by the Illinois Emergency Management Agency Act (20 ILCS 3305/1 et seq.), provided that if the city council meets at such time he shall act subject to the directions and restrictions imposed by that body.

(Ord. No. 76-13, § 9, 8-24-76)

Sec. 30-40. - Oath of members.

Every person appointed to serve in any capacity in the city ESDA organization shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the coordinator:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am affiliated with the ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(Ord. No. 76-13, § 10, 8-24-76)

Sec. 30-41. - Office.

The mayor is authorized to designate space in a city building, or elsewhere, as may be provided for by the city council for the city ESDA as its office.

(Ord. No. 76-13, § 11, 8-24-76)

Sec. 30-42 - Levy of tax to provide revenue.

Pursuant to 65 ILCS 5/8-3-16, there is hereby levied annually a tax not to exceed 0.05 percent of the full, fair cash value, as equalized or assessed by the department of local government affairs on all of the taxable property therein to provide revenue for the purpose of emergency services and disaster operations, on all the taxable property in addition to all other taxes, as provided by the Illinois Emergency Agency Act (20 ILCS 3305/1 et seq.); however, the amount collectible under such levy shall in no event exceed \$0.25 per capita.

(Ord. No. 76-13, § 12, 8-24-76; Ord. No. 11-34, § 1, 8-23-11)

Chapter 34 - EMERGENCY SERVICES[u](#)

Footnotes:

--- (1) ---

Cross reference— General penalty for code violations, § 1-8; civil emergencies, ch. 30; fire prevention and protection, ch. 38; floods, ch. 42; health and sanitation, ch. 46; law enforcement, ch. 50; offenses, ch. 58; planning, ch. 62; traffic and vehicles, ch. 82.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-30. - Reserved.

ARTICLE II. - ALARM SYSTEMS

DIVISION 1. - GENERALLY

Secs. 34-31—34-45. - Reserved.

DIVISION 2. - FALSE ALARMS

Sec. 34-46. - Purpose of division.

The purpose of this division is to define and abate public nuisances, which are a detriment to the safety and public welfare of the people of the city. The nuisances defined in this division are declared to be detrimental to the safety and public welfare of the people of the city.

(Ord. No. 90-7, § 1, 7-10-90)

Sec. 34-47. - Definitions.

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

False alarm means the activation of an alarm system which elicits a response from the police department or any fire department response where the police department also responds, when the situation requiring such a response does not in fact exist. False alarms shall not include alarms activated by:

- (1) Criminal activity or unauthorized entry;
- (2) Earthquake;
- (3) Hurricane or tornado winds causing structural damage to the protected premises;
- (4) Flooding of the protected premises due to overflow of natural drainage;
- (5) Lightning;
- (6) Fire causing damage to the protected premises verified by the fire department; or
- (7) Telephone line malfunction.

If the alarm, when communicated to the police department before an officer is dispatched to investigate, is clearly identified to the department as resulting from authorized entry, authorized system test or other noncriminal cause, it shall not be considered a false alarm. If police units responding to an alarm and checking the protected premises according to standard department operating procedures do not discover any evidence of unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries on the city police report shall be prima facie evidence of the facts stated there with regard to alarms and responses.

(Ord. No. 90-7, § 1, 7-10-90)

Cross reference— Definitions generally, § 1-2.

Sec. 34-48. - Fire alarm systems.

No owner of property protected by an alarm system shall permit, allow or suffer the alarm system to communicate or transmit a false alarm. For the first false alarm within a 12-month period, there shall be no fee; however, a warning in writing may be given. For each and every false alarm beyond one within a 12-month period, the owner of the protected premises shall pay a fine of \$150.00. Each and every violation of this division is a petty offense punishable by the fine structure set forth previously. Under the direct line alarm system, the police reserve the right under the agreement to disconnect such subscriber from the system in the event of continuous false alarms, subject to executive committee approval.

(Ord. No. 90-7, § 2(A), 7-10-90; Ord. No. 14-06, § 1, 6-10-14)

Sec. 34-49. - Burglar alarm systems.

No owner of property protected by a burglar alarm system shall permit, allow or suffer the alarm system to communicate or transmit a false alarm. For the first false alarm within a 12-month period, there shall be no fee; however, a warning in writing may be given. For each and every false alarm beyond one within a 12-month period, the owner of the protected premises shall pay a fine of \$150.00. Each and every violation of this division is a petty offense punishable by the fine structure set forth previously. Under the direct line alarm system, the police reserve the right under the lease agreement to disconnect such subscriber from the system in the event of continuous false alarms, subject to executive committee approval.

(Ord. No. 90-7, § 2(B), 7-10-90; Ord. No. 14-06, § 2, 6-10-14)

Sec. 34-50. - False "911" calls.

No person shall call the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency. For each and every false "911" call made shall constitute a petty offense punishable by a minimum fine of \$200.00 up to a maximum fine of \$750.00.

(Ord. No. 14-06, § 3, 6-10-14)

Chapter 38 - FIRE PREVENTION AND PROTECTION¹

Footnotes:

--- (1) ---

Cross reference— Buildings and building regulations, ch. 22; civil emergencies, ch. 30; emergency services, ch. 34; law enforcement, ch. 50; planning, ch. 62; traffic and vehicles, ch. 82.

ARTICLE I. - IN GENERAL

Sec. 38-1. - Adoption of fire control measures and regulations.

There is hereby adopted by the city the fire control measures and regulations as set forth in this chapter for the purposes of controlling conditions which could impede or interfere with fire suppression forces.

(Ord. No. 87-16, § 1, 9-9-87)

Sec. 38-2. - Authority at fires and other emergencies.

The fire official or duly authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire official may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the fire department. The fire official may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the fire official.

(Ord. No. 87-16, § 2, 9-9-87)

Sec. 38-3. - Interference with fire department operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any fire department emergency vehicle in any way, or to interfere with, attempt to interfere, conspire to interfere with, obstruct or hamper any fire department operation.

(Ord. No. 87-16, § 3, 9-9-87)

Sec. 38-4. - Compliance with orders.

A person shall not willfully fail or refuse to comply with any lawful order or direction of the fire official or to interfere with the compliance attempts of another individual.

(Ord. No. 87-16, § 4, 9-9-87)

Sec. 38-5. - Boarding of vehicles or tampering with fire department emergency equipment.

A person shall not without proper authorization from the fire official in charge of any fire department emergency equipment, cling to, attach himself to, climb upon or into, board or swing upon any fire department emergency vehicle, whether the vehicle is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any fire department emergency vehicle.

(Ord. No. 87-16, § 9, 9-9-87)

Sec. 38-6. - Damage or injury to fire department vehicles or personnel.

It shall be unlawful for any person to damage or deface, or attempt or conspire to damage or deface any fire department emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure any fire department personnel while performing departmental duties.

(Ord. No. 87-16, § 10, 9-9-87)

Sec. 38-7. - Blocking or damaging of fire hydrants or other connections; abatement costs.

It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property. If upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the fire official shall proceed to remove the obstructions. Costs incurred in the performance of necessary work shall be paid from the municipal treasury on certification of the fire official and with the approval of the chief administrative official. The legal authority of the municipality shall institute appropriate action for the recovery of such costs.

(Ord. No. 87-16, § 12, 9-9-87)

Sec. 38-8. - Fire hoses and hydrants; turning on or off; permit required.

It shall be unlawful for any person to turn on or off any fire hose or fire hydrant without lawful authority. A person shall not use or operate any fire hydrant intended for use of the fire department for fire suppression purposes unless such person first secures a permit for such use from the fire official and the water company having jurisdiction. This section shall not apply to the use of such hydrants by a person employed by, and authorized to make such use by, the water company having jurisdiction.

(Ord. No. 77-17, § 1.045, 10-25-77; Ord. No. 87-16, § 13, 9-9-87)

Sec. 38-9. - Public water supply; location or relocation of hydrants.

The fire official shall recommend to the chief administrative official of the municipality the location or relocation of new or existing fire hydrants and the placement or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the fire official.

(Ord. No. 87-16, § 14, 9-9-87)

Sec. 38-10. - Yard systems.

All new and existing shipyards, oil storage plants, lumberyards, amusement or exhibition parks, and educational or institutional complexes and similar occupancies and uses involving high fire or life hazards, and which are located more than 150 feet from a public street or which require quantities of water beyond the capabilities of the public water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the fire official and shall be connected to a water system in accordance with accepted engineering practices. The fire official shall designate and approve the number and location of fire hydrants. The fire official may require the installation of sufficient fire hose and equipment housed in accordance with the approved rules and may require the establishment of a trained fire brigade when the hazard involved requires such measures. Private hydrants shall not be placed into or removed from service until approved by the fire official.

(Ord. No. 87-16, § 15, 9-9-87)

Sec. 38-11. - Maintenance of fire suppression equipment.

A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the fire prevention code except for the purpose of extinguishing fire, training or testing purposes, recharging, or making necessary repairs, or when permitted by the fire official. Whenever a fire appliance is removed as permitted by this section, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire appliances or equipment shall be replaced or repaired as directed by the fire official.

(Ord. No. 87-16, § 16, 9-9-87)

Sec. 38-12. - Sale of defective fire extinguishers.

A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by the fire official, or which is not in proper working order, or the contents of which do not meet the requirements of the fire official. The requirements of this section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk when such units are permanently disfigured or marked with a permanent sign identifying the unit as junk.

(Ord. No. 87-16, § 17, 9-9-87)

Sec. 38-13. - Street obstructions.

A person shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street, within the boundaries of the municipality. The word "street" as used in this chapter, shall mean any roadway accessible to the public for vehicular traffic including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the municipality.

(Ord. No. 87-16, § 18, 9-9-87)

Sec. 38-14. - Police to attend fires.

The chief of police and/or other peace officers who may be on duty and available for fire duty shall respond to all fire alarms and assist in the protection of life and property, in regulating traffic, maintaining order and in enforcing observance of all ordinances.

(Ord. of 4-26-48, § 2)

Secs. 38-15—38-40. - Reserved.

ARTICLE II. - FIRE PREVENTION CODE^[2]

Footnotes:

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Cross reference— Building code, § 22-31 et seq.; electrical code, § 22-61 et seq.; compliance with state plumbing code required, § 22-86; property maintenance code, § 22-111 et seq.

Sec. 38-41. - Fire Prevention Code.

"The 2009 International Fire Code" as published by the International Code Council, Inc. is hereby adopted as the Fire Prevention Code of the city with the following changes, additions or insertions:

Section 101.1, insert "City of Braidwood."

Section 103.2, change to read "The code official is the building commissioner."

Section 105.1.1, add the following "The code official shall establish a schedule of permit fees which are required to be paid in conjunction with the issuance of any required permit."

Section 108, delete in full. All appeals shall be taken as provided in the Building Code.

Section 109.3, change the first sentence to read "A penalty of not less than \$100.00 nor more than \$750.00 is hereby imposed for each violation of this Code."

Section 111.4, delete in full.

Section 3204.3.1.1, add the following "The code official shall establish the limits in which storage is prohibited."

Section 3204.2.9.5.2, add the following "The code official shall establish the limits in which storage is prohibited."

Section 3406.2.4.4, add the following "The code official shall establish the limits in which storage is prohibited."

Section 3804.2, add the following "The code official shall establish the limits in which storage is prohibited."

Appendix B, Fire-Flow Requirements for Buildings, is hereby adopted.

Appendix C, Fire Hydrant Locations and Distribution, is hereby adopted.

Appendix D, Fire Apparatus Access Roads, is hereby adopted.

Appendix E, Hazard Categories, is hereby adopted.

Appendix F, Hazard Ranking, is hereby adopted.

Appendix G, Cryogenic Fluids-Weight and Volume Equivalents, is hereby adopted.

In the event that the 2009 International Fire Code does not contain provisions on an issue, then the provisions of the Life Safety Code, as published by the National Fire Protection Association shall govern unless waived by the code official for due cause in hardship situations.

(Ord. No. 322, § 1, 7-17-1899; Ord. No. 01-5, § 7, 6-12-01; Ord. No. 14-01, § 6, 2-11-14)

Secs. 38-42—38-66. - Reserved.

ARTICLE III. - FOREIGN FIRE INSURANCE COMPANIES

Sec. 38-67. - Agents to render accounts.

Every person acting as agent for any fire insurance company not incorporated under the laws of the state shall, on or before July 15 of each year, render to the city treasurer a full, true and just account, verified by his oath, of all premiums which, during the year ending July 1 preceding such report, shall have been received by or for any such company.

(Ord. No. 322, § 2, 7-17-1899)

Sec. 38-68. - Payment of tax.

The person acting as agent for any foreign fire insurance company shall at the time of rendering the report specified in section 38-67, pay to the city treasurer the sum of money for which the company represented by him is chargeable by virtue of the provisions of this article.

(Ord. No. 322, § 3, 7-17-1899)

Sec. 38-69. - Action by city to recover tax.

The sum of money for which any fire insurance company is chargeable under the provisions of this article may be recovered of it, or its agent, by an action in the name of and for the use of the city as for money had and received.

Sec. 38-70. - Brokers not to place insurance with noncomplying companies.

No insurance broker in the city shall place any insurance with any fire insurance company not incorporated under the laws of this state which shall be in default for not reporting or making payment of the tax levied by this article until such company shall have complied with all the requirements of this article.

Sec. 38-71. - Compliance with article.

It shall be unlawful for any corporation or association not incorporated under the laws of the state to engage in the city in effecting fire insurance, or to transact any business of fire insurance in the city while in default by not fully complying with all of the requirements of this article.

Sec. 38-72. - Noncompliance with article not a release of liability.

The provisions of section 38-71 shall not relieve any corporation or association of the payment of any risk that may be undertaken in violation of this article.

Sec. 38-73. - Article not to relieve persons of liability under state law.

Nothing in this article shall be held to exempt any person from indictment and conviction under the provisions of the laws of the state.

Chapter 42 - FLOODS [u](#)

Footnotes:

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Cross reference— Buildings and building regulations, ch. 22; civil emergencies, ch. 30; emergency services, ch. 34.

ARTICLE I. - IN GENERAL

Sec. 42-1. - Purpose of chapter.

This chapter is enacted pursuant to the police powers granted to this city by 65 ILCS 5/1-2-1, 5/11-12-12m, 5/11-3-8, and 5/11-31-2. The purpose of this chapter is to maintain this city's eligibility in the National Flood Insurance Program; to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and to preserve and enhance the quality of surface waters, conserve economic and natural values and provide for the wise utilization of water and related land resources. This chapter is adopted in order to accomplish the following specific purposes:

- (1) Meet the requirements of 615 ILCS 5/18g, of An Act in Relation to the Regulation of the Rivers, Lakes and Streams of the State of Illinois, approved June 10, 1911, as amended (615 ILCS 5/4.9 et seq.).
- (2) Ensure that new development does not increase the flood or drainage hazards to others, or creating unstable conditions susceptible to erosion.
- (3) Protect new buildings and major improvements to buildings from flood damage.
- (4) Protect human life and health from the hazards of flooding.
- (5) Lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations.
- (6) Make federally subsidized flood insurance available for property in the city by fulfilling the requirements of the National Flood Insurance Program.
- (7) Comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended.
- (8) Protect, conserve, and promote the orderly development of land and water resources.

- (9) Preserve the natural hydrologic and hydraulic functions of watercourses and floodplains and to protect water quality and aquatic habitats.
- (10) Preserve the natural characteristics of stream corridors in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 95-20, §§ 200.0—200.10, 9-12-95)

Sec. 42-2. - Definitions.

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

Act means An Act in Relation to the Regulation of the Rivers, Lakes and Streams of the State of Illinois, 615 ILCS 5/4.9 et seq.

Applicant means any person, firm, corporation or agency which submits an application.

Appropriate use means only uses of the regulatory floodway that are permissible and will be considered for permit issuance. The only uses that will be allowed are as specified in division 2 of article IV of this chapter.

Base flood means the flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year frequency flood event. Application of the base flood elevation at any location is as defined in subsection 42-3(a).

Building means a structure that is principally above the ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, mobile home or a prefabricated building. This term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days, unless they are fully licensed and ready for highway use.

Channel means any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainageway, which has a definite bed and banks or shoreline, in or into which surface water or groundwater flows, either perennially or intermittently.

Channel modification means alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, riprapping (or other armoring), widening, deepening, straightening, relocating, lining and significant removal of bottom or woody vegetation. Channel modification does not include the clearing of dead or dying vegetation, debris, or trash from the channel. Channelization is a severe form of channel modification involving a significant change in the channel cross section and typically involving relocation of the existing channel (e.g. straightening).

Compensatory storage means an artificially excavated, hydraulically equivalent volume of storage within the SFHA used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain. The uncompensated loss of natural flood paling storage can increase off-site floodwater elevations and flows.

Conditional approval of a regulatory floodway map change means preconstruction approval by DWR and the Federal Emergency Management Agency of a proposed change to the floodway map. This preconstruction approval, pursuant to this chapter, gives assurances to the property owner that once an appropriate use is constructed according to permitted plans, the floodway map can be changed, as previously agreed, upon review and acceptance of as-built plans.

Conditional letter of map revision (CLOMR) means a letter which indicates that the Federal Emergency Management Agency will revise base flood elevations, flood insurance rate zones, flood

boundaries or floodways, as shown on an effective flood hazard boundary map or flood insurance rate map, once the as-built plans are submitted and approved.

Control structure means a structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.

Dam means all obstruction, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose for storing or diverting water or creating a pool. Underground water storage tanks are not included.

Development means any manmade change to real estate, including:

- (1) Construction, reconstruction, repair or placement of a building or any addition to a building.
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 days. If the travel trailer or recreational vehicle is on site for less than 180 days, it must be fully licensed and ready for highway use.
- (3) Drilling, mining, installing utilities, construction of roads, bridges, storage of equipment or materials, or similar projects.
- (4) Demolition of a structure or redevelopment of a site.
- (5) Clearing of land as an adjunct of construction.
- (6) Construction or erection of levees, walls, fences, dams, or culverts; channel modification; filling, dredging, grading, excavating, paving, or other nonagricultural alterations of the ground surface; storage of materials; deposit of solid or liquid waste.
- (7) Any other activity of man that might change the direction, height, or velocity of flood or surface water, including extensive vegetation removal. Development does not include maintenance of existing buildings and facilities such as reroofing or resurfacing of roads when there is no increase in elevations, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

DWR means the state department of transportation, division of water resources.

Elevation certificate means a form published by the Federal Emergency Management Agency that is used to certify the elevation to which a building has been elevated.

Erosion means the general process whereby soils are moved by flowing water or wave action.

Exempt organizations means organizations which are exempt from this chapter per the ILCS, including state, federal or local units of government.

FEMA means Federal Emergency Management Agency and its regulations at 44 CFR 59—79 effective as of October 1, 1986. This incorporation does not include any later editions or amendments.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood frequency means a period of years, based on a statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the regulatory floodway.

Flood insurance rate maps (FIRM) means a map prepared by the Federal Emergency Management Agency that depicts the special flood hazard area (SFHA) within a community. This map includes insurance rate zones and floodplains and may or may not depict floodways.

Flood protection elevation (FPE) means the elevation of the base flood or 100-year frequency flood, plus one foot of freeboard at any given location in the SFHA.

Floodplain means that land typically adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation. Floodplains may also include detached

special flood hazard areas, ponding areas, etc. The floodplain is also known as the special flood hazard area (SFHA). The floodplains are those lands within the jurisdiction of the city that are subject to inundation by the base flood or 100-year frequency flood. The SFHA's of the city, those parts of the unincorporated county that lie within the extraterritorial jurisdiction of the city, and those parts of the unincorporated county that may be annexed into the city are generally identified as such on the countywide flood insurance rate map of the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 6, 1995.

Floodproofing means any combination or structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodproofing certificate means a form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

Freeboard means an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

Hydrologic and hydraulic calculations means engineering analyses which determine expected flood flows and flood elevations based on land characteristics and rainfall events.

Letter of map amendment (LOMA) means official determination by FEMA that a specific structure is not in a 100-year flood zone which amends the effective flood hazard boundary map or FIRM.

Letter of map revision (LOMR) means a letter that revises base flood or 100-year frequency flood elevations, flood insurance rate zones, flood boundaries or floodways as shown on an effective flood hazard boundary map or FIRM.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or resale.

Mitigation means those measures necessary to minimize the negative effects which floodplain development activities might have on the public health, safety and welfare. Examples of mitigation include compensatory storage, soil erosion and sedimentation control, and channel restoration.

Natural (when used in reference to channels) means those channels formed by the existing surface topography of the earth prior to changes made by man. A natural stream tends to follow a meandering path; its floodplain is not constrained by levees; the area near the bank has not been cleared, mowed or cultivated; the stream flows over soil and geologic materials typical of the area with no substantial alteration of the course or cross section of the stream caused by filling or excavating. A modified channel may regain some natural characteristics over time as the channel meanders and vegetation is reestablished. Similarly, a modified channel may be restored to more natural conditions by man through regrading and revegetation.

NGVD means National Geodetic Vertical Datum of 1929. Reference surface set by the National Geodetic Survey deduced from a continental adjustment of all existing adjustments in 1929.

Ordinary high water mark (OHWM) means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

Public flood control project means a flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures which includes a hydrologic and hydraulic study of the existing and proposed conditions of the watershed. Nothing in this definition

shall preclude the design, engineering, construction or financing, in whole or in part, of a flood control project by persons or parties who are not public agencies.

Publicly navigable waters means all streams and lakes capable of being navigated by watercraft.

Registered land surveyor means a land surveyor registered in the state, under the state's Professional Land Surveyor Act (225 ILCS 330/1 et seq.).

Registered professional engineer means an engineer registered in the state, under the state's Professional Engineering Practice Act (225 ILCS 325/1 et seq.).

Regulatory floodway means the channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse as designated by DWR, which is needed to store and convey the existing and anticipated future 100-year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a ten percent increase in velocities. The regulatory floodways are designated for Claypool Ditch within the city, those parts of the unincorporated county that are in the extraterritorial jurisdiction of the city and those parts of the unincorporated county that may be annexed into the city are designated on the countywide flood insurance rate map of the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 6, 1995. To locate the regulatory floodway boundary on any site, the regulatory floodway boundary should be scaled off the regulatory floodway map and located on a site plan, using reference marks common to both maps. Where interpretation is needed to determine the exact location of the regulatory floodway boundary, the division should be contacted for the interpretation.

Repair, remodeling or maintenance means development activities which do not result in any increases in the outside dimensions of a building or any changes to the dimensions of a structure.

Retention/detention facility means a retention facility stores stormwater runoff without a gravity release. A detention facility provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

Riverine SFHA means any SFHA subject to flooding from a river, creek, intermittent stream, ditch, or stream lake system or any other identified channel. This term does not include areas subject to flooding from lakes, ponding areas, areas of sheet flow, or other areas not subject to overbank flooding.

Runoff means the water derived from melting snow or rain falling on the land surface, flowing over the surface of the ground or collected in channels or conduits.

Sedimentation means the processes that deposit soils, debris, and other materials either on other ground surfaces or in bodies of water or watercourses.

Special flood hazard area (SFHA) means any base flood area subject to flooding from a river, creek, intermittent stream, ditch, or any other identified channel or ponding and shown on a flood hazard boundary map or flood insurance rate map as zones A, AO, A1-30, AE, A99, AH, VO, V30, VE, V, M, or E.

Structure means the results of a manmade change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building; installing a manufactured home on a site; and preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days, unless they are fully licensed and ready for highway use.

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged from any source, and is being restored, before the damage occurred. This term includes structures which were damaged whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value before the damage occurred, regardless of the actual repair work performed. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural parts of a building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include either any project for improvement of a structure to comply with any existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a historic

structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Transition section means reaches of the stream or floodway where water flows from a narrow cross section to a wide cross section, or vice versa.

(Ord. No. 95-20, §§ 300.0—300.50, 9-12-95)

Cross reference— Definitions generally, § 1-2.

Sec. 42-3. - Base flood elevation.

- (a) This chapter's protection standard is based on the countywide flood insurance study for the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 6, 1995. If the base flood elevation or 100-year frequency flood elevation is not available for a particular site, then the protection standard shall be according to the best existing data available in the state water survey's floodplain information repository. When a party disagrees with the best available data, he may finance the detailed engineering study needed to replace existing data with better data and submit it to DWR and FEMA.
- (b) The base flood or 100-year frequency flood elevation for the SFHAs of Claypool Ditch shall be as delineated on the 100-year flood profiles in the flood insurance study of the city prepared by FEMA (or the Department of Housing and Urban Development) and dated September 6, 1995, and such amendments to such study and maps as may be prepared from time to time.
- (c) The base flood or 100-year frequency flood elevation for the SFHAs of those parts of the unincorporated county that are within the extraterritorial jurisdiction of the city or that may be annexed into the city shall be as delineated on the 100-year flood profiles in the countywide flood insurance study of the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 5, 1995, and such amendments or revision to such study and maps as may be prepared from time to time.
- (d) The base flood or 100-year frequency flood elevation for each SFHA delineated as an AH zone or AO zone shall be that elevation (or depth) delineated on the countywide flood insurance rate map of the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 6, 1995.
- (e) The base flood or 100-year frequency flood elevation for each of the remaining SFHAs delineated as an A zone on the countywide flood insurance rate map of the county and incorporated areas prepared by the Federal Emergency Management Agency and dated September 6, 1995, shall be according to the best existing data available in the state water survey floodplain information repository. When no base flood or 100-year frequency flood elevation exists, the base flood or 100-year frequency flood elevation for a riverine SFHA shall be determined from a backwater model, such as HEC-II, WSP-2, or a dynamic model such as HIP. The flood flows used in the hydraulic models shall be obtained from a hydrologic model, such as HEC-I TR-20, or HIP, or by techniques presented in various publications prepared by the United States Geological Survey for estimating peak flood discharges. Flood flows should be based on anticipated future land use conditions in the watershed as determined from adopted local and regional land use plans. Along any watercourses draining more than one square mile, the above analyses shall be submitted to DWR for approval, once approved it must be submitted to the state water survey floodplain information repository for filing. For a nonriverine SFHA, the base flood elevation shall be the historic flood of record, plus three feet, unless calculated by a detailed engineering study and approved by the state water survey.

(Ord. No. 95-20, §§ 600.0—604.0, 9-12-95)

Sec. 42-4. - Other development requirements.

- (a) The city council shall take into account flood hazards, to the extent that they are known in all official actions related to land management, use and development.
- (b) New subdivisions, manufactured home parks, annexation agreements, and planned unit developments (PUDs) within the SFHA shall be reviewed to ensure that the proposed developments are consistent with articles III, IV, V and VI of this chapter and the need to minimize flood damage. Plats of plans for new subdivisions, mobile home parks and planned unit developments (PUDs) shall include a signed statement by a registered professional engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/0.01 et seq.).
- (c) Proposals for new subdivisions, manufactured home parks, travel trailer parks, planned unit developments (PUDs) and additions to manufactured home parks and additions to subdivisions shall include base flood or 100-year frequency flood elevation data and floodway delineations. Where this information is not available from an existing study filed with the state water survey, the applicant's engineer shall be responsible for calculating the base flood or 100-year frequency flood elevation per section 42-3(e) and the floodway delineation per the definition of regulatory floodway in section 42-2 and submitting it to the state water survey and DWR for review and approval as the best available regulatory data.
- (d) Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible, the floodplains shall be included within parks or other public grounds.
- (e) The board of trustees shall not approve any planned unit development (PUD) or plat of subdivision located outside the corporate limits unless such agreements or plat is in accordance with the provisions of this chapter.

(Ord. No. 95-20, §§ 1100.0—1100.4, 9-12-95)

Sec. 42-5. - Disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by manmade or natural causes. This chapter does not imply that development, either inside or outside of the SFHA, will be free from flooding or damage. This chapter does not create liability on the part of the city or any officer or employee of the city for any flood damage that results from reliance on this chapter or any administrative decision made lawfully under this chapter.

(Ord. No. 95-20, § 1300.0, 9-12-95)

Sec. 42-6. - Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This chapter hereby repeals the original ordinances or resolutions which were adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal the resolution which the city passed in order to establish initial eligibility for the program.

(Ord. No. 95-20, § 1600.0, 9-12-95)

Secs. 42-7—42-35. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT¹²¹

Footnotes:

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Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 42-36. - Enforcement generally.

- (a) The city building inspector/zoning officer shall be responsible for fulfilling all of the duties listed in section 42-37.
- (b) To fulfill those duties, the city building inspector/zoning officer first should use the criteria listed in section 42-3, to determine whether the development site is located within a floodplain. Once it has been determined that a site is located within a floodplain, the city building inspector/zoning officer must determine whether the development site is within a flood fringe, a regulatory floodway, or within a SFHA or floodplain on which no floodway has been identified. If the site is within a flood fringe, the city building inspector/zoning officer shall require that the minimum requirements of article III of this chapter are met. If the site is within a floodway, the city building inspector/zoning officer shall require that the minimum requirements of article IV of this chapter are met. If the site is located within a SFHA or floodplain for which no detailed study has been completed and approved, the city building inspector/zoning officer shall require the minimum requirements of article V of this chapter are met.
- (c) In addition, the general requirements of article VI of this chapter shall be met for all developments meeting the requirements of articles III, IV, and V of this chapter. The city building inspector/zoning officer shall ensure that all subdivision proposals shall meet the requirements of section 42-4.
- (d) If a variance is to be granted for a proposal, the city building inspector/zoning officer shall review the requirements of division 2 of this article to make sure they are met. In addition, the city building inspector/zoning officer shall complete all notification requirements.
- (e) In order to ensure that property owners obtain permits as required in this chapter, the city building inspector/zoning officer may take any and all actions as outlined in section 42-38.

(Ord. No. 95-20, § 400.0, 9-12-95)

Sec. 42-37. - Duties of the enforcement official.

The city building inspector/zoning officer shall be responsible for the general administration and enforcement of this chapter which shall include the following:

- (1) *Determining the floodplain designation.* Checking all new development sites to determine whether they are in a special flood hazard area (SFHA), and if they are in a SFHA, determining whether they are in a floodway, flood fringe or in a floodplain on which a detailed study has not been conducted which drains more than one square mile.
- (2) *Professional engineer review.* If the development site is within a floodway or in a floodplain on which a detailed study has not been conducted which drains more than one square mile, referring the permit to a registered professional engineer under the employ or contract of the city for review to ensure that the development meets the requirements of article IV of this chapter. In the case of an appropriate use, the professional engineer shall state in writing that the development meets the requirements of article IV of this chapter.
- (3) *Dam safety requirements.* Ensuring that a DWR dam safety permit has been issued or a letter indicating no dam safety permit is required if the proposed development activity includes construction of a dam. Regulated dams may include weirs, restrictive culverts or impoundment structures.

- (4) *Other permit requirements.* Ensuring that any and all required federal, state and local permits are received prior to the issuance of a floodplain development permit.
- (5) *Plan review and permit issuance.* Ensuring that development activities within the SFHAs of the jurisdiction of the city meet the requirements of this chapter and issuing a floodplain development permit in accordance with the provisions of this chapter and other regulations of this community when the development meets the conditions of this chapter.
- (6) *Inspection review.* Inspecting all development projects before, during and after construction to ensure proper elevation of the structure and to ensure they comply with the provisions of this chapter.
- (7) *Elevation and floodproofing certificates.* Maintaining in the permit files an elevation certificate certifying the elevation of the lowest floor, including the basement, of a residential or nonresidential building has been floodproofed, using a floodproofing certificate, for all buildings subject to Section 2000.0 for public inspection and provide copies of same.
- (8) *Records for public inspection.* Maintaining for public inspection and furnishing upon request base flood data, SFHA and regulatory floodway maps, copies of federal or state permit documents, variance documentation, conditional letter of map revision, letter of map revision, letter of map amendment and as-built elevation and floodproofing or elevation and floodproofing certificates for all buildings constructed subject to this chapter.
- (9) *State permits.* Ensuring that construction authorization has been granted by the state division of water resources, for all development projects subject to articles IV and V of this chapter, unless enforcement responsibility has been delegated to the city. Upon acceptance of this chapter by DWR and FEMA, responsibility is hereby delegated to the city as per 92 Ill. Adm. Code 708 for construction in the regulatory floodway and floodplain when floodways have not been defined in articles IV and V of this chapter. However, the following review approvals are not delegated to the city and shall require review or permits from DWR:
 - a. Organizations which are exempt from this chapter, as per the Illinois Revised Statutes;
 - b. Department of transportation projects, dams or impoundment structures and all other state, federal or local unit of government projects, including projects of the city and county, except for those projects meeting the requirements of section 42-132;
 - c. An engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, per section 42-128(a)(5);
 - d. An engineer's analysis of the flood profile due to section 42-128(a)(4);
 - e. Alternative transition sections and hydraulically equivalent compensatory storage as indicated in section 42-128(a)(1), (2) and (8);
 - f. Permit issuance of structures within or over publicly navigable rivers, lakes and streams;
 - g. Any changes in the base flood elevation or floodway locations; and
 - h. Base flood elevation determinations where none now exist.
- (10) *Cooperation with other agencies.* Cooperating with state and federal floodplain management agencies to improve base flood or 100-year frequency flood and floodway data and to improve the administration of this chapter, submitting data to DWR and the Federal Emergency Management Agency for proposed revisions of a regulatory map, submitting reports as required for the National Flood Insurance Program, and notifying the Federal Emergency Management Agency of any proposed amendments to this chapter.
- (11) *Promulgate regulations.* Promulgating rules and regulations as necessary to administer and enforce the provisions of this chapter; subject, however, to the review and approval of DWR and FEMA for any ordinance changes.

(Ord. No. 95-20, §§ 500.0—511.0, 9-12-95)

Sec. 42-38. - Chapter violations; penalty.

- (a) Failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of this chapter. Upon due investigation, the city may determine that a violation of the minimum standards of this chapter exist. The city building inspector/zoning officer shall notify the owner in writing of such violation.
- (b) If such owner fails after ten days' notice to correct the violation:
 - (1) The city building inspector/zoning officer may make application to the circuit court for an injunction requiring conformance with this chapter or make such other order as the court deems necessary to secure compliance with this chapter.
 - (2) Any person who violates this chapter shall, upon conviction, be subject to punishment as provided in section 1-8 for each offense.
 - (3) The city building inspector/zoning officer may record a notice of violation on the title to the property.
- (c) The city building inspector/zoning officer shall inform the owner that any such violation is considered a willful act to increase flood damages and, therefore, may cause coverage by a standard flood insurance policy to be suspended.
- (d) Nothing in this section shall prevent the city building inspector/zoning officer from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person responsible.

(Ord. No. 95-20, §§ 1400.0—1400.3, 9-12-95)

Secs. 42-39—42-55. - Reserved.

DIVISION 2. - VARIANCES

Sec. 42-56. - When permitted; application; review and submission of application to council.

No variances shall be granted to any development located in a regulatory floodway. However, when a development proposal is located outside of a regulatory floodway, and whenever the standards of this chapter place undue hardship on a specific development proposal, the applicant may apply to the city building inspector/zoning officer for a variance. The city building inspector/zoning officer shall review the applicant's request for a variance and shall submit its recommendation to the city council.

(Ord. No. 95-20, § 1200.0, 9-12-95)

Sec. 42-57. - Prerequisites to granting.

No variance shall be granted unless the applicant demonstrates that:

- (1) The development activity cannot be located outside the SFHA;
- (2) An exceptional hardship would result if the variance were not granted;
- (3) The relief requested is the minimum necessary;
- (4) There will be no additional threat to public health and safety;
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to stream beds and banks, roads, utilities, or other public facilities;
- (6) The provisions of sections 42-80 and 42-154 shall still be met;

- (7) The activity is not in a regulatory floodway;
- (8) The applicant's circumstances are unique and do not represent a general problem; and
- (9) The granting of the variance will not alter the essential character of the area.

(Ord. No. 95-20, § 1200.1, 9-12-95)

Sec. 42-58. - Notice to applicant regarding effects of a variance.

The city building inspector/zoning officer shall notify an applicant in writing that a variance from the requirements of article VI of this chapter that would lessen the degree of protection to a building will:

- (1) Result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that he will acknowledge in writing that he assumes the risk and liability.

(Ord. No. 95-20, § 1200.2, 9-12-95)

Sec. 42-59. - Historic sites.

Variations requested in connection with restoration of a site or building listed on the National Register of Historical Places or documented as worthy of preservation by the state historic preservation agency may be granted using criteria more permissive than the requirements of subsections 42-4(b) and 42-4(c).

(Ord. No. 95-20, § 1200.3, 9-12-95)

Secs. 42-60—42-75. - Reserved.

ARTICLE III. - OCCUPATION AND USE OF FLOOD FRINGE AREAS

Sec. 42-76. - When permitted.

Development in and/or filling of the flood fringe will be permitted if protection is provided against the base flood or 100-year frequency flood by proper elevation, and compensatory storage and other provisions of this chapter are met. No use will be permitted which adversely affects the capacity of drainage facilities or systems. Developments located within the flood fringe shall meet the requirements of this section, along with the requirements of article VI of this chapter.

(Ord. No. 95-20, § 700.0, 9-12-95)

Sec. 42-77. - Development permit.

- (a) *Required.* No person or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining a development permit from the city building inspector/zoning officer.
- (b) *Application.* Application for a development permit shall be made on a form provided by the city. The application shall be accompanied by drawings of the site, drawn to scale, showing the property line dimensions and a legal description for the property and sealed by a licensed engineer, architect or

land surveyor; existing grade elevations at mean sea level, 1929 adjusted datum or NGVD and all changes in grade resulting from excavation or filling; and the location and dimensions of all buildings and additions to buildings. For all proposed buildings, the elevation of the lowest floor, including the basement, and lowest adjacent grade shall be shown on the submitted plans and the development will be subject to the requirements of article VI of this chapter.

- (c) *Other permits as prerequisites.* The city building inspector/zoning officer shall be responsible for obtaining from the applicant, copies of all other local, state and federal permits, approvals or permit-not-required letters that may be required for this type of activity. The city shall not issue a permit unless all other local, state and federal permits have been obtained.

(Ord. No. 95-20, §§ 701.0, 701.1, 701.4, 9-12-95)

Sec. 42-78. - Determination and documentation of site elevation.

Upon receipt of a development permit application, the city building inspector/zoning officer shall compare the elevation of the site to the base flood or 100-year frequency flood elevation. Any development located on land that can be shown to have been higher than the base flood elevation as of the site's first flood insurance rate map identification is not in the SFHA and, therefore, not subject to the requirements of this chapter. The building official shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first flood insurance rate map identification.

(Ord. No. 95-20, § 701.2, 9-12-95)

Sec. 42-79. - Soil erosion and sedimentation control plan.

A soil erosion and sedimentation control plan for disturbed areas shall be submitted. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post construction maintenance.

(Ord. No. 95-20, § 701.3, 9-12-95)

Sec. 42-80. - Preventing increased damages.

- (a) No development in the flood fringe shall create a threat to public health and safety.
- (b) If fill is being used to elevate the site above the base flood or 100-year frequency flood elevation, the applicant shall submit sufficient data and obtain a letter of map revision (LOMR) from FEMA for the purpose of removing the site from the floodplain.
- (c) Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation. The excavation volume shall be at least equal to the volume of storage lost due to the fill or structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All floodplain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All floodplain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

(Ord. No. 95-20, §§ 702.0—702.2, 9-12-95)

Secs. 42-81—42-105. - Reserved.

ARTICLE IV. - OCCUPATION AND USE OF IDENTIFIED FLOODWAYS

DIVISION 1. - GENERALLY

Sec. 42-106. - Generally.

This article applies to proposed development, redevelopment, site modification or building modification within a regulatory floodway. The regulatory floodway for the Claypool Ditch shall be as delineated on the regulatory floodway maps designated by DWR according to and referenced in section 42-2. Only those uses and structures will be permitted which meet the criteria in this article. All floodway modifications shall be the minimum necessary to accomplish the purpose of the project. The development shall also meet the requirements of article VI of this chapter.

(Ord. No. 95-20, § 800, 9-12-95)

Sec. 42-107. - Development permit.

- (a) *Required.* No person or governmental body not exempted by state law shall commence any development in a floodway without first obtaining a development permit from the city.
- (b) *Application.* Application for a development permit shall be made on a form provided by the city. The application shall include the following information:
 - (1) Name and address of applicant;
 - (2) Site location (including a legal description) of the property, drawn to scale, on the regulatory floodway map, indicating whether it is proposed to be in an incorporated or unincorporated area;
 - (3) Name of stream or body of water affected;
 - (4) Description of proposed activity;
 - (5) Statement of purpose or proposed activity;
 - (6) Anticipated dates of initiation and completion of activity;
 - (7) Name and mailing address of the owner of subject property if different from the applicant;
 - (8) Signature of applicant or the applicant's agent;
 - (9) If the applicant is a corporation, the president or other authorized officer shall sign the application form;
 - (10) If the applicant is a partnership, each partner shall sign the application form; and
 - (11) If the applicant is a land trust, the trust officer shall sign the name of the trustee by him as trust officer. A disclosure affidavit shall be filed with the application, identifying each beneficiary of the trust by name and address and defining the respective interest therein.
 - (12) Plans of the proposed activity shall be provided which include as a minimum:
 - a. A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow.
 - b. A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations in mean sea level (1929 adjustment) datum or NGVD, adjacent property lines and ownership, drainage

and flood control easements, location of any channels and any existing or future access roads, distance between proposed activity and navigation channel (when the proposed construction is near a commercially navigable body of water), regulatory floodway limit, floodplain limit, specifications, and dimensions, of any proposed channel modifications, location and orientation of cross sections, north arrow, and a graphic or numerical scale.

- c. Cross section views of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view, existing and proposed elevations, normal water elevation, 10-year frequency flood elevation, 100-year frequency flood elevation, and graphic or numerical scales (horizontal and vertical).
 - d. A soil erosion and sedimentation control plan for disturbed areas. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.
 - e. A copy of the regulatory floodway map, marked to reflect any proposed change in the regulatory floodway location.
- (13) Any and all other local, state and federal permits or approval letters that may be required for this type of development.
- (14) Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the permit criteria of division 2 of this article.
- (15) If the regulatory floodway delineation, base flood or 100-year frequency flood elevation will change due to the proposed project, the application will not be considered complete until DWR has indicated conditional approval of the regulatory floodway map change. No structures may be built until a letter of map revision has been approved by FEMA.
- (16) The application for a structure shall be accompanied by a drawing of the site, drawn to scale showing property line dimensions and existing ground elevations and all changes in grade resulting from any proposed excavation or filling, and floodplain and floodway limits; sealed by a registered professional engineer, licensed architect or registered land surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor, including the basement, of all proposed buildings subject to the requirements of article VI of this chapter.
- (17) If the proposed project involves a channel modification, the applicant shall submit the following information:
- a. A discussion of the purpose of and need for the proposed work;
 - b. A discussion of the feasibility of using alternative locations or methods to accomplish the purpose of the proposed work;
 - c. An analysis of the extent and permanence of the impacts the project would have on the physical and biological conditions of the body of water affected;
 - d. An analysis of the extent and performance of the impact each feasible alternative identified in section 42-128(a)(4)a. would have on the physical and biological conditions of the body of water affected; and
 - e. An analysis of the impacts of the proposed project, considering cumulative effects on the physical and biological conditions of the body of water affected.
- (c) *Other permits as prerequisites.* The city building inspector/zoning officer shall be responsible for obtaining from the applicant copies of all other local, state, and federal permits and approvals that may be required for this type of activity. The city building inspector/zoning officer shall not issue the development permit unless all required federal and state permits have been obtained. A registered professional engineer, under the employ or contract of the city, shall review and approve applications reviewed under this article.

(Ord. No. 95-20, §§ 801.0—801.2, 9-12-95)

Secs. 42-108—42-125. - Reserved.

DIVISION 2. - APPROPRIATE USES

Sec. 42-126. - Appropriate uses only development allowed.

The only development in a floodway which will be allowed are appropriate uses, which will not cause a rise in the base flood elevation, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this chapter. Only those appropriate uses listed in 92 Ill. Adm. Code 708 will be allowed.

(Ord. No. 95-20, § 802.0, 9-12-95)

Sec. 42-127. - Uses not included; approved uses.

Appropriate uses do not include the construction or placement of any new structures, fill, building additions, building on stilts, excavation or channel modifications done to accommodate otherwise nonappropriate uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an appropriate use. The approved appropriate uses are as follows:

- (1) Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion, or water quality or habitat for fish and wildlife.
- (2) Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and improvements related to recreational boating, commercial shipping, and other functionally water dependent uses.
- (3) Storm and sanitary sewer outfalls.
- (4) Underground and overhead utilities.
- (5) Recreational facilities such as playing fields and trail systems including any related fencing (at least 50 percent open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions.
- (6) Detached garages, storage sheds, or other nonhabitable accessory structures without toilet facilities to existing buildings that will not block flood flows, nor reduce floodway storage.
- (7) Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification thereto.
- (8) Parking lots and any modifications thereto (where depth of flooding at the 100-year frequency flood event will not exceed one foot) and aircraft parking aprons built at or below the ground elevation.
- (9) Regulatory floodway regrading, without fill, to create a positive nonerosive slope toward a watercourse.
- (10) Floodproofing activities to protect previously existing lawful structures including the construction of watertight window wells, elevating structures, or construction of floodwalls around residential, commercial or industrial principal structures where the outside of the floodwall shall be no more than ten feet away from the exterior wall of the existing structure, and which are not considered substantial improvements to the structure.

- (11) In the case of damaged or replacement buildings, reconstruction or repairs made to a building that are valued at less than 50 percent of the market value of the building before it was damaged or replaced, and which do not increase the outside dimensions of the building.
- (12) Additions to existing building above the BFE that do not increase the building's footprint and are valued at less than 50 percent of the market value of the building.

(Ord. No. 95-20, § 802.0, 9-12-95)

Sec. 42-128. - When construction considered permissible; engineering and mitigation criteria.

(a) Within the regulatory floodway, as identified on the regulatory floodway maps designated by DWR, the construction of an appropriate use will be considered permissible, provided that the proposed project meets the following engineering and mitigation criteria and is so stated in writing with supporting plans, calculations and data by a registered professional engineer and provided that any structure meets the protection requirements of article VI of this chapter:

- (1) *Preservation of flood conveyance, so as not to increase flood stages upstream.* For appropriate uses other than bridge or culvert crossings, on-stream structures or dams, all effective regulatory floodway conveyance lost due to the project will be replaced for all flood events up to and including the 100-year frequency flood. In calculating effective regulatory floodway conveyance, the following factors shall be taken into consideration:
 - a. Regulatory floodway conveyance, "K" = $(1.486/N) AR^{2/3}$ where "n" is Manning's roughness factor, "A" is the effective area of the cross section, and "R" is the ratio of the area to the wetted perimeter. (See Open Channel Hydraulics, Ven Te Chow, 1959, McGraw-Hill Book Company, New York.)
 - b. The same Manning's "n" value shall be used for both existing and proposed conditions unless a recorded maintenance agreement with a federal, state, or local unit of government can ensure the proposed conditions will be maintained or the land cover is changing from vegetative to a nonvegetative land cover.
 - c. Transition sections shall be provided and used in calculations of effective regulatory floodway conveyance. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to DWR through engineering calculations or model tests that more abrupt transitions may be used with the same efficiency:
 1. When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of one foot horizontal for every four feet of the flooded stream's length.
 2. When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length.
 3. When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used.
 4. Transition sections shall be provided between cross sections with rapid expansions and contractions and when meeting the regulatory floodway delineation on adjacent properties.
 5. All cross sections used in the calculations shall be located perpendicular to flood flows.
- (2) *Preservation of floodway storage so as not to increase downstream flooding.* Compensatory storage shall be provided for any regulatory floodway storage lost due to the proposed work from the volume of fill or structures placed and the impact of any related flood control projects. Compensatory storage for fill or structures shall be equal to at least the volume of floodplain storage lost. Artificially created storage lost due to a reduction in head loss behind a bridge shall

not be required to be replaced. The compensatory regulatory floodway storage shall be placed between the proposed normal water elevation and the proposed 100-year flood elevation. All regulatory floodway storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All regulatory floodway storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse. If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer shall demonstrate to DWR through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent.

- (3) *Preservation of floodway velocities so as not to increase stream erosion or flood heights.* For all appropriate uses, except bridges or culverts or on-stream structures, the proposed work will not result in an increase in the average channel or regulatory floodway velocities. However, in the case of bridges or culverts or on-stream structures built for the purpose of backing up water in the stream during normal or flood flows, velocities may be increased at the structure site if scour, erosion and sedimentation will be avoided by the use of riprap or other design measures.
- (4) *Construction of new bridges or culvert crossings and roadway approaches.* The proposed structures shall not result in an increase of upstream flood stages greater than 0.1 foot when compared to the existing conditions for all flood events up to and including the 100-year frequency event; or the upstream flood stage increases will be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements. If the proposed construction will increase upstream flood stages greater than 0.1 feet, the developer must contact DWR, dam safety section for a dam safety permit or waiver.
 - a. The engineering analysis of upstream flood stages must be calculated using the flood study flows, and corresponding flood elevations for tailwater conditions for the flood study specified in section 42-3. Culverts must be analyzed using the U.S. DOT, FHWH Hydraulic Chart for the Selection of Highway Culverts. Bridges must be analyzed using the U.S. DOT/Federal Highway Administration Hydraulics of Bridge Waterways Calculation Procedures.
 - b. Lost floodway storage must be compensated for per subsection (2) of this section.
 - c. Velocity increase must be mitigated per subsection (3) of this section.
 - d. If the crossing is proposed over a public water that is used for recreational or commercial navigation, a department of transportation permit must be received.
 - e. The hydraulic analysis for the backwater caused by the bridge showing the existing condition and proposed regulatory profile must be submitted to DWR for concurrence that a CLOMR is not required by this division.
 - f. All excavations for the construction of the crossing shall be designed per subsection (8) of this section.
- (5) *Reconstruction or modification of existing bridges, culverts and approach roads.* Reconstruction or modification of existing bridges, culverts and approach roads shall be as follows:
 - a. The bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 foot increase in backwater over the existing flood profile for all flood frequencies up to and including the 100-year event, if the existing structure is not a source of flood damage.
 - b. If the existing bridge or culvert and roadway approach is a source of flood damage to buildings or structures in the upstream floodplain, the applicant's engineer shall evaluate the feasibility of redesigning the structure to reduce the existing backwater, taking into consideration the effects on flood stages on upstream and downstream properties.
 - c. The determination as to whether or not the existing crossing is a source of flood damage and should be redesigned must be prepared in accordance with the department of transportation

rules 92 Ill. Adm. Code 708 (floodway construction in northeastern Illinois) and submitted to the division for review and concurrence before a permit is issued.

- (6) *On-stream structures built for the purpose of backing up water.* Any increase in upstream flood stages greater than 0.0 foot when compared to the existing conditions, for all flood events up to and including the 100-year frequency event, shall be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements. A permit or letter indicating a permit is not required must be obtained from DWR, dam safety section for a dam safety permit or waiver for any structure built for the purpose of backing up water in the stream during normal or flood flow. All dams and impoundment structures shall meet the permitting requirements of 92 Ill. Adm. Code 702 (Construction and Maintenance of Dams). If the proposed activity involves a modification of the channel or floodway to accommodate an impoundment, it shall be demonstrated that:
 - a. The impoundment is determined to be in the public interest by providing flood control, public recreation, or regional stormwater detention;
 - b. The impoundment will not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning;
 - c. The impoundment will not cause or contribute to degraded water quality or habitat conditions. Impoundment design should include gradual bank slopes, appropriate bank stabilization measures, and a presedimentation basin.
 - d. A nonpoint source control plant has been implemented in the upstream watershed to control the effects of sediment runoff as well as minimize the input of nutrients, oil and grease, metals, and other pollutants. If there is more than one municipality in the upstream watershed, the municipality in which the impoundment is constructed should coordinate with upstream municipalities to ensure comprehensive watershed control.
 - e. The project otherwise complies with the requirements of this article.
- (7) *Floodproofing of existing habitable, residential and commercial structures.* If construction is required beyond the outside dimensions of the existing building, the outside perimeter of the floodproofing construction shall be placed no further than ten feet from the outside of the building. Compensation of lost storage and conveyance will not be required for floodproofing activities.
- (8) *Excavation in the floodway.* When excavation is proposed in the design of bridges and culvert opening, including the modifications to and replacement of existing bridge and culvert structures, or to compensate for lost conveyance for other appropriate uses, transition sections shall be provided for the excavation. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to DWR through engineering calculations or model test that more abrupt transitions may be used with the same efficiency:
 - a. When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at the rate of one foot horizontal for every four feet of the flooded stream's length.
 - b. When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length.
 - c. When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used.
 - d. Erosion/scour protection shall be provided inland upstream and downstream of the transition sections.
- (9) *Channel modification.* If the proposed activity involves a channel modification, it shall be demonstrated that:

- a. There are no practicable alternatives to the activity which would accomplish its purpose with less impact to the natural conditions of the body of water affected. Possible alternatives include levees, bank stabilization, floodproofing of existing structures, removal of structures for the floodplain, clearing the channel, high flow channel, or the establishment of a stream side buffer strip or green belt. Channel modification is acceptable if the purpose is to restore natural conditions and improve water quality and fish and wildlife habitat.
- b. Water quality, habitat and other natural functions would be significantly improved by the modification and no significant habitat area may be destroyed, or the impacts are offset by the replacement of an equivalent degree of natural resource values.
- c. The activity has been planned and designed and will be constructed in a way which will minimize its adverse impacts on the natural conditions of the body of water affected, consistent with the following criteria:
 1. The physical characteristics of the modified channel shall match as closely as possible those of the existing channel in length, cross section, slope and sinuosity. If the existing channel has been previously modified, restoration of more natural physical conditions should be incorporated into channel modification design, where practical.
 2. Hydraulically effective transitions shall be provided at both the upstream and downstream ends of the project, designed such that they will prevent erosion.
 3. One-sided construction of a channel shall be used when feasible. Removal of streamside (riparian) vegetation should be limited to one side of the channel, where possible, to preserve the shading and stabilization effects of the vegetation.
 4. Clearing of vegetation shall be limited to that which is essential for construction of the channel.
 5. Channel banks shall be constructed with a side slope no steeper than 3:1 horizontal to vertical, wherever practicable. Natural vegetation and gradual side slopes are the preferred methods for bank stabilization. Where high velocities of sharp bends necessitate the use of alternative stabilization measures, natural rock or riprap are preferred materials. Artificial materials such as concrete, gabions, or construction rubble should be avoided unless there are not practicable alternatives.
 6. All disturbed areas associated with the modification shall be seeded or otherwise stabilized as soon as possible upon completion of construction. Erosion blanket or an equivalent material shall be required to stabilize disturbed channel banks prior to establishment of the vegetative cover.
 7. If the existing channel contains considerable bottom diversity such as deep pools, riffles, and other similar features, such features shall be provided in the new channel. Spawning and nesting areas and flow characteristics compatible with fish habitat shall also be established, where appropriate.
 8. A sediment basin shall be installed at the downstream end of the modification to reduce sedimentation and degradation of downstream water quality.
 9. New or relocated channels should be built in the dry and all items of construction, including vegetation, should be completed prior to diversion of water into the new channel.
 10. There shall be no increases in stage or velocity as the channel enters or leaves the project site for any frequency flood unless necessitated by a public flood control project or unless such an increase is justified as part of a habitat improvement or erosion control project.
 11. Unless the modification is for a public flood control project, there shall be no reduction in the volume of floodwater storage outside the floodway as a result of the modification.
- d. The project otherwise complies with the requirements of this article.

- (10) *Seeding and stabilization plan.* For all activities located in a floodway, a seeding stabilization plan shall be submitted by the applicant.
- (11) *Soil erosion and sedimentation control measures.* For all activities in the floodway, including grading, filling, and excavation, in which there is potential for erosion of exposed soil, soil erosion and sedimentation control measures shall be employed consistent with the following criteria:
- a. The construction area shall be minimized to preserve the maximum vegetation possible. Construction shall be scheduled to minimize the time soil is exposed and unprotected. In no case shall the existing natural vegetation be destroyed, removed, or disturbed more than 15 days prior to the initiation of improvements.
 - b. Temporary and/or permanent soil stabilization shall be applied to denuded areas as soon as possible. As a minimum, soil stabilization shall be provided within 15 days after final grade is reached on any portion of the site, and within 15 days to denuded areas which may not be a final grade but will remain undisturbed for longer than 60 days.
 - c. Sedimentation control measures shall be installed before any significant grading or filling is initiated on the site to prevent the movement of eroded sediments off-site or into the channel. Potential sediment control devices include filter fences, straw bale fences, check dams, diversion ditches, and sediment basins.
 - d. A vegetated buffer strip of at least 25 feet in width shall be preserved and/or reestablished, where possible, along existing channel (see subsection (16) of this section). Construction vehicle use of channels shall be minimized. Temporary stream crossings shall be constructed, where necessary, to minimize erosion. Necessary construction in or along channels shall be restabilized immediately.
 - e. Soil erosion and sedimentation control measures shall be designed and implemented consistent with "Procedures and Standards for Urban Soil Erosion and Sedimentation Control in Illinois" (1988), also known as the Green Book, and "Standards and Specifications for Soil Erosion and Sediment Control" (IEPA, 1987).
- (12) *Public flood control projects.* For public flood control projects, the permitting requirements of this article will be considered met if the applicant can demonstrate to DWR through hydraulic and hydrologic calculations that the proposed project will not singularly or cumulatively result in increased flood heights outside the project right-of-way or easements for all flood events up to and including the 100-year frequency event.
- (13) *General criteria for analysis of flood elevations.*
- a. The flood profiles, flows and floodway data in the regulatory floodway study, referenced in section 42-3, must be used for analysis of the base conditions. If the study data appears to be in error or conditions have changed, DWR shall be contacted for approval and concurrence on the appropriate base conditions data to use.
 - b. If the 100-year regulatory floodway elevation at the site of the proposed construction is affected by backwater from a drainage area, the proposed construction shall be shown to meet the requirement of this article for the 100-year frequency flood elevations of the regulatory floodway conditions and conditions with the receiving stream at normal water elevations.
 - c. If the applicant learns from DWR, local governments, or a private owner that a downstream restrictive bridge or culvert is scheduled to be built, removed, constructed or modified within the next five years, the proposed construction shall be analyzed and shown to meet the requirements of this article for both the existing conditions and the expected flood profile conditions when the bridge, culvert or flood control project is built.
- (14) *Conditional letter of map revision.* If the appropriate use would result in a change in the regulatory floodway location or the 100-year frequency flood elevation, the applicant shall submit to DWR and to FEMA all the information, calculations and documents necessary to be issued a conditional regulatory floodway map revision and receive from DWR a conditional approval of the

regulatory floodway change before a permit is issued. However, the final regulatory floodway map will not be changed by DWR until as-built plans or record drawings are submitted and accepted by FEMA and DWR. In the case of nongovernment projects, the municipality in incorporated areas and the county in unincorporated areas shall concur with the proposed conditional regulatory floodway map revision before DWR approval can be given. No filling, grading, dredging or excavating shall take place until a final letter of map revision (LOMR) is issued by FEMA and DWR.

- (15) *Professional engineer's supervision.* All engineering analyses shall be performed by or under the supervision of a registered professional engineer.
 - (16) *Construction within 25 feet of channel.* For all activities in the floodway involving construction within 25 feet of the channel, the following criteria shall be met:
 - a. A natural vegetation buffer strip shall be preserved within at least 25 feet of the ordinary high water mark of the channel.
 - b. Where it is impossible to protect this buffer strip during the construction of an appropriate use, a vegetated buffer strip shall be established upon completion of construction.
 - c. The use of native riparian vegetation is preferred in the buffer strip. Access through this buffer strip shall be provided, when necessary, for stream maintenance purposes.
- (b) After receipt of conditional approval of the regulatory floodway change and issuance of a permit and a conditional letter of map revision, construction as necessary to change the regulatory floodway designation may proceed but buildings or structures or other construction that are not appropriate uses may not be placed in those areas until the regulatory floodway map is changed and a final letter of map revision is received. The regulatory floodway map will be revised upon acceptance and concurrence by DWR and FEMA of the as-built plans.

(Ord. No. 95-20, § 802.1, 9-12-95)

Sec. 42-129. - State review required for certain projects.

For those projects listed as follows, located in a regulatory floodway, the following criteria shall be submitted to DWR for their review and concurrence prior to the issuance of a permit:

- (1) DWR will review an engineer's analysis of the flood profile due to a proposed bridge pursuant to section 42-128(a)(4).
- (2) DWR will review an engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, pursuant to section 42-128(a)(5).
- (3) The DWR will review alternative transition sections and hydraulically equivalent storage pursuant to section 42-128(a)(1), (2) and (8).
- (4) The DWR will review and approve prior to the start of construction any department projects, dams and all other state, federal or local units of government projects, including projects of the municipality or county.

(Ord. No. 95-20, § 802.2, 9-12-95)

Sec. 42-130. - Other permits.

In addition to the other requirements of this chapter, a development permit for a site located in a floodway shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from DWR, issued pursuant to 615 ILCS 5/5 et seq. No permit from DWR shall be required if the division has delegated this responsibility to the city.

(Ord. No. 95-20, § 802.3, 9-12-95)

Sec. 42-131. - Dam safety permits.

Any work involving the construction, modification or removal of a dam per 92 Ill. Adm. Code 702 (Rules for Construction of Dams) shall obtain a state division of water resources dam safety permit prior to the start of construction of a dam. If the city building inspector/zoning officer finds a dam that does not have a DWR permit, the city building inspector/zoning officer shall immediately notify the dam safety section of the division of water resources. If the city finds a dam which is believed to be in unsafe condition, the city building inspector/zoning officer shall immediately notify the owner of the dam, DWR, dam safety section in Springfield and the state emergency services and disaster agency (ESDA).

(Ord. No. 95-20, § 802.4, 9-12-95)

Sec. 42-132. - Activities that do not require a registered professional engineer's review.

The following activities may be permitted without a registered professional engineer's review. Such activities shall still meet the other requirements of this chapter, including the mitigation requirements.

- (1) Underground and overhead utilities that:
 - a. Do not result in any increase in existing ground elevations;
 - b. Do not require the placement of aboveground structures in the floodway; or
 - c. In the case of underground stream crossings, the top of the pipe or encasement is buried a minimum of three inches below the existing stream bed; and
 - d. In the case of overhead utilities, no supporting towers are placed in the watercourse and are designed in such a fashion as not to catch debris.
- (2) Storm and sanitary sewer outfalls that:
 - a. Do not extend riverward or lakeward of the existing adjacent natural bank slope;
 - b. Do not result in an increase in ground elevation; and
 - c. Are designed so as not to cause stream erosion at the outfall location.
- (3) Construction of sidewalks, athletic fields (excluding fences), properly anchored playground equipment and patios at grade.
- (4) Construction of shoreline and streambank protection that:
 - a. Does not exceed 1,000 feet line length.
 - b. Materials are not placed higher than the existing top of bank.
 - c. Materials are placed so as not to reduce the cross sectional area of the stream channel or bank of the lake.
- (5) Temporary stream crossings in which:
 - a. The approach roads will be one-half foot or less above the natural grade.
 - b. The crossing will allow stream flow to pass without backing up the water above the stream bank vegetation line or above any drainage tile or outfall invert.
 - c. The top of the roadway fill in the channel will be at least two feet below the top of the lowest bank. Any fill in the channel shall be nonerosive material, such as riprap or gravel.
 - d. All disturbed stream banks will be seeded or otherwise stabilized as soon as possible upon installation and again upon removal of construction.

- e. The access road and temporary crossings will be removed within one year after authorization.

(Ord. No. 95-20, § 802.5, 9-12-95)

Secs. 42-133—42-150. - Reserved.

ARTICLE V. - OCCUPATION AND USE OF SPECIAL FLOOD HAZARD AREAS WHERE FLOODWAYS ARE NOT IDENTIFIED

Sec. 42-151. - Generally.

In SFHA or floodplains, where no floodways have been identified and no base flood or 100-year frequency flood elevations have been established by FEMA, and draining more than a square mile, no development shall be permitted unless the cumulative effect of the proposals, when combined with all other existing and anticipated uses and structures, shall not significantly impede or increase the flow and passage of the floodwaters nor significantly increase the base flood or 100-year frequency flood elevations.

(Ord. No. 95-20, § 900.0, 9-12-95)

Sec. 42-152. - Development permit.

- (a) *Required.* No person, firm, corporation, or governmental body, not exempted by state law, shall commence any development in a SFHA or floodplain without first obtaining a development permit from the city building inspector/zoning officer. Application for a development permit shall be made on a form provided by the city building inspector/zoning officer. The application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and existing grade elevations and all changes in grade resulting from excavation or filling, sealed by a licensed engineer, architect or surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor, including the basement, of all proposed buildings subject to the requirements of article VI of this chapter.
- (b) *Application.* The application for a development permit shall also include the following information:
 - (1) A detailed description of the proposed activity, its purpose, and intended use.
 - (2) Site location (including a legal description) of the property, drawn to scale, on the regulatory floodway maps, indicating whether it is proposed to be in an incorporated or unincorporated area.
 - (3) Anticipated dates of initiation and completion of activity.
 - (4) Plans of the proposed activity shall be provided which include as a minimum:
 - a. A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow.
 - b. A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations in mean sea level (1929 adjustment) datum or NGVD, adjacent property lines and ownership, drainage and flood control easements, distance between proposed activity and navigation channel (when the proposed construction is near a commercially navigable body of water), floodplain limit, location and orientation of cross sections, north arrow, and graphical or numerical scale.
 - c. Cross section views of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view,

existing and proposed elevations, normal water elevations, 10-year frequency flood elevation, 100-year frequency flood elevation, and graphical or numerical scales (horizontal and vertical).

- d. A soil erosion and sedimentation control plan for disturbed areas. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.
- (5) Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the criteria of section 42-154.
- (6) Any and all other local, state and federal permits or approvals that may be required for this type of development.
- (c) *Other permits as prerequisites.* The city building inspector/zoning officer shall be responsible for obtaining from the applicant copies of all other local, state, and federal permits, approvals or permit-not-required letters that may be required for this type of activity. The city building inspector/zoning officer shall not issue the development permit unless all required local, state and federal permits have been obtained.

(Ord. No. 95-20, §§ 901.1, 901.3, 9-12-95)

Sec. 42-153. - Determination and documentation of site elevation.

Based on the best available existing data according to the state water survey's floodplain information repository, the city shall compare the elevation of the site to the base flood or 100-year frequency flood elevation. Should no elevation information exist for the site, the developer's engineer shall calculate the elevation according to section 42-3(e). Any development located on land that can be shown to have been higher than the base flood elevation as of the site's first Flood Insurance Rate Map Identification is not in the SFHA and, therefore, not subject to the requirements of this chapter. The city building inspector/zoning officer shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map Identification.

(Ord. No. 95-20, § 901.2, 9-12-95)

Sec. 42-154. - Preventing increased damages.

- (a) No development in the SFHA, where a floodway has not been determined, shall create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health, safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this chapter.
- (b) Within all riverine SFHA's where the floodway has not been determined, the following standards shall apply:
 - (1) The developer shall have a registered professional engineer state in writing and show through supporting plans, calculations and data that the project meets the engineering requirements of section 42-128(a)(1)—(12) for the entire floodplain as calculated under the provisions of section 42-3(e). As an alternative, the developer should have an engineering study performed to determine a floodway and submit that engineering study to DWR for acceptance as a regulatory floodway. Upon acceptance of their floodway by the department, the developer shall then demonstrate that the project meets the requirements of article IV of this chapter for the regulatory floodway. The floodway shall be defined according to the definition in section 42-2.

- (2) A development permit shall not be issued unless the applicant first obtains a permit from DWR or written documentation that a permit is not required from DWR.
- (3) No permit from DWR shall be required if the division has delegated permit responsibility to the city per 92 Ill. Adm. Code, part 708 for regulatory floodways, per DWR statewide permit entitled, "Construction in Flood Plains with No Designated Floodways in Northeastern Illinois."
- (4) Dam safety permits. Any work involving the construction, modification or removal of a dam or an on-stream structure to impound water shall obtain a state division of water resources dam safety permit or letter indicating a permit is not required prior to the start of construction of a dam. If the city building inspector/zoning officer finds a dam that does not have a DWR permit, the city building inspector/zoning officer shall immediately notify the dam safety section of the division of water resources. If the city building inspector/zoning officer finds a dam which is believed to be in unsafe condition, the city building inspector/zoning officer shall immediately notify the owner of the dam and the state emergency services, DWR, dam safety section in Springfield and disaster agency (ESDA).
- (5) The following activities may be permitted without a registered professional engineer's review or calculation of a base flood elevation and regulatory floodway. Such activities shall still meet the other requirements of this chapter:
 - a. Underground and overhead utilities that:
 1. Do not result in any increase in existing ground elevations;
 2. Do not require the placement of aboveground structures in the floodway; or
 3. In the case of underground stream crossings, the top of the pipe or encasement is buried a minimum of three feet below the existing streambed; and
 4. In the case of overhead utilities, no supporting towers are placed in the watercourse and are designed in such a fashion as not to catch debris.
 - b. Storm and sanitary sewer outfalls that:
 1. Do not extend riverward or lakeward of the existing adjacent natural bank slope;
 2. Do not result in an increase in ground elevation; and
 3. Are designed so as not to cause stream bank erosion at the outfall location.
 - c. Construction of shoreline and streambed protection that:
 1. Does not exceed 1,000 feet in length or two cubic yards per linear foot of streambed.
 2. Materials are not placed higher than the existing top of bank.
 3. Materials are placed so as not to reduce the cross sectional area of the stream channel by more than ten percent.
 - d. Temporary stream crossings in which:
 1. The approach roads will be one-half foot or less above the natural grade.
 2. The crossing will allow stream flow to pass without backing up the water above the stream bank vegetation line or above any drainage tile or outfall invert.
 3. The top of the roadway fill in the channel will be at least two feet below the top of the lowest bank. Any fill in the channel shall be nonerosive material, such as riprap or gravel.
 4. All disturbed stream banks will be seeded or otherwise stabilized as soon as possible upon installation and again upon removal of construction.
 5. The access road and temporary crossings will be removed within one year after authorization.

- e. The construction of light poles, signposts and similar structures.
- f. The construction of sidewalks, driveways, athletic fields (excluding fences), patios and similar surfaces which are built at grade.
- g. The construction of properly anchored, walled, open structures such as playground equipment, pavilions and carports built at or below existing grade that would not obstruct the flow of floodwaters.
- h. The placement of properly anchored buildings not exceeding 70 square feet in size, nor ten feet in any one dimension (e.g., animal shelters and tool sheds).
- i. The construction of additions to existing buildings which do not increase the first floor area by more than 20 percent, which are located on the upstream or downstream side of the existing building, and which do not extend beyond the sides of the existing building that are parallel to the flow of floodwaters.
- j. Minor maintenance dredging of a stream channel where:
 - 1. The affected length of stream is less than 1,000 feet.
 - 2. The work is confined to reestablishing flows in natural stream channels; or
 - 3. The cross sectional area of the dredged channel conforms to that of the natural channel upstream and downstream of the site.

(6) The flood-carrying capacity within any altered or relocated watercourse shall be maintained.

(Ord. No. 95-20, §§ 902.0, 902.1, 9-12-95)

Sec. 42-155. - Compensatory storage.

Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation. The excavation volume shall be at least equal to the volume of storage lost due to the fill or structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All floodplain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All floodplain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

(Ord. No. 95-20, § 902.2, 9-12-95)

Secs. 42-156—42-180. - Reserved.

ARTICLE VI. - PERMITTING REQUIREMENTS APPLICABLE TO ALL FLOODPLAIN AREAS AND PROTECTION OF BUILDINGS

Sec. 42-181. - Generally.

In addition to the requirements found in articles III, IV and V of this chapter for development in flood fringes, regulatory floodways, and SFHA or floodplains where no floodways have been identified (zones A, AO, AH, AE, A1-A30, A99, VO, V1-V30, VE, V, M or E), the requirements of this article shall be met.

(Ord. No. 95-20, § 1000.0, 9-12-95)

Sec. 42-182. - Public health standards.

- (a) No developments in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the floodplain elevation.
- (b) New and replacement water supply systems, wells, sanitary sewer lines and on-site waste disposal systems may be permitted, providing all manholes or other aboveground openings located below the FPE are watertight.

(Ord. No. 95-20, §§ 1001.0—1001.2, 9-12-95)

Sec. 42-183. - Carrying capacity and notification.

For all projects involving channel modification, fill or stream maintenance (including levees), the flood-carrying capacity of the watercourse shall be maintained. In addition, the city shall notify adjacent communities in writing 30 days prior to the issuance of a permit for the alteration or relocation of the watercourse.

(Ord. No. 95-20, § 1002.0, 9-12-95)

Sec. 42-184. - Protecting buildings.

- (a) All buildings located within a 100-year floodplain, also known as a SFHA, shall be protected from flood damage below the flood protection elevation. However, existing buildings located within a regulatory floodway shall also meet the more restrictive appropriate use standards included in article IV of this chapter. This building protection criteria applies to the following situations:
 - (1) Construction or placement of a new building.
 - (2) A structural alteration to an existing building that either increases the first floor area by more than 20 percent or the building's market value by more than 50 percent. This alteration shall be figured cumulatively, beginning with any alteration which has taken place subsequent to April 1, 1990.
 - (3) Installing a manufactured home on a new site or a new manufactured home on an existing site. This building protection requirement does not apply to returning a mobile home to the same site it lawfully occupies before it was removed to avoid flood damage.
 - (4) Installing a travel trailer on a site for more than 180 days.

This building protection requirement may be met by one of the following methods:

- (b) A residential or nonresidential building, when allowed, may be constructed on permanent land fill in accordance with the following:
 - (1) The lowest floor, including the basement, shall be at or above the flood protection elevation.
 - (2) The fill shall be placed in layers no greater than one foot deep before compactions and should extend at least ten feet beyond the foundation of the building before sloping below the flow protection elevation. The top of the fill shall be above the flood protection elevation. However, the ten-foot minimum may be waived if a structural engineer certifies an alternative method to protect the building from damages due to hydrostatic pressures. The fill shall be protected against erosion and scour. The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties.
- (c) A residential or nonresidential building may be elevated in accordance with the following:
 - (1) The building or improvements shall be elevated on crawl space, stilts, piles, walls, or other foundation that is permanently open to floodwaters and not subject to damage by hydrostatic

pressures of the base flood or 100-year frequency flood. The permanent openings shall be no more than one foot above grade, and consists of a minimum of two openings. The openings must have a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the base flood elevation.

- (2) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris.
 - (3) All areas below the flood protection elevation shall be constructed of materials resistant to flood damage. The lowest floor, including the basement, and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the flood protection elevation.
 - (4) The areas below the flood protection elevation may only be used for the parking of vehicles, building access or storage in an area other than a basement.
 - (5) Manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act (210 ILCS 120/1 et seq.) issued pursuant to 77 Illinois Administrative Code 870. In addition, all manufactured homes shall meet the following elevation requirements:
 - a. In the case of manufactured homes placed or substantially improved outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage from a flood, the top of the lowest floor shall be elevated to or above the flood protection elevation.
 - b. In the case of manufactured homes placed or substantially improved in an existing manufactured home park or subdivision, the manufactured home shall be elevated so that either the top of the lowest floor is above the base flood elevation, or the chassis is at least 36 inches in height above grade and supported by reinforced piers or other foundations of equivalent strength, whichever is less.
- (d) Only a nonresidential building may be structurally dry floodproofed (in lieu of elevation), provided that a registered professional engineer shall certify that the building has been structurally dry floodproofed below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood or 100-year frequency flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice. Floodproofing measures shall be operable without human intervention and without an outside source of electricity. Levees, beams, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
- (e) Nonconforming structures located in a regulatory floodway may remain in use, but may not be enlarged, replaced or structurally altered. A nonconforming structure damaged by flood, fire, wind or other natural or manmade disaster may be restored unless the damage exceeds 50 percent of its market value before it was damaged, in which case it shall conform to this chapter.

(Ord. No. 95-20, §§ 1003.0—1003.4, 9-12-95)

Secs. 42-185—42-210. - Reserved.

ARTICLE VII. - SUBDIVISION, DEVELOPMENT AND IMPROVEMENT REGULATIONS

Sec. 42-211. - Preliminary plans of subdivisions; required accompanying information and data.

Accompanying the preliminary plans of each proposed subdivision which involves any portion of a base flood area as described by the official maps of this city, there shall be furnished the following information and data:

- (1) *Contour map.* A topographic map with two-foot interval contours of the land to be subdivided and such adjoining land whose topography may affect the layout or drainage of the subdivision. On such a map, there shall be shown the following:
 - a. The location of streams and other floodwater runoff channels, their normal channels, the extent of their floodplains at the established high-water elevations, and the limits of the floodway, all properly identified.
 - b. The normal shoreline of lakes, ponds, swamps, and detention basins, their floodplains and lines of inflow and outflow, if any.
 - c. The location of farm drains and their inlets and outlets.
 - d. Storm, sanitary, and combined sewers and any sewer outfalls.
 - e. Septic tank systems and outlets, if any.
 - f. Seeps, springs, and flowing and other wells.
 - g. Location of existing structures that will remain.
 - h. 100-year flood elevation and limits, including floodway, data for that portion of a subdivision or development which is in the base flood area.
- (2) *Channel profiles.* Profile drawings of each stream channel, pond, and basin showing elevations of the following:
 - a. The streambed.
 - b. Channel banks, if any.
 - c. Waterway openings of existing culverts and bridges within and near the tract.
 - d. Size and elevation of sewer and rain outlets into the stream channel or basin.
 - e. The base flood elevations established by this chapter.

(Ord. No. 95-20, § 1500.1, 9-12-95)

Sec. 42-212. - Subdivision design.

The following rules shall govern the design of land improvements with respect to floods:

- (1) *Review.* All proposed subdivision and other developments within the base flood area shall be reviewed to ensure that the proposed developments are consistent with the need to minimize flood damage; that all public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage; and that adequate drainage is provided.
- (2) *Design.* Streets, blocks, depths of lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural stream channels and detention basins. Wherever possible, the larger streams and floodplains shall be included within parks or other public grounds.
- (3) *Channel straightening.* Sharply meandering streams or channels may be partially straightened and minor changes made in other channels, subject to the approval of the plan commission, provided:
 - a. The hydraulic capacity of the floodway is maintained;
 - b. The volume of floodwater storage outside the floodway is not reduced;

- c. Provision is made to stabilize the banks of the modified channel to control erosion; and
 - d. Any additional permits for this work that are required by the state department of transportation and the corps of engineers are obtained.
- (4) *Lots in base flood area.* Land lying wholly or partially in the base flood area may be laid out and platted as building lots or parcels, provided a building site not lower than the base flood elevation plus one foot: exists on the high part of the lot or parcel, or will be built up during execution of the subdivision improvement plan through general excavation or filling, or can be provided with excavation taken from within the area of the lot or parcel.
- (5) *Compensatory storage.* Such filling as may be required or permitted by this chapter for a building site, or as may otherwise be done in a floodplain shall be compensated for and balanced by at least an equal volume of excavation taken from below the high-water elevation. In the case of streams and channels, such excavation shall be made opposite or immediately adjacent to the areas so filled or occupied and shall be constructed to drain freely and openly to the watercourse. All compensatory storage shall meet requirements of articles III, IV and V of this chapter.
- (6) *Streets and roads.* When failure or interruption of services of streets or roads would endanger public health or safety, streets and roads shall be protected to the base flood elevation. In other instances, protection shall be provided to the extent practical.
- (7) *Drainageways.* Whenever the plans call for the passage and/or storage of surface runoff or excess stormwater on lots, the grading of all such lots shall be prescribed and established as part of the subdivision plat. The areas so designated for the passage and/or storage of such waters shall not be obstructed. The limits of the high water levels resulting from the passage and/or storage of surface runoff or excess stormwater on lots shall be recorded on the plat of record and shall be covered by an easement.
- (8) *Manholes.* All sanitary sewer manholes constructed in a floodplain must have a rim elevation of a minimum of one foot above the base flood elevation or be provided with a locking watertight manhole cover.

(Ord. No. 95-20, § 1500.2, 9-12-95)

Sec. 42-213. - Stormwater detention.

- (a) A combination of detention storage and controlled release of stormwater runoff shall be required for all nonresidential developments of two or more acres in area, for all multiple-family developments of two or more acres in area, and all single-family developments of five acres or more in area, where the minimum lot area is less than 2½ acres.
- (b) The release rate of stormwater from all developments requiring detention shall not exceed the stormwater runoff rate from the area in its natural, undeveloped state. A release rate shall be calculated in accordance with subsection (g) below, unless the applicant can show detailed calculations, which are acceptable to the plat committee after a recommendation by the chief land use engineer, that the discharge rate of the natural or manmade outlet, channel or sewer serving the area is greater.
- (c) Storm sewer systems, streams and channels shall have an adequate capacity of bypass through the development for the flow from all upstream areas for a storm design frequency of ten years utilizing Bulletin 70 rainfall data, assuming that the land is in a fully developed state under present zoning. The bypass flow rate shall be computed utilizing a runoff coefficient of not less than 0.35, unless otherwise approved by the city engineer. An allowance, equivalent to the reduction in flow rate provided, will be made for upstream detention when such upstream detention and release rate has previously been approved by the city and has been constructed.
- (d) The live detention storage to be provided shall be calculated on the basis of the 100-year flood rainfall, as published by the Illinois State Water Survey's Bulletin 70 rainfall intensities for northeastern Illinois. The detention volume required shall be that necessary to temporarily store the runoff of the 100-year

rainfall, from the fully developed drainage area tributary to the reservoir, less the volume discharged during the same duration at the approved release rates.

- (e) In the event the downstream creeks and channels are inadequate to receive the release rate provided in this section, then the allowable release rate shall be reduced to that rate permitted by the receiving downstream sewers, streams and channels and additional detention, as determined by the city engineer, shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers, streams, and channels.
- (f) Plans, specifications and calculations for stormwater detention facilities as required hereunder shall be submitted to the city engineer for approval prior to the commencement of construction.
- (g) The formula to be used for calculating the volumes of water to be stored and/or released shall be the same as that used by the Metropolitan Water Reclamation District of Greater Chicago, Drainage and Flood Control Ordinance, except that the proposed peak discharge from events less than or equal to that two-year event shall not be greater than 0.04 cfs per acre, and the proposed peak 100-year discharge shall not be greater than 0.15 cfs per acre of property drained, and the Illinois State Water Survey's Bulletin 70 rainfall intensities for northeastern Illinois shall be utilized.
- (h) All information and data required and submitted shall be prepared by and bear the seal of a registered state professional engineer.
- (i) Detention storage volume should be provided in addition to the natural depressional storage on the site.
- (j) An emergency overflow structure shall be provided for all detention areas. The overflow shall be designed to convey the 100-year runoff from the site and any off-site runoff routed through the detention area. The overflow should be provided at the location of natural overflow from the site.
- (k) At least one foot of freeboard should be provided around the perimeter of the detention area.
- (l) These stormwater detention standards shall apply throughout the entire city, not just in floodplain areas.

(Ord. No. 95-20, § 1500.3, 9-12-95; Ord. No. 98-12, § 1, 4-14-98)

Chapter 46 - HEALTH AND SANITATION^[1]

Footnotes:

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Cross reference— Civil emergencies, ch. 30; emergency services, ch. 34; solid waste, ch. 58; sewers and sewage disposal, § 86-86 et seq.

ARTICLE I. - IN GENERAL

Secs. 46-1—46-30. - Reserved.

ARTICLE II. - LOT CLEANLINESS

Sec. 46-31. - Prohibited acts; exemption; penalty for violation of section.

- (a) No person owning, leasing or controlling any house or other building or premises, including unimproved lots visible from any public place or private premises, shall store, dump, maintain, deposit, drop, throw, discard, leave or cause or permit the storing, dumping, maintaining, depositing, dropping, throwing, discarding or leaving of trash, litter, garbage, rubbish, junk, unused materials, goods, wares, merchandise, equipment, machinery or parts thereof, lumber, building material, scrap metal,

newspapers, furniture, fixtures, vehicles or parts thereof upon public or private property within the corporate limits of the city unless the same is shielded from public view.

- (b) No person shall store, dump, or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans, or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.
- (c) No person shall create a condition, through the improper maintenance of a swimming pool or wading pool, or by causing an action that alters the condition of a natural body of water, so that it harbors mosquitoes, flies, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.
- (d) Subsections (a)—(c) of this section shall not apply to the placement of such items for garbage pickup. Such items may not be placed for garbage pickup more than two days prior to the scheduled garbage pickup date.
- (e) Any person who violates, disobeys, neglects, omits or refuses to comply with the provisions of this section shall be guilty of a misdemeanor and shall be subject to punishment as provided in section 1-8.

(Ord. No. 95-1, § 2, 3-1-95; Ord. No. 04-16, § 1, 8-10-04)

Chapter 50 - LAW ENFORCEMENT^[1]

Footnotes:

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Cross reference— General penalty for code violations, § 1-8; civil emergencies, ch. 30; emergency services, ch. 34; fire prevention and protection, ch. 38; offenses generally, ch. 58; traffic and vehicles, ch. 82.

ARTICLE I. - IN GENERAL

Sec. 50-1. - Resisting or obstructing a peace officer.

It shall be unlawful for any person to knowingly resist or obstruct the performance by one known to such person to be a police officer of any authorized act within the officer's official capacity.

(Ord. No. 77-17, § 3.060, 10-25-77)

Secs. 50-2—50-30. - Reserved.

ARTICLE II. - POLICE DEPARTMENT^[2]

Footnotes:

--- (2) ---

Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 50-31. - Police personnel.

(a) The maximum number of full-time sworn police officers is established as:

Chief of police—One.

Deputy chief of police—One.

Sergeant—Four.

Patrol officer—As determined in the annual budget.

(b) The number of personnel shown in (a) above are the maximum and not the minimum number required to be employed. A vacancy shall not exist in any rank, and no employee shall be hired or promoted, until such time as the commissioner of public health and safety authorizes a vacancy to be filled.

(Ord. No. 80-3, § 1, 4-22-80; Ord. No. 98-27, § 4, 11-24-98; Ord. No. 99-20, § 1, 7-27-99; Ord. No. 01-11, § 1, 8-28-01; Ord. No. 12-10, § 2, 3-13-12)

Sec. 50-32. - Members' bonds.

Before entering upon his duties, the chief of police and each member of the city police department shall file with the city clerk a bond in the sum of \$1,000.00, with sureties approved by the council, conditioned to indemnify the city for any loss or liability due to or occasioned by any act or failure to act on the part of the chief of police or any other member of the city police department.

(Ord. No. 80-3, § 3, 4-22-80)

Sec. 50-33. - Duties of members.

It shall be the duty of the members of the police department to enforce all of the ordinances of the city and all statutes of the state. The police department shall also preserve the public peace, prevent infractions of the law and arrest violators of the law.

(Ord. No. 80-3, § 5, 4-22-80)

Sec. 50-34. - Serving process.

No member of the police department (except the chief) shall serve any process except on command of the chief of the police department.

(Ord. No. 80-3, § 6, 4-22-80)

Sec. 50-35. - Conduct of members.

It shall be the duty of every member of the police department to conduct himself in a proper and law-abiding manner at all times, and to avoid the use of unnecessary force. Each member of the department shall obey the orders and directions of his superior.

(Ord. No. 80-3, § 7, 4-22-80)

Sec. 50-36. - Witness fees.

Every member of the police department shall appear as a witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for his service as a witness in any action suit to which the city is a party. Any fees for such services shall be turned over to the chief, who shall deposit the fees with the city treasurer.

(Ord. No. 80-3, § 8, 4-22-80)

Sec. 50-37. - Rules and regulations.

The chief of the police department may make or prescribe such rules and regulations for the conduct and guidance of the members of the department as he shall deem advisable. Such rules, when approved by the council, shall be binding on such members. The respective rank of the members, within the department may be prescribed by regulation.

(Ord. No. 80-3, § 9, 4-22-80)

Sec. 50-38. - Police auxiliary unit.

- (a) There is hereby created and established a police auxiliary unit consisting of such police auxiliary officers as the mayor of the city, upon the recommendation of the commission of public health and safety, by and with the advice and consent of the city council, may from time to time appoint. The appointment shall be effective for one year or such period of time as the city council shall designate. Police officers so appointed shall have all the powers, duties and obligations now vested in special police officers under the ordinances of the city; provided, however, that in each case such auxiliary officers shall execute to the city a bond in an amount to be established by the city council at the time of their appointment, with sureties to be approved by the mayor and conditioned as required by law.
- (b) The police auxiliary unit shall be organized and shall function as provided by rules and regulations approved by the city council and under the direction of and subject to the control of the chief of police, the mayor and the city council, and as may be provided by ordinance.

(Ord. No. 80-3, § 10, 4-22-80)

Sec. 50-39. - Duties of auxiliary police officers.

Auxiliary police officers shall not be members of the regular police department and shall not supplement members of the regular police department in the performance of their assigned and normal duties, except as otherwise provided in this section. Such auxiliary police officers shall only be assigned to perform the following duties in the municipality:

- (1) Aid or direct traffic within the municipality;
- (2) Aid in control of natural or manmade disasters;
- (3) Aid in case of civil disorder as directed by the chief of police;

provided, however, that in cases which render it impractical for members of the regular police department to perform the normal and regular police duties, the chief of police of the regular police department is hereby authorized to assign auxiliary police officers to perform such normal and regular police duties.

(Ord. No. 74-4, § 3, 4-5-74)

Sec. 50-40. - Deputy police chief.

- (a) In accordance with ILCS Ch. 65, Act 5, § 10-2.1-4. There is hereby established an appointed position of deputy chief within the police department of the city, The position shall be an exempt rank immediately below that of chief and shall not be subject to promotional processes used only for ranking positions.
- (b) To be eligible for appointment to the position of deputy chief, an individual must be a sworn, full time officer in the city police department with at least five years of full time service as a police officer for the city.
- (c) The deputy chief shall be appointed by the chief of police and shall serve at the discretion of the chief with no set term, and if removed from the position by the chief of police, shall revert to the rank held immediately prior to appointment to the deputy chief position.
- (d) The deputy chief shall report directly to the chief of police and shall take orders from the chief of police as directed. The nature of the duties, work assignments, projects and other responsibilities for the deputy chief shall be determined by the chief of police.
- (e) The deputy chief shall be eligible to receive salary and benefits as set by the city council.
- (f) The appointment position of deputy chief shall be an exempt position under both the Fair Labor Standards Act and the Illinois Public Labor Relations Act.

(Ord. No. 12-10, § 1, 3-13-12)

Secs. 50-41—50-55. - Reserved.

DIVISION 2. - CHIEF

Sec. 50-56. - Office created; appointment.

There is hereby created the office of the chief of police. The chief shall be appointed by the mayor with the advice and consent of the city council and not subject to the jurisdiction of the board of fire and police commissioners.

(Ord. No. 80-3, § 2, 4-22-80; Ord. No. 98-27, § 5, 11-24-98)

Sec. 50-57. - Duties.

The chief of police shall be the keeper of the city jail, and shall have custody of all persons incarcerated therein. He shall keep such records and make such reports concerning the activities of his department as may be required by statute or by the city council. The chief shall be responsible for the performance by the police department of its functions, and all persons who are members of the police department shall serve subject to the orders of the chief of police.

(Ord. No. 80-3, § 4, 4-22-80)

Sec. 50-58. - Custody of property.

The chief of police shall have the custody of all lost, abandoned or stolen property recovered in the city and shall preserve all evidence recovered by the police department.

(Ord. No. 80-3, § 11, 4-22-80)

Secs. 50-59—50-70. - Reserved.

DIVISION 3. - CHAPLAIN SERVICE PROGRAM^[3]

Footnotes:

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Editor's note— Ordinance No. 98-6, adopted January 27, 1998, did not specifically amend the Code; hence, codification of §§ 1—4 of said ordinance as §§ 50-71—50-74 was at the discretion of the editor.

Sec. 50-71. - Authority to establish.

The chief of police is hereby authorized to establish a chaplain service program within the department. The program shall include a head chaplain and as many assistant chaplains as he may deem necessary.

(Ord. No. 98-6, § 1, 1-27-98)

Sec. 50-72. - Qualifications; formal training.

Each chaplain and assistant shall be ordained clergymen and shall serve a religious community in the city area. Each chaplain and assistant shall be required to participate in a formal training program developed by the chief of police.

(Ord. No. 98-6, § 2, 1-27-98)

Sec. 50-73. - Benefits.

Each chaplain and assistant chaplain shall serve without compensation, but shall be reimbursed for all medical expenses incurred for injuries sustained while in the line of duty. The city shall also defend and indemnify each chaplain and assistant chaplain for any claim or lawsuit filed against them for any act or omission arising out of their services for the city.

(Ord. No. 98-6, § 3, 1-27-98)

Sec. 50-74. - Appointments subject to counsel.

The chief's appointment to the position of chaplain or assistant chaplain shall be subject to the advice of the city council and the collective bargaining unit within the department.

(Ord. No. 98-6, § 4, 1-27-98)

DIVISION 4. - POLICE PENSION FUND

Sec. 50-75. - Creation.

There is hereby created and established a police pension fund for the City of Braidwood to be administered in accordance with the provisions of 40 ILCS 5/3-101, et seq.

(Ord. No. 01-13, § 1, 12-11-01)

Sec. 50-76. - Board of trustees.

There is hereby created the board of trustees of said fund which shall be known as the "Board of Trustees of the Police Pension Fund of the City of Braidwood." The powers, rights and duties of the board of trustees shall be governed by the provisions of 40 ILCS 5/3-101, et seq. The members of the board of trustees shall serve without compensation.

(Ord. No. 01-13, § 1, 12-11-01)

Sec. 50-77. - Treasurer.

The commissioner of accounts and finances shall serve as the treasurer for the police pension fund and shall draw such compensation as shall be prescribed by the board of trustees. The treasurer shall hold all monies and securities belonging to the pension fund subject to the order of the board of trustees. The treasurer shall prepare all reports as required by law.

(Ord. No. 01-13, § 1, 12-11-01)

Sec. 50-78. - Meeting rooms.

The city shall provide sufficient office space for the officers in meetings of the board of trustees.

(Ord. No. 01-13, § 1, 12-11-01)

Sec. 50-79. - Meetings.

- (a) The pension board shall hold annually regular quarterly meetings in July, October, January and April, and special meetings as called by the pension board president.
- (b) At the regular July meeting, the pension board shall select from its members a president, vice president, secretary, and assistant secretary to serve for one year and until their respective successors are elected and qualified.
- (c) The vice president shall perform the duties of president during any vacancy in that office, or during the president's absence from the city, or if he or she is by reason of illness or other causes unable to perform the duties of the office. The assistant secretary shall act for the secretary whenever necessary to discharge the functions of the office.

(Ord. No. 12-18, § 1, 5-22-12)

Sec. 50-80. - Compensation.

Members of the pension board shall neither receive nor have any right to receive any salary from the pension fund for services performed as trustees in that office.

(Ord. No. 12-18, § 2, 5-22-12)

Sec. 50-81. - Costs.

The cost of providing the pension benefits required to be paid by the city under the provision of the Illinois Pension Code and this chapter shall be financed by the levy of a tax pursuant to Article III Section 3-125 of the Illinois Pension Code (40 ILCS 5/3-125 [1996]) and as otherwise provided by law.

(Ord. No. 12-18, § 3, 5-22-12)

Sec. 50-82. - Intent.

It is the intention of the corporate authorities of the city that the provisions of this chapter shall in all respects comply and be consistent with the provisions of the Illinois Pension Code, and this chapter shall be construed so as to give it that effect.

(Ord. No. 12-18, § 4, 5-22-12)

Secs. 50-83—50-99. - Reserved.

DIVISION 5. - PART-TIME OFFICERS

Sec. 50-100. - Employment.

The City of Braidwood may employ part-time police officers from time to time as they deem necessary.

(Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-101. - Hiring standards.

Any person employed as a part-time police officer must meet the following standards:

- (1) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (2) Be at least 21 years of age.
- (3) Pass a medical examination.
- (4) Possess a high school diploma or GED certificate.
- (5) Possess a valid State of Illinois driver's license.
- (6) Possess no prior felony convictions.
- (7) Any individual who has served in the U.S. military must have been honorably discharged.

(Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-102. - Duties; restrictions on employment; maximum work hours; training.

A part-time officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the general orders of the Braidwood Police Department, but the number of hours a part-time police officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (50 ILCS 705/1 et seq.) and the rules and requirements of the ILETSB.

(Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-103. - Discipline.

Part-time police officers shall be under the disciplinary jurisdiction of the chief of police. Part-time police officers serve at the discretion of the city authorities, shall not have any property rights in said employment, and may be removed by the city authorities at any time. Part-time police officers shall comply with all applicable rules and general orders issued by the police department.

(Ord. No. 12-25, § 1, 7-24-12)

Secs. 50-104—50-110. - Reserved.

DIVISION 6. - LATERAL TRANSFER POLICE OFFICER HIRING

Sec. 50-111. - Register of lateral transfer applicants.

The board of police and fire commissioners shall prepare and keep a second register of persons containing lateral transfer applicants who have previously been full-time sworn officers of a regular police department in any municipal, county, university, or state law enforcement agency.

(Ord. No. 12-12, § 1, 3-27-12; Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-112. - Certification of lateral transfer applicant.

"Lateral transfer applicant" shall be certified by the state law enforcement training standards board and have been with their respective law enforcement agency within the state for at least two years.

(Ord. No. 12-12, § 1, 3-27-12; Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-113. - Ranking of applicants.

The lateral transfer applicants on this register shall take their rank as candidates in the order of their relative excellence as determined by the members of the board of police and fire commissioners.

(Ord. No. 12-12, § 1, 3-27-12; Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-114. - Minimum standards basic law enforcement certification.

Applicants who have been awarded a certificate attesting to their successful completion of the minimum standards basic law enforcement training course as provided in the Illinois Police Training Act may be given preference in appointment over non-certified applicants.

(Ord. No. 12-12, § 1, 3-27-12; Ord. No. 12-25, § 1, 7-24-12)

Sec. 50-115. - Applicant interviews, background investigations.

The police and fire board may require an oral interview, background investigation, polygraph and an in-depth psychological examination along with other testing in compiling this list.

(Ord. No. 12-12, § 1, 3-27-12; Ord. No. 12-25, § 1, 7-24-12)

Chapter 54 - MANUFACTURED HOMES AND TRAILERS¹¹

Footnotes:

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Cross reference— Buildings and building regulations, ch. 22; businesses, ch. 26; planning, ch. 62; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; traffic and vehicles, ch. 82; utilities, ch. 86; zoning regulations, app. A.

Sec. 54-1. - Short title.

This chapter shall be known and may be cited as the "Braidwood Mobile Home Act."

(Ord. No. 71-10, § 1, 12-14-71)

Sec. 54-2. - Definitions.

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

Mobile home means a manufactured relocatable unit providing complete independent living facilities for one family, including permanent provisions for living, sleeping, cooking, eating and sanitation, comprising a minimum living area of 600 square feet.

Mobile home lot means a parcel of privately owned land conforming to the zoning and subdivision ordinances of the city for the placement of a mobile home and the exclusive use of its occupants.

Mobile home stand means that part of an individual lot which has been reserved for the placement of a mobile home.

(Ord. No. 71-10, § 2, 12-14-71)

Cross reference— Definitions generally, § 1-2.

Sec. 54-3. - Penalty for violation of chapter.

Any person who violates any provision of this chapter shall, upon conviction, be punished by a fine of not less than \$100.00 nor more than \$750.00. Each day's failure to comply shall constitute a separate violation. The imposition of any such fine shall not bar any other relief or penalties otherwise applicable.

(Ord. No. 71-10, § 14, 12-14-71)

Sec. 54-4. - Permits.

It shall be unlawful for any person to place, construct, alter or extend any mobile home within the limits of the city unless he holds a valid permit issued by the zoning enforcement officer in the name of such person for the specific placement, construction, alteration or extension proposed. All applications for

permits shall conform to the zoning and subdivision ordinances of the city. It shall also be unlawful to violate any other provision of this chapter.

(Ord. No. 71-10, § 3, 12-14-71)

Sec. 54-5. - Environmental hazards.

Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors or other adverse influences, and no portion of the site shall be subject to predictable sudden flooding or erosion. The site shall not be used for any purpose which would expose persons or property to hazards.

(Ord. No. 71-10, § 4, 12-14-71)

Sec. 54-6. - Sidewalks.

All mobile homes shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided. Each mobile home stand shall be connected to a sidewalk extending from the pad to the street or to driveways or to parking spaces. Such individual walks shall have a minimum width of 30 inches.

(Ord. No. 71-10, § 5, 12-14-71)

Sec. 54-7. - Mobile home lots; placement and tie-down; additions and attachments; driveways and parking.

- (a) Each lot within the city used for a mobile home lot must meet all the requirements of the zoning and subdivision ordinances, pertaining to lots, easements, boundaries and mobile home pad location, etc. The mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home, which shall be anchored in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Illinois Administrative Code 870.
- (b) Only one mobile home containing a minimum livable area of 600 square feet may be placed on a privately owned lot in the city. Each mobile home placed on a privately owned lot shall have the hitch removed flush with the face of the mobile home, and the wheels and axles shall be completely removed. Support blocking under the mobile home shall consist of two concrete eight- by 16-inch blocks laid flat. Skirting shall be placed completely around the outer edge of the mobile home and consist of concrete blocks three blocks high mortared together and at least one access opening shall be provided. Four- by eight- by 16-inch block minimum, or brick or stone may be used. One concrete block may be mortared to the pad with two- by four-inch minimum framing to fill the balance of the opening covered with a permanent siding may be used.
- (c) The only additions or attachments to the mobile home or pad permitted are a carport, cabana, patio enclosure or garage. No living quarters may be added or attached to the mobile home or pad. Any garage to be erected must meet the requirements of the zoning and subdivision ordinances.
- (d) An improved driveway shall be provided for each mobile home. The minimum width of the driveway shall be ten feet.
- (e) The design criteria for automobile parking shall be based upon two parking spaces for each mobile home. Parking may be in tandem.

(Ord. No. 71-10, § 6, 12-14-71)

Sec. 54-8. - Water.

- (a) An accessible, adequate, safe and potable supply of water shall be provided in each mobile home lot. The water supply shall be capable of supplying a minimum of 150 gallons per day, per mobile home. Every well or suction line of the water supply system shall comply with appropriate regulations of the health authority.
- (b) Individual water riser pipes shall be located within the area of the mobile home pad and approximately 30 feet from the front of such pad. Water riser pipes shall extend at least four inches above the pad elevation. The pipe diameter shall be at least three-fourths of an inch. The water outlet shall be capped when a mobile home does not occupy the pad. Adequate provisions shall be made to prevent freezing of service lines, valves, and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe. A shutoff valve below the frostline shall be provided near the water riser pipe on each mobile home pad. Underground stop and waste shall not be installed on any water service.

(Ord. No. 71-10, § 7, 12-14-71)

Sec. 54-9. - Sewage disposal.

- (a) An adequate and safe sewerage system shall be provided in all mobile homes for conveying and disposing of all sewage. Wherever feasible, connection shall be made to a public system. All new improvements shall be designed, constructed and maintained in accordance with state and local laws. All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the mobile home water supply system at a safe distance. Sewers shall be at a grade which will ensure a velocity of two feet per second when flowing full. The system shall be designed adequate for a minimum flow of 150 gallons per day, per mobile home. All sewer lines shall be constructed of materials approved by the zoning enforcement officer, shall be adequately vented and shall have watertight joints.
- (b) Each mobile home stand shall be provided with a four-inch diameter sewer riser pipe. The sewer riser pipe shall be located within the area of the mobile home pad, and approximately 40 feet from the front of such stand. The sewer connection (consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewerage system serving the mobile home) shall have a nominal inside diameter of three inches, and the slope of any portion of such pipe shall be at least one-quarter inch per foot. The sewer connection shall consist of one pipeline only without any branch fittings. All joints shall be watertight.
- (c) All materials used for sewer connections shall be semirigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth. Provisions shall be made for adequately sealing the sewer riser pipe when a mobile home does not occupy the pad. Surface drainage shall be diverted away from the riser. Where the sewer lines of a mobile home are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the zoning enforcement officer and must meet all the requirements of the health authority prior to construction.

(Ord. No. 71-10, § 8, 12-14-71)

Sec. 54-10. - Electrical system.

- (a) Except as otherwise permitted or required by this chapter, all electrical installations in mobile homes to be placed on privately owned lots in the city shall be designed and constructed in accordance with a minimum 100 ampere service on circuit breakers, as adopted by the city council.

- (b) Mobile home service equipment may also be provided with a means for connecting an accessory building or structure or additional electrical equipment located outside a mobile home by a permanent wiring method, provided it provides 100 ampere service on the circuit breakers. Additional receptacles may be provided for connection of electrical equipment located outside the mobile home.
- (c) The point of electrical connection for the mobile home will be within the area of the mobile home stand and approximately 40 feet from the front of such stand or, where underground cable is used, the distance may be extended with the approval of the zoning enforcement officer.

(Ord. No. 71-10, § 9, 12-14-71)

Sec. 54-11. - Gas system.

- (a) Gas equipment and installations within a mobile home shall be designed and constructed in accordance with the applicable codes adopted by the zoning board and shall apply to all mobile homes that are placed on privately owned lots in the city.
- (b) All gas piping installed below the ground shall have a minimum earth cover of 18 inches. Gas piping shall not be installed under any mobile home. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to point of connection to the gas supply. Each mobile home lot shall have an approved gas shutoff valve installed upstream of the mobile home lot gas outlet and located on the outlet riser at a height not less than four inches above grade. Such valve shall not be located under any mobile home. Whenever the mobile home lot is not in use, the outlet shall be equipped with an approved cap or plug to prevent accidental discharge of gas.
- (c) Each mobile home shall be connected to the mobile home lot outlet by approved black pipe.

(Ord. No. 71-10, § 10, 12-14-71)

Sec. 54-12. - Responsibilities of the resident.

- (a) The resident shall comply with all applicable requirements of this chapter and the zoning and subdivision ordinances which apply, and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
- (b) The resident shall be responsible for proper placement of his mobile home on the mobile home stand and proper installation of tie-downs and utility connections, in accordance with the instructions of this chapter. The resident shall store and dispose of all of his rubbish and garbage in a clean, sanitary and safe manner.

(Ord. No. 71-10, § 11, 12-14-71)

Sec. 54-13. - Inspection.

The zoning enforcement officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter. The zoning enforcement officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(Ord. No. 71-10, § 12, 12-14-71)

Sec. 54-14. - Notices, hearings and orders.

- (a) Whenever the zoning enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, the zoning board shall give notice of such alleged violation to the person to whom the permit was issued, in accordance with the provisions of the zoning and subdivision ordinances detailing such action.
- (b) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the zoning board in accordance with the provisions of the zoning and subdivision ordinances detailing such action. After such hearing the zoning board shall make findings as to the compliance with the provisions of this chapter, and shall issue an order in writing sustaining, modifying or withdrawing the notice, in accordance with the provision of the zoning and subdivision ordinances of the city.

(Ord. No. 71-10, § 13, 12-14-71)

Chapter 58 - OFFENSES^[1]

Footnotes:

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Cross reference— General penalty for code violations, § 1-8; buildings and building regulations, ch. 22; civil emergencies, ch. 30; emergency services, ch. 34; health and sanitation, ch. 46; law enforcement, ch. 50; traffic and vehicles, ch. 82.

ARTICLE I. - IN GENERAL

Sec. 58-1. - Penalty for violation of chapter.

Every person convicted of a misdemeanor or ordinance violation of any provision of this chapter for which another penalty is not provided shall for their first conviction be punished by a fine of not less than \$100.00, no more than \$750.00; for a second such conviction within one year thereafter, as such person shall be punished by a fine of not less than \$125.00 no more than \$750.00; and for a third subsequent conviction within one year after the first conviction, such person shall be punished by a fine not less than \$250.00 no more than \$750.00. Every person who defaults in the payment of any fine imposed for a violation of this chapter, shall pay an additional administrative fee equal to 35 percent of the original fine to cover the city's cost of collection of the same.

(Ord. No. 77-17, § V, 10-25-77; Ord. No. 08-05, § 2, 4-22-08; Ord. No. 16-08, § 1, 6-28-16)

Sec. 58-2. - Adoption of Illinois Criminal Code.

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided in this chapter, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Illinois Criminal Code (720 ILCS 5/1-1 et. seq. commonly known as the "Criminal Code of 1961" and amended from time to time are hereby adopted by the city. Any and all violations thereof shall be considered violations of this chapter, and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder. Any conflict between the "Criminal Code of 1961" and this chapter shall be controlled by this chapter.

(Ord. No. 06-05, § 1, 3-28-06)

Secs. 58-3—58-30. - Reserved.

ARTICLE II. - OFFENSES AGAINST GOVERNMENTAL OPERATIONS^[2]

Footnotes:

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Cross reference— Administration, ch. 2.

Sec. 58-31. - Impersonating a city or peace officer.

It shall be unlawful for any person to falsely represent himself to be an officer of this city, or without being duly authorized by the city to exercise or attempt to exercise any of the duties, functions or powers of a city or peace officer.

(Ord. No. 77-17, § 3.050, 10-25-77)

Sec. 58-32. - Obstructing peace officer.

A person who knowingly resists or obstructs in the city the performance, by one known to the person to be a peace officer, of his [such peace officer's] authorized, official duties shall be guilty of the offense of resisting or obstructing a peace officer.

(Ord. No. 97-33, § 3, 11-11-97)

Editor's note— Section 3 of Ord. No. 97-33, adopted November 11, 1997, amended § 58-32 to read as herein set out. Formerly, § 58-32 pertained to disobeying fire and police officials and derived from Ord. No. 77-17, § 4.035, adopted Oct. 25, 1977.

Secs. 58-33—58-60. - Reserved.

ARTICLE III. - OFFENSES AGAINST MORALS

Sec. 58-61. - Obscenity.

- (a) *Defined.* As used in this section, any material or performance is obscene if:
- (1) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest;
 - (2) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
 - (3) Taken as a whole, it lacks serious literary, artistic, political or scientific value.
- (b) *Elements of the offense.* A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:
- (1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene;

- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene;
 - (3) Publishes, exhibits or otherwise makes available anything obscene;
 - (4) Performs an obscene act or otherwise presents an obscene exhibition of his body for gain;
 - (5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this section, or of the penal laws or regulations of any other jurisdiction; or
 - (6) Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.
- (c) *Interpretation of evidence.* Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience. Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value. In any prosecution for an offense under this section evidence shall be admissible to show:
- (1) The character of the audience for which the material was designed or to which it was directed;
 - (2) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
 - (3) The artistic, literary, scientific, educational or other merits of the material, or absence thereof;
 - (4) The degree, if any, of public acceptance of the material in this state;
 - (5) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material; and
 - (6) Purpose of the authority, creator, publisher or disseminator.
- (d) *Prohibited.* Obscenity is prohibited.
- (e) *Prima facie evidence.* The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than three copies of obscene material shall be prima facie evidence of an intent to disseminate.
- (f) *Affirmative defenses.* It shall be an affirmative defense to obscenity that the dissemination:
- (1) Was not for gain and was made to personal associates other than children under 18 years of age; or
 - (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

(Ord. No. 88-2, §§ a—f, 3-22-88)

State Law reference— Similar provisions, 720 ILCS 5/11-20.

Sec. 58-62. - Obscene language.

It shall be unlawful for any person to use any obscene, as defined in 720 ILCS 5/11-20(b), language in any place in the city, loud enough to be overheard by other persons.

(Ord. No. 74-15, § 3, 12-10-74)

Sec. 58-63. - Public indecency.

- (a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:
 - (1) An act of sexual penetration or sexual conduct as defined in 720 ILCS 5/12-12; or
 - (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.
- (b) The term "public place" for purposes of this section means any place where the conduct may reasonably be expected to be viewed by others.
- (c) Public indecency is prohibited.

(Ord. No. 77-17, § 4.030, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/11-9.

Sec. 58-64. - Prostitution.

It shall be unlawful for any person who knowingly performs, offers or agrees to perform any act of sexual penetration as defined in section 11-0.1 of the Illinois Criminal Code for anything of value, or any touching or fondling of the sex organs of one person by another person, for anything of value, for the purpose of sexual arousal or gratification and as such commits an act of prostitution.

(Ord. No. 77-17, § 4.010, 10-25-77; Ord. No. 14-10, § 1, 7-22-14)

State Law reference— Similar provisions, 720 ILCS 5/11-17.

Sec. 58-65. - Keeping or leasing a place of prostitution.

It shall be unlawful for any person to keep a place of prostitution. Any person who has or exercises control over the use of any place which could offer seclusion or shelter for the practice of prostitution who performs any of the following acts for the first or second time keeps a place of prostitution:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution;
- (2) Grants or permits the use of such place under circumstances from which he could reasonably know that the place is used or is to be used for purposes of prostitution;
- (3) Permits the continued use of a place after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution; or
- (4) To let or permit any building or premises within the city limits, owned by him or under his control, to be used, in whole or in part, as a place of prostitution or to lease any building or premises for a lawful purpose that may afterwards with his knowledge be converted, in whole or in part, into the immoral uses and purposes set forth in this section, and fail to cause the premises to be immediately vacated upon gaining knowledge of such uses or purposes.

(Ord. No. 77-17, § 4.015, 10-25-77; Ord. No. 14-10, § 2, 7-22-14)

Sec. 58-66. - Inmate of place of prostitution.

It shall be unlawful for any person to be an inmate of, or to frequent or be found in any place of prostitution or of assignation, or place used for the practice of fornication or adultery, within the city limits.

(Ord. No. 77-17, § 4.020, 10-25-77)

Sec. 58-67. - Solicitation for immoral purposes.

It shall be unlawful for any person to approach or solicit any person, or offer herself or himself for immoral purposes, upon any public street or in any other public place in the city.

(Ord. No. 77-17, § 4.005, 10-25-77)

Secs. 58-68—58-95. - Reserved.

ARTICLE IV. - OFFENSES AGAINST THE PERSON

Sec. 58-96. - Assault.

- (a) No person shall commit any assault within the city.
- (b) A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

(Ord. No. 77-17, § 1.005, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/12-1.

Sec. 58-97. - Battery.

It shall be unlawful for any person to commit a battery. A person commits a battery when he intentionally or knowingly, without legal justification, by any means causes bodily harm to an individual, or makes or causes physical contact of an insulting or provoking nature with an individual.

(Ord. No. 77-17, § 1.010, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/12-3.

Sec. 58-98. - Reckless conduct.

It shall be unlawful for any person to perform any reckless act, whether otherwise lawful or unlawful, which causes bodily harm to or endangers the bodily safety of an individual.

(Ord. No. 77-17, § 1.060, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/12-5.

Secs. 58-99—58-125. - Reserved.

ARTICLE V. - OFFENSES AGAINST PROPERTY

Sec. 58-126. - Theft.

- (a) A person commits theft when he knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner;
 - (2) Obtains by deception control over property of the owner;
 - (3) Obtains by threat control over property of the owner;
 - (4) Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen; and:
 - a. Intends to deprive the owner permanently of the use or benefit of the property;
 - b. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
 - c. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit; or
 - (5) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen.
- (b) The term "firearm" for the purposes of this section has the meaning ascribed to it in section 1.1 of an act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith, approved August 3, 1967, as amended (430 ILCS 65/1.1).
- (c) Theft of property, as a first offense, other than a firearm, not from the person and not exceeding \$300.00 in value is an offense.
- (d) When a charge of theft of property exceeding a specified value is brought, the value of the property involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value.

(Ord. No. 77-17, §§ 2.015, 2.020, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/16-1.

Sec. 58-127. - Criminal damage to property.

- (a) A person commits an illegal act when he:
 - (1) Knowingly damages any property of another without his consent;
 - (2) Recklessly by means of fire or explosives damages property of another;
 - (3) Knowingly starts a fire on the land of another without his consent;
 - (4) Knowingly injures a domestic animal of another without his consent;
 - (5) Knowingly deposits on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building; or
 - (6) Damages any property, other than as described in 720 ILCS 5/20-1(b), with intent to defraud an insurer.
- (b) When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value.
- (c) The acts described in subsections (a)(1)—(a)(6) of this section are offenses if the damage to property does not exceed \$300.00.

(Ord. No. 77-17, §§ 2.005, 2.020, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/21-1.

Sec. 58-128. - Trespass generally.

- (a) It shall be unlawful for any person to enter upon the land or a building, other than a residence, or any part thereof of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land or in a building, other than a residence, of another after receiving notice from the owner or occupant to depart.
- (b) It shall be unlawful for any person to enter or remain within a building, house trailer, watercraft, aircraft, motor vehicle, railroad car or any part thereof with intent to commit therein an unlawful act.
- (c) A person has received notice from the owner or occupant within the meaning of subsection (a) of this section if he has been notified personally, either orally or in writing, including a valid court order as defined by subsection (7) of section 112A-3 of the Code of Criminal Procedure of 1963 (725 ILCS 5/112A-3) granting remedy (2) of subsection (b) of section 112A-14 of that Code (725 ILCS 5/112A-14), or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.
- (d) This section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.
- (e) A person shall be exempt from prosecution under this section if he beautifies unoccupied and abandoned residential and industrial properties located within the city. For the purpose of this subsection, the term "unoccupied and abandoned residential and industrial property" means any real estate in which the taxes have not been paid for a period of at least two years, and which has been left unoccupied and abandoned for a period of at least one year. The word "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.
- (f) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property which that person beautifies pursuant to subsection (e) of this section.

(Ord. No. 77-17, § 2.010, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/21-3.

Sec. 58-129. - Trespassing on grass, lawn or flowers.

It shall be unlawful for any person to willfully, negligently or heedlessly walk upon or across, or ride, or drive any animal or vehicle upon or across any lawn, grass plot or flower bed in or upon any of the streets, avenues, parks or public places of the city; or who shall walk upon or across any private lawn, grass plot or flower bed without the consent of the owner or occupant.

(Ord. No. 77-17, § 2.030, 10-25-77)

Sec. 58-130. - Interference with public utility services.

- (a) A person commits the offense of unlawful interference with public utility services when he knowingly, without the consent of the owner of the services, impairs or interrupts any public water, gas or power supply, telecommunications service, or other public services, or diverts, or causes to be diverted, in whole or in part, any public water, gas, or power supply, telecommunications service or other public services, or installs or removes any device for the purpose of such diversion.
- (b) The terms "public water, gas, or power supply, or other public service" mean any service subject to regulation by the state commerce commission; any service furnished by a public utility that is owned and operated by any political subdivision, public institution of higher education or municipal corporation of this state; any service furnished by any public utility that is owned by such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents; and any service furnished by an electric cooperative as defined in section 3.4 of the Electric Supplier Act (220 ILCS 30/3.4).
- (c) Any instrument, apparatus, or device used in obtaining utility services without paying the full charge therefor or any meter that has been altered, tampered with, or bypassed so as to cause a lack of measurement or inaccurate measurement of utility services on premises controlled by the customer or by the person using or receiving the direct benefit of utility service at that location, shall raise a rebuttable presumption of the commission of the offense described in subsection (a) of this section by such person.
- (d) A person convicted of unlawful interference, upon the first conviction with public utility services, is guilty of an offense, unless the offense was committed for remuneration.
- (e) No person shall make, attempt to make, or cause to be made any connection between any water, gas or electric meter and any water or gas main, or any cable or wire supplying electric current, at any place within the city without a permit therefor.

(Ord. No. 77-17, § 2.025, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/16-14.

Secs. 58-131—58-155. - Reserved.

ARTICLE VI. - OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Sec. 58-156. - Disorderly conduct.

- (a) A person commits disorderly conduct when he knowingly:
 - (1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
 - (2) Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed;
 - (3) Enters upon the property of another and, for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;
 - (4) While acting as a collection agency as defined in the Collection Agency Act (225 ILCS 425/1 et seq.) or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor;
 - (5) Transmits a false report to the department of children and family services under section 4 of the Abused and Neglected Child Reporting Act (325 ILCS 5/4);

- (6) Transmits a false report to the department of public health under the Nursing Home Care Act (210 ILCS 45/1-101 et seq.);
 - (7) Transmits in any manner to the police department division or fire department division or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or
 - (8) Transmits a false report under article II of an act in relation to victims of violence and abuse (320 ILCS 15/1 et seq.), approved September 16, 1984, as amended.
- (b) A violation of subsections (a)(1)—(a)(4) and (a)(6)—(a)(8) of this section is an offense. A first violation of subsection (a)(5) of this section is an offense.

(Ord. No. 77-17, § 3.005, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 5/26-1.

Sec. 58-157. - Throwing stones or other missiles.

It shall be unlawful for any person to heedlessly cast or throw any stone, clod, snowball or other missile from or into any public place, or at any house or person, or at any vehicle whether it is motorized or not within the city limits.

(Ord. No. 77-17, § 1.015, 10-25-77)

Sec. 58-158. - Getting on train in motion.

It shall be unlawful for any person to play upon or about any railroad track, depot, locomotive or car within the city, or climb upon or jump from any car or train of cars or from one car to another, while the same may be in motion.

(Ord. No. 77-17, § 1.050, 10-25-77)

Sec. 58-159. - Abandoning refrigerators, iceboxes or ice chests.

- (a) It shall be unlawful for any person to abandon, discard or leave standing in any place accessible to children any refrigerator, icebox or ice chest of a capacity of 1½ cubic feet or more, which has an attached lid or door, which may be opened or fastened shut by means of an attached latch.
- (b) It shall be unlawful for any person who owns, leases, manages or controls any lot, piece or parcel of real estate in the city to store, or knowingly permit the storing thereon or therein, of any abandoned or discarded refrigerator, icebox or ice chest as described in subsection (a) of this section.

(Ord. No. 77-17, § 1.055, 10-25-77)

State Law reference— Similar provisions, 720 ILCS 505/1.

Sec. 58-160. - Loitering.

- (a) It shall be unlawful for any person to loiter in a public place in such manner as to obstruct the free passage of pedestrians or vehicles.

- (b) Whenever the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in subsection (a) of this section, any police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

(Ord. No. 77-17, § 3.010, 10-25-77)

Sec. 58-161. - Aiding in breach of the peace.

It shall be unlawful for any person to make, aid, countenance or assist in making any improper noise, riot, breach of the peace or diversion tending to a breach of the peace, and it shall be unlawful for all persons to collect in bodies or crowds for unlawful purposes, or for any purpose to the annoyance or disturbance of citizens or travelers.

(Ord. No. 77-17, § 3.015, 10-25-77)

Sec. 58-162. - Permitting unlawful assemblage on premises.

It shall be unlawful for any person to willfully allow or permit any assemblage for the purpose of committing any unlawful act or breach of the peace, or any riotous, offensive or disorderly conduct, in or upon premises owned or occupied by him, or under his control.

(Ord. No. 77-17, § 3.020, 10-25-77)

Sec. 58-163. - Disturbing funeral processions.

It shall be unlawful for any person to interrupt or disquiet or disturb any funeral assemblage or break into or drive any conveyance through any funeral procession.

(Ord. No. 77-17, § 3.025, 10-25-77)

Sec. 58-164. - Sleeping in public place.

It shall be unlawful for any person to sleep in or upon any street, avenue, alley or other public place in the city, or in or upon any private lot or premises, without the consent of the owner or occupant of such lot or premises.

(Ord. No. 77-17, § 3.030, 10-25-77)

Sec. 58-165. - Laser sights.

- (a) *Use of laser sights prohibited.* No person shall operate a laser sight within the city, except upon premises used by a duly licensed shooting gallery, gun club, or rifle club.
- (b) *Definition.* For purposes of this section, a "laser sight" is any laser device manufactured for use as an aid for aiming firearms, bows, air guns, or any other device which discharges projectiles whether by air, spring, explosive substance, or any other force, that emits an intense beam of light, including but not limited to class 1, class 2, class 2a, class 3a, class 3b, and class 4 lasers as defined by the Code of Federal Regulations (21 CFR 1040.10, 21 CFR 1040.11).

(Ord. No. 99-8, § 1, 3-23-99)

Editor's note— Section 9 of Ord. No. 97-34, adopted November 11, 1997, repealed the former § 58-165 in its entirety. Formerly, § 58-165 pertained to possession of cannabis and other controlled substances and derived from Ord. No. 77-17, § 4.040, adopted Oct. 25, 1977.

Sec. 58-165.1. - Reserved.

Editor's note— Section 7 of Ord. No. 97-34, adopted November 11, 1997, renumbered § 58-165.1 as § 58-255.

Sec. 58-166. - Reserved.

Editor's note— Ord. No. 19-10, § 1, adopted August 27, 2019, repealed § 58-166, which pertained to soliciting alms and derived from Ord. No. 575, October 14, 1955.

Sec. 58-167. - Disturbing the peace.

It shall not be lawful for any person or persons within the city to disturb the peace of any street, alley, neighborhood, family or persons by loud or unusual noises; or blowing of trumpets, horns, or other instruments or by beating any noise-making instrument; or by loud or boisterous laughing, bellowing, whooping, screaming, cursing, challenging to fight, uttering obscene language or conversation; or by creating false alarms; nor shall any person or persons disturb the peace as aforesaid by any other means of device whatever.

(Ord. No. 97-33, § 1, 11-11-97)

Sec. 58-168. - Unlawful use of intoxicating compounds.

No person shall breathe, inhale, or drink any compound, liquid or chemical containing toluol, hexane, trichlorethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, methyl cellulose acetate, cyclohexanone, or any other substance for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, or irrational behavior, or in any manner changing, distorting, or disturbing the auditory, visual or mental processes. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

(Ord. No. 97-33, § 2, 11-11-97)

Sec. 58-169. - Open burning.

- (a) Except as provided below, no person, persons or corporation shall cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designated for the purpose and approved by the Illinois Environmental Protection. Open burning shall be defined as the combustion of any matter in the open or in any open dump as stated in Section 3.300 of the Environmental Protection Act (415 ILCS 5/3.300).
- (b) A person may cause open burning of agricultural or landscape waste, but only:
 - (1) On the premises on which such waste is generated;
 - (2) In areas other than those zoned for residential, business or light industrial use in the city;
 - (3) Between the hours of 7:00 a.m. and 7:00 p.m.;
 - (4) When atmospheric conditions will readily dissipate contaminants;

- (5) If such burning does not create a visibility hazard on roadways, railroad tracks or air fields;
 - (6) When more than 305 meters (1,000 feet) from residential or other populated areas;
 - (7) No flammable liquids are used; and
 - (8) When it can be affirmatively demonstrated that no economically reasonable alternative method of disposal is available.
- (c) The fire department, chief of police, or other authorized persons may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.
- (d) Any person who is guilty of a violation of the provisions of this section shall be fined a minimum of \$100.00, up to a maximum of \$500.00.

(Ord. No. 03-13, §§ 1—4, 8-12-03; Ord. No. 19-09, § 1, 8-27-19)

Editor's note— Ordinance No. 03-13, §§ 1—4, adopted Aug. 12, 2003, did not specifically amend the Code; hence, codification of said ordinance as § 58-169 was at the editor's discretion.

Cross reference— Fire prevention and protection, ch. 38.

Sec. 58-170. - Prohibition of possession or discharge of fireworks.

- (a) For the purpose of this section, the following definition shall apply: *Fireworks* are any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration, or detonation, and shall include blank cartridges, toy cannons, in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, bombs, or other fireworks of like construction and any fireworks containing any explosive compound, or any tablets or other device containing any explosive substances, or containing combustible substances producing visual effects: provided, however, that the term fireworks shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads" and "auto burglar alarms"; sparklers; toy pistols; toy canes; toy guns; or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps which contain less than 0.20 grains of explosive mixture; the sale and use of which shall be permitted at all times.
- (b) Except as hereinafter provided, it shall be unlawful for any person, firm, co-partnership, or corporation to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the mayor or his designee and the city council shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks.

(Ord. No. 05-03, § 1, 3-8-05)

Sec. 58-171. - Public alcohol consumption and intoxication.

No person shall use or have in his possession on any street, sidewalk, park or other public place, or in any motor vehicle within the city containers of alcoholic beverages, except in the original package with the seal unbroken, except where doing so at a location that has been issued the appropriate permit or license by the city. It shall also be unlawful for any person to be under the influence of alcoholic beverages in a public place within the city. A violation of this section shall be subject to the punishment as provided in chapter 1, section 1-9, of the City Code.

(Ord. No. 05-02, § 1, 3-8-05)

Sec. 58-172. - Compression release engine braking and other like braking methods.

Compression release engine braking and other like braking methods are prohibited.

A person shall not operate or cause to be operated at or upon any public highway or roadway within the City of Braidwood any compression engine brake, jake-brake, air brake, or other like braking methods on any vehicle for any reason. For purposes of this section, a compression release engine brake is defined as any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air which results in additional, excessive, loud or explosive noise from such vehicle. Emergency vehicles shall be exempt from this provision.

Any person found to be in violation of this section shall be subject to a fine of not less than \$75.00 for a first offense and not to exceed \$750.00. Any person found to be in violation of this section for a second time within a one year period shall be subject to a minimum fine of \$150.00 and a maximum fine of \$750.00.

(Ord. No. 05-01, § 1, 1-25-05)

Editor's note— Ord. No. 05-01, § 1, adopted Jan. 25, 2005, added provisions that did not specifically amend the Code. At the editor's discretion, said provisions have been included herein as § 58-172.

Sec. 58-173. - Noise regulation.

- (a) This article is enacted to protect, preserve and promote the health, safety, welfare and quality of life, peace and quiet to the citizens of the city through the reduction, control and prevention of unreasonably loud and raucous sounds, vibrations or any noise that unreasonably disturbs, injures or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity. Nothing in this article shall be construed as preventing a lawful exercise of right of free speech protected by the constitution of the United States or the State of Illinois.
- (b) The decibels generated from a use shall not exceed the exterior noise limitations as set forth in Table 1 of this article as measured at the property line of the parcel from which the complainant resides.

| Land Use | 7:00 a.m. to 7:00 p.m. | 7:00 p.m. to 7:00 a.m. |
|---------------------------|------------------------|------------------------|
| All residential districts | 55 dBA | 50 dBA |
| All business districts | 62 dBA | 55 dBA |

- (c) Noise shall be measured at the property line from which the complainant resides. Sound pressure level shall be measured with a sound level meter at an octave band analyzer that conforms to ANSI specifications and/or standards. Preferred frequencies for acoustical measurements shall be used.
- (d) The following uses and/or situations shall be exempt from the application of this article.
 - (1) Any noise generated at a location that has a license from the city for such use.

- (2) Noise related to the operation of valves, warning devices, aircraft, railroads, emergency generators, snow plowing, mosquito abatement and emergency equipment.
 - (3) Daytime building or construction operations between the hours of 7:00 a.m. and 7:00 p.m. customarily resulting from the construction and maintenance of grounds or improvements.
 - (4) The authorized use of recreational facilities within the property of schools and public parks between the hours of 7:00 a.m. and 10:00 p.m.
 - (5) Substations for public utilities.
- (e) The property owner of a business or residence can apply for a license to allow for a waiver of the restrictions of this article.

- (1) *Non-residential* - Any property located in a business district under the city's zoning ordinance may apply for a license on a daily, weekly or monthly basis. Multiple months may be applied for but no more than six continuous months.

Restaurants, bars, taverns that shall be allowed to operate outdoor dining facilities, or allow live music or other live entertainment on a location for which a license has been obtained. However, no such operation shall be conducted on the property without having received a license.

A license shall not be available to any business in a business district that is located within 200 feet of an area zoned as residential and which is used for residential purposes.

Any amplification of sound requested under a license shall occur only on dates and times when the business is open for operation and shall not occur after 10:00 p.m. Sunday through Thursday, after 12:00 a.m. on Friday and Saturday or before the hour of 9:00 a.m. on any day.

Such amplification shall not be audible more than 100 feet beyond the property line of the business.

- (2) *Residential* - A residential license may be issued for the use, operation or employment of an amplification device at any location of which there are no other residences on the licensee's property and there are no residences within 200 feet measured from the nearest property line of any other residential property. Such license shall permit the use of any such device until the hour of 10:00 p.m. and after the hour of 10:00 a.m. on any day. Residential licenses shall be issued for daily use only.

- (f) The following applies to all licenses issued under this article:

The cost of a license shall be \$10.00 for one day, \$50.00 for a week and \$200.00 for a month. The city council may waive the application fee at its discretion.

No license as described herein shall be granted within a radius of 1,000 feet of any hospital or house of worship while services are being held therein.

No license will cause or permit to be emanated or emitted from such device any lewd, obscene, profane or indecent language or sound or any false representations of any matter, product or project advertised thereby, the sale of which is prohibited by any law, ordinance or statute.

- (g) *Penalties.* Any person violating any provisions of this article shall be issued a warning notice for a first offense. Any person violating any provision of this article shall be fined \$100.00 for a second offense. Any person violating any provision of this section shall be fined \$500.00 on a third or subsequent violation. Each occurrence on each day during or on which a violation occurs or continues shall be deemed a separate offense. Multiple violations can occur on a single day. Licensee shall immediately cease the violation of this article upon receipt of either a WARNING notice or ordinance violation ticket.

Any license holder violating any provision of this article shall also be subject to immediate revocation of license without prior notice. No person or organization named on a revoked license as an applicant or user shall be eligible to apply for license for a period of 90 days after a revocation of the previous license.

The holder of a revoked license shall have the right to appeal the revocation to the city council. If a license is revoked, the applicant shall receive no refund of the license fee.

(Ord. No. 2016-01, § 1, 4-12-16)

Sec. 58-174. - Prohibition against smoking in public.

The Smoke Free Illinois Act, 410 ILCS 8211, et seq. is hereby adopted and is amended with the following changes:

Section 10. Definitions. In this Act:

"Smoke" or "Smoking" means that carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment. "Smoke" or "Smoking" does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that is in accordance with the Federal American Indian Religious Freedom Act, 42 USC 1996(a). "Smoke" or "Smoking" does include the use of an electronic smoking devices which shall mean any electronic product that can be used to aerosolize, vaporize and deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe and any cartridge or other component of the device or related product.

(Ord. No. 17-17, § 1, 12-12-17)

Editor's note— Ord. No. 17-17, § 1, adopted 12-12-2017, set out provisions intended for use as 58-173. For purposes of clarity and to preserve the style of this Code, and at the editor's discretion, these provisions have been included as 58-174.

Secs. 58-175—58-190. - Reserved.

ARTICLE VII. - MINORS

DIVISION 1. - GENERALLY

Sec. 58-191. - Tobacco products.

- (a) *Definitions.* For purposes of this section, a minor is a person less than 18 years of age. Further, the term "tobacco product" includes any item, product, or substance containing tobacco leaf, including, but limited to, cigarettes, cigars, snuff, pipe tobacco, chewing tobacco, or dipping tobacco.
- (b) *Sale and distribution.* No person, firm, entity, corporation, or other business association existing under the laws of the state shall sell, offer to sell, give away, or deliver any tobacco product to any minor. The parent or legal guardian of a minor is exempt from the terms of this subsection.
- (c) *Possession.* It shall be unlawful for any minor to possess any tobacco product; provided, however, that this subsection shall not apply to a minor who, at the time of possession, is under the direct and immediate supervision of his/her parent or guardian and is in the home or residence of the parent or guardian.
- (d) *Penalty.* Any person who shall violate the provisions of this section shall be fined not less than \$100.00 nor more than \$750.00 for each violation hereof.

(Ord. No. 96-30, §§ 1—4, 8-20-96)

Editor's note— Ordinance No. 96-30, adopted August 20, 1996, did not specifically amend the Code; hence, codification of §§ 1—4 of said ordinance as § 58-191 was at the discretion of the editor.

Sec. 58-192. - Contributing to delinquency of minors.

Any person who knowingly or wilfully causes, aids or encourages any boy or girl to be or to become a delinquent child or who knowingly or wilfully does acts which directly tend to render any such child so delinquent is guilty of the crime of contributing to the delinquency of children.

(Ord. No. 97-33, § 4, 11-11-97)

Sec. 58-193. - Tattoo parlors.

- (a) It shall be unlawful for a person of less than 21 years of age to enter or be present upon an establishment which offers tattoos or performs tattoos other than an establishment of a person licensed to practice medicine in all its branches.
- (b) As used in this section, "tattoo" means to inject pigment under the surface of the skin of a human being by pricking with a needle or otherwise so as to produce an indelible mark or figure visible through the skin.

(Ord. No. 98-14, § 1, 4-28-98)

Sec. 58-194. - Laser pointers.

- (a) *Possession by minors prohibited.* It shall be unlawful for any person under the age of 18 to possess a laser pointer except under the direct supervision of a parent or guardian.
- (b) *Transfer or sale to minors.* It shall be unlawful for any person, firm, business or corporation to sell a laser pointer to any person under the age of 18.
- (c) *Definition.* For purposes of this section, a "laser pointer" is any hand held device which contains a laser that emits an intense beam of light, including but not limited to, class 1, class 2, class 2a, class 3a, class 3b, and class 4 lasers as defined by the Code of Federal Regulations (21 CFR 1040.10, 21 CFR 1040.11).

(Ord. No. 99-7, § 1, 3-23-99)

Sec. 58-195. - Alcohol consumption by minors.

It shall be unlawful for any individual under the legal drinking age to possess, use or consume any alcoholic beverage within the limits of the city. Any violation of this section shall be punishable subject to chapter 1, section 1-9, of the Braidwood City Code.

(Ord. No. 05-04, § 1, 3-8-05)

Secs. 58-196—58-205. - Reserved.

DIVISION 2. - CURFEW

Sec. 58-206. - Established.

- (a) It is unlawful for a person of less than 17 years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than 17 years of age to perform:
 - (1) Between 12:01 a.m. and 6:00 a.m., Saturday;
 - (2) Between 12:01 a.m. and 6:00 a.m., Sunday; and
 - (3) Between 10:30 p.m., Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.
- (b) It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate subsection (a) of this section.

(Ord. No. 84-1, § 1, 1-3-84)

Secs. 58-207—58-220. - Reserved.

ARTICLE VIII. - WEAPONS

Sec. 58-221. - Carrying and discharge of firearms.

- (a) It shall be unlawful for any person to fire, discharge, set off or use within the corporate limits of the city any airgun, firearm, bean shooter, slingshot or any other instrument or machine from which a missile is discharged or hurled, except at or upon duly licensed ranges.
- (b) It shall be and is hereby declared to be unlawful for any person to have or carry upon his person or within any vehicle upon the streets and highways, thoroughfares and within the territory of the corporate limits of the city, any shotgun or rifle unless such shotgun or rifle, so being carried or transported, shall be unloaded; unless the same shall be disassembled or otherwise taken apart, so as to render it incapable of being fired; or unless the same shall be enclosed in a case. The provisions of this section shall not apply, however, to the following officers while engaged in the discharge of their official duties: sheriffs, police officers, or other duly constituted peace officers, nor to persons lawfully summoned by an officer to assist in making arrests or preserving the peace and while so engaged in assisting such officer.

(Ord. No. 77-17, § 1.025, 10-25-77)

Sec. 58-222. - Unlawful use.

- (a) *Prohibited acts.* A person commits the offense of unlawful use of weapons when he knowingly:
 - (1) Sells, manufactures, purchases, possesses or carries any bludgeon, blackjack, slingshot, sand-club, sandbag, metal knuckles, throwing star, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas.
 - (2) Carries or possesses with intent to use such unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, stun gun or taser or any other dangerous or deadly weapon or instrument of like character.
 - (3) Carries on or about his person or in any vehicle a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a nonlethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older.

- (4) For the first time, carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode or fixed place of business any pistol, revolver, stun gun or taser or other firearm.
 - (5) Sets a spring gun.
 - (6) Carries or possesses any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted.
 - (7) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode or fixed place of business, any pistol, revolver, stun gun or taser or other firearm. The term "stun gun or taser," as used in this subsection (a) of this section means:
 - a. Any device which is powered by electrical charging units, such as batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning; or
 - b. Any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning.
 - (8) Sells, manufactures or purchases any explosive bullet. For purposes of this subsection (a), the term "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. The term "cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap.
- (b) *Forfeiture of concealed weapon.* Any weapon duly adjudged by any magistrate to have been worn or carried by any person, in violation of subsection (a)(4) of this section, shall be forfeited and confiscated to the city.
- (c) *Violations.* A person convicted of a violation of this section commits an offense, except where violations of subsection (a)(1), (a)(3), (a)(4) or (a)(7) of this section constitute felonies under 720 ILCS 5/24-1(c)(2).
- (d) *Exemptions.* Crossbows, common or compound bows and underwater spearguns are exempted from the definition of ballistic knife as defined in subsection (a)(1) of this section.

(Ord. No. 77-17, §§ 1.030, 3.040, 10-25-77)

Sec. 58-223. - Selling deadly weapons to minors.

It shall be unlawful for any person to sell, give, loan, hire, barter, furnish or offer to sell, give, loan, hire, barter or furnish to any minor within the city any gun, pistol, revolver, fowling-piece, or other firearm in which any explosive substance can be used, or any Bowie knife, dirk, dagger, or other deadly weapon of a like character.

(Ord. No. 77-17, § 3.045, 10-25-77)

Secs. 58-224—58-249. - Reserved.

ARTICLE IX. - DRUG OFFENSES

Sec. 58-250. - Definitions.

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Cannabis mean marihuana, hashish and other substances that are identified as including any parts of the plant *Cannabis Sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products.

Cannabis concentrate means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO₂, ethanol, or isopropanol and with the intended user of smoking or making a cannabis-infused product. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

Cannabis container means a sealed, traceable, container, or package used for the purpose of containment of cannabis or cannabis-infused product during transportation.

Cannabis flower means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis; including raw kief, lives, and buds, but not resin that has been extracted from any part of such plant; nor any compound manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin.

Cannabis paraphernalia means equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

Casual delivery means the delivery of not more than ten grams of any substance containing cannabis, without consideration.

Controlled substance shall have the meaning ascribed to it in section 102 of the Illinois Controlled Substances Act (720 ILCS 570/102), as if it were fully set forth herein.

Deliver or *delivery* means the actual, constructive or attempted transfer of possession of cannabis, with or without consideration, whether or not there is an agency relationship.

Drug paraphernalia shall have the meaning ascribed to it in section 2(d) of the Drug Paraphernalia Control Act (720 ILCS 600/2), as if it were fully set forth herein.

Manufacture means the production, preparation, propagation, compounding, conversion or processing of cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the packaging or repackaging of cannabis or labeling of its container, except that this term does not include the preparations compounding, packaging or labeling of cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.

Person means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

Produce or production means planting, cultivating, tending or harvesting.

(Ord. No. 97-34, § 2, 11-11-97; Ord. No. 20-02, §, 01-14-2020)

Sec. 58-251. - Cannabis—Possession; fines for violation.

- (a) *Possession of cannabis prohibited.* It is unlawful for any person knowingly to possess more than 30 grams of cannabis flower, more than 500 milligrams of THC contained in cannabis-infused product, or more than 5 grams of cannabis concentrate. It is unlawful for any person who is 21 years of age or older and who is not a resident of this State to possess more than 15 grams of cannabis flower, more than 2.5 grams of cannabis concentrate, or more than 250 milligrams of THC contained in a cannabis-infused product. Any person in violation of this Section shall be fined not less than \$250.
- (b) *Possession of cannabis under 21.* No person under the age of twenty-one (21) years old shall possess cannabis, its concentrate, or derivative in any form. Any person in violation of this Section shall be fined not less than \$150 for possessing up to 30 grams of cannabis and not less than \$500 for possessing up to 100 grams of cannabis.
- (c) *Possession in Specific Locations prohibited.* No person shall possess cannabis its concentrate, or derivative in any form, in the following any of the following places:
 - (1) school bus;
 - (2) on the grounds of any preschool or primary or secondary school;
 - (3) in private residences which are used at any time to provide licensed child care or other similar social service care.

Any person in violation of this Section shall be fined not less than \$250.

- (d) *Consumption of cannabis under 21 prohibited.* No person under the age of twenty-one (21) years old shall consume cannabis, its concentrate, or derivative in any form. Any person in violation of this Section shall be fined not less than \$150.
- (e) *Consumption Prohibited in Specific Locations.* No person shall use or otherwise consume cannabis in any form in any of the following places:
 - (1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
 - (2) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
 - (3) in any correctional facility;
 - (4) in any motor vehicle;
 - (5) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
 - (6) in any public place; or
 - (7) knowingly in close physical proximity to anyone under twenty-one (21) years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act.

Any person in violation of this Section shall be fined not less than \$500.

(Ord. No. 97-34, § 3, 11-11-97; Ord. No. 20-02, §, 01-14-2020)

Sec. 58-252. – Cannabis---Sale, Transfer, and Retailers; fines for violation.

- (a) *Sale of Cannabis Prohibited.* No person, corporation, or entity of any kind shall sell, distribute, or transfer cannabis to any person under the age of twenty-one (21). Any person in violation of this Section shall be fined not less than \$500, and, when applicable, shall constitute grounds for revocation and/or suspension of any and all City licenses issued to the persons/premises where the violations occur. The revocation suspension shall be governed by Chapter 26 of this Code.
- (b) *Transfer of Cannabis Prohibited.* It shall be unlawful for any person, corporation, or entity to transfer, sell, or offer for sale cannabis, its concentrate, or derivative in any form without an Illinois Cannabis Retailers certificate of registration or otherwise contrary to the Illinois Cannabis Regulation and Tax Act or Medical Cannabis Pilot Program Act. Any person in violation of this Section shall be fined not less than \$500, and, when applicable, shall constitute grounds for revocation and/or suspension of any and all City licenses issued to the persons/premises where the violations occur. The revocation suspension shall be governed by Chapter 26 of this Code.
- (c) Any person who knowingly acts as a retailer of cannabis, its concentrate, or derivative in any form in this municipality without first having obtained a certificate of registration to do so in compliance with Section 65-20 of the Cannabis Regulation and Tax Act (410 ILCS 705/65-38) shall be guilty of a Class 4 Felony. In addition to any criminal penalties, when applicable, a violation of this Section shall constitute grounds for revocation and/or suspension of any and all City licenses issued to the persons/premises where the violations occur. The revocation or suspension shall be governed by Chapter 26 of this Code.

(Ord. No. 97-34, § 4, 11-11-97; Ord. No. 20-02, §, 01-14-2020)

Sec. 58-253. - Same—Casual delivery considered possession.

Any delivery of cannabis which is a casual delivery shall be treated in all respects as possession of cannabis for purposes of penalties.

(Ord. No. 97-34, § 5, 11-11-97)

Sec. 58-254. – Cannabis—Cultivations; fines for violation

(a) *Cultivation Prohibited.* Cultivation of any form of cannabis is prohibited except as when such cultivation is in compliance with Section 10-5(b) of the Cannabis Regulation and Tax Act (410 ILCS 705-10-5). Any person in violation of this Section shall be fined not less than \$200

(b) *Possession in Violation of 720 ILCS 550-8.* No person shall possess more than five (5) of the Cannabis plants. Any person in violation of this Section shall be fined not less than \$200.

(Ord. No. 97-34, § 6, 11-11-97)

Sec. 58-255. - Possession of drug paraphernalia.

- (a) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in the ingesting, inhaling, or otherwise introducing of cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a violation of this section for which the court shall impose a minimum fine of \$500.00 and enter a judgement of conviction.

- (b) In determining intent under this subsection, the trier of fact may consider the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of the same upon the drug paraphernalia.
- (c) This subsection shall not apply to:
 - (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
 - (2) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, harvest, manufacture, processing, testing, packaging, storing, containment, concealing, injection, ingesting, or inhaling of tobacco or any other lawful substance, including, but [not] limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, rolling papers, cigars, and the like.
 - (3) Items marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited under this section.
- (d) No person under the age of twenty-one (21) years old shall possess cannabis paraphernalia or dug paraphernalia. Any person in violation of Section (d) shall be fined not less than \$250.

(Ord. No. 96-32, §§ 1—3, 10-8-96; Ord. No. 97-34, § 7, 11-11-97; Ord. No. 20-02, §, 01-14-2020)

Sec. 58-256- Exempt Persons.

All persons who may, under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, lawfully sell, offer for sale, deliver, dispense, distribute, and possess cannabis, are exempt from this Article.

(Ord. No. 20-02, §, 01-14-2020)

Sec. 58-257

Administrative Citations Issued Pursuant to this Article.

(a) When applicable, an officer may elect to issue an administrative citation or complaint where no court appearance shall be required upon payment of a fine prior to a specified payment due date.

(b) Any person issued an administrative citation or complaint under this Article shall not be fined any more than the minimum fine as stated above.

(c) Failure to pay the administrative citation or complain shall result in the issuance of an ordinacne violation and subject to higher fines and mandatory court costs and assessments.

(Ord. No. 20-02, §, 01-14-2020)

Chapter 60 - PARADES AND PUBLIC ASSEMBLIES

ARTICLE I. - IN GENERAL

Sec. 60-1. - Title of chapter.

This chapter shall be known as the "Parade and Public Assemblies Ordinance of the City of Braidwood."

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-2. - Definitions.

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

Commissioner means the City of Braidwood Commissioner of Public Safety.

Parade means any march, ceremony, show, exhibition, pageant, or procession of any kind, or similar display, in or upon any street or other public property in the city.

Public assembly means any congregation or gathering of persons held outdoors and upon any public property for the purpose of hearing or observing individuals or demonstrating views on a topic, either verbally or nonverbally.

Public property means any street, alley, sidewalk, parkway or parking lot owned, controlled or managed by the city.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-3. - Authority to waive requirements.

The mayor and the city council, may, with the consent of all members of the city council present at any meeting thereof, waive any provision of this chapter.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-4. - Public conduct; parking restrictions.

- (a) *Interference with parade or assembly.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade, public assembly, or similar activity, or with any person, vehicle or animal participating or used in such activity.
- (b) *Driving through parade or assembly.* No driver of any vehicle shall drive between the vehicles or persons composing a parade, public assembly, or similar activity when such vehicles or persons are in motion and are conspicuously designated as a parade, public assembly, or similar activity. Fire and police vehicles and ambulances may interrupt a parade, public assembly, or similar activity in an emergency situation.
- (c) *Parking on route.* The commissioner or mayor and city council shall have the authority to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade, public assembly, or similar activity. The commissioner or mayor and city council shall order the posting of signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Ord. No. 03-12, § 1, 7-22-03)

Secs. 60-5—60-10. - Reserved.

ARTICLE II. - PERMIT

Sec. 60-11. - Required; limitation on number of permits.

No parade, public assembly, or similar activity where the number of participants or spectators is expected or may reasonably be expected to exceed 50 or more persons and/or vehicles is permitted on any street or area of the city unless a permit allowing such activity has been obtained from the commissioner, or upon referral to the mayor and city council. This chapter shall not apply to funeral processions, students going to and from school classes or participating in educational activities under the immediate direction and supervision of school authorities, or a governmental agency acting within the scope of its functions, nor shall a permit be required for normal or scheduled activities of the city. Only one permit shall be issued during any 12-month period to the same applicant, or an affiliate organization of the applicant.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-12. - Application.

- (a) Any person, partnership, voluntary association, corporation or other organization seeking to obtain a parade or public assembly permit shall file an application with the commissioner or designee not more than 90 days and not less than 21 days before the date for which the parade, public assembly, or similar activity is proposed. Applications for permits shall be made to the commissioner or designee on forms prescribed and furnished by the commissioner or designee. The commissioner or designee may request additional information from the applicant. An application will not be considered filed until all required information is submitted as set forth in this chapter, including the parade and public assembly application. The commissioner is authorized to establish rules, regulations and procedures for the processing of parade and public assembly permit applications.
- (b) In order for any application to be reviewed by the commissioner, it must contain any and all information and requested materials listed in section 60-13.
- (c) The application shall be signed by the applicant under oath.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-13. - Contents of application.

Any application for a parade or public assembly permit filed with the commissioner shall contain the following information:

- (1) The name, address and phone number of the person signing the application;
- (2) If the parade, public assembly, or similar activity is proposed to be conducted for, on behalf of, or by an organization, the application shall contain the name, address and phone number of the authorized and responsible leaders of the organization conducting the parade or public assembly, and the name, address and telephone number of the headquarters of the organization and the names, addresses and telephone numbers of any state, regional, and national organizations with which the applicant organization is affiliated;
- (3) The date of the proposed parade or public assembly and the hours that it will commence and terminate;
- (4) The location of the assembly area and the time when the participants will begin to assemble;
- (5) The route to be traveled, including the starting and termination points;

- (6) A description of the type of parade or public assembly, including a description of activities planned during the event;
- (7) The approximate number of persons, animals and vehicles to participate in the parade, public assembly, or similar activity;
- (8) The approximate number of spectators;
- (9) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly;
- (10) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets proposed to be traversed;
- (11) The interval of space to be maintained between units of such parade, public assembly, or similar activity;
- (12) If the parade, public assembly, or similar activity is designed to be held by and on behalf of or for any person, partnership, voluntary association, corporation, or other organization other than the applicant, the applicant for such permit shall file with the city a communication in writing from such person or from an authorized and responsible leader of such organization authorizing the applicant to apply for the permit on behalf of such person or organization; and
- (13) Any additional information which the commissioner or mayor and city council shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-14. - Standards for issuance.

- (a) *Generally.* The commissioner or mayor and city council shall issue a permit as provided for under this chapter when, from a review of the application and other information as may otherwise be obtained, it is found that:
 - (1) The conduct of the parade or public assembly will not substantially interfere with the safe and orderly movement of traffic in the area contiguous to the route;
 - (2) The activity will not present an unreasonable danger to the health or safety of the applicant, city employees, or members of the public, which is to be determined upon the basis of past events that have occurred within the city limits;
 - (3) There are available at the time of the parade, public assembly, or similar activity, a sufficient number of peace officers to police and protect lawful participants in the activity and maintain adequate police protection in the rest of the city;
 - (4) The concentration of persons, animals and vehicles at the assembly points of the parade, public assembly, or similar activity, will not unduly interfere with the proper fire and police protection of, or ambulance services to, areas contiguous to such assembly areas;
 - (5) The activity will not interfere with scheduled city functions or the normal pursuit of activities of the residents of the city;
 - (6) The conduct of such parade, public assembly, or similar activity will not be interfered with the movement of emergency equipment en route to an emergency;
 - (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and
 - (8) The parade, public assembly, or similar activity, is not being conducted for an unlawful purpose or for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

- (b) *Insurance.* Before the issuance of a permit, the commissioner shall require the organization to furnish evidence of insurance naming the city as an additional insured in such form as may be determined by the commissioner or designee to provide for the payment of any claims for personal injuries (including death and any injuries to city employees, agents, or contractors), property damage or other suits arising out of or connected with such public assemblies or parades. Such insurance shall be for the following minimum coverages: bodily injury including death: \$300,000.00 occurrence/aggregate; property damage: \$50,000.00 occurrence/aggregate. Insurance required by this section shall be written by an admitted carrier licensed to do business in the state and having at least a "B+" First Division of Ratings and a "VI" Second Division of Ratings, as listed in the "Best Insurance Guide," latest edition. If an organization's most reasonable efforts are unsuccessful, the required insurance can be waived by the commissioner subject to the conditions stated in this section. In such a situation, the organization must provide written proof of its inability to obtain insurance. If prior events of the applicant in the city have resulted in damage or injury for which the applicant did not have insurance or did not compensate the damaged or injured parties, the commissioner shall require either (i) the insurance policy as stated in this section, or (ii) a cash security deposit in the amount based upon damage incurred in any prior event of the applicant in the city, as determined by the commissioner. Any funds not expended shall be returned to the applicant within 30 days after the determination of the damage or injury.
- (c) *Hold harmless agreement.* A hold harmless agreement shall be signed with the city, holding the city harmless from any and all claims that may arise from the use of designated public property, right-of-way, or equipment, or any injury to a city employee, agent, or contractor in conjunction with the permitted use.
- (d) *Agreement for payment of costs.* Prior to the issuance of any permit, all parade or public assembly applicants must pay for the estimated cost of cleanup and restoration of the area of the event and traffic control costs of any police department, fire department, or other city personnel utilized in conjunction with the function at a reasonable rate to be determined by the commissioner or designee. Such estimated costs shall be specifically set out in writing to the applicant prior to the issuance of the permit, showing the basis of the estimated costs. These estimated costs shall not include any use of city personnel to protect the public safety in any emergency situation in conjunction with the event. In the event that the estimated costs paid are in excess of the actual costs, the overage shall be refunded to the applicant within 30 days after such a determination has been made. In addition, applicants must agree to and must pay for any damage created as a result of the public assembly or parade.
- (e) *Multiple applications for same time and place.* If the commissioner receives more than one application for a parade or public assembly to be held at the same time and at the same place, the applications filed first in time shall take precedence. An event shall be considered to be "at the same time" if the event is scheduled to commence within two hours before or after the holding of another event. If the commissioner receives an application for more than one parade or public assembly to be held on a single day, the commissioner may set a time for the duration of each parade or public assembly, which shall not, without the consent of the group seeking the permit, be less than three hours.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-15. - Approval or denial.

Following the receipt of an application or reapplication under this chapter, the commissioner shall, within ten working days, either issue such permit or deny the permit. If the commissioner denies the application or reapplication, upon appeal of the applicant, the matter shall be referred to the mayor and city council at a meeting scheduled not more than 30 days after the denial of the permit application or at any special meeting of the mayor and city council called for such purpose not more than 24 days after the filing of the permit application. If the mayor and city council concurs in the commissioner's denial, the reasons therefor shall be stated and published in the minutes. Within seven days after the denial of the permit by the mayor and city council, the commissioner shall mail the applicant notice of the denial of the

permit and the reason for the denial. The action of the mayor and city council shall be subject to judicial review.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-16. - Distribution of copies of permit to city officials.

Immediately upon the issuance of a parade or public assembly permit, the commissioner shall send a copy of the permit to the police chief, the fire chief, and the city attorneys.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-17. - Contents of permit.

Each parade or public assembly permit shall state the following information:

- (1) Starting time;
- (2) Minimum speed;
- (3) Maximum speed;
- (4) Maximum interval of space to be maintained between the units of the parade or public assembly;
- (5) The portions of the streets to be traversed that may be occupied by the parade or public assembly;
- (6) The maximum length of the parade or public assembly in miles or fractions thereof; and
- (7) Such other information as the commissioner and mayor and city council shall find necessary to ensure the enforcement of this chapter.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-18. - Duties of permittee.

A permittee under this chapter shall comply with all permit directions and conditions and with all applicable statutes, code, ordinances, and rules and regulations. It shall be unlawful for any person in charge of or responsible for the conduct of a duly licensed parade or public assembly knowingly to fail to comply with any condition of the permit. One of the authorized and responsible leaders of the organization conducting the parade, public assembly, or similar activity shall carry the parade or public assembly permit upon their person during the conduct of the parade.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-19. - Revocation.

The commissioner or mayor and city council, or their authorized designee, shall have the authority to revoke a parade or public assembly permit issued under this chapter if, at any time, facts are brought to the attention of the commissioner or mayor and city council, or their authorized designee, which show that the parade, public assembly, or similar activity, does not, or will not, comply with the standards for issuance as set forth in this chapter, or when a public emergency arises where the police resources required for that emergency are so great that the deployment of police services for the public assembly could or will have an immediate and adverse effect upon the welfare and safety of persons or property.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-20. - Liability of applicant.

Every act or omission whatsoever in violation of the provisions of this chapter by any officer, director, manager, or other agent or employee of any applicant, or any act or omission of such person in relation to any other permit held by the applicant in connection with an event held pursuant to this chapter, shall be deemed to be the knowing act of such applicant. The applicant shall be punishable in the same manner as if the act or omission had been done or omitted by the applicant.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-21. - Penalties.

Any person violating any section of this chapter shall, upon conviction, be punished by a fine not to exceed \$10,000.00 or imprisonment of not more than 95 days, or both.

(Ord. No. 03-12, § 1, 7-22-03)

Sec. 60-22. - Interpretation.

It is the express declared legislative intent that this chapter shall be interpreted and administered so as to allow the fullest expression and guarantee of First Amendment rights consistent with the protection of the public health, safety, and welfare of the residents of the city.

(Ord. No. 03-12, § 1, 7-22-03)

Chapter 62 - PLANNING^[1]

Footnotes:

--- (1) ---

Cross reference— Supervisor of public works, § 2-101 et seq.; buildings and building regulations, ch. 22; civil emergencies, ch. 30; emergency services, ch. 34; fire prevention and protection, ch. 38; manufactured homes and trailers, ch. 54; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; traffic and vehicles, ch. 82; utilities, ch. 86; zoning regulations, app. A.

ARTICLE I. - IN GENERAL

Secs. 62-1—62-30. - Reserved.

ARTICLE II. - PLAN COMMISSION^[2]

Footnotes:

--- (2) ---

Editor's note— Ord. No. 99-27, § 3, adopted Oct. 25, 1999, repealed the former Art. II, §§ 62-31—62-39 in their entirety. Subsequently § 1 of said ordinance enacted a new Art. II, §§ 62-31—62-36, to read as set out herein. The former Art. II pertained to similar subject matter. See the Code Comparative Table.

Cross reference— Administration, ch. 2.

State Law reference— Creation authorized, 65 ILCS 5/11-12-4.

Sec. 62-31. - Plan commission created.

There is hereby created a plan commission which shall also act as a zoning board of appeals. The plan commission shall consist of seven members appointed by the mayor with the advice and consent of the city council. The members appointed shall serve, respectively, for the following terms: one to expire on October 31, 2000, one to expire on October 31, 2001, one to expire on October 31, 2002, one to expire on October 31, 2003, one to expire on October 31, 2004, one to expire on October 31, 2005, and one to expire on October 31, 2006. All appointments of successors upon the expiration of any term shall be for a period of five years.

(Ord. No. 99-27, § 1, 10-25-99)

Sec. 62-32. - Chair person.

The mayor, with the advice and consent of the city council, shall name one member of the plan commission as chair person to preside at all meetings and hearings. The chair person may appoint a plan commission member to serve as vice chair person in order to act in the chair person's absence. At any time the mayor shall have the power to make a new appointment as chair person, but such appointment shall be approved by the city council.

(Ord. No. 99-27, § 1, 10-25-99; Ord. No. 11-11, § 1, 5-10-11)

Editor's note— Ord. No. 11-11, § 1, adopted May 10, 2011, changed the title of § 62-32 from chairman to chair person.

Sec. 62-33. - Meetings.

All meetings shall be held at the call of the chairman and at other times as may be called by two or more members upon not less than 48 hours written notice to the other members and to the city clerk. All meetings shall be open to the public and minutes of each meeting shall be kept. The plan commission may adopt rules of procedure for the conduct of their meetings.

(Ord. No. 99-27, § 1, 10-25-99)

Sec. 62-34. - Compensation of members.

Members of the plan commission shall receive such compensation as provided for in the annual appropriation ordinance.

(Ord. No. 99-27, § 1, 10-25-99)

Sec. 62-35. - Quorum.

No business shall be transacted without a quorum, consisting of four members, being present. The concurring vote of at least four members shall be necessary to pass and approve any item. If less than a

quorum is present, the members present may adjourn the meeting to a different time. A member absent from any portion of a public hearing shall be qualified to vote upon that matter provided that the member certifies that he has read the transcript of the proceedings, has reviewed the entire record, and has made himself fully informed of the essential facts and issues.

(Ord. No. 99-27, § 1, 10-25-99)

Sec. 62-36. - Powers and duties.

The plan commission shall have the following jurisdiction and authority:

- (1) To hear and decide appeals from, and to review orders, decisions, or determinations made by the code official and to that end have the power of the code official with respect to such order, decision, or determination.
- (2) To hear, review, and offer its recommendations to the city council on applications for variations from the requirements of The Braidwood Zoning Code.
- (3) To prepare and recommend a comprehensive plan, including an official map, to the city council, which, upon its adoption by the city council, shall be known as the "official comprehensive plan" of the city.
- (4) To review, prepare, and recommend to the city council changes in and amendments to the official plan, including the official map.
- (5) To initiate, hear, review, and offer its recommendations to the city council on applications for amendments to The Braidwood Zoning Code.
- (6) To hear, review, and offer its recommendations to the city council on applications for special use permits.
- (7) To hear, review, and offer its recommendations to the city council on applications for planned unit development approval.
- (8) To hear, review, and offer its recommendations to the city council on applications for, or appeals from the code official denial of site plan approval.
- (9) To act as a zoning commission and zoning committee for the purpose of conducting public hearings under The Braidwood Zoning Code.
- (10) To exercise all powers and functions of a zoning board of appeals.

(Ord. No. 99-27, § 1, 10-25-99)

Secs. 62-37—62-65. - Reserved.

ARTICLE III. - COMPREHENSIVE PLAN

Sec. 62-66. - Adoption.

The comprehensive plan of public improvements, looking to the present and future development of the city, which plan has been prepared and recommended on April 27, 1971, to the city council by the planning commission for the city is hereby adopted and made the official plan of the city. Such plan is designated as the "official plan."

(Ord. No. 71-7, § 1, 7-27-71)

Sec. 62-67. - Objectives.

The official plan as hereby adopted includes and recognizes the following objectives:

- (1) The character of the city and its environs as essentially a residential community shall be maintained, with commercial and light industrial enterprises permitted in order to maintain a proper balance of property valuations.
- (2) For the promotion of the public health, safety and convenience and for the attainment of reasonable and practical utility and attractiveness, and for the maintenance and protection of property values, all future developments in the city and its environs shall provide that:
 - a. Adequate street lighting, water supply, sanitary and drainage facilities shall be constructed and maintained.
 - b. Highways, streets and sidewalks shall be of adequate width and shall be so constructed and maintained as to avoid the creation of hazardous conditions.
 - c. Railroad crossings and grade separations shall be constructed and maintained to provide adequate public safety and convenience.
 - d. Landscaping of public and private areas shall be controlled to avoid the creation of hazardous conditions.
 - e. The locations and architectural design, where applicable, of public buildings, schools, parks, recreational facilities, parking areas and airports shall be controlled in accordance with the best public interest.

(Ord. No. 71-7, § 2, 7-27-71)

Sec. 62-68. - Interpretation of article.

In interpreting and applying the provisions of this article, such provisions shall in every instance be held to be the minimum reasonable requirements adopted for the promotion of public health, safety, comfort, convenience, morals and welfare.

(Ord. No. 71-7, § 4, 7-27-71)

Sec. 62-69. - Inclusions.

The official plan as hereby adopted includes:

- (1) Official land use map and accompanying charts and diagrams;
- (2) The zoning ordinance; and
- (3) The subdivision ordinance.

(Ord. No. 71-7, § 3, 7-27-71)

Sec. 62-70. - Changes and amendments.

The planning commission may from time to time recommend to the mayor and city council such changes in the official plan as may be deemed necessary by the mayor and city council or by the planning commission. Such changes shall become part of the official plan after their approval by the planning commission and their adoption by the mayor and city council as amendments to this article.

(Ord. No. 71-7, § 5, 7-27-71)

Sec. 62-71. - Maps and plats to conform to plan.

After July 27, 1971, no map or plat of any subdivision presented for record, affecting land within the corporate limits of the city, or in contiguous territory not more than 1½ miles from such limits and not included in any municipality, shall be entitled to record or shall be valid unless the subdivision thereon shown conforms with the requirements of the official plan.

(Ord. No. 71-7, § 6, 7-27-71)

Sec. 62-72. - Enforcement of plan requirements.

It shall be the duty of the enforcing officer, who shall be designated by the mayor by and with the advice and consent of the city council, to enforce the requirements of the official plan. The enforcing officer may call upon any other departments or officials of the city to furnish him with such information or assistance as he may deem necessary for the observance or enforcement of the official plan. It shall be the duty of such other departments or officials to furnish such information or assistance whenever requested.

(Ord. No. 71-7, § 7, 7-27-71)

Chapter 66 - SOLID WASTE¹¹

Footnotes:

--- (1) ---

Cross reference— Streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; traffic and vehicles, ch. 82; utilities, ch. 86; vegetation, ch. 90; zoning regulations, app. A.

Sec. 66-1. - Refuse service fees.

A \$6.00 surcharge will be added to the monthly charge to residents for trash removal.

(Ord. No. 07-10, 7-10-07; Ord. No. 13-18, § 1, 6-11-13; Ord. No. 16-17)

Editor's note— Ord. No. 07-10, adopted July 10, 2007, added provisions that were not specifically amendatory. At the editor's discretion, said provisions have been included herein as § 66-1.

Chapter 70 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹¹

Footnotes:

--- (1) ---

Cross reference— Supervisor of public works, § 2-101 et seq.; buildings and building regulations, ch. 22; manufactured homes and trailers, ch. 54; planning, ch. 62; solid waste, ch. 66; subdivision regulations, ch. 74; traffic and vehicles, ch. 82; zoning regulations, app. A.

ARTICLE I. - IN GENERAL

Sec. 70-1. - Permit for work on city property.

- (a) *Required.* It shall be unlawful for any person to enter upon any and all city property including easements, rights-of-way and the like for the purpose of performing thereon any construction, alteration, repair of buildings or other structures or sidewalk, street, sewer or water installation, repair or improvement without first obtaining a permit as set forth in this section.
- (b) *Fees.* The annual fee for such permit shall be \$250.00. The fee for a single entry shall be \$100.00.
- (c) *Regulations.* It shall be the duty of all such persons to comply with all ordinances relating to the construction of buildings or other structures, to the construction of streets or sidewalk pavements, sewer or water installation, repair or improvement and all laws or ordinances pertaining to or regulating the activities engaged in.
- (d) *Revocation.* Any permit may be revoked by the mayor for violation of any ordinance relating to the construction of buildings, the use of streets, or the replacing of streets, sidewalks or parkways, or any other ordinance relating to the work performed by such person. Such revocation may be in addition to any fine imposed for violating this section.
- (e) *Insurance.* No permit shall be issued for entry upon city property unless a certificate or other proof is filed showing that the person carries public liability insurance with limits of at least \$1,000,000.00 for each person and \$2,000,000.00 for each accident or bodily injury liability and \$500,000.00 on property damage liability. Before any person doing any work for the city on any street or highway or on any building or premises owned by the city commences work, he shall file with the clerk a certificate or other proof showing that he carries workers' compensation and public liability insurance as required by the ordinances and the terms of his contract. Every certificate of insurance submitted by a contractor for any work performed on any city street, sidewalk, alley, or other real property or improvement to real property owned by the city, shall clearly indicate that the city has been named as an additional insured for the purposes work is to be performed.
- (f) *Penalty for violation of section.* Whoever violates any section of this article shall be, upon conviction, subject to punishment as provided in section 1-8.

(Ord. No. 92-10, §§ 1—6, 8-11-92; Ord. No. 96-18, §§ 1—6, 4-23-96)

Sec. 70-2. - Excavations.

It shall be unlawful for any person to dig, make or cause to be dug or made any hole, pit, ditch, vault or other excavation in or upon any street, lane, avenue, alley, sidewalk or other public place, or dig, make or cause to be dug or made any excavation upon any lot adjoining or bounded by any street, lane, avenue, alley, public place or sidewalk, without causing the excavation to be fenced in with a substantial fence at least three feet high, the boards or rails of which shall not be more than one foot apart, and fail to place sufficient red or yellow lights in conspicuous places in front of the fence during the night.

(Ord. No. 77-17, § 2.045, 10-25-77)

Sec. 70-3. - Removal of sand, gravel or shrubbery from public parks, alleys or streets.

It shall be unlawful for any person to take, haul, carry away or remove any sand or gravel or shrubbery or any material containing sand or gravel, or both, off of or from any public park, street, avenue, alley or highway in the city, without the consent of the city.

(Ord. No. 77-17, § 2.055(A), 10-25-77)

Sec. 70-4. - Placing dangerous objects in the streets.

It shall be unlawful for any person to place or cause to be placed, intentionally or carelessly, upon the street or avenue of the city, any glass, cans, barbed wire, nails, tacks, broken pieces of chinaware or any other pointed or sharp material or instrument whatsoever that may cause injury to any person or property; however, the placing of any broken stone, gravel or other material used for the improvement of the street shall not be construed to be a violation of this section.

(Ord. No. 77-17, § 1.040, 10-25-77)

Secs. 70-5—70-30. - Reserved.

ARTICLE II. - OBSTRUCTIONS AND ENCROACHMENTS

DIVISION 1. - GENERALLY

Sec. 70-31. - Encroachments and unprotected passages.

No porch, stoop, steps, banister, stair, railing, platform, bay window or other window erected or to be erected shall be permitted or allowed to extend into or upon the sidewalk. No sideway or passage of more than eight inches in depth that leads from any sidewalk or street into any basement, cellar or building shall be permitted or allowed without being protected by a substantial railing or door so as to prevent any person from falling into such.

Sec. 70-32. - Removal.

The mayor or chief of police is authorized to cause any obstruction erected in violation of section 70-31 to be removed within a reasonable time after being notified by such officer. The notice shall be served upon the owner, agent or person in possession of the premises where such violation occurs or, if the owner, agent, or person in possession cannot be found, such notice is to be posted upon the premises or sidewalk in front of such premises, and the owner, agent, or party causing such obstruction or violation shall pay all expenses and costs of such removal, in addition to the penalties stated in section 1-8.

Sec. 70-33. - Sign and cellar door projections.

No sign shall project from any store or other building into or over any sidewalk or street, unless securely fastened, nor shall any cellar door arise or project above the surface of the sidewalk.

Sec. 70-34. - Goods or merchandise displayed on sidewalk.

No person shall place or cause to be placed upon any public right-of-way any goods, wares or merchandise for sale or show beyond two feet from the front line of the building or lot where such goods may be exposed, without specific authority from the city council.

Sec. 70-35. - Obstructing sidewalk while receiving or delivering goods or merchandise.

No person shall, in receiving or delivering goods, wares, or merchandise, place or keep the goods, wares or merchandise on any sidewalk, without leaving a passage at least four feet wide for foot passengers to pass, and no person shall suffer such goods to be or remain on any sidewalk for a longer period than 24 hours after notice of the mayor or chief of police.

Sec. 70-36. - Protection of openings.

No person shall leave open any cellar, cellar door, vault, well, cistern, excavation, ditch or other like hole, upon or joining any street, alley, or sidewalk, without securing and protecting such so as to prevent persons or animals from falling therein.

Sec. 70-37. - Gates or doors swinging across street or sidewalk.

No person shall construct or maintain or allow any gate or door to open outward in such a manner that the gate or door will swing on or across any part of any street or sidewalk.

Secs. 70-38—70-55. - Reserved.

DIVISION 2. - PUBLIC RIGHTS-OF-WAY

Sec. 70-56. - Definitions.

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

Construction easement area means the area lying between the project right-of-way limits and the platted street limits within which the city, by concurrence in the establishment of project right-of-way lines, will permit the state to enter to perform all necessary construction operation.

Encroachment means any building, fence, sign or any other structure or object of any kind, with the exception of utilities and public road signs, which is placed, located or maintained in, on, under or over any portion of the project right-of-way or the roadway right-of-way where no project right-of-way line has been established.

Permissible encroachment means any awning, marquee or sign advertising activity on the property or any similar overhanging structure supported from a building immediately adjacent to the limits of the platted street where there is a sidewalk extending to the building line and which does not impair the free and safe flow of pedestrian traffic on the highway. The permission for retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right-of-way line and not confined by adjacent buildings.

Project right-of-way means those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect.

Cross reference— Definitions generally, § 1-2.

Sec. 70-57. - Encroachments.

Under this division, it shall be unlawful for any person to erect or cause to be erected, to retain or cause to be retained any encroachment within the limits of a project right-of-way or roadway right-of-way.

Sec. 70-58. - Project right-of-way established.

For purposes of this division, project right-of-way lines have been established to be the roadway right-of-way.

Chapter 74 - SUBDIVISION ORDINANCE¹

Footnotes:

--- (1) ---

Editor's note— Ord. No. 06-09, § 1, adopted June 13, 2006, amended ch. 74 in its entirety to read as herein set out. Former ch. 74, §§ 74-1—74-10, 74-41, 74-61—74-64, 74-81, 74-82, 74-101—74-103, 74-121—74-127, 74-156, 74-186—74-198, 74-200—74-210, pertained to similar subject matter, and derived from Ord. No. 71-2, §§ 1-1, 2-1—2-5, 3-1, 4-1, 5-1, 6-1—6-3, 7-1—7-3, 8-1—8-4, 9-1—9-7, 10-1, 11-1, 12-1—12-12, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 20-1, 21-1, 21-2, 23-1, 25-1, adopted Feb. 9, 1971; Ord. No. 98-2, § 1, adopted Jan. 13, 1998; Ord. No. 98-12, § 2, adopted April 14, 1998; Ord. No. 98-30, § 1, adopted Nov. 24, 1998; Ord. No. 99-23, § 1, adopted August 10, 1999; Ord. No. 00-3, § 1, adopted Feb. 8, 2000; Ord. No. 01-15, § 1, adopted Jan. 9, 2002; Ord. No. 05-05, § 1, adopted June 28, 2005; Ord. No. 05-09, § 1, adopted Nov. 8, 2005.

Cross reference— Supervisor of public works, § 2-101 et seq.; buildings and building regulations, ch. 22; manufactured homes and trailers, ch. 54; planning, ch. 62; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; traffic and vehicles, ch. 82; utilities, ch. 86; zoning regulations, app. A.

ARTICLE I. - IN GENERAL

Sec. 74-1. - Short title of chapter.

This chapter shall be known as the Braidwood Subdivision Ordinance.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-2. - Definitions.

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

Alley means a strip of land, smaller than a minor street, along the side of or in the rear of properties intended as access to these properties.

Building setback line means the line indicating the minimum horizontal distance between the property line and buildings, either at the front or side of the lot.

Contractor means person(s) hired to construct and install required improvements for the subdivision.

Crosswalkway means a public right-of-way, 15 feet or more in width between property lines, which provides pedestrians access to adjacent properties.

Cul-de-sac means a street having one open end and being permanently terminated by a vehicle turnaround.

Easement means a grant by a property owner of the use, for a specific purpose or purposes, of a strip of land by the general public, a corporation or a certain person.

Improvement, public improvement means any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway strip, sidewalk, planting strip, crosswalkway, off-street parking areas, or other facility for which the city may ultimately assume the responsibility for maintenance and operation or which is constructed for general public use or benefit.

Lot means a portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

Minor street means a street intended primarily as access to abutting properties.

Primary street means a street of considerable continuity which serves or is intended to serve as a major traffic artery connecting large areas.

Public street means all primary, secondary, and minor streets which are shown on the plat and are dedicatable.

Secondary street means a street supplementary to the primary street system providing intercommunication between this system and smaller areas and streets.

Street means a street which serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets.

Street width means the shortest distance between lines of lots delineating the street.

Subdivision means a division of any tract or parcel of land into five or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development, or, if a new street is involved, any division of such parcel; provided, however, that the division of land into parcels of more than five acres, not involving any change in street lines or public easements, shall not be deemed a subdivision within the meaning of this chapter. The terms include resubdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided. Application for permit to construct two or more dwellings on a parcel or tract of land or to construct one or more additional dwellings on a parcel or tract of land where one or more dwellings already exist shall be construed as a building development envisioning future transfer of ownership and shall be regarded as a subdivision. For purpose of administration of this chapter, a *parcel* or *tract of land* shall be deemed to have the boundaries and dimensions given in the current maps of record of the county.

(Ord. No. 06-09, § 1, 6-13-06)

Cross reference— Definitions generally, § 1-2.

Sec. 74-3. - Penalty for violation of chapter.

Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to punishment as provided in section 1-8.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-4. - Compliance with chapter prerequisite to certain actions.

- (a) *Subdividing*. No land shall hereafter be subdivided or filed for record, nor any street laid out, nor any improvements made to the land, until the plan or plans of the subdivisions or street improvements shall have been certified to and approved by action of the city council. This approval must be in writing and placed on the original tracing of the final plans, according to the procedure outlined in division 3 of article II of this chapter.
- (b) *Sale of lots*. No lot, or parcel of land within any such division shall be offered for sale nor shall any sale, contract for sale or option be made or given until such subdivision plans have been properly reviewed by the city plan commission and officially approved by the city council.
- (c) *Installation of improvements*. No improvements, such as sidewalks, water supply, stormwater drainage, sewer facilities, gas service, electric service or lighting, or grading, paving or surfacing of streets, shall hereafter be made within any such subdivision by any owner or his agent, or by any public service corporation at the request of such owner or his agent until the plans for subdivision and also the plans for improvements thereto have been formally recommended by the plan commission and approved by the city council. If topsoil is removed, prior to, during or after construction, such topsoil shall be replaced to a depth of not less than four inches in all lawn and planting areas. Such topsoil shall be provided and spread by the general contractor or subcontractors.
- (d) *Subdivision of land within 1½ miles of city*. Subdivision of land lying outside of the city and within 1½ miles of the city limits shall also be required to conform with the requirements of this chapter, in accordance with the provisions of the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.).

- (e) *Building permit issuance.* No building permit shall be issued by any governing official for the construction of any building, structure or improvement to the land or any lot within a subdivision which has been approved for platting until all requirements of this chapter have been fully complied with.
- (f) *Occupancy permit issuance.* No occupancy permit shall be granted by any governing official for the use of any structure within a subdivision approved for platting or replatting until required utility facilities have been installed and made ready for servicing the property, and until roadways providing access to the subject lot has been constructed, or is in the course of construction.
- (g) *Filing for record.* No plat of any subdivision shall be entitled to record in the recorder's office or have any validity until it shall have been approved in the manner prescribed by this chapter.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-5. - Interpretations, variances and exceptions.

- (a) All interpretations of the rules and regulations of this chapter are reserved to the administrative bodies referred to in this section.
- (b) The city council may vary and make exceptions as set forth in this section in instances where it finds sufficient evidence of hardship caused by topographic conditions, or where any other reasonable deterrent prevails.
- (c) Variations and exceptions from the design and dimensional standards and improvement requirements of this chapter may be made by the plan commission in cases where, owing to exceptional conditions, there are extreme difficulties or hardships in the way of carrying out the strict letter of this chapter. Resubdivision of a single lot or of a platted block of an old subdivision shall be considered as an exceptional condition meriting departure from the strict letter of this chapter. No variation or exception shall be made that will be detrimental to the public welfare or what will affect adversely the official plan.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-6. - Acceptance of streets.

If any plat of subdivision contains public streets or thoroughfares which are therein dedicated as such, whether located within the corporate limits of the city or outside of such corporate limits, or contains existing streets outside of the corporate limits, the approval of the plat by the city council, or the subsequent annexation of the property by the city, shall not constitute an acceptance by the city of such streets or thoroughfares, nor of the improvements constructed or installed thereon or therein, irrespective of any act by an officer, agent or employee of the city with respect to such streets or improvements. The acceptance of such streets or thoroughfares shall be made only by the adoption of a resolution by the city council after there has been filed with the city clerk a certificate by the city engineer that all improvements required to be constructed or installed in or upon such streets or thoroughfares, in connection with the approval of the plat of the subdivision by the city council, have been fully completed and the construction or installation has been approved by him.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-7. - Plats to be kept by city clerk.

All plats of subdivision, after the plats have been submitted and approved, as provided in this chapter, shall be filed and kept by the city clerk among the records of the city.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-8. - Appeals.

- (a) *Procedure.* Any party aggrieved by a decision of the plan commission may, within 15 days thereafter, appeal from such decision, to the city council, and he shall file with the plan commission a written notice of appeal specifying the decision from which such appeal is taken.
- (b) *Proceedings.* Upon receiving notice of appeal, the plan commission shall transmit to the city council a certified copy of the minutes in the case upon which the appeal is taken.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-9. - Employment of city engineer.

If any person, developer, corporation, partnership or association desires to use the services of the city engineer, then the city may contract with such person, developer, corporation, partnership or association for engineering services to be performed by the city engineer if the city engineer consents to such contract, and if the estimated fees and expenses are first deposited in escrow with the city.

(Ord. No. 06-09, § 1, 6-13-06)

Cross reference— City officers and employees generally, § 2-86 et seq.

Sec. 74-10. - Professional fees agreement.

Prior to the concept meeting or upon filing of a plat of subdivision with the city, the subdivider shall sign a professional fee agreement and post security in the amount specified by the city in the agreement.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-11. - Chapter to be part of official plan.

This chapter is hereby made a part of the official plan of the city.

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-12—74-40. - Reserved.

ARTICLE II. - PLAN APPROVAL PROCEDURE

DIVISION 1. - GENERALLY

Sec. 74-41. - Subdivision plat approval procedures.

- (a) A plat of subdivision meeting the requirements of this chapter shall be filed with the city for approval. The fee for a plat of subdivision shall be \$750.00, except for a conforming subdivision of five lots or less when the fee shall be \$350.00, which shall be paid at the time of filing. The owner must provide a site plan showing the topography of all lots and adjoining lot areas certified by an Illinois licensed surveyor or civil engineer. If the flow of surface water will be changed as a result of construction in the subdivision, the site plan shall show how provision has been made for collection and diversion of such surface waters into public areas, drains, or the stormwater drainage system. The site plan must use generally accepted engineering practices so as to reduce the likelihood of flood damage to adjoining properties or the flow of stormwater to adjoining properties.

- (b) A plat of subdivision shall be reviewed by the plan commission for their recommendation to the city council. The city council has the power to approve all plats of subdivision, whether conforming or requiring variations.
- (c) If a conforming subdivision does not involve the construction of new streets, water mains, sanitary sewers, or storm sewers, and does not contain more than five new lots, the subdivision shall be processed as follows: the plan commission shall administratively review the plat of subdivision, in consultation with the city engineer, with no public hearing or public notice being required. After review, the plat of subdivision shall be forwarded to the city council for final action. The city council may approve the plat of subdivision by motion action at a regular city council meeting.
- (d) For all subdivisions involving a variation, five or more lots, or the construction of new streets, water mains, sanitary sewers, or storm sewers; the subdivision shall be processed as follows: the plan commission shall review the plat of subdivision, in consultation with the city engineer, at a public meeting. If a variation is requested, then notice of a public hearing shall be provided as required by the Braidwood Zoning Code for zoning hearings. After review, the plat of subdivision shall be forwarded to the city council for final action. The city council may approve the plat of subdivision by motion action at a regular city council meeting, with any plat of subdivision requiring a variation to be approved by ordinance.
- (e) After approval of the city council, the plat of subdivision shall be recorded by the city attorney, with the owner responsible for all costs and expenses of recording. No plat of subdivision shall be recorded until all fees due the city are paid, and no building permits shall be issued until all costs and expenses of recording are paid.

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-42—74-60. - Reserved.

DIVISION 2. - AGREEMENTS

Sec. 74-61. - Submission of final plat bearing approval of city engineer.

The final plat, accompanied by plans and specifications for the required public improvements, bearing the approval of the city engineer, shall be submitted by the owner or subdivider with the application for approval of the final plat.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-62. - Improvements by owner or subdivider.

Where public right-of-way is dedicated (whether used or not), but not improved to the standards of this chapter, and border on, or are wholly within the proposed subdivision land, same shall be improved to the standards of this chapter. Upon final approval of the plans and specifications for the required public improvements, the owner or subdivider of the land proposed to be subdivided shall enter into an agreement with the city under which the owner or subdivider agrees to install such required improvements at his own expense in accordance with the time prescribed by the provisions of this chapter. Such agreement shall be conditioned upon the approval of the final plat and subdivision.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-63. - Occupancy certificate requirements and irrevocable letter of credit.

The owner and the subdivider of land may, at the time a final plat of subdivision is submitted to the corporate authorities, designate development units within the territory included on the final plat of subdivision. No such development unit shall contain less than five lots. No occupancy certificate shall be issued with respect to any structure located in any such development unit unless all storm sewers, sanitary sewers, water mains, fire hydrants, base and binder course of streets, street lights installed and operating, and curbs and gutters have been installed and completed in such development unit or as determined by the city or the city engineer.

The developer shall post an irrevocable letter of credit in the amount of 110 percent of the cost of the design engineer's construction cost estimate as approved by the city engineer. The letter-of-credit shall be furnished to and approved by the city prior to construction of the subdivision commencing. Reductions will be made up to an amount equal to 100 percent of the cost estimate for uncompleted improvements, as verified by the city engineer and approved by the city council. Reductions for each item will not be done unless all of the required tests in the ordinance and respective permits are passed. The remaining ten percent is held as retainage for any completed improvements. The remaining ten percent retainage will be released upon issuance of 75 percent of the total occupancy permits, completion of the punchlist, and acceptance by the city council. The developer must post a ten percent maintenance bond good for one year upon the release of the letter of credit.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-64. - Form of irrevocable letter of credit.

If an irrevocable letter of credit is furnished, it shall be in the following form:

Name of Bank
Date

City of Braidwood
Braidwood, Illinois

Dear Sir:

We hereby open our irrevocable letter of credit in your favor available by your drafts at sight on (name of bank) for a sum or sums not exceeding a total of \$_____ for the account of (name of subdivider of owner) to be accepted by your signed statement that drawing is due to default or failure to perform within (time) by (name of owner or subdivider) regarding the surfacing of streets, the installation of sidewalks and the completion of the following public improvements: (here describe public improvements covered by this letter of credit) in the following described property: (here insert legal description of final plat of subdivision).

You will notify the bank when the above improvements are completed and upon receipt of such notification, this credit will be reduced by the amount of \$_____ (so that all that remains is the ten percent deposit in lieu of cash escrow to be held for an additional 12 months after completion of the surface improvements described above).

Each draft hereunder must bear upon its face "Drawn under Letter of Credit No. _____, dated _____, of the (name of bank), (address of bank)." The amount of any draft drawn under this credit must, concurrently with negotiation, be endorsed on the reverse side hereof and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

Except so far as otherwise expressly stated herein, this credit is subject to article 5 of the Illinois Uniform Commercial Code (810 ILCS 5/5-101—5-117, inclusive) and to the "Uniform Customs and Practice for Documentary Credit (1962 Revision) International Chamber of Commerce, brochure No.

222," except to the extent that said Uniform Customs and Practice are in conflict with said article 5. We hereby agree with the drawers, endorsers, and bona fide holders of drafts drawn hereunder and in compliance with the terms of this credit that the same shall be duly honored on due presentation and delivery of documents specified herein, if negotiated on or before (date for completion) .

| |
|-------------------------------------|
| Yours very truly, (name of bank) |
| By _____ (authorized signature) |

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-65—74-80. - Reserved.

DIVISION 3. - PRELIMINARY PLAN PROCEDURE

Sec. 74-81. - Preliminary plans—Contents.

Each preliminary plan shall show and contain the following:

- (1) *Identification and description.* Preliminary plans shall show the following identification and descriptions:
 - a. Proposed name of subdivision (not duplicating name of any plat heretofore recorded in the county).
 - b. Location by township, section, town and range or by other legal description.
 - c. Names and addresses of the owner or subdivider having control of any tract, and the designer of the plan.
 - d. Graphic (engineering) scale, not smaller than one inch to 100 feet.
 - e. North point (designated as true north).
 - f. Date of preparation.
- (2) *Existing conditions.* Existing conditions shall be indicated as follows:
 - a. Boundary line of proposed subdivision clearly indicated.
 - b. Total approximate acreage therein.
 - c. Location, widths and names of all existing or previously platted streets or other public way, showing type of improvement, if any railroad and utility right-of-way, parks and easements, and other public open spaces, permanent buildings and structures, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract.
 - d. Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract; also indicating such data as grades, invert elevations and locations of catch basins, manholes and hydrants.
 - e. Boundary lines of adjoining subdivided or unsubdivided land (within 100 feet) identifying by name and ownership.

- f. Topographic data including contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart; watercourses; marshes; rock outcrops; and other significant features.
 - g. The existing flood plain must be shown according to the to the limits shown on the latest edition of Flood Insurance Rate Maps (FIRM's) set by the Federal Emergency Management Agency (FEMA).
 - h. The existing limits of wetlands and delineated phases must be shown.
- (3) *Subdivision design features.* Subdivision design features shall be indicated as follows:
- a. Layout of streets showing right-of-way, widths and street names (not duplicating names of any street heretofore used in the city or its environs, unless the street is an extension of an already named street in which event that name shall be used).
 - b. Location and widths of alleys, pedestrians ways and utility easements.
 - c. Typical cross section of streets and any alleys, together with an indication of the proposed stormwater runoff.
 - d. Layout, numbers and typical dimensions of lots to the nearest foot.
 - e. Minimum front and side street building setback lines, indicating dimensions.
 - f. Areas (other than those listed in subsections (3)a and (3)b of this section intended to be dedicated or reserved for public use, indicating in each the approximate areas in acres.
- (4) *Restrictive covenants.* An outline of the restrictive covenants shall accompany the preliminary plan.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-82. - Same—Qualifications governing approval.

- (a) *Necessary changes or revisions.* The plan commission may recommend or the city council may require such changes or revisions as are deemed necessary in the interests and needs of the community.
- (b) *Acceptability of layout.* The approval of a preliminary plan by the plan commission and the city council is tentative only involving merely the general acceptability of the layout as submitted.
- (c) *Improvement of drainage facilities.* Land subject to flooding or containing poor drainage facilities. No plan will be approved for a subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the subdivider agrees to make improvements which will, in the opinion of the city engineer, make the area completely safe for residential occupancy, and provide adequate street drainage, the preliminary plan of the subdivision may be approved.

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-83—74-100. - Reserved.

DIVISION 4. - FINAL PLAN

Sec. 74-101. - Submission.

After approval of the preliminary plan by the plan commission and the fulfillment of the requirements of this division, application may be made for plan commission approval of the final plan. If desired by the subdivider, the final plan may constitute only that portion of the approved preliminary plan which he

proposes to record and develop at the time, and provided further that such portion conforms in all respects to all matters and things included in the tentative plat and plans insofar as they appertain to the portion of the entire subdivision which is desired to be developed at that time.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-102. - Approval and filing.

- (a) After approval of the preliminary plan by the plan commission and the fulfillment of the requirements of this division, one tracing and six copies of the final plan of the subdivision or portion thereof, drawn in ink on tracing cloth or vellum not to exceed 36 inches by 48 inches in size, shall be submitted to the plan commission for approval.
- (b) Action must be taken by the plan commission within 45 days after the final plan has been submitted for approval.
- (c) Upon approval by the city council, the developer shall record the plat with the county recorder of deeds within 90 days. If not recorded within this time, the approval shall be null and void.
- (d) A print and reproducible sepia of the print will be filed and retained in the office of the city by the developer.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-103. - Content.

Each final plat shall contain and show the following:

- (1) *Identification and description.* The following identifications and descriptions shall be shown:
 - a. Name of subdivision.
 - b. Location by township, section, town and range, or by other legal description.
 - c. Names of owners and certification by a licensed surveyor.
 - d. A scale of one inch to 100 feet or larger (shown graphically).
 - e. Date.
 - f. North point.
- (2) *Delineation.* The following delineations shall be shown:
 - a. Boundary of plat, based on an accurate traverse, with angular and linear dimensions.
 - b. Exact location, width and name of all streets within and adjoining the plat, and the exact location and widths of all crosswalkways. Proposed street names shall be checked with the proper city officials.
 - c. True angles and distances to the nearest established street lines or official monuments (not less than three) which shall be accurately described in the plat.
 - d. Municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and angles.
 - e. Radii, internal angles, points and curvatures, tangent bearings and lengths of all arcs.
 - f. All easements for right-of-way provided for public services and utilities.
 - g. All lot numbers and lines with accurate dimensions in feet and hundredths.

- h. Accurate location of at least two monuments, which shall be concrete, six inches by 30 inches with one-half-inch iron pipe, or a #4 reinforcing rod in the center. Permanent stone or concrete monuments shall be set at two corners or angles on the outside boundary. A one-half-inch diameter iron rod or a #4 reinforcing rod shall be placed at each intersection of street centerlines. All U.S., state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.
- i. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common uses of all property owners.
- j. Building setback lines accurately shown by dimensions.
- k. Protective covenants which meet with the approval of the plan commission shall be made a part of the final plat and filed of record with the county recorder.
- l. Certification by a registered surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.
- m. Notarized certification, by the owner or by any mortgage holder on record, of the adoption of the plat and the dedication of streets and other public areas.
- n. Certification showing that all taxes and special assessments due on the property to be subdivided have been paid in full.
- o. Proper form for the approval of the city council with space for signature.
- p. Lot numbering is sequential within the development for each phase and outlots are identified with letters.
- q. Adjoining properties/phases are identified with document numbers, if available.
- r. All public right-of-way is labeled "Hereby Dedicated" or "Heretofore Dedicated".
- s. Public right-of-way width is shown.
- t. Approval by signature of city, county and state officials concerned with the specifications of utility installments.
- u. The plat must state all easements must be dedicated to the City of Braidwood.
- v. Approval by signature of the plan commission. Such approval shall be as follows:

| | |
|-------------------|-------|
| State of Illinois |) |
| |) SS. |
| County of Will |) |

I, _____, Chairman of the City of Braidwood Plan Commission, do certify that on this ____ day of _____, 19____, this plat of subdivision was duly approved by the Plan Commission of the City of Braidwood.

| |
|-------------------|
| _____ Chairman |
|-------------------|

w. City engineer approval. Such approval shall be as follows:

| | |
|-------------------|-------|
| State of Illinois |) |
| |) SS. |
| County of Will |) |

This plat has been checked for conformance to City of Braidwood standards and requirements, working drawings and specifications for (list improvements) have been prepared in substantial conformance with City of Braidwood standards and requirements.

Engineer: _____

Date: _____

x. City council approval as follows:

Approved by the City Council of the City of Braidwood, Will County, Illinois this _____ day of _____, 19____.

| |
|-----------------------|
| Signed _____ Mayor |
|-----------------------|

(3) *Final engineering plans.* Final engineering plans shall contain and show the following information:

a. *General:*

1. Title sheet shows name of subdivision, project location map, location description including section, township and range, and indicates the Developers name and address. Title sheets must be signed and stamped by a P.E.
2. Project benchmark(s) location, elevation and description must be provided and tied into the Will County grade and coordinate system.
3. Existing and proposed street names and lot numbers are shown on all plans.
4. North arrows shown on all sheets pointing in the correct direction.
5. All existing utilities, pipelines and associated easements are shown on the plans.
6. Easements for proposed utilities, drainage and snow storage are shown on the plans.

7. All streets and corridors with improvements have a plan and profile sheet.
 8. General notes must state material, construction, and testing specifications.
- b. *Streets:*
1. Typical cross section shows street widths, pavement thickness, right-of-way widths, sidewalk and utilities.
 2. Typical section shows sidewalk materials, thickness.
 3. Any proposed lime stabilization includes area below, and at least one foot behind curb and gutter.
 4. Vertical and horizontal curve information is shown on plans, (i.e., curve radii, tangents, sight distance, slopes, P.E., station and elevation).
 5. Street profile grade.
 6. Sidewalk is shown on all plan sheets.
 7. Handicapped ramp construction detail.
- c. *Grading:*
1. The 100-year flood route is clearly shown with arrows, including floodway paths outside project boundaries.
 2. Existing and proposed contours at one foot intervals.
 3. Elevations of all building foundations and indications whether buildings have basements, lookouts, walkouts, or crawl spaces.
- d. *Sanitary sewer:*
1. Station and offset locations, invert and rim elevations are provided for all manholes.
 2. Manholes numbered with respective sizes indicated.
 3. Pipes are shown in profile view and accompanied with proposed slopes.
- e. *Water main:*
1. Fire hydrant, valves, vaults and bends stations and offsets from the designated stationing system are shown.
 2. Water main is shown in profile view with casing where applicable.
 3. Curb stops, b-boxes, corporation stops, and copper piping specifications are shown in details and/or indicated in the general notes.
- f. *Detention basin:*
1. Normal and high water elevation of the pond if applicable.
 2. Cross-section showing basin cross slopes.
- g. *Stormwater conveyance:*
1. Cross sections of all drainage swales.
 2. Station and offset locations, invert and rim elevations are provided for all drainage structures.
 3. Manholes, catch basins, and inlets numbered and sizes indicated.
 4. Pipes are shown on profiles view with respective slopes, sizes, lengths, and material.
 5. Sump pump connections with details provided.
 6. Orifice detail.

- h. *Street light:*
 - 1. Construction details.
- i. *Erosion control:*
 - 1. Silt fence provided wherever surface water runs off site, onto roadways or into wetlands.
 - 2. Sediment filtering shown for all inlets (streets—filter fabric and parkway straw bales).
 - 3. Construction entrance details included.
 - 4. Topsoil stockpile locations shown and sediment control plan described.
 - 5. Schedule for removal specified according to this chapter.
 - 6. Specify stormwater pollution prevention plan.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-104 - Permits.

- (a) *Permits.* All required permits must be obtained prior to city approval of final engineering site plans and plat. Required permits include, but are not limited to, the following:
 - (1) Illinois Department of Transportation, County Highway Department, and/or Township Highway Department permits for all work within state, county, and/or township right-of-way.
 - (2) Environmental Protection Agency (IEPA) Division of Water Pollution Control sanitary sewer permit.
 - (3) IEPA Division of Public Water Supplies water main construction permit.
 - (4) IEPA Notice of Intent to comply with the General Permit for Discharge of Stormwater from a Construction Site (for developments one acre in size or greater).
 - (5) U.S. Army Corps of Engineers Permit.
 - (6) Illinois Department of Natural Resources.
 - (7) Illinois Historic Preservation Agency.
 - (8) Claypool Drainage Ditch District.

(Ord. No. 06-09, § 1, 6-13-06)

ARTICLE III. - DESIGN STANDARDS

Sec. 74-121. - Street plan.

The arrangement, character, extent, width, grade and location of all streets shall conform to the comprehensive plan, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of stormwater, to public convenience and safety, and in their appropriate relations to the proposed uses of the area to be served.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-122. - Streets.

General:

- (1) All developments shall include provisions for the construction of streets and appurtenances designed in accordance with this section.
- (2) All streets shall be constructed in accordance with the material installation and testing requirements of the "Standard Specifications for Road and Bridge Construction in Illinois," latest edition, unless otherwise modified in this section.

Basic Design Standards:

(a) *General:*

- (1) The arrangement, character, extent, width, grade, and location of all streets shall conform to the comprehensive plan, and shall be considered in their relation to existing and planned streets; to reasonable circulation of traffic within the subdivision and adjoining lands; to topographical conditions; to runoff of stormwater; to public convenience and safety; and in their appropriate relations to the proposed uses of the area to be served.
- (2) Preliminary engineering plans shall be accompanied by a traffic study detailing the development impact to the city roadway system and recommended roadway improvements.
- (3) Where streets are dedicated (whether used or not), but not improved to the standards of this chapter, and border on, or are wholly within, the proposed subdivision land, same shall be improved to the standards of this chapter.
- (4) When development occurs outside the corporate limits of Braidwood, but such development requires access to a city street, such street shall be improved to the standards of this chapter.

(b) *Right-of-way.* All right-of-way widths shall conform to the following standards:

| Type of Street | Residential Subdivision | Commercial or Industrial Subdivision |
|--------------------|---|--------------------------------------|
| Major Streets | In no instance less than 100 foot width | |
| Collector Streets | 80 feet | 80 feet |
| Local Streets | 66 feet | 70 feet |
| Cul-de-sac Streets | 66 feet | 70 feet |
| Half Streets | One-half the total right-of-way of the proposed street or as required by the plan commission. Not permitted in commercial or industrial subdivisions. | |
| Frontage Roads | 40 feet minimum* | 50 feet minimum* |
| Thoroughfares | Right-of-way widths and other design standards of thoroughfares, including freeways, expressways, parkways, major and secondary thoroughfares, shall be in accordance | |

| | |
|--|--|
| | with federal, state, or county authorities having jurisdiction, whichever has the greater width and design standards requirements. |
|--|--|

* Greater width may be required by the city engineer depending on size, depth, or number of utilities to be installed.

(c) *Pavement widths.* All streets shall be improved with roadway pavements to an overall width in accordance with the following minimum dimensions:

| Type of Street | Parking* | Pavement Width (ft.)** | Lane Width (ft.) | Minimum Return RAD (ft.)*** |
|--------------------------------|--|------------------------|------------------|-----------------------------|
| Arterials and Major Collectors | To be designed in accordance with Illinois Department of Transportation requirements for Local Roads and Streets | | | |
| Minor Collectors | | | | |
| Industrial/Commercial | Two Sides | 44 | 12 | 30 |
| Residential | Two Sides | 40 | 12 | 30 |
| Local Streets | | | | |
| Industrial/Commercial | Two Sides | 40 | 12 | 30 |
| Residential | One Side | 33 | 12 | 15 |
| Cul-de-Sac | | | | |
| Industrial/Commercial | Two Sides | 40 | 12 | 30 |
| Residential | One Side | 33 | 12 | 15 |
| Frontage Road | | | | |
| Industrial/Commercial | One Side | 36 | 12 | 30 |

| | | | | |
|-----------------------|------|----|----|----|
| Residential | None | 26 | 12 | 15 |
| Alleys | | | | |
| Industrial/Commercial | None | 24 | 12 | 15 |
| Residential | None | 20 | 10 | 15 |

* Requirements for on street parking shall be set by the plan commission.

** Measured between back of curbs. For rural cross-sections pavement shall conform to Illinois DOT requirements for Rural Local Roads and Streets.

*** The larger radius shall be provided at industrial/commercial and residential interface.

(d) *Collector streets.* A collector street may be required by the city council as follows:

- (1) In a residential subdivision containing 20 acres or more in area and where the lots are one-half acre or less in area,
- (2) In any subdivision as an extension of a collector street in an adjacent subdivision,
- (3) In any manufacturing or business subdivision.

(e) *Local streets.* Local streets shall be so aligned that their use by through traffic will be discouraged.

(f) *Cul-de-sac streets.*

- (1) Single-family residential districts cul-de-sac streets shall be not more than 500 feet in length, measured along the street center line from the center line of the street of origin to the right-of-way.
- (2) Multiple-family residential district cul-de-sac streets shall not exceed 300 feet in length.
- (3) Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 120 feet in residential areas, and 130 feet in commercial and industrial areas.
- (4) Each cul-de-sac street termini shall have a minimum pavement diameter, measured from the back of curbs on opposite sides of circular turnaround, not less than 88 feet in residential subdivisions and not less than 100 feet for commercial and industrial subdivisions.
- (5) A temporary cul-de-sac street, or a cul-de-sac street having not more than five lots fronting on its right-of-way may have a "tee" type terminus or other variation of the circular shape, as approved by the planning and zoning board and/or the council.

(g) *Frontage roads.*

- (1) Provisions shall be made for vehicular and pedestrian access to residential property abutting a thoroughfare either by: (i) frontage roads, or (ii) double frontage lots backing to the thoroughfare.
- (2) Where double frontage is used, a no-access strip shall be dedicated on the plat along the thoroughfare to prohibit access to the thoroughfare.

- (3) These standards are established for the purpose of providing protection to residential properties and to separate through and local traffic.
- (h) *Alleys and pedestrian ways.*
 - (1) Alleys are not permitted in residential subdivisions unless deemed necessary by the planning and zoning board and/or council.
 - (2) Alleys, when permitted in residential subdivisions shall be at least 20 feet wide and alleys in commercial and manufacturing subdivisions shall be not less than 30 feet wide.
 - (3) Pedestrian ways, shall be at least 12 feet wide.
- (i) *Half streets.*
 - (1) Where existing roads front on new subdivisions, the developer of the subdivision shall be responsible for reconstruction of both sides of the roadway fronting the subdivision according to the standards set forth herein. Transitions from the existing roadway to the new roadway shall take place outside of the section fronting the subdivision and shall be such that public safety and welfare are protected.
 - (2) Half streets shall be prohibited except where approved by the planning and zoning board and the city council.
 - (3) A half street, where approved, shall be graded at one level, and the regarding or new construction of any half street shall conform to the grade and pavement of the adjacent half street.
- (j) *Parking lots.*
 - (1) Requirements for on-street parking shall be set by the city an in accordance with Appendix A, Zoning. Parking lots shall be designed in accordance with Detail No. LS-7.
- (k) *Geometrics.*
 - (1) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60 degrees. Intersecting curb lines at a block corner shall be rounded by an arc having a radius of not less than the tabular values given in Section 2.02C. Where, because of existing conditions, street intersections are likely to require channelization for proper traffic control, streets shall be designed to accommodate such special treatment as the planning and zoning commission may specify.
 - (2) Intersections of more than two streets shall be avoided unless specific conditions of design indicate otherwise.
 - (3) Street jogs with center line offsets of less than 200 feet shall be avoided.
 - (4) Where there is a deflection in horizontal center lines in excess of ten degrees, within a given block at any given point, a curve shall be inserted with a center line radius of not less than:

| | |
|------------------------------|----------|
| Major and Collector Streets | 400 feet |
| Local and Cul-de-sac Streets | 250 feet |

- (5) A 300-foot minimum tangent length shall be introduced between reverse curves on all major and collector streets; 100 feet minimum on minor collector streets; 50-foot minimum on all local and cul-de-sac streets.
- (6) Minimum horizontal center line curve radius at "EL" intersections shall be 90 feet. An "EL" intersection is defined as a two-way, 90° intersection of two streets.

(7) Gradients of streets shall be at least 0.50 percent and not exceed:

| | |
|-----------------------------|-----------|
| Major and Collector Streets | 5 percent |
| Local Streets | 8 percent |

- (8) Changes in grade exceeding 1.5 percent shall be connected with vertical curves.
- (9) Consecutive vertical curves shall be separated by a tangent not shorter than 50 feet in residential zoning and 100 feet in commercial zoning.
- (10) Different connecting street gradients shall be connected with vertical curves. Minimum length in feet of such vertical curves shall be equivalent to the algebraic difference in percent of gradient times a K factor. Such K factor to be derived as follows:
- (11) Minimum length in feet of vertical curves shall be equivalent to the algebraic difference in percent of gradient times a K factor. Such K factor to be derived as follows:

| K Factor by Type of Street | | |
|--------------------------------|-------------|-----------|
| | K Factor | |
| Street Designation | Crest Curve | Sag Curve |
| Arterial, Major, and Collector | 110 | 90 |
| Minor Collector | 60 | 60 |
| Local and cul-de-sac | 30 | 40 |

(l) *Pavement design.*

- (1) Roadway design for flexible and rigid pavement shall be based on the Illinois Department of Transportation Bureau of Design and Environment (BDE) procedures for Modified AASHTO design.
- (2) Pavement structures shall be based on the following minimum structure numbers:
 - a. *Parking Lots:* 2.45.
 - b. *Residential Local Roads and Culs-de-sac:* 3.50.
 - c. *Residential Collectors:* 4.00.
- (3) Complete pavement designs for roadways in commercial and industrial areas shall be provided to the city for review and approval.
- (4) The subgrade soil shall be designated as having an Illinois Bearing Ratio (IBR) equal to three.

- (5) A soil investigation report shall be provided to the city to verify the in situ IBR value. Pavement structures with subgrade soil having an IBR value less than three shall have an increased pavement structure as necessary to carry the design traffic loading.
- (6) Pavement structures carrying vehicular loading prior to application of the surface course shall have a structure number no less than the values given in item (l)(2) minus five-tenths.
- (m) *Pavement structure driveways.* The minimum pavement structure for flexible pavement is 12 inches of aggregate base course (CA-6), one and one-half inches of bituminous binder course, and two inches of bituminous surface course. Bituminous materials shall be used between each pavement layer.
The minimum pavement structure for rigid pavement is four inches of aggregate base course (CA-6) and six inches of Portland cement concrete pavement.
- (n) *Driveways.*
 - (1) A paved access driveway from the right-of-way to the street pavement shall be provided.
 - (2) Pavement shall be six inches of Portland cement concrete pavement on four inches of aggregate base course, CA-6 or two inches of bituminous surface course on top of six inches of aggregate base course, CA-6.
- (o) *Side strips/parkways.* Side strips shall be required on both sides of all streets. They shall be graded and prepared for seeding by the subdivider with at least six inches of top soil. Median strips shall be constructed as side strips unless paved.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-123. - Alleys and pedestrian ways.

- (a) Alleys shall be at least 20 feet wide, where permitted, in residential areas. Alleys at least 30 feet wide shall be provided in commercial areas unless such areas are otherwise provided with off-street loading space.
- (b) Pedestrian ways shall be at least 12 feet wide.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-124. - Easements.

- (a) *Easements for public utilities:*
 - (1) Easements shall be provided for any underground public utility service, including stormwater drainage, water main, force main and sanitary sewer service, where necessary.
 - (2) Easements shall be a minimum of 15 feet in width for storm sewer and 20 feet in width for all other public utilities.
 - (3) Easements shall be established at the rear and side of each lot and along such other lot lines as to provide continuity of alignment from block to block.
 - (4) If located between two adjoining lots, the easements shall be centered on the lot line.
 - (5) Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a drainage easements, conforming substantially with the lines of such water course. It shall include an additional width, adjoining both edges of the established area that has been affected by damaging flood waters, to provide for maintenance access. Required width shall be established by the city engineer.
 - (6) All culs-de-sac shall be provided with a snow storage easement in the terminus of the cul-de-sac for use in snow plowing of the cul-de-sac. The easement shall have minimum dimensions of 20

feet wide by ten feet deep. No structures or plantings shall be allowed within this easement, nor between easement and curb.

- (7) When appropriate to serve pedestrian or vehicle access upon private property, easements of an appropriate dimension shall be provided.

(b) *Easements for private utilities:*

- (1) All private utility distribution lines in the subdivision shall be placed underground in easements along rear lot lines or side lot lines at locations of extensions of utility installation between blocks. The installation of such facilities shall be made in compliance with the applicable orders, rules, and regulations of the Illinois Commerce Commission now or hereinafter effective. The subdivider shall be responsible for compliance with the rules and regulations, now and hereinafter effective and filed with said Commission pursuant to the Illinois Public Utilities Act.
- (2) Underground telephone, electric, cable television, and gas service shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located on lot corners.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-125. - Block standards.

- (a) No specific rule concerning the shape of blocks is made, but blocks must fit readily into the overall plan of the subdivision, and their design must evidence consideration of lot planning, traffic flow and public open space areas.
- (b) Blocks intended for commercial, industrial and institutional use must be designated as such, and the plan must show adequate off-street areas to provide for parking, loading docks and such other facilities that may be required to accommodate motor vehicles.
- (c) Where a subdivision borders upon a railroad or limited-access highway right-of-way, a street may be required approximately parallel to, and at a distance suitable for the appropriate use of the intervening land as for park purposes in residential districts, or for parking, commercial or industrial purposes in appropriate districts. Such distances shall be determined with approach grades and possible future grade separations.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-126. - Lot standards.

- (a) *Preferred dimensions.* The preferred dimensions shall be 80 feet wide, at the building line, 120 feet in depth and 9,600 square feet in area. Dimensions and area may exceed these preferred dimensions, provided that a proper relationship between width and depth of lots is maintained.
- (b) *[Reserved.]*
- (c) *Corner lots.* Corner lots shall be sufficiently larger than others to allow maintenance of building lines on both streets.
- (d) *To abut on public street; exceptions.* All lots shall abut upon a public street, except any lot located in the multiple-family district which is designed and intended for occupancy by multiple-family dwellings need not abut on a public street if such lot abuts upon a private street, driveway or accessway which otherwise complies with all applicable requirements of this chapter for streets.
- (e) *Side lines.* Side lines of lots shall be approximately at right angles or radial to the street line.
- (f) *Abutting on source of floods.* Lots abutting upon a watercourse, drainageway, channel or stream shall have an additional depth or width, as required, to ensure house sites that are not subject to flooding.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-127. - Double-frontage lots.

Double-frontage lots are not permitted except:

- (1) Where lots back upon a major thoroughfare provided that such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for a protective screen along the back lot line and in such instances vehicles and pedestrian access between the lots and thoroughfare is prohibited.
- (2) Where topographical or other conditions render subdivision otherwise unreasonable.

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-128—74-155. - Reserved.

ARTICLE IV. - PARKS, SCHOOL AND PUBLIC AREAS

Sec. 74-156. - Dedication of portion of subdivision.

Not less than five percent of the area of every subdivision, exclusive of streets, shall be dedicated to public use for park, school, recreational or other public use. The plan commission may omit this requirement or reduce it below five percent wherever it finds it is impracticable to utilize all or part of the land required to be dedicated for public purpose.

(Ord. No. 06-09, § 1, 6-13-06)

Secs. 74-157—74-185. - Reserved.

ARTICLE V. - REQUIRED LAND IMPROVEMENTS

Sec. 74-186. - Sewer and water mains.

The developer will be required to dedicate all storm sewer mains, water mains, and sanitary sewer mains, unless otherwise noted in the covenants, to the city after final acceptance by the city engineer.

- (1) *General.*
 - a. All developments shall include provisions for the construction and installation of Water main, sanitary sewer, and storm sewer and appurtenances designed in accordance with the "Standard Specifications for Water and Sewer Main Construction in Illinois," latest edition and Title 35 of the Illinois Administrative Code unless otherwise modified in the following sections.
 - b. Notification. Prior to beginning the sanitary sewer installation, the contractor shall give the city engineer 48 hours notice of his intended time of starting work.
 - c. Specification references made herein for manufactured items, such as pipe, fittings, and manholes refer to designations of the American Society for Testing and Materials (ASTM), American Water Works Association (AWWA), or of the American National Standards Institute (ANSI).
- (2) *Basic materials.*
 - a. *Manholes, vaults, catch basins, and inlets.*

1. Precast reinforced concrete: ASTM C-478 with tongue and groove joints sealed with gaskets conforming to ASTM C-443 or bituminous jointing material. Joints shall be sealed with circular O-ring gasket conforming to ASTM C-443 or bituminous jointing material equal to RamNek, Kent-Seal, Mas-Stik, or equal. A maximum of two handling holes per section will be permitted.
2. Adjustment: No more than two precast concrete adjusting rings with a total of six inch maximum height adjustment shall be allowed. Adjusting rings shall meet the requirements of ASTM C-478. Where bituminous mastic strips are used to seal joints between barrel sections, adjusting rings, and castings, two adjacent strips with an offset butt joint are required.
3. Inlets located in the curb shall have at least one two-inch adjusting ring.
4. Pipe seals:
 - i. *Sanitary and vaults*: Mechanical bands used for compressing the sleeve and extension against the manhole shall be fabricated from 16 gauge stainless steel conforming to ASTM A-240, Type 304. Any screws, bolts, or nuts used on this band shall be stainless steel conforming to ASTM F-593 and 594, Type 304. The sleeves and extensions shall have a minimum thickness of 3/16 -inch and shall be extruded or molded from a high grade rubber compound conforming to applicable requirements of ASTM C-923, with a minimum of 1,500 psi tensile strength, maximum 18 percent compression set, and a hardness (durometer) of 485. The sleeve shall be capable of vertical expansion of not less than two inches when installed.
 - ii. *Catch basins and inlets*: All pipe connection openings shall be precast, and shall be sealed with Portland Cement mortar, O-ring gaskets, or mastic material.
5. Chimney seals: Chimney seals shall be of the flexible rubber manufactured seal, as manufactured by Cretex, or equal. External chimney seals shall be installed on all sanitary manholes. A rubber seal extension, to cover any additional heights of chimney not covered by the standard seal itself, shall be furnished and installed as required.
6. Top section: Manholes and catch basins shall be constructed with eccentric cone top sections, vaults shall be constructed with concentric cone top sections.
Sanitary manholes must be able to accept external chimney seals.

Where sufficient height is not available for an eccentric cone, flat slabs shall be provided.
7. Bottom sections: All bottom sections shall be monolithically precast.

b. *Manhole and vault castings and lids.*

1. All manhole castings shall meet the requirements of ASTM A-48. Standard manhole castings shall be machined frame with Type A heavy duty lid.
2. Sanitary manhole and water main valve vault castings shall have concealed pick holes, and self-sealing gasket, East Jordan Iron Works No. 1020, or equal, embossed with "CITY OF BRAIDWOOD" and "SANITARY" or "WATER", respectfully.
3. Storm sewer manhole castings shall be East Jordan Iron Works No. 1050, or equal, embossed "STORM".

c. *Catch basin and inlet grates.* Grates located in the parkway shall be Type 8 grates, EJIW or Neenah.

d. *Manhole, vault, and catch basin steps.*

1. Manhole steps shall be installed in all manholes by the manhole manufacturer. Manhole steps shall be cast iron conforming to ASTM A-48, East Jordan Iron Works No. 8518, or M.A. Industries, Inc. PS1-PF of ½-inch diameter steel reinforcing rod conforming to ASTM A-615, Grade 60, with molded co-polymer propylene covering conforming to ASTM 04101, Type PP200B33450Z02.
2. Manhole steps shall be inserted in manhole riser, cone, and flat slab sections prior to initial set of the concrete in accordance with ASTM C-478, and shall have maximum embedment and pull-out resistance in accordance with ASTM C-478.
3. The top step shall be located ten inches or less from the top of the cone section. Steps shall be a maximum 16 inches apart.

(3) *Installation.*

- a. Utility conduits.
- b. Bedding, haunching, initial backfill, and trench backfill shall conform to the requirements of the I.D.O.T. gradation classification for CA-6 or CA-7.
- c. Excavation:
 1. The width of trench, at and below the top of pipe, shall not exceed the widths given in Section 20-2.03 of the Standard Specifications.
 2. Where a firm foundation is not found to exist for the bottom of the trench at the required depth due to soft, spongy, or otherwise unsuitable soil, such unsuitable soil shall be removed for the full width of the trench and replaced with well compacted unwashed gravel or an equal substitute, or crushed stone if such compacted material proves unsatisfactory. Where rock in either ledge or boulder formation is encountered, it shall be removed below grade and replaced with a well-compacted cushion of unwashed gravel having a thickness under the pipe of not less than eight inches.
 3. Field tile is to be repaired where encountered or tied into the storm sewer pipe unless plans call for it to be abandoned. Field tiles open ends of tile being abandoned shall be plugged with concrete.
 4. Where water is encountered in the trench, it shall be removed during pipe-laying and jointing operations. Open ends of conduits must be pugged when water is present in the trench. Trench water shall not be allowed to enter the pipe at any time.
 5. Excavation depth should allow for a minimum cover of four and one-half feet for water main and three feet for sanitary sewer.
- d. Initial backfill: Initial backfill shall be provided for all conduits and shall consist of the same material used for bedding and haunching from the centerline of the pipe to six inches above the top of the pipe for rigid conduits and 12 inches above the top of the pipe for non-rigid conduits.
- e. Final backfill:
 1. Final backfill shall consist of backfilling from the top of initial backfill to the natural.
 2. Jetting or depositing backfill in water shall not be allowed and is not an acceptable method for compaction. All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stone, frozen lumps, or other such deleterious, unsuitable material. However, from one-foot above the top of the pipe to the street subgrade, material containing stones up to eight inches in their greatest dimension may be used, unless otherwise specified.
- f. Trench backfill:

1. Any pipe or associated trench installed under or within two feet of a pavement edge, sidewalk, driveway, or curb and gutter shall be backfilled to the top of the trench with compacted CA-6 or CA-7 material.
 2. Backfill from one foot above top of pipe to bottom of all above crossing utilities shall be compacted CA-7.
 3. Compaction shall meet the requirements of Illinois Department of Transportation and shall be verified by an independent soil testing firm. Consolidation shall be achieved by use of vibratory plate compactors, self-propelled hydrostatic drum compactors, or backhoe operated hydraulic compactors. The lift height shall not exceed eight inches for vibratory plate compactors. Lift height shall not exceed the following for self-propelled hydrostatic drum compactors and backhoe operated hydraulic compactors: for loam clay soils - 18 inches, for loam soils - 24 inches, and for granular soils - 36 inches. Smaller lift heights shall be provided as necessary to achieve the degree of compaction required.
 4. Compaction density shall be a minimum of 95 percent of the maximum dry density as determined by the Modified Proctor Test (ASTM D1557). All costs for compaction and testing shall be paid for by developer/contractor.
- g. Structures:
1. The space between the sides of the excavation and outer surfaces of the catch basin, manhole, inlet, or valve vault shall be backfilled with CA-6 or CA-7 when structures are in the subgrade or if the nearest point of the excavation for these structures falls within two feet of the pavement edge. When the structure falls beyond these limits, other backfilling material may be used with the approval of the engineer.
 2. When either groundwater or surface water is present in manhole excavations, it shall be removed to a level at least four inches below the precast bottom and eight inches of bedding material shall be installed. The manhole excavation shall be leveled to provide a firm foundation for precast bottoms.
- h. Separation from water main. Separation shall meet the requirements of the Standard Specifications for Water and Sewer Main Construction in Illinois and the 10 State Standards.
- i. Boring and jacking.
1. Casing pipe shall be installed using equipment and material that cases the hole as earth is removed in order to minimize cavities at the lead end of the casing pipe. Grouting between casing pipe and soil opening shall be performed when needed to secure casing pipe, to prevent soil collapse, and to fill voids between the casing pipe and native soil.
 2. The carrier pipe shall be placed inside the casing pipe on treated hardwood blocks or manufactured spacers which are shaped to fit both the casing pipe and carrier pipe. At least three two-blocks shall be provided for each length of pipe. They shall be banded to the barrel of the carrier pipe so they are parallel to the longitudinal centerline.
 3. After the installation of the carrier pipe, the annular space between the casing and the carrier shall be filled with blown sand or pea gravel meeting the requirements of the IDOT SSRBC. In all cases, the ends on the casing pipe shall be sealed with brick and mortar, concrete, or synthetic seals specifically made for this purpose.
- j. Casing pipe in trench.
1. Steel pipe - ASTM A-120, 3/8 " minimum thickness or PVC water main quality pipe. Casing pipe locations must be shown on the plan and profile views.
 2. The annular space between the casing and the carrier shall be filled with blown pea gravel.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-187. - Improvements required.

The plan commission shall have the power to require one or more of the following improvements depending upon the nature and scope of the subdivision:

- (1) Street and alley grading surfacing;
- (2) Sanitary sewage facilities;
- (3) Water mains and hydrants;
- (4) Stormwater drainage facilities;
- (5) Street signs;
- (6) Streetlights;
- (7) Driveways;
- (8) Survey monuments; and
- (9) Topsoil, where appropriate.

Particular attention shall be given to means for disposition of stormwater and to the desirability of curb and gutter or other provisions to prevent breakdown of pavement edges. The design, layout and carrying capacities of stormwater, sanitary sewer and water facilities shall recognize the future requirements of adjacent undeveloped areas.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-188. - Crosswalks and driveways.

The corporate authorities shall have the power to require crosswalks as a required improvement where such crosswalks are necessary to service schools and parks. Driveways shall be required in all single-family residential districts as such districts are established in accordance with the city zoning ordinance, and the corporate authorities shall have the power to require driveways as a required improvement in all other use districts under the zoning ordinance, where the corporate authorities shall determine that the public safety and welfare require the installation of driveways.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-189. - Sanitary sewers.

(a) *General:*

- (1) All developments shall include provisions for the construction of sanitary sewers and appurtenances designed in accordance with this section.
- (2) Sewer system design and construction shall in all respects be in accordance with the regulations of the Environmental Protection Agency of the State of Illinois (IEPA) and Title 35 of the Illinois Administrative Code. No construction shall commence until a copy of a permit from IEPA is filed with the city and the city engineer.

(b) *Basic design standards.*

- (1) The design of the sanitary sewer system shall be in accordance with the requirements of the city, the Illinois Environmental Protection Agency's latest edition of Title 35 of the Illinois Administrative Code.

- (2) All sewers shall be designed to accommodate an ultimate service area as defined by the city.
 - (3) The location of proposed extensions to the existing sanitary sewer system shall be approved by the city.
 - (4) Sanitary gravity sewers shall be designed in accordance with Title 35 to provide peak design flow capacity, without surcharging.
 - (5) Alignment:
 - a. Sewers shall be laid with straight alignments.
 - b. A 0.10 foot drop through manholes shall be provided.
 - (6) Sewer size changes. Sanitary sewers of different diameters shall join only at manholes. The invert elevations shall be adjusted to match pipe crown elevations.
 - (7) Sanitary sewer manholes. Manholes shall be provided at the following locations:
 - a. Termination of existing and future lines.
 - b. Changes in direction, horizontal or vertical.
 - c. Changes in shape or pipe size.
 - d. Junctions with other sanitary sewers.
 - (8) Sewer depth. Sanitary sewers installed in areas of proposed residential development shall be designed to provide for overhead basement service to proposed lots.
 - (9) Sample stations. If required by the city, the developer must install a sanitary sewer sample box(s) at the city's specified location. The sampling station must be Eclipse No. 88 or equal.
- (c) *Material specifications.* All sanitary sewer system elements shall conform to the following specifications, subject to city approval:
- (1) Sewer and service connection pipe and fittings:
 - a. Polyvinyl chloride (PVC) pipe and fittings - ASTM D-3034, SDR 26 minimum (6" through 15"). Pipes 18 inches and larger in diameter shall be solid wall with an SDR number not exceeding SDR 26.
 - b. The wall thickness shall be T-1 (heavy wall) meeting the requirements of ASTM F-679.
 - c. PVC material shall have cell Class 12454-B or 12454-C as defined in ASTM D-1784, with minimum modulus of elasticity of 400,000 psi in tension. Pipe stiffness shall be minimum 46 psi when tested in accordance with ASTM D-2412.
 - (2) Sewer and service connection pipe joints:

PVC pipe—ASTM D-3034, SDR 26 minimum (6-inch through 15-inch), injection molded.
 - (3) Sewer and service connection pipe fittings:

PVC—Molded PVC wye fittings.
 - (4) Force mains:
 - a. PVC conforming to AWWA C-900 for 4-inch through 12-inch, cast iron O.D.
 - b. Fittings shall be ductile iron.
 - (5) Manholes: Size manholes as required to accommodate the intersecting sewer pipes, the following are minimum design sizes:
 - a. For sewers 18 inches in diameter or less, manhole shall have a minimum inside diameter of 48 inches.

- b. For sewer 21 to 36 inches in diameter, manhole shall have minimum inside diameter of 60 inches.
- c. All bottom sections shall be monolithically precast, including bases and invert flow lines. Bottom fillets shall conform to bottom half of pipe. Where pipes enter the manhole at an angle, curved flow lines shall be formed from inlet pipe(s) to outlet pipe.

(d) *Installation.*

- (1) The installation of sanitary sewer and appurtenances shall conform to the requirements of this section and the following: PVC pipe and fittings - ASTM D-2321.
- (2) Laying:
 - a. The pipe shall be laid accurately to the line and grade as designated, and shall conform within variances allowed by the Standard Specifications for Water and Sewer Main Construction in Illinois.
 - b. The lubricant, mastic, or other joint material shall be used and installed as recommended by the pipe or joint manufacturers' specifications.
 - c. All pipe/trenching shall be viewed by the city prior to cover and backfilling.
- (3) Service laterals.
 - a. Service laterals shall consist of a wye fitting at the sewer main and extension of the specified service pipe to the property line of the lot being served.
 - b. All sewer services shall be minimum six inch diameter and shall be the same type pipe as the sewer main, and shall be installed in the same manner.
 - c. Provide concrete block against undisturbed earth behind service riser.
 - d. The service lateral shall slope toward the main at the minimum rate of one percent, and a maximum rate of four percent.
 - e. The service lateral shall be terminated at the lot line as close to the center of the lot as practical, and plugged with a water-tight factory made plug. The plug shall be secured and backfilled to withstand air test pressure and marked with a green 4 x 4 post. Marker post shall be buried six feet, and shall extend four feet above finished grade.
 - f. Service laterals must have a cleanout and wye fitting near the foundation of buildings.
- (4) Manholes.
 - a. Where bituminous mastic strips are used to seal joints between barrel sections, adjusting rings, and castings, two adjacent strips with an offset butt joint are required.
 - b. Flowlines shall match pipe grade entering manhole.

(e) *Testing and acceptance.*

- (1) *General.* All required testing and correction of any defects of the sanitary sewer system shall be completed before curb and gutter or other roadway improvement work begins.
- (2) *Cleaning.* All pipes and manholes shall be thoroughly cleaned of debris or sediment prior to testing and televising.
- (3) *Air test.* All sanitary sewer pipes shall be low-pressure air tested in accordance with the "Standard Specifications for Water and Sewer Main Construction in Illinois", except that all sections of sewer main shall be tested.
- (4) *Deflection testing.* All flexible thermoplastic sewer main pipe shall be deflection tested by pulling a mandrel through the pipe from manhole to manhole. Deflection testing shall be performed in accordance with the "Standard Specifications for Water and Sewer Main Construction in Illinois", except that all sections of sewer main shall be tested.

- (5) *Televising.* All sanitary sewer main shall be televised at a minimum six months after the final pipe has been laid, after one winter season and before the surface course of the street is paved. A written report and videotape copy of the televised main shall be provided to the city.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-190. - Water supply.

(a) *General.*

- (1) All development shall include provisions for the construction of water distribution facilities complete with valves, fire hydrants, and other such appurtenances designed in accordance with this section. At a minimum, the water distribution system shall provide a service connection(s) at the approximate midpoint of the front property line of each individual lot or parcel within the development. Where more than one building is located or planned on one lot or parcel of property, or when water main construction is required on the property for fire protection, the proposed construction shall also include all water main construction and appurtenances within the lot or parcel except service lines.
- (2) All water distribution system improvements shall be installed in accordance with the "Standard Specifications for Water and Sewer Main Construction In Illinois" latest edition, unless otherwise modified in this section.
- (3) Specification references made herein for manufactured materials, such as pipe, hydrants, valves, and fittings refer to designations of the American Society for Testing and Materials (ASTM), the American Water Works Association (AWWA), or of the American National Standards Institute (ANSI).

(b) *Basic design standards.*

(1) *System extension:*

- a. Extensions to the water distribution system shall form a complete network extension or part of a complete network extension that includes all primary mains, secondary mains, and gridiron mains, complimenting the existing distribution system network.
- b. Primary mains are those that form the arterial portion of the system. Primary mains under construction within a development are further defined as mains that are 12 inches or larger.
- c. Secondary mains shall be sized, looped, and spaced as required for fire flows. Secondary mains shall have a minimum diameter of eight inches.
- d. Gridiron mains shall form a grid or loop to supply water to the local fire hydrants and service lines. Gridiron mains shall have a minimum diameter of eight inches.
- e. Where dead end mains greater than 100 feet in length are necessary for future expansion, they shall be provided with a hydrant and a water valve at the point of termination. Dead end mains shall extend to subdivision property lines. No services shall be allowed from a dead end main unless approved by the city or city engineer.
- f. The water main in culs-de-sac must not have a dead end. The water main must be looped in a 20-foot wide utility easement if deemed practical by the city.

- (2) *Maximum day consumption:* For purposes of water main design, maximum day consumption for water main design shall be no less than 120 gallons per day.

- (3) *Head losses:* Head losses due to friction shall be computed using the Hazen-Williams formula with a "C"-factor no greater than 100.

- (4) *Main capacity/system modeling:*

- a. The developer shall perform fire flow testing on the existing water distribution system at the locations of all proposed water main taps and extensions.
 - b. Fire flow testing shall be performed in accordance with ISO Standards.
 - c. Fire flow test results shall be provided to the city as part of the initial submittal of final engineering plans.
 - d. Primary mains, secondary mains, and gridiron mains shall be sized to provide sufficient capacity to deliver the required fire flow plus the consumption at the maximum daily rate to all areas served by the proposed construction.
 - e. The developer shall bear all cost for the city to update the City of Braidwood water distribution system model to verify sufficient main capacity at all areas affected by the proposed construction.
 - f. The owner or developer shall maintain ultimate responsibility of providing adequate main capacity for any and all future needs within the development.
- (5) *Required fire flow and pressure:* The fire flows required, in excess of maximum daily consumptive demands, will be supplied using a "C" factor of 100, ignoring fittings, and with a minimum residual hydrant pressure of 20 psi. Required fire flow shall be computed as detailed in the "Guide for Determination of Required Fire Flow" latest edition, published by the Insurance Service Office. Water mains shall be sized and set at grades to provide ISO fire protection flow rates.
- (6) *Valve spacing:*
- a. The maximum number of valves for a shut down shall be three; four may be allowed in unique cases with the approval of the city.
 - b. Valves shall be located at a minimum of 500 foot intervals in commercial districts, and not more than one block, or 800 foot intervals, whichever is less, in other districts.
- (7) *Water main depth:* Water main shall be constructed to a minimum cover of four and one-half feet, as measured from the proposed finished surface elevation to the top of pipe.
- (c) *Material specifications.* All water distribution system elements shall conform to the following specifications, and be subject to city approval:
- (1) *Polyvinyl chloride pipe:*
- a. All water main pipe shall be PVC pressure Class 150, DR 18, cast iron O.D., with integral bell or equal, meeting AWWA C-900 Standards.
 - b. Slip joints with elastomeric rings or equal, meeting ASTM F-477 shall be used.
 - c. All materials used in performance of the work shall be clearly marked as to strength, class, or grade. Pipe and materials not so marked shall be subject to rejection.
 - d. Ten gauge insulated copper THHN wire or equal shall be used as tracer wire for all PVC water main pipe. Tracer wire shall be duct taped to the crown of the water main and extended up to the ground surface at all water main valve boxes and fire hydrant auxiliary valve boxes.
- (2) *Pipe fittings:*
- a. All standard water main pipe fittings sizes 3-inch through 24-inch shall be ductile iron Class 350 or equal conforming to requirements of AWWA C153/ANSI A21.53 or AWWA C111/ANSI 21.11. All water main fittings shall have a cement mortar lining in accordance with the requirement of AWWA C104/ ANSI A21.4.
 - b. Fittings shall be furnished with a rated working pressure of 150 psi.
 - c. All fitting joints shall be mechanical joint unless specified otherwise on the drawings. Meg-A-Lug or equal retainer glands shall be used on all mechanical joint connections for both ductile iron and PVC pipe.

(3) *Valves:*

- a. Valves 12 inches and smaller shall be epoxy-coated resilient wedge gate valves meeting the requirements of AWWA C509, cast iron, resilient seat, non-rising stem, counter-clockwise to open, 150 psi working pressure with O-ring packing box, Mueller A-2360-23, or equal.
- b. Fourteen inch and larger - Epoxy coated iron body, rubber seat, butterfly valve, counter-clockwise to open, AWWA C-504.
- c. The bodies of the valves shall be of the best quality cast iron, bronze-mounted, and the stems or the valves shall be of the best quality bronze. Each valve shall withstand, without leaking, a 300-pound-per-square-inch hydraulic pressure and a 150-pound-per-square-inch working pressure. All valves shall be mechanical joint.
- d. All water main valves shall have mechanical joint ends unless otherwise specified. Meg-A-Lug retainer glands, series 2000 for PVC pipe, by EBBA Iron, Inc. or equal shall be used on all mechanical joint valve ends.
- e. Fire hydrant auxiliary valves shall be gate valves conforming to above requirements. Valve shall be by the same manufacturer as the fire hydrant.

(4) *Valve boxes:*

- a. Valve boxes with stabilizer shall be used on valves 6-inch or larger.
- b. Valve boxes shall be 5¼ inch shaft screw type boxes with covers clearly marked "WATER." Boxes shall be Clow F-2450-H with F-2475 extensions, Tyler 6860 Series or equal. Boxes shall be furnished to match finished grade.
- c. Fire hydrant valve boxes shall be Tyler 664-S with cover clearly marked "WATER" and a stabilizer shall be used.
- d. All valves shall be installed in valve boxes, unless otherwise noted herein.

(5) *Valve vaults:*

- a. *Size:* For valves less than 16 inches, valve vaults shall have a minimum inside diameter of 48-inches; for pressure connections and valves 16-inches and larger, valve vaults shall have a minimum inside diameter of 60-inches.
- b. *Vault steps:* See manhole and vault steps in utility section.
- c. *Adjustment:* Manhole castings shall be adjusted to finished grade using precast concrete adjusting rings set in mortar, with a maximum of two adjusting rings with the sum not to exceed 6-inches.
- d. *Pipe seals:* Pipe openings in manhole walls shall be flexible, water tight connections, A-LOK, Interpace, PS-10, KOR-N-SEAL, or equal.
- e. *Vault casting and lid:* See manhole and vault casting and lids in the utility section.

(6) *Corporation stops:* A.Y. McDonald 4701-T compression nut, 1-inch minimum, or Mueller equal.

(7) *Service pipe:*

- a. Services two inches in diameter and smaller shall be copper tube, Type K (1" minimum).
- b. Services larger than 2-inches in diameter shall be ductile iron.

(8) *Curb stop:*

- a. Copper service: A.Y. McDonald 6104-T compression nut, or Mueller equal.
- b. Ductile iron service.

(9) *Curb box:*

- a. Copper service: A.Y. McDonald 5614, or Mueller equal.

- b. Ductile iron service.
 - (10) *Casing pipes*: Steel pipe—ASTM A-120, 3/8 " minimum thickness.
 - (11) *Castings/covers*: See sanitary manhole casting and cover
 - (12) *Pipe bedding and cover material*: Pipe bedding and cover material shall conform to the requirements of the IDOT gradation classification for CA-6 or CA-7.
- (d) *Installation requirements.*
- (1) Environmental Protection Agency permit: Water system design and construction shall, in all respects, be in accordance with the regulations of the Environmental Protection Agency of the State of Illinois. No construction shall commence until a copy of a construction permit from this agency is filed with the city public works department and city engineer.
 - (2) The installation of water mains and appurtenances, including services, shall conform to the requirements of this section and the following:
 - a. AWWA C 900.
 - b. "Standard Specifications for Water and Sewer Main Construction in Illinois".
 - (3) Notification: Prior to beginning the water main installation, the city engineer shall be given 48 hours notice of the intended time of starting work.
 - (4) Separation from sewers: All water main shall be protected from existing and proposed storm sewers and sanitary sewers as required by the "Standard Specifications for Water and Sewer Main Construction in Illinois" and the Illinois State Plumbing Code.
 - (5) Pipe laying:
 - a. The contractor shall keep the trench free from water while the water main is being placed and until the pipe joint has been sealed to the satisfaction of the city engineer.
 - b. Adequate provisions shall be made for the safety, storage, and protection of all water pipe prior to actual installation in the trench. Care shall be taken to prevent damage to the pipe castings, both inside and out. Provisions shall be made to keep the inside of the pipe clean throughout its storage period and to keep mud and/or other debris from being deposited therein. All pipes shall be thoroughly cleaned on the inside before laying of the pipe. Proper equipment shall be used for the safe handling, conveying, and laying of the pipe so as to prevent damage to water main materials. Under no circumstances shall water main materials be dropped or dumped into the trench.
 - c. In making joints, all portions of the jointing materials and the socket and spigot ends of the joining pipe shall be wiped clean of all foreign materials. The actual assembly of the jointing shall be in accordance with the manufacturer's installation instructions. During construction, until jointing operations are complete, the open ends of all pipes shall at all times be protected and sealed with temporary watertight plugs.
 - d. Repair sleeves shall not be used to make closures during new construction.
 - (6) Thrust restraints:
 - a. Vertical and horizontal reactions—Thrust restraints are required at all tees, plugged ends, hydrants, and bends between 11¼ degrees and 90 degrees.
 - b. Thrust restraint shall be mega-lug restrainer glands.
 - c. Megalug retainer glands or tie rods with or without anchor type thrust blocks, and submit design data for such specifications.
 - d. Valve and piping near capped ends shall be restrained to allow future extension without water shut-down.
 - (7) Connections to existing mains:

- a. All connections to the city water distribution system shall be made under full water service pressure unless otherwise approved by the city department of public works and the city engineer.
- b. The city shall not be responsible for the condition of existing valves at the connection to an existing main. Faulty or damaged valves at the connection to an existing main shall be replaced by the developer at the developer's expense.

(8) Fire hydrants:

- a. Solid concrete base and thrust blocking shall be placed at the hydrant base. Care shall be taken to ensure the hydrant drain hole remains unobstructed.
- b. The pumper nozzle of all fire hydrants shall be installed with the nozzle pointing toward the street unless otherwise noted. Engineer reserves the right to alter the location of fire hydrants from that shown on the drawings.
- c. Fire hydrants shall be placed as specified on engineering plans. All nozzles shall stand plumb, their steamer nozzle pointing normal to the road. The break line of the breakaway flange shall be located one two-inch above finished grade.
- d. A drainage pit two feet in diameter shall be excavated around each hydrant and filled completely with ¾-inch washed gravel under and around the bowl of the drain opening. The drain field shall be covered with plastic or filter fabric.
- e. The auxiliary valve shall be attached directly to the hydrant with a flanged connection. The auxiliary valve shall be connected to the tee with a 6-inch spool piece at least 18 inches in length having mechanical joint connections at both the valve and the tee. Provide restrained joint system (Meg-A-Lug) from the auxiliary valve to the tee.
- f. A stabilizer for auxiliary valve box shall be used.

(9) Water service line:

- a. All water service lines shall be installed by a state and city licensed plumber or the city water department and shall be continuous from corporation stop to curb stop. The city's public works department may install water service lines if deemed necessary by the city.
- b. Water service lines shall extend at right angles with the water main to the front line of the lot or single building which it is to serve. The service shall terminate with a curb stop located seven feet inside of the right-of-way line, and at the mid-point of the lot, unless otherwise requested by the city.
- c. The service line must be continuous from the water main to the curb stop. Service lines shall not be joint by couplings of any type.
- d. All water service lines shall be installed at a minimum depth of four and one-half feet.
- e. The end of the service line shall be marked with a wooden 4" × 4" post painted blue. The marker post shall be buried six feet, and shall extend four feet above finished grade.
- f. Copper service line shall be backfilled with sand to 6-inches above and below pipe.

(10) Fire service line: All fire sprinklers shall be connected to the water system through a separate fire service line constructed in accordance with the requirements of this section.

(e) *Testing and acceptance.*

(1) *General:*

- a. The city and city engineer shall be notified at least 24 hours before the test.
- b. All required testing and correction of any defects of the water distribution system shall be completed before curb and gutter or other roadway improvement work begins.

(2) *Pressure test:*

- a. As part of the construction, the water mains shall be pressure tested in accordance with AWWA C-600 for Ductile Iron and C-900 for PVC and this section.
- b. The filling of the water main shall be performed by city with contractor assistance, with all hydrants and whips in the open position and slowly closed in the order in which water appears.
- c. The main to be tested shall be allowed to stabilize on system pressure for a period of 24 hours prior to pressure testing.
- d. All newly laid pipe shall be subjected to a hydrostatic pressure of 150 pounds per square inch. Duration of each pressure test shall be for a period of not less than two hours for each valved section of pipe. Each valved section of pipe shall be filled with water and the specified test pressure shall be applied by means of a pump connected to the pipe.
- e. Before applying the specified test pressure, all air shall be expelled from the pipe. Hydrants shall be located as near as possible to high points in the main or taps installed to facilitate air removal.
- f. Leakage shall be defined as the quantity of water which must be supplied into the newly laid pipe or any valved section thereof to maintain pressure within 5 psi of the specified test pressure.
- g. Leakage shall not be measured by a drop in pressure in a test section over a period of time.
- h. No pipe installation shall be accepted if the leakage is greater than that determined by the following formula where:

$$L = (S \cdot D \cdot (150)^{0.5}) / \{148,000\}$$

L = allowable leakage, gallons per hour

S = length of pipe tested, feet

D = nominal diameter of the pipe, inches

- i. The tests will be repeated until satisfactory results are obtained. A form documenting the test procedure and results shall be signed by contractor and the city's representative witnessing the test.
 - j. All testing and chlorination shall be done before the installation of service lines.
- (3) *Preliminary flushing:*
- a. Prior to chlorination, the main shall be flushed as thoroughly as possible with the water pressure and outlets available. The city and the city engineer shall be notified before any water is drawn from city mains, and only city employees shall operate filling valves.
 - b. Flushing shall be done after the pressure test is made. Flushing shall affect a velocity in the main of at least two and one-half feet per second.
 - c. Corporation stops shall be provided at the end of dead end mains without hydrants to allow for flushing and chlorination.
- (4) *Disinfection:*
- a. Disinfection of the water main shall be accomplished in accordance with Illinois Environmental Protection Agency requirements.
 - b. The pipe section being chlorinated shall be kept at a lower pressure than the water system pressure.

- c. All disinfection, as required by this section, shall be performed by an independent firm exhibiting experience in the methods and techniques of this operation, and shall be approved by the city.

(5) *Final flushing and testing:*

- a. Following chlorination, all treated water shall be thoroughly flushed from the newly laid pipeline at its extremities until the replacement water, throughout its length, upon test, has a CL2 residual of typical supply water or less.
- b. Bacteriological sampling and analysis of the samples shall be performed by a laboratory approved by the Illinois Department of Public Health and the city.
- c. The contractor or developer shall pay for the sampling and analysis. Results shall be transmitted by the laboratory directly to the city. Test results shall indicate the date the sample was made, the exact locations at which samples were taken, the firm submitting the sample, and the project at which the samples were collected.
- d. The city shall operate the valves, hydrants, and any other appurtenances to flush the water main after the receipt of satisfactory water samples. Any operation difficulties or deficiencies shall be noted and submitted to the developer or contractor for repair.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-191. - Street improvements.

- (a) *Pavement widths.* All streets shall be improved with roadway pavements to an overall width in accordance with the following minimum dimensions:

| Type of Street | Parking* | Pavement Width (ft.)** | Lane Width (ft.) | Minimum Return RAD (ft.)*** |
|--------------------------------|--|------------------------|------------------|-----------------------------|
| Arterials and Major Collectors | To be designed in accordance with Illinois Department of Transportation requirements for Local Roads and Streets | | | |
| Minor Collectors | | | | |
| Industrial/Commercial | Two Sides | 44 | 12 | 30 |
| Residential | Two Sides | 40 | 12 | 30 |
| Local Streets | | | | |
| Industrial/Commercial | Two Sides | 40 | 12 | 30 |
| Residential | One Side | 33 | 12 | 15 |
| Cul-de-Sac | | | | |

| | | | | |
|-----------------------|-----------|----|----|----|
| Industrial/Commercial | Two Sides | 44 | 12 | 30 |
| Residential | One Side | 33 | 12 | 15 |
| Frontage Road | | | | |
| Industrial/Commercial | One Side | 36 | 12 | 30 |
| Residential | None | 26 | 12 | 15 |
| Alleys | | | | |
| Industrial/Commercial | None | 24 | 12 | 15 |
| Residential | None | 20 | 10 | 15 |

* Requirements for on street parking shall be set by the Plan Commission.

** Measured between back of curbs. For rural cross-sections pavement shall conform to Illinois DOT requirements for Rural Local Roads and Streets.

*** The larger radius shall be provided at industrial/commercial and residential interface.

(b) Material specifications.

- (1) All street construction materials shall be in accordance with Illinois Department of Transportation Standard Specifications for Road and Bridge Construction in Illinois.
- (2) Base course: Base course shall be uniformly graded and shall conform to the requirements of the IDOT gradation classification for CA-6.
- (3) Prime coat, bituminous concrete binder, and bituminous surface course shall meet the requirements of Illinois Department of Transportation Standard Specifications for Road and Bridge Construction in Illinois, Superpave pavement mix designs.
- (4) The tack coat material shall be cut back asphalt, Grade RC-70.
- (5) Asphalt paving:
 - a. Where the road is used for development construction, the surface shall not be constructed until 75 percent of the development building is complete.
 - b. The surface course shall not be applied until the binder course has weathered through one winter season and all underground utilities have passed their respective tests.
 - c. Binder course that is damaged or failing structurally, must be replaced before the paving of the surface

- d. All cracks greater than $\frac{1}{4}$ inch in the binder course shall be sealed prior to application of the surface course.
- e. Joints shall be lapped from binder course to surface course.
- (6) Tack coat shall be applied to the binder course prior to construction of the surface course to ensure proper bond.
- (c) *Testing and approval.*
 - (1) *Proof roll:*
 - a. All subgrade and base course shall be proof rolled in the presence of a city representative or city engineer with a fully loaded tri-axle dump truck or similar equipment prior to placement of upper material layers or curb and gutter.
 - b. Maximum allowable deflection shall be $\frac{1}{2}$ inch.
 - c. If the subgrade deflects greater than $\frac{1}{2}$ inch, the developer or his representative shall determine the course of action to be approved by the city.
 - d. The subgrade must be proof rolled an additional time if it rains following the initial proof roll and prior to paving.
 - (2) *Compaction testing:*
 - a. The density of the binder course and of the surface course shall be measured by nuclear density test method.
 - b. All fees for the testing and labor must be paid in full by the developer.
 - (3) *Street signs:*
 - a. Street signs shall be provided by the developer that match existing city street signs and comply with Illinois Department of Transportation standards.
 - b. Street name signs shall be located so as to identify every street within the subdivision.
 - c. The developer shall indicate on the engineering plans, locations of traffic control signs, devices, and markings.
 - d. Traffic control design shall be based on the latest edition of the Illinois Department of Transportation "Standard Specifications for Road and Bridge Construction in Illinois", the "Manual of Uniform Traffic Control Devices".

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-192. - Curbs and gutter/sidewalks.

- (a) *General.*
 - (1) All development shall include provisions for the construction of curb and gutter improvements designed in accordance with this section.
 - (2) All curb and gutter shall be installed in accordance with the material installation and testing requirements of the Illinois Department of Transportation "Standard Specifications for Road and Bridge Construction in Illinois," latest edition, including supplements, unless otherwise modified in this section.
 - (3) Specification references made herein for manufactured items, such as reinforcement, refer to designations of the American Society for Testing and Materials (ASTM).
- (b) *Basic design standards.*
 - (1) Residential curb and gutter:

- a. Eighteen inch mountable type combination curb and gutter conforming to the dimensions shown in the mountable curb and gutter detail IDOT Standard 606001-02 for M 3:12. or latest standard.
- b. The back of curb shall be depressed at all sidewalk handicapped ramp locations. Depressing rolled curb at driveways will not be allowed.
- c. Collector and major streets shall have an 18" barrier type combination curb and gutter conforming to the dimensions shown in the curb and gutter detail IDOT Standard 606001-02 for B 6.12. or latest standard.
- d. Depressed curb shall be provided at all sidewalk handicapped ramp locations and at all driveways whose locations are known at the time of curb installation.
- e. Curb base course material shall be IDOT gradation CA-6 minimum two inches thick.

(2) *Commercial and industrial curb and gutter:*

- a. Eighteen inch barrier type combination curb and gutter conforming to the dimensions shown in the curb and gutter detail IDOT Standard 606001-02 for B 6.12. or latest standard.
- b. Depressed curb shall be provided at all sidewalk handicapped ramp locations and at all driveways whose locations are known at the time of curb installation.
- c. If the driveway location is not know at the time of curb and gutter installation, barrier curb shall be installed, and driveway opening will be provided later by the lot owner.
- d. Curb base course material shall be IDOT gradation CA-6 minimum four inches thick or as determined by the city engineer.

(3) *Sidewalk:*

- a. Sidewalks shall be installed in all residential and commercial developments.
- b. Sidewalks shall be continuous on both sides of streets and around culs-de-sac.
- c. Minimum width of sidewalks shall be five feet in residential districts and six feet in commercial districts.
- d. Sidewalks shall be five inches thick minimum; six inches across driveways, and eight inches within five feet of a roadway intersection.
- e. Handicap ramps shall conform to IDOT Standard 424001-04 or latest revision.
- f. Cross walks shall be provided at all intersections.
- g. Sidewalk base course material shall be IDOT gradation CA-6 minimum four inches thick or as determined by the city engineer.
- h. Sidewalk cross slope shall be ¼" pre [per] foot.
- i. Wired mesh shall be installed in all driveways.

(c) *Material specifications.*

- (1) All materials shall meet the requirements of the IDOT Standard Specifications for Road and Bridge Construction to include the following.
- (2) Portland Cement Concrete, Class SI.
- (3) Bituminous expansion joint filler, minimum ½-inch thick for sidewalk and ¾ inch thick for curb and gutter, pre-shaped to the profile of the curb.
- (4) Expansion joint dowels.
- (5) Joint sealant.
- (6) Curing compound.

(d) *Installation requirements.*

- (1) *Notification.* Prior to beginning the curb and gutter construction, the city engineer and department of public works shall be given 48 hours notice of the intended time of starting work.
- (2) *Base preparation.*
 - a. The base course shall be trimmed or filled as necessary to provide a full depth of curb and gutter as shown in the curb detail.
 - b. Prior to concrete placement, the base course shall be compacted and proof rolled in accordance with the testing and acceptance requirements indicated below.
 - c. Sidewalk subgrade shall be tamped or rolled until thoroughly compacted.
- (3) *Placing and finishing concrete.*
 - a. The city shall be notified at least 24 hours before constructing the curb and gutter or sidewalk.
 - b. Concrete shall be thoroughly tamped to remove all voids.
 - c. The curb and gutter surface shall be broom finished at right angles to the flow line of the curb and gutter. Any honeycombed areas along the back of the curb shall be pointed with mortar.
- (4) *Joints—Curb and gutter.*
 - a. Expansion joints shall be placed, at a minimum, at all curb radius points, within two feet of all drainage castings, and at all construction joints in the curb.
 - b. The expansion shall consist of expansion joint filler and dowels with end caps.
 - c. Construction joints shall be sawcut or tooled at a maximum of ten-foot intervals to a depth of two-inches minimum. Sawing shall be done as soon as practical before any random shrinkage cracking occurs and no later than 24 hours after the concrete has been placed.
- (5) *Joints—Sidewalks.*
 - a. Expansion joints, ½-inch wide, filled with preformed joint material, shall be placed full depth of sidewalk between sidewalks and all structures (i.e., light poles, buildings, existing sidewalks, etc.).
 - b. At intervals of not more than 25 feet.
 - c. Contraction joints shall be tooled to a depth of one-inch and a maximum width of ¼-inch at five-foot intervals.
 - d. Edges of sidewalks shall be rounded off as described for jointing.
- (6) *Curing and protection.* The curb shall be sealed with curing compound as the finishing work proceeds. Protection shall be in accordance with the standard specifications. Curing compound shall not be applied to sidewalks. Sidewalks shall be kept moist with plastic cover or damp burlap.
- (7) *Curb stamping.* Following finishing, curbs shall be neatly and uniformly stamped at such locations as to indicate the location of the water main valve boxes, water service b-boxes, and sanitary laterals. The following symbols shall be used:
 - B-boxes W.
 - Valve Boxes WV.
 - Sewer Laterals S.

(e) *Testing and approval.*

- (1) *Proof roll:*

- a. The curb and gutter base course shall be proof rolled with a fully loaded dump truck before the curb and gutter is poured. The city engineer shall be notified at least 24 hours before proof rolling. Additional proof rolls shall be provided to verify that any unstable areas have been repaired.
- b. Maximum deflection shall be ½-inch.

(2) *Concrete:*

- a. Concrete class, slump, air entrainment, and any other additives used shall be noted on the delivery ticket. The city may require that the slump and air content be tested on the site.
- b. One set of three cylinders shall be taken for every daily concrete pour. For curb and gutter pours in excess of 1,000 feet, two sets of three cylinders shall be taken.
- c. Compressive strength tests for curb, gutter, and sidewalk shall be obtained by contractor or developer and results copied to the city.
- d. If test results are not forwarded to the city, the city has the right to test the concrete by any method deemed necessary. All testing will be at the developers expense.
- e. Any concrete not conforming to these specifications will be rejected.
- f. All concrete testing shall be at the expense of the contractor or developer.

(3) *Defects:*

- a. Any curb and gutter or sidewalk installed at improper line and grade, that is damaged, badly cracked, or vandalized, or that has been installed with improper material shall be removed and replaced as a condition of acceptance.
- b. Any concrete not meeting compressive strength requirements shall be removed and replaced.

(f) *Details.*

- (1) *Curb and gutter:* IDOT Standard 606001-02.
- (2) *Curb ramps:* IDOT Standard 424001-04.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-193. - Street lighting.

(a) *General.*

- (1) All developments shall include provisions for the construction of street lighting facilities in accordance with this section.
- (2) The street lighting plan shall show the location and direction of the pole and mast and the proposed routing of the electric cable and duct. The pole size, mast arm length and catalog numbers are to be shown on the street light plans.
- (3) Street lighting shall be installed in accordance with the current service rules and policies of Commonwealth Edison Company, and shall conform to the requirements of the National Electric Code.
- (4) Street lights shall be installed and in good working order.

(b) *Basic design standards.*

- (1) Street lights shall be placed as follows:
 - a. At all township, county, or state highway intersections.
 - b. At all major street (streets with right-of-way widths greater than 66 feet) intersections.

- c. At all local street cross or "tee" intersections.
 - d. At the end of streets and the turn-around of culs-de-sac.
 - e. At mid-block of all blocks, or at spacing not to exceed 300 feet.
 - f. At all major curves in street alignment as determined by the city.
- (2) Illumination of non-roadway surfaces shall not exceed the following intensities:
- a. Residential within the right-of-way 0.5 foot-candles.
 - b. Residential property 0.2 foot-candles.
 - c. Commercial within the right-of-way 5.0 foot-candles.
 - d. Commercial property 2.0 foot-candles.
- (3) Mounting height shall be 25 feet for all poles, unless otherwise approved by the city.
- (4) Conductors shall be sized to limit voltage drop to three percent at the furthest light.
- (5) All electric cable shall be placed underground in a one inch minimum unit duct.
- (6) The service disconnect shall be fused (30 amp minimum), rain-tight, enclosed and placed within three feet of Commonwealth Edison's transformer or pedestal.
- (7) Each lighting circuit shall have its own overcurrent protection. Each lighting circuit shall not exceed 75 percent of the overcurrent protection rating. Quick disconnect "Tron" type fuse holder and insulating boots, with 5 amp fuse on the power leg and a slug on the neutral leg shall be provided at each pole.
- (8) A hand hole shall be provided in each pole base for splicing purposes. The hand hole shall be located on the side opposite of traffic flow, 18 inches above finished grade.
- (c) *Material specifications and details.*
- (1) Lighting standards:
- a. *Residential:*
 - 1. Street lighting poles may be concrete, steel or aluminum.
 - 2. A 250 watt luminaire high pressure sodium vapor color-corrected lamp shall be placed at all intersections of public street with township, county, or state highway and/or major streets. A major street is defined as any street with a right-of-way width greater than 66 feet.
 - 3. A 150 watt luminaire high pressure sodium vapor color-corrected lamp shall be placed at all cross or "T" intersections and at the end of streets and culs-de-sac. A 150 watt luminaire shall be placed at mid-block of all blocks at a distance not-to-exceed 300 feet between lamps. A 150-watt luminaire shall also be placed at all major curves in street alignment as determined by the city.
 - 4. Mounting height shall be 25 feet for all poles, except by approval of the city. The mast arm length shall be 12 feet at all intersections. A mast arm length of eight feet may be used at mid-block locations.
 - 5. All electric cable shall be placed underground in a unit duct. Each installation of street lights shall have a single feed from the service connection to Commonwealth Edison electric lines. The service disconnect shall be Square D, Part No. QO200TR, NEMA 3R, with a 30 amp breaker, and shall be placed within three feet of Commonwealth Edison's pedestal.
 - b. *Commercial:*
 - 1. Street lighting poles may be concrete, steel or aluminum.

2. A 250 watt luminaire high pressure sodium vapor color-corrected lamp shall be placed at all cross or "T" intersections and at the end of streets and culs-de-sac. The same type luminaire shall be placed at mid-block of all blocks at a distance not-to-exceed 500 feet between lamps; and at all major curves in street alignment.
3. A 250 watt luminaire high pressure sodium vapor color-corrected lamp shall be placed at all intersections of public street with cityship, county, or state highway and/or major streets.
4. Mounting height shall be 30 feet for all poles. The mast arm length shall be ten feet.
5. All electric cable shall be placed underground in a unit duct. Each installation of street lights shall have a single feed from the service connection to Commonwealth Edison electric lines. The service disconnect shall be Square D, Part No. QO200TR, NEMA 3R, with a 30 amp breaker, and shall be placed within three feet of Commonwealth Edison's transformer or pedestal.

(2) Light standards and mast arms:

- a. *Residential pole*: HAPCO Company or approved equal.

P.O. Box 547
 Abingdon, VA 24210
 Catalog No. 31-187
 Catalog No. 31-181 (mid-block only)
 Phone: (703) 628-7171
 Fax: (703) 628-7707

- b. *Commercial pole*: HAPCO Company or approved equal.

P.O. Box 547
 Abingdon, VA 24210
 Catalog No. 31-568
 Phone: (703) 628-7171
 Fax: (703) 628-7707

- c. *Luminare*: The luminare shall be the type manufactured by General Electric as noted below or an equivalent type approved by the city. The luminare shall be a 150 or 250 watt cut-off luminare in accordance with subsection (c)(1)a., b. of this section, with attached photo cell. The high pressure sodium bulb shall be the same type as that manufactured by General Electric referred to as LUCALOX, as noted below and shall be included with the luminaires.

| General Electric Catalog No. | Wattage | Bulb Catalog No. | Voltage |
|------------------------------|---------|------------------|---------|
| M2AC25SOA2GMC31 | 250 | LU250 | 120 |
| M2AC15SOH2GMC31 | 150 | LU150/55 | 120 |

- d. *Vibration requirements*: There shall be no excessive vibrations in the shaft or mast arms under moderate wind pressure, where damage may result to the luminaire and/or its component parts, and/or mast arms. A dampening device, as an integral part of the shaft, shall be installed in the shaft to alleviate such excessive vibrations. The proposed vibration dampening device shall be submitted to the city for approval.

(3) *Foundation:*

Pole foundation: Pole foundations shall be constructed with a reinforced concrete foundation with dimensions required by the type of soil as shown by soil tests and borings. Foundations shall also contain a ¾-inch by ten foot grounding rod and shall be attached to the internal grounding lug located within the pole by clamps and electrical grounding wire.

(4) *Material:* The compressive strength of concrete for the foundation shall be a minimum of 3,500 pound per square inch in 28 days. The projecting portion of the anchor bolt and the nut and washer shall be treated by the hot dipped galvanized method. The raceway shall be a 2-inch straight conduit of rigid plastic.

(5) *Construction method:* The foundation shall be cast-in-place and allowed to cure a minimum of 14 days before the light pole is erected. The top of the foundation shall be constructed level so that no shims or other leveling device will be needed to set the light standard plumb on the foundation. A two foot "clear zone" shall be maintained from the back of the curb to any above ground obstruction.

(6) *Electric cable 600 volt, plastic insulated, materials:*

- a. The conductors shall be a minimum of No. 10 AWG size in the light standard. When not within the light standard, the wire shall be a minimum of No. 8 AWG size in a 1-inch unit duct.
- b. The wiring in the light standard shall have a Tron HEB-AA fuse holders with a 5 amp fuse, and shall meet the specifications for splicing of 600 volt cable and wire.
- c. A green ground (minimum #10) wire shall be used from pedestal to pole with connections.
- d. The electric cable shall be contained within a minimum 1-inch plastic unit duct. The unit duct shall be one piece without splices. The unit duct may be formed by extruding it over the insulated conductors. The unit duct shall have a smooth inner bore which does not adhere to the conductor insulation.

(7) *Conductors:*

- a. Conductors of No. 8 AWG size, XLP or EPR-USE and smaller shall be stranded annealed copper wire that complies with ASTM designation B-3. Conductors of No. 6 AWG size and larger shall be stranded annealed copper wire complying with ASTM designation B-8. Conductors shall be different colors to designate hot and neutral wires. Preferred colors are black, red, and white.
- b. Conductors shall be sized to limit the voltage drop at the furthest pole to three percent.

(8) *Conduit:* Street crossings of conductors shall be installed in Schedule 40 heavy wall rigid PVC conduit or galvanized steel. Conduit shall be sized per the latest edition of the National Electrical Code (NEC).

(d) *Installation requirements.*

(1) *Construction methods.*

- a. The electric cable shall be continuous without splices between service connections and light standards and through all conduits. The duct shall extend one foot into the light standards and the cable shall be long enough for the splices to be withdrawn one and one-half feet out of the light standard handholes. All electric cable and electric cable unit duct shall be buried underground at a minimum depth of two and one-half feet below finished grade.
- b. The cable duct shall be placed in the bottom of the trench after all loose stones have been removed and all protruding stones have been removed or covered with backfill material as directed by the city engineer.
- c. The trench shall be backfilled by placing backfill material in uniform layers not exceeding six inches in depth (losses measure). The material in each layer shall be thoroughly compacted

to a density equal to the existing ground or as approved by the city engineer in such a manner as not to injure the cable duct or the bare copper wire.

- d. No stone or rock greater than two inches in maximum dimensions shall be allowed in any layer of backfill.
- e. No sod, frozen material, or any material which, by decay or otherwise, might cause settlement shall be placed as backfill. Deleterious substances, such as coal, lignite, shells, clay lumps and conglomerate and cemented particles shall not exceed five percent by weight in any one sample of backfill material.
- f. Any material excavated from the trench may be used as backfill provided it does not conflict with the above and the material is approved by the city engineer.
- g. No splices shall be allowed between the light standard and the connection to Commonwealth Edison electrical system. If the cable has been cut during construction, the cable and duct shall be replaced in its entirety between the light standards or between the light standard and the Commonwealth Edison service connection.
- h. All pavement crossings shall be coordinated by the developer or contractor. No open cutting of curb and gutter or pavement shall be performed.
- i. Backfill from one foot above conduit to roadway subgrade shall be compacted CA-6, and shall extend three feet beyond the back of curb.

- (2) *Vibratory plowing.* The cable duct shall be directly buried by a vibratory plowing method to a minimum of two and one-half feet. Cable unit duct shall not be buried to a depth exceeding four feet.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-194. - Alleys and pedestrian ways.

- (a) *Alleys.* Pavements shall be 16 feet wide, six inches thick Portland cement concrete or a bituminous surface as required for street construction.
- (b) *Pedestrian ways.* Portland cement concrete walks shall be installed to a width of not less than five feet.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-195. - Public utilities.

Telephone, electric, gas service and cable television services must be placed in the rear of lots underground. Conduits or cables shall be placed in common trenches within the easements or dedicated public ways, in a manner which will not conflict with the other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public. The developer or contractor shall be responsible for the location of all existing private utilities. Any relocation, bracing, or coordination and associated costs shall be borne by the developer or contractor.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-196. - Stormwater management and stormwater.

(a) *General.*

- (1) All developments shall include provisions for the construction of storm sewers and appurtenances designed in accordance with this section.

(b) *Basic design standards.*

(1) *Stormwater detention:*

- a. Stormwater system design and detention facilities shall be based upon the Will County Stormwater Management Ordinance with modifications as noted in this section. Drainage calculations and supporting data shall be submitted for approval by the city.
- b. The maximum high water depth for dry detention ponds shall be four feet unless approved by the city. The minimum slope for the bottom of a dry detention pond is one percent.
- c. Side slopes on ponds shall be a maximum of 4:1 slope. Maximum vertical wall heights on dry detention ponds shall be three feet from the inside toe of the wall to the top of the wall.
- d. Restrictors and appurtenances shall be designed to be self cleaning, and shall allow for maintenance access during heavy storm events.
- e. All open-ended pipes or end sections 18-inch in diameter or greater shall be provided with a flared end section and safety grate.

(2) *Stormwater drainage system:*

- a. The stormwater drainage system shall be separate and independent of the sanitary sewer system. Open ditches are prohibited.
- b. Storm sewers shall be designed to carry the 10-year storm event without overtopping structures, using ISWS Bulletin 70 rainfall data. Storm sewer design calculations and supporting data shall be submitted for approval by the city.
- c. Storm sewers may be designed for full pipe or pressure pipe flow conditions. Pressure pipe flow design shall be accompanied by hydraulic grade line calculations and profiles for the 10-year storm event.
- d. Storm sewer design shall maintain flow velocities between 2.5 feet per second and ten feet per second.
- e. The 100-year storm event shall be retained within the roadways and on the development site. In no case shall the depth of storage in the roadway overtop the curb.
- f. Where special roadway inlet designs are required to address high flow velocities, inlet capacity calculations shall be provided.
- g. Storm sewer pipe shall be a minimum of 12 inch diameter.
- h. Sewer shall be laid with straight alignments. Changes in alignments shall occur only at structures. Storm sewer of different diameters shall join only at structures.
- i. Sewers shall be placed only in public rights of way, or in dedicated public drainage and utility easements.
- j. Where it is necessary to construct storm sewers through land not being subdivided, the subdivider shall be required to pay the full cost of the storm sewers, subject to a negotiated recapture agreement.

(3) *Stormwater inlets:*

- a. Surface drainage inlets shall be provided so that surface water is not carried across any street intersections or parking lot drives. Inlets shall discharge into storm sewers, which shall not discharge into side lot or rear lot drainage ditches. Inlets shall be provided at all low points.
- b. Maximum spacing between roadway inlets shall be 300 feet.
- c. Maximum overland flow length in the parkway for rear yard swales shall be the lesser of 200 feet or two consecutive lot widths. No more than four lots may be served by a single inlet structure.

- d. Design engineer shall provide inlet calculations based on IDOT Local Road design to verify inlet capacities.

(4) *Lot drainage:*

- a. Positive drainage shall be established for each lot whether or not it is the intention to construct a building on that lot.
- b. Minimum slopes for side and rear yard swales shall be 1.0 percent.
- c. Sump pump discharge drainage conveyance systems shall be located in the rear of lots. The system shall consist of an inlet provided at alternating lot corners with capped service tees for each adjacent lot.

(5) *Storm sewer manholes:*

- a. Manholes shall be provided at the following locations:
 - 1. At the termination of all sewers which do not terminate at a catch basin or inlet.
 - 2. Changes in direction, horizontal or vertical.
 - 3. Changes in shape or pipe size.
 - 4. Junctions with other storm sewers.
 - 5. Manhole spacing shall be:

| Storm Sewer Pipe Size (in inches) | Maximum Manhole Interval (in feet) |
|-----------------------------------|------------------------------------|
| 12—36 | 400 |
| 42 or larger | 500 |

- b. Where flows and other conditions dictate, special manholes or junction chambers shall be designed and constructed.

(6) *Sewer depth:* Storm sewers shall be constructed with a minimum of two feet of cover and to provide an outfall for all stormwater within the ultimate service area, both existing and future. Storm sewer depth may be reduced in certain circumstances approved by the city engineer, provided that a suitable class of sewer pipe be provided.

(7) *Sewer pipe class:* Sewer pipe class shall be determined based upon the "Standard Specifications for Road and Bridge Construction," latest edition.

(c) *Material specifications.* All storm sewer system elements shall conform to the following specifications:

(1) *Sewer pipe:*

- a. Reinforced concrete pipe (12" diameter and larger), circular reinforcement, minimum Class 3, wall B, ASTM C-76.
- b. Reinforced concrete elliptical culvert pipe—Minimum Class HE-III or VE-III, ASTM C-507.
- c. Reinforced concrete arch culvert pipe—Double line reinforcement minimum Class 3, ASTM C-507.
- d. In special cases, the city may allow for the developer to use high density poly ethylene (HDPE) storm sewer pipe, advance drainage systems N-12 IB WT or equal.

(2) *Sewer pipe joints:*

- a. Reinforced concrete pipe—Continuous O-ring gaskets, or conforming to ASTM C-443.
 - b. Reinforced arch or elliptical pipe—ASTM C-877.
 - c. HDPE pipe—ADS N-12 IB WT or equal, ASTM D-3212.
- (3) *Manholes and catch basins:*
- a. Precast reinforced concrete—ASTM C-478 with tongue and groove joints sealed with gaskets conforming to ASTM C-443 or bituminous jointing material.
 - b. Size as required to accommodate the intersecting sewer pipes, shall be in accordance with the manhole diameter sizing chart.
- (d) *Installation.*
- (1) Sewer system design and construction shall in all respects be in accordance with the regulations of the Will County Stormwater Ordinance and the Standard Specifications for Water and Sewer Main Construction in Illinois with modifications as noted in this section. No construction shall commence until a copy of a stormwater permit is filed with the city and the city engineer.
 - (2) Manholes, catch basins, and inlets:
 - a. At least one 2-inch precast concrete adjusting ring shall be used on each inlet barrel to provide a base for the frame and grate.
 - b. No more than two precast concrete adjusting rings with a total of six inch maximum height adjustment shall be allowed.
 - c. Flowlines shall match pipe grade entering manhole.
 - d. Lift holes on manholes shall be sealed with concrete plug and mastic.
 - e. Lift holes on inlets and catch basins in roadways shall be left open and the structure shall be wrapped with filter fabric to facilitate drainage of roadway subbase.
 - (3) Outfall structures:
 - a. All storm sewer discharge pipes shall terminate at precast reinforced concrete end sections, flared end with toe block.
 - b. Adequate stabilization shall be placed at all outfall structures for velocities greater than five feet per second.
- (e) *Acceptance.*
- (1) *General:* All the required testing and correction of defects of the storm sewer system shall be completed before curb and gutter or other roadway improvement work begins.
 - (2) *Cleaning:* All pipes, manholes, catch basins, and inlets shall be thoroughly cleaned of debris and sediment prior to testing and acceptance.
- (f) *Erosion control.*
- (1) *General.*
 - a. The soil erosion measures shall be, at a minimum, in accordance with the latest edition of the "Will County Stormwater Management Ordinance," and the project plans and specifications.
 - b. All soil erosion control measures are to be in place prior to construction commencing.
 - (2) *Inlet protection.*
 - a. Filter fabric must be provided for all inlet grates in the street.
 - b. Straw bales must be provided around all inlet grates in the parkway.
 - (3) *Stockpile.*

- a. Stockpile must be stabilized with temporary seeding within 14 days from the last disturbance.
 - b. Silt fence must surround the entire base of the stockpile.
 - c. The stockpile must be completely removed from the site within six months of the last disturbance.
 - d. Side slopes may not exceed 2:1 slope.
- (4) *Construction entrance.*
- a. Construction entrance detail must be provided on the plans and subject to city and/or city engineer's approval.
 - b. The entrance must not slope onto the existing pavement to discourage erosion.
 - c. The entrance must be constructed of aggregate CA-1 of sufficient depth.
 - d. The entrance must be maintained so as to not carry sediment from the site on to public right-of-way.
 - e. Wheels must be free of sediment prior to entering public right-of-way.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-197. - Fire hydrants.

(a) *Spacing.*

- (1) There will be at least one fire hydrant at every street intersection, and, if there shall be more than 300 feet between any two fire hydrants, as measured along the right-of-way line of the street in any area in which more than one principal building is located on a zoning lot, as defined in the zoning ordinance of the city, the city engineer after consulting with the Fire Protection District and/or the fire chief, shall specify locations for fire hydrants in accordance with the spacing requirements of the National Fire Protection Association (NFPA) or the Insurance Services Organization (ISO). Fire hydrants shall be provided so as to provide the required fire flows to structures as described in the "Fire Suppression Rating Schedule" latest edition, published by the Insurance Service Office.
- (2) Six inch main extensions serving hydrants shall not be more than 100 feet long. Where water transmission lines or off-site water lines are installed in existing easements, hydrants must be installed as designated by the city or the city engineer after consulting with the Fire Protection District and/or the fire chief, in accordance with the spacing requirements of the National Fire Protection Association NFPA) or the Insurance Services Organization (ISO).
- (3) Fire hydrants shall be placed on private property when the fire district determines that fire hydrants are at too great a distance to provide proper protection for multi-family, commercial, or industrial properties. Easements shall be provided for all hydrants and associated mains on private property.
- (4) Fire hydrants shall be placed within 100 feet of all sprinkler and/or standpipe Siamese connections provided on buildings, unless otherwise directed by the fire district because of existing or proposed circumstances.

(b) *Specifications.*

- (1) All fire hydrants shall be Mueller Super Centurion or Clow Medallion F2545, 6-inch connection, or equal and shall conform to AWWA C-502.
- (2) Two 2½-inch National Standard hose connections,
- (3) One 4½-inch National Standard pumper connection, open counter-clockwise.
- (4) Operating nut shall be 1½ inch pentagon.

- (5) Fire hydrants shall be primed and painted with Rustoleum Safety Red prior to reaching the job site. Touch up painting shall be performed after completion of installation, backfilling, and restoration work around the hydrants.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-198. - Inspection at subdivider's expense.

All required land improvements to be installed under the provisions of this chapter shall be observed and inspected during the course of construction by an inspector appointed by the city council. Agreement to pay such fees for inspection and observation shall be included in the profession fee agreement.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-199. - Landscaping

- (a) Trees must be located on public property. All clearing, grubbing, earthwork, landscaping, seeding shall be performed in accordance with IDOT Standard Specifications.
- (b) Landscaping, plantings, berms, and signs shall be designed so as not to restrict sight distances at curves and intersections.
- (c) Parkway slopes shall not exceed 3:1.
- (d) Landscape seeding shall be Class 1A seeding mixture, as defined by IDOT Standard Specifications.
- (e) Trees shall be planted along all streets where trees do not exist.
- (f) Trees shall have a trunk diameter, measured 12 inches above the ground, of not less than two and one-half inches.
- (g) There shall be not less than two trees per lot width, nor shall the spacing between two trees be in excess of 50 feet.
- (h) This requirement will be satisfied if an equivalent number of trees of the same size or larger are planted in a naturalistic manner in the front yards of the adjoining lots.
- (i) The planting shall be restricted to Thornless Honey Locusts, Sugar maples, hackberries, Pin Oaks, Sycamores, Gingkoes, and/or other trees approved by the city.
- (j) Chinese Elm, Box Elder, Willow, Poplar, and similar fast-growing brittle-wood species are prohibited.
- (k) Trees shall be maintained and any dead trees replaced by the developer until the subdivision is accepted by the city.

(Ord. No. 06-09, § 1, 6-13-06)

ARTICLE VI. - REQUIRED LAND DEDICATIONS²¹

Footnotes:

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Editor's note— Ord. No. 11-17, §§ 1, 2, adopted June 14, 2011, repealed the former Art. VI, §§ 74-200—74-210, and enacted a new Art. VI as set out herein. The former Art. VI pertained to required land dedications and derived from Ord. No. 06-09, § 1, adopted 6-13-06.

Sec. 74-200. - Authority of city regarding land dedications.

The city has the authority and discretion to require as part of a final plat approval of a planned unit development and/or annexation within the city or within the one and one-half mile extra territorial jurisdiction of the city a developer or sub-divider to make a land donation or cash contribution to the school district or park district for their future needs.

(Ord. No. 11-17, §§ 1, 2, 6-14-2011)

Secs. 74-201—74-220. - Reserved.

ARTICLE VII. - CONSTRUCTION OF IMPROVEMENTS

Sec. 74-221. - Submittals.

- (a) Prior to commencing of site development work, the developer or contractor shall provide a copy of their Illinois Environmental Protection Agency National Pollutant Discharge Elimination System General Permit Notice of Intent form to the city with proof that all fees have been paid.
- (b) Prior to commencing any work requiring permits, a copy of the necessary permits shall be provided to the city.
- (c) Prior to installation of, or use of, any materials, the developer or contractor shall submit to the city engineer shop drawings for review. Shop drawings shall include, but not be limited to:
 - Bedding and backfill material sieve analysis.
 - Piping materials and appurtenances.
 - Valves and hydrants.
 - Castings and lids.
 - Aggregate subbase and base material sieve analysis and proctor tests.
 - Concrete, bituminous binder, and bituminous surface course mix designs.
 - Street light materials and appurtenances.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-222. - Preconstruction meeting.

Prior to commencement of any work or any portion of work, a preconstruction meeting shall be held between the city, city engineer, developer, and developer's contractor(s). At the preconstruction meeting, a proposed list of contractors shall be provided to the city, along with a proposed schedule of work.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-223. - Maintenance of lands.

The developer or contractor is responsible for the maintenance of facilities exiting from or entering onto the project site. The developer or contractor shall repair any roads, shoulders, curb and gutter, sidewalk, driveways, drainage facilities, or landscape damaged or adversely impacted during or as a result of construction. The developer or contractor shall follow any necessary procedures to control dust on the project site at all times. All dirt and debris tracked onto existing roads shall be removed on a regular basis. All soil erosion control measures are to be in place prior to and during site development and utility installation. The soil erosion measures shall be in accordance with the "Urban Manual," and the City of Braidwood's General National Pollution Discharge Elimination (NPDES) Permit, the, and the project plans and specifications.

Sec. 74-224. - Control and staking.

- (a) Final engineering plans shall be based on an established and accepted USGS benchmark clearly noted on the plans and the Will County coordinate system.
- (b) The project benchmark must be within the subdivision.
- (c) It shall be the developer's responsibility to provide accurate field staking of all infrastructure improvements and appurtenances. Any relocation of utilities, structures, roadways, or related appurtenances required due to deviation from the approved final engineering plans shall be the developer's responsibility.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-225. - Punch list.

- (a) Following receipt from the developer/owner by the City of Braidwood, a written request for acceptance of public utility and street improvements, the city engineer and public works department shall perform a punch list walk-through of the improvements to include the following:
 - (1) Curb and gutter;
 - (2) Pavement;
 - (3) Sidewalk;
 - (4) Street lights;
 - (5) Parkway trees;
 - (6) Water main, water valves, boxes and vaults;
 - (7) Service shut off valves and boxes;
 - (8) Fire hydrants;
 - (9) Sewers and sewer structures;
 - (10) Detention facilities and drainageways;
 - (11) Lift station.
- (b) A punch list will be issued noting any deficiencies or repairs to be addressed by the developer/subdivider prior to acceptance by the city.
- (c) At one year following placement of the final surface course on roadways or one year following final acceptance of public utilities and street improvements, whichever occurs first, the developer shall perform crack sealing of roadway cracks greater than or equal to 1/8 -inch.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-226. - Use of city facilities.

Water from the city's water distribution system shall not be used without prior approval from the city department of public works. All water valves and hydrants outside of the subdivision may only be operated by city department of public works personnel. With the exception of water utilized for testing, flushing, and disinfecting of new water mains, use of water from the city's water distribution system is prohibited.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-227. - Record drawings.

- (a) Upon completion of the installation of improvements in a subdivision, and as a part of city consideration of final acceptance of the development, the developer shall submit to the city, four sets of paper and one electronic (CAD) set of record drawings, which have been reviewed and agreed to by the city engineer.
- (b) The record drawings shall provide all improvement information including the location of gas, electric, telephone, cable TV, sprinkler systems, and any other utilities installed.
- (c) Record drawings must be reviewed by the developer's design engineer and signed and stamped by a professional engineer stating the constructed improvements will perform and operate according to design.

(Ord. No. 06-09, § 1, 6-13-06)

Sec. 74-228. - Details.

All details noted in or included with this standard specification are made a part of these standard construction specifications.

(Ord. No. 06-09, § 1, 6-13-06)

Chapter 78 - TAXATION [\[u\]](#)

Footnotes:

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Cross reference— Administration, ch. 2; businesses, ch. 26; utility rates and charges, § 86-191 et seq.

ARTICLE I. - IN GENERAL

Sec. 78-1. - Police protection tax.

- (a) There is hereby levied annually a tax not to exceed 0.075 percent of the value as equalized or assessed by the department of revenue, of all taxable property in the city, to provide revenue for the purpose of police protection in the city.
- (b) This tax shall be in addition to and in excess of all taxes authorized by law to be levied and collected by the city and shall be in addition to and in excess of the amount authorized to be levied for general purposes as provided by 65 ILCS 5/8-3-1.

(Ord. No. 75-10, §§ I, III, 8-12-75)

State Law reference— Tax authorized, 65 ILCS 5/11-1-3.

Sec. 78-2. - Tax for liability insurance on city property.

Pursuant to 745 ILCS 10/9-101 et seq., whereby a local entity may levy taxes annually on all taxable property within the territory at a rate that will produce a sum which will be sufficient to pay costs of purchasing insurance under 745 ILCS 10/9-103, pay the costs of and principal and interest on bonds issued under 745 ILCS 10/9-105, and to pay tort judgments under 745 ILCS 10/9-104 to the extent necessary to discharge such obligations, the city is hereby authorized to levy such a tax.

(Ord. No. 67-14, § 1, 7-18-67)

Sec. 78-3. - Auditing costs tax.

Pursuant to the authorization granted by 65 ILCS 5/8-8-8, a tax is hereby imposed at a rate on the dollar which will produce an amount which will equal a number sufficient to meet the cost of all auditing and reports thereunder as equalized and assessed by the department of revenue for the purpose of paying part or all of the annual auditing costs of the city.

(Ord. No. 67-13, § 1, 7-18-67)

Sec. 78-4 - Street and bridge tax.

- (a) There shall be included in the annual appropriation ordinance of the city cumulative levies of 0.06 percent and a 0.04 percent of the full, fair cash value, as equalized or assessed by the state's department of revenue, of all taxable property in the road district lying within the corporate limits of the city.
- (b) There shall be established a special and segregated fund for the revenues raised by this city, and such revenues shall be used solely and exclusively for street and bridge purposes.

(Ord. No. 67-7, §§ 1, 2, 7-18-67; Ord. No. 11-35, § 1, 8-23-11)

State Law reference— Authorized, 65 ILCS 5/11-81-1.

Sec. 78-5. - Interested parties registry for redevelopment projects area activities created.

The city clerk is hereby directed to create an interested parties registry for all activities related to redevelopment project areas under the Tax Increment Allocation Redevelopment Act. The city clerk is hereby authorized and directed [to] promulgate rules for registration to the interested parties registry. Notice of such interested parties registry shall be published by the city in a newspaper of general circulation.

(Ord. No. 00-8, § 1, 3-28-00)

Editor's note— Ord. No. 00-8, § 1, adopted March 28, 2000, did not specifically amend the Code; hence, inclusion herein as § 78-5 was at the discretion of the editor.

Secs. 78-6—78-30. - Reserved.

ARTICLE III. - ELECTRICITY TAX^[3]

Footnotes:

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Editor's note— Ord. No. 99-15, § 1, adopted May 25, 1999, set out provisions intended for use as §§ 78-41. For organizational purposes, and at the editor's discretion, these provisions have been included as 78-65—78-73.

Sec. 78-65. - In general.

Definitions. As used in this article, the following terms shall have the following meanings:

City means the City of Braidwood.

Person means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person maintaining a place of business in this state means any person having or maintaining within this state, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within the state under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the state permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this state.

Purchase at retail means any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser means any person who uses or consumes, within the corporate limits of the city, electricity acquired in a purchase at retail.

Tax collector means the person delivering electricity to the purchaser.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-66. - Tax imposed.

- (a) Pursuant to section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the city at the following rates, calculated on a monthly basis for each purchaser:

For the first 2,000 kilowatt-hours used or consumed in a month: 0.557 cents per kilowatt-hour.

For the next 48,000 kilowatt-hours used or consumed in a month: 0.365 cents per kilowatt-hour.

For the next 50,000 kilowatt-hours used or consumed in a month: 0.329 cents per kilowatt-hour.

For the next 400,000 kilowatt-hours used or consumed in a month: 0.319 cents per kilowatt-hour

For the next 500,000 kilowatt-hours used or consumed in a month: 0.310 cents per kilowatt-hour.

For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.292 cents per kilowatt-hour.

For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.287 cents per kilowatt-hour.

For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.283 cents per kilowatt-hour.

For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.278 cents per kilowatt-hour.

For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month: 0.274 cents per kilowatt-hour.

- (b) The tax is in addition to all taxes, fees and other revenue measures imposed by the city, the State of Illinois or any other political subdivision of the state.
- (c) Notwithstanding any other provision of this section, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or Statutes of the United States or the Constitution of the State of Illinois.
- (d) The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after July 1, 1999 and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with section 16-104 of the public utilities act (220 ILCS 5/16-104), or the first bill issued to such nonresidential customers on or after January 1, 2001, whichever issuance occurs sooner.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-67. - Collection of tax.

- (a) Subject to the provisions of section 78-69 regarding the delivery of electricity to resellers, the tax imposed under this section shall be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.
- (b) Any tax required to be collected by this article, and any tax in fact collected, shall constitute a debt owed to the city by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity, the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.
- (c) Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the city upon request. For purposes of this section, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-68. - Tax remittance and return.

- (a) Every tax collector shall on a monthly basis file a return in a form prescribed by the city clerk. The return and accompanying remittance shall be due on or before the last day of the following month.

- (b) If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax, then the purchaser shall file a return in a form prescribed by the city clerk and pay the tax directly to the city on or before the last day of the following month.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-69. - Resales.

- (a) Electricity that is delivered to a person in the city shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the city clerk and furnishes that number to the person who delivers the electricity, and certifies that the sale is either entirely or partially nontaxable as a sale for resale.
- (b) If a person who receives electricity in the city claims to be an authorized reseller of electricity, that person shall apply to the city clerk for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this section and shall furnish such additional information as the city clerk may reasonably require.
- (c) Upon approval of the application the city clerk shall assign a resale number to the applicant.
- (d) The city clerk may cancel the resale number of any person if the person fails to pay any tax payable under this section for electricity used or consumed by the person, or if the number:
 - (1) Was obtained through misrepresentation; or
 - (2) Is no longer necessary because the person has discontinued making resales.
- (e) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this section on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to section 78-67 and remit the tax on the amount of electricity delivered by the reseller to a purchaser.
- (f) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of the section shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the city clerk the total amount of electricity delivered to the reseller, and such other information that the city clerk may reasonably require.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-70. - Books and records.

Every person required to pay the tax imposed by this article shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this article. The books and records shall be subject to and available for inspection at all times during business hours of the day.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-71. - Credits and refunds.

Notwithstanding any other provision, in order to permit sound fiscal planning and budgeting by the city, no person shall be entitled to a refund of, or credit for, a tax imposed under this article unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-72. - Coordination with prior electric utility tax.

The tax imposed under section 78-33(1) shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under this article.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Sec. 78-73. - Use of credit under prior electric utility tax.

If a taxpayer under section 78-33(1) is unable to use a credit authorized by this section solely because the tax imposed by section 78-33(1) has been replaced by the tax imposed under this article then the taxpayer may apply such credit against any tax due this article.

(Ord. No. 98-24, § 1, 8-11-98; Ord. No. 99-15, § 1, 5-25-99)

Secs. 78-74—78-89. - Reserved.

ARTICLE IV. - LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY PROCEDURES

Sec. 78-90. - Title.

This article shall be known as, and may be cited as, the "locally imposed and administered tax rights and responsibility procedures."

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-91. - Scope.

The provisions of this article shall apply to the city's procedures in connection with all of the city's locally imposed and administered taxes.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-92. - Definitions.

Certain words or terms herein shall have the meaning ascribed to them as follows:

Act means the "Local Government Taxpayers' Bill of Rights Act."

Locally imposed and administered tax or tax means each tax imposed by the city that is collected or administered by the city but does not include any taxes imposed upon real property under the property tax code or fees collected by the city other than infrastructure maintenance fees.

Local tax administrator means the city clerk who is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this article to give full effect thereto. The exercise of such authority by the local tax administrator shall not be inconsistent with this article and the act.

Notice means each audit notice, collection notice or other similar notice or communication in connection with each of the city's locally imposed and administered taxes.

Tax ordinance means any ordinance adopted by the city that imposes any locally imposed and administered tax.

Taxpayer means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the city.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-93. - Notices.

Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than seven calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

- (1) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or
- (2) Personal service or delivery.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-94. - Late payment.

Any notice, payment, remittance or other filing required to be made to the city pursuant to any tax ordinance shall be considered late unless it is (a) physically received by the city on or before the due date, or (b) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the city, with adequate postage prepaid.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-95. - Payment.

Any payment or remittance received for a tax period shall be applied in the following order: first, to the tax due for the applicable period; second, to the interest due for the applicable period; and third, to the penalty for the applicable period.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-96. - Credits and refunds.

- (a) The city shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.
- (b) The statute of limitations on a claim for credit or refund shall be 4 years after the end of the calendar year in which payment in error was made. The city shall not grant a credit or refund of locally imposed

and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the city.

- (c) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:
- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - a. The name of the locally imposed and administered tax subject to the claim;
 - b. The tax period for the locally imposed and administered tax subject to the claim;
 - c. The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - d. The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - e. a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the city.
 - (2) Within ten days of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
 - a. Grant the claim; or
 - b. Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
 - (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of six percent per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-97. - Audit procedure.

Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this article.

- (1) Each notice of audit shall contain the following information:
 - a. The tax;
 - b. The time period of the audit; and
 - c. A brief description of the books and records to be made available for the auditor.
- (2) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within 30 days after the originally designated audit and during normal business hours.
- (3) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven days nor more than 30 days from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the 30 days, approved in writing, that is convenient to the taxpayer and the local tax administrator.

- (4) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the city.
- (5) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the city. If the taxpayer or the city fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.
- (6) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within 30 days of the city's determination of the amount of overpayment.
- (7) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-98. - Appeal.

- (a) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:
 - (1) The reason for the assessment;
 - (2) The amount of the tax liability proposed;
 - (3) The procedure for appealing the assessment; and
 - (4) The obligations of the city during the audit, appeal, refund and collection process.
- (b) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within 45 days of receipt of the written notice of the tax determination and assessment.
- (c) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
- (d) If a written protest and petition for hearing is not filed within the 45-day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.
- (e) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than 90 days after the expiration of the 45-day period.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-99. - Hearing.

- (a) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section 78-98(e), above, the local tax administrator shall conduct a hearing regarding any appeal.
- (b) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days except by agreement of all parties.
- (c) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.
- (d) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-100. - Interest and penalties.

In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

- (1) The city hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be one percent per month or part thereof that a payment is late.
- (2) If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of five percent of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the city issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 25 percent of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-101. - Abatement.

The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-102. - Installment contracts.

The city may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is 30 days delinquent, the taxpayer shall have 14 days to cure any delinquency. If the taxpayer fails to cure the delinquency within the 78-day period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-103. - Statute of limitations.

The city, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

- (1) No determination of tax due and owing may be issued more than four years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.
- (2) If any tax return is not filed or if during any four-year period for which a notice of tax determination or assessment may be issued by the city, the tax paid was less than 75 percent of the tax due, the statute of limitations shall be six years after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.
- (3) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-104. - Voluntary disclosure.

For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent per month or part thereof, for all periods prior to the filing of the application but not more than four years before the date of filing the application.

A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than 90 days after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid within 90 days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-105. - Publication of tax ordinances.

Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the city clerk's office.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-106. - Local tax administrator.

The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (1) Timely remove the lien at the city's expense;
- (2) Correct the taxpayer's credit record; and
- (3) Correct any public disclosure of the improperly imposed lien.

(Ord. No. 00-26, § 1, 12-12-00)

Sec. 78-107. - Application.

This article shall be liberally construed and administered to supplement all of the city's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this article, this article shall be controlling.

(Ord. No. 00-26, § 1, 12-12-00)

Secs. 78-108—78-120. - Reserved.

ARTICLE V. - SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX⁴¹

Footnotes:

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Editor's note— Ord. No. 02-8, § 1, adopted Aug. 27, 2002, amended the Code by adding provisions designated as Art. IV. Inasmuch as Ord. No. 00-26, adopted Dec. 12, 2000, added provisions designated as Art. IV, the provisions of said Ord. No. 02-8 have been included herein as Art. V at the discretion of the editor. See the Code Comparative Table.

Sec. 78-121. - Definitions.

As used in this article, the following terms shall have the following meanings:

- (1) *Amount paid* means the amount charged to the taxpayer's service address in the city regardless of where such amount is billed or paid.
- (2) *Department* means the Illinois Department of Revenue.
- (3) *Gross charge* means the amount paid for the act or privilege of originating or receiving telecommunications in the city and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this state, charges for the channel mileage between each channel point within this state, and charges for that portion of the interstate inter-office channel provided within Illinois. However, "gross charge" shall not include:

- a. Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this article, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the provisions of section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
 - b. Charges for a sent collect telecommunication received outside of the city;
 - c. Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;
 - d. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
 - e. Charges to business enterprises certified as exempt under section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the department of commerce and community affairs;
 - f. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;
 - g. Bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
 - h. Charges paid by inserting coins in coin-operated telecommunication devices; or
 - i. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (4) *Interstate telecommunications* means all telecommunications that either originate or terminate outside this state.
- (5) *Intrastate telecommunications* means all telecommunications that originate and terminate within this state.
- (6) *Person* means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the federal and state governments, including state universities created by statute, or any city, town, county, or other political subdivision of this state.
- (7) *Purchase at retail* means the acquisition, consumption or use of telecommunications through a sale at retail.
- (8) *Retailer* means and includes every person engaged in the business of making sales at retail as defined in this section. The department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this state, who, to the satisfaction of the department, furnishes adequate security to insure collection

and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this state in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. The permit may be revoked by the department at its discretion.

- (9) *Retailer maintaining a place of business in this state*, or any like term, means and includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this state.
- (10) *Sale at retail* means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the federal and state governments, and state universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.
- (11) *Service address* means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.
- (12) *Taxpayer* means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in the city and who incurs a tax liability as authorized by the article.
- (13) *Telecommunications*, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this section, "prepaid telephone calling arrangements" means that term as defined in section 2-27 of the Retailers' Occupations Tax Act.

Sec. 78-122. - Simplified municipal telecommunications tax imposed.

A tax is hereby imposed upon any and all the following acts or privileges:

- (1) The act or privilege of originating in the city or receiving in the city intrastate telecommunications by a person at a rate of six percent of the gross charge for such telecommunications purchased at retail from a retailer.
- (2) The act or privilege of originating in the city or receiving in the city interstate telecommunications by a person at a rate of six percent of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this article to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this state.
- (3) The tax imposed by this article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the city.

(Ord. No. 02-8, § 1, 8-27-02)

Sec. 78-123. - Collection of tax by retailers.

- (a) The tax authorized by this article shall be collected from the taxpayer by a retailer maintaining a place of business in this state and shall be remitted by such retailer to the department. Any tax required to be collected pursuant to or as authorized by this article and any such tax collected by such retailer and required to be remitted to the department shall constitute a debt owed by the retailer to the state. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the department. The tax authorized by this article shall constitute a debt of the taxpayer to the retailer until paid, and if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the department in the manner provided by the department.
- (b) Whenever possible, the tax authorized by this article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Ord. No. 02-8, § 1, 8-27-02)

Sec. 78-124. - Returns to department.

Commencing on February 1, 2003, the tax imposed under this article on telecommunication retailers shall be returned with appropriate forms and information as required by the department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, section 5-50) and any accompanying rules and regulations created by the department to implement this Act.

(Ord. No. 02-8, § 1, 8-27-02)

Sec. 78-125. - Resellers.

- (a) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the department for a resale number. Such applicant shall state facts which will show the department why such applicant is not liable for the tax authorized

by this article on any of such purchases and shall furnish such additional information as the department may reasonably require.

- (b) Upon approval of the application, the department shall assign a resale number to the applicant and shall certify such number to the applicant. The department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the persons having discontinued the making of resales.
- (c) Except as provided hereinabove in this section, the act or privilege of originating or receiving telecommunications in this state shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

(Ord. No. 02-8, § 1, 8-27-02)

Secs. 78-126—78-139. - Reserved.

ARTICLE VI. - CITY HOTEL AND MOTEL ACCOMMODATIONS TAX

Sec. 78-140. - Entitlement.

This article shall be known and cited as the "City of Braidwood Hotel and Motel Accommodations Tax Ordinance" and the tax herein imposed shall be known and cited as the "City of Braidwood Hotel and Motel Accommodation Tax."

(Ord. No. 12-14, § 1, 4-26-12)

Sec. 78-141. - Definitions.

For the purposes of this article whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section.

City clerk. The term "city clerk" or "clerk" shall mean city clerk of the City of Braidwood.

Hotel accommodations; motel accommodations. Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes, but is not limited to, inns, motels, rooming houses and apartment hotels. The term does not include a room in a dormitory operated by a religious organization, school, college or university for use by its students, faculty, staff or guests. Such building or buildings may sometimes be referred to herein as a "facility". A hotel or motel accommodation is sometimes referred to herein as a "room".

Permanent resident. The term "permanent resident" shall mean a tenant who, by written lease, has been granted a real interest in a specific hotel or motel accommodation by a landlord for a term of not less than one month.

Person. The term person shall mean any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean that the owners or part owners thereof, and as applied to corporations, the officers thereof.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-142. - Imposition of tax.

There is hereby imposed and shall immediately accrue and be collected, a tax upon the rental or leasing of any hotel or motel accommodation in the city at the rate of five percent of the gross rental or leasing charge.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-143. - Liability for payment.

The ultimate incidence of and liability for payment of said tax shall be borne by the lessee or tenant of any such hotel or motel accommodations. The tax herein levied shall be in addition to any and all other taxes. It shall be the duty of every owner, manager or operator of hotel or motel accommodations to secure said tax from the lessee or tenant of said hotel or motel accommodations and remit to the city said tax under rules and regulations prescribed by the director of finance and as otherwise provided by this article.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-144. - Collection of tax.

The tax herein levied shall be secured by the hotel owner, manager or operator from the lessee or tenant when collecting the price, charge or rent to which it applies. Every lessee or tenant shall be given a bill, invoice, receipt or other statement or memorandum of the price, charge or rent payable upon which the hotel or motel accommodations tax shall be stated.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-145. - Filing of return.

Every owner, manager or operator of hotel or motel accommodations within the city shall file a tax return on a quarterly basis with the director of finance on forms prescribed by the director, showing tax receipts received with respect to hotel or motel accommodations rented or leased during the preceding quarterly period. At the time of filing of said tax return, the owner, manager or operator of hotel or motel accommodations shall remit to the city all taxes collected for the period to which the tax return applies. The dates upon which said quarterly returns are to be filed shall be provided by rules and regulations promulgated by the city clerk.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-146. - Records.

Every owner, manager or operator of hotel accommodations in the city shall keep books and records showing the prices, rents or charges made or charged, and occupancies taxable under this article. The city clerk, or his designee, shall at all reasonable times have full access to said books and records.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-147. - Exemption.

The tax imposed under this article shall not apply to the occupancy of a specific room by a permanent resident, but only if all of the following conditions are met:

- (1) The permanent resident actually occupied, or had the right to occupy, the room during the entire reporting period; and
- (2) The specific room occupied by the permanent resident was not occupied on a non-leasehold basis at any time during the reporting period for which the exemption is claimed; and
- (3) The permanent resident did not assign, sublease or otherwise transfer a real interest in the room during the reporting period for which the exemption is claimed; and
- (4) In addition, a hotel owner, manager or operator may only claim an exemption for occupancies by permanent residents if all of the following conditions are met:
 - a. Less than half of the rooms of the facility were available for occupancy on a non-leasehold basis on any day during the reporting period for which the exemption is claimed; and
 - b. More than half of the rooms of the facility were actually occupied by permanent residents or were vacant each day of the reporting period for which the exemption is claimed; and
 - c. The facility does not operate as a "hotel" within the meaning of Section 7 of the Innkeeper Protection Act (740 ILCS 90/7), as amended.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-148. - Suspension or revocation of licenses for failure to comply.

If the city manager, after hearing held by or for him, shall find that any person has willfully avoided collection or remittance of the tax imposed by this article, he may suspend or revoke all city licenses held by said person. The owner, manager or operator of the hotel or motel accommodations shall have an opportunity to be heard and such hearing to be held not less than five days after notice of the time and place of the hearing addressed to the owner, manager or operator at his last known place of business. The suspension or revocation of any license shall not release or discharge the owner, manager or operator of hotel or motel accommodations from his civil liability for the collection or remittance of the tax nor for prosecution of such offense.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-149. - Disposition of proceeds of tax.

Proceeds resulting from the imposition of the tax under this article including penalties, shall be paid into the treasury of the city and shall be credited to and deposited in the corporate fund of the city to be used solely for the purpose of promoting tourism and conventions within the city.

(Ord. No. 12-14, § 2, 4-26-12)

Sec. 78-150. - Penalty.

Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting or opposing the enforcement of any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than \$25.00 nor more than \$500.00. Each day of violation shall constitute a separate and distinct offense.

(Ord. No. 12-14, § 2, 4-26-12)

Chapter 82 - TRAFFIC AND VEHICLES¹¹

Footnotes:

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Cross reference— General penalty for code violations, § 1-8; civil emergencies, ch. 30; emergency services, ch. 34; fire prevention and protection, ch. 38; law enforcement, ch. 50; manufactured homes and trailers, ch. 54; offenses, ch. 58; planning, ch. 62; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; zoning regulations, app. A.

ARTICLE I. - IN GENERAL

Sec. 82-1. - Short title of chapter.

This chapter may be known and cited as the "Braidwood Traffic Ordinance."

(Ord. No. 70-8, § 1-1, 9-22-70)

Sec. 82-2. - Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except when the context otherwise requires. Whenever any words and phrases used in this section are not defined in this section but are defined in the state laws regulating the operation of vehicles, any such definition therein shall be deemed to apply to such words and phrases used in this section, except when the context otherwise requires.

Loading zone means the space adjacent to a curb reserved for the exclusive use of vehicles during loading or unloading of passengers or materials.

Parking meter means a mechanical device located upon a public street or sidewalk in a place designated by the city council as a parking meter zone, which device shall record a certain number of minutes by the use of a clock mechanism determining the period of time for which parking privileges may be extended to the person depositing a coin therein.

Parking meter zone means such as may from time to time be established by ordinance in the areas designated by the city council where a vehicle may be temporarily parked and then be allowed to remain for the period of time indicated on the meter.

Property line means the line marking the boundary between any street and the lots or property abutting thereon.

Public building means a building used by the municipality, the county, any park district, school district, the state or the United States government.

(Ord. No. 70-8, §§ 1-2-1, 1-2-2, 1-3-14, 1-3-21, 1-3-22, 1-3-27, 1-3-28, 9-22-70)

Cross reference— Definitions generally, § 1-2.

Sec. 82-3. - Adoption of state vehicle code.

In lieu of using any section, or in addition to any section of this chapter, the officer issuing a citation may issue it by using any of the sections of the state vehicle code, 625 ILCS 5/1-100 et seq., as the same may be amended from time to time, which are incorporated and adopted by reference as a part of this chapter, three copies of such vehicle code having been on file in the office of the clerk of the city and

available for public use, inspection and examination for at least 30 days prior to the adoption of Ordinance No. 90-8, as provided in section 1-3-2 of the Illinois Municipal Code, 65 ILCS 5/1-3-2. All citations issued for these violations shall be in the name of the city and shall refer to the numbered sections in the state vehicle code, but shall also be referred to as an ordinance violation in the traffic ticket or complaint.

(Ord. No. 70-8, § 2-2-4, 9-22-70; Ord. No. 90-8, § 1, 8-14-90)

Sec. 82-4. - Compliance with chapter required.

It is unlawful and a misdemeanor for a person to do any act forbidden or fail to perform any act required in this chapter.

(Ord. No. 70-8, § 2-1-1, 9-22-70)

Sec. 82-5. - Offenses by persons owning or controlling vehicles.

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly permit the operation of such vehicle upon the highway in any manner contrary to law.

(Ord. No. 70-8, § 2-6, 9-22-70)

Sec. 82-6. - Designation of safety zones, crosswalks and traffic lanes.

- (a) The corporate authority may establish safety zones of such kind and character and at such places as it may deem necessary for the protection of pedestrians.
- (b) The corporate authority may designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway, and at such other places as it may deem necessary.
- (c) The corporate authority may mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(Ord. No. 70-8, §§ 3-5-1—3-5-3, 9-22-70)

Sec. 82-7. - School crossing signals.

- (a) A school crossing signal shall be a permanently mounted, electrically operated signal device, equipped with two-way, two-color (red and yellow) signal heads, together with a diamond shaped, single-face sign reading "school crossing," by which, at predetermined times and when actuated by push button, traffic is directed to stop so as to permit school children to cross the street or highway safely.
- (b) Whenever the red lens of a school crossing signal is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked; or, if none, then before entering the intersection, and pedestrians within or entering the crosswalk at either edge of the roadway shall have the right-of-way over vehicles so stopped. Vehicular traffic having so yielded the right-of-way to pedestrians entering or within the nearest crosswalk at an intersection may proceed but shall also yield the right-of-way to pedestrians within any other crosswalk at the intersection. If a school crossing signal is erected and maintained at a place other than an intersection, provisions of this section shall be applicable, except as to provisions which by their nature can have no application.

(Ord. No. 70-8, §§ 3-10-1, 3-10-2, 9-22-70)

Sec. 82-8. - Interference with traffic or pedestrians.

- (a) *Streets.* No person shall stand in any street or roadway other than in a safety zone.
- (b) *Sidewalks.* No pedestrian shall stand upon any sidewalk except as near as reasonably possible to the building line or curbline, if such standing in fact interferes with the use of the sidewalk by other pedestrians.

(Ord. No. 70-8, §§ 6-6-1, 6-6-2, 9-22-70)

Sec. 82-9. - Copies of accident reports; fee.

The police department may furnish copies of any traffic accident report that has been filed or recorded with the police department and shall be paid a fee of \$2.00 for each such copy.

(Ord. No. 70-8, § 7-6, 9-22-70)

Sec. 82-10. - Authority to erect traffic control signs.

- (a) The chief of police is hereby vested with the authority to determine and designate the character and location of all traffic-control signs and devices. All traffic control signs and devices shall be erected in conformity with the provisions of the State Manual and Specifications.
- (b) The city council has the authority by motion to determine and designate the character and location of a traffic-control sign and device. All traffic control signs and devices shall be erected in conformity with the provisions of the State Manual and Specifications.
- (c) Any traffic control sign and device erected in the city as of the date of this section is hereby approved and any traffic-control sign or device shall be presumed to be erected in conformity with the provisions of this section.
- (d) It shall be unlawful for any person to disobey a traffic-control sign or device.

(Ord. No. 00-24, § 1, 11-14-00)

Sec. 82-11. - Size, weight and load of vehicles.

- (a) In addition to all other sections of the state vehicle code heretofore adopted, the City of Braidwood adopts as a section of this Code, chapter 15 of the Illinois Vehicle Code, 625 ILCS 5/15-1 et seq., as though fully set forth herein, retaining for this Code the section numbers set forth in chapter 15. Any citation issued for violation of this section shall identify the violation as section 82-11 plus the applicable section of chapter 15; e.g. "82-11/111" for exceeding the allowable axel load limit.
- (b) Any scales used by any city police officer in the enforcement of this section, and any police officer who issues citations for any violation of this section, shall be properly certified as required by chapter 15.
- (c) Any person found to be in violation of subsection (a) of this section, shall be subject to a fine and or penalty as follows:

| | |
|-------------------------------------|--|
| Up to and including 2,000 pounds | |
|-------------------------------------|--|

| | |
|---------------------------------|----------------------|
| Overweight = | \$100.00 |
| | |
| From 2,001 through 2,500 pounds | |
| Overweight = | The fine is \$270.00 |
| | |
| From 2,501 through 3,000 pounds | |
| Overweight = | The fine is \$330.00 |
| | |
| From 3,001 through 3,500 pounds | |
| Overweight = | The fine is \$520.00 |
| | |
| From 3,501 through 4,000 pounds | |
| Overweight = | The fine is \$600.00 |
| | |
| From 4,001 through 4,500 pounds | |
| Overweight = | The fine is \$850.00 |
| | |

| | |
|--|---|
| From 4,501 through 5,000 pounds | |
| Overweight = | The fine is \$950.00 |
| From 5,001 or more pounds overweight = | The fine shall be computed by assessing \$1,500.00 for the first 5,000 pounds overweight and \$150.00 for each additional increment of 500 pounds overweight or fraction thereof. |

In addition any person, firm or corporation convicted of four or more violations of [this section] within any 12-month period shall be fined an additional amount of \$5,000.00 for the fourth and each subsequent conviction within the 12-month period. Provided, however, that with regard to a firm or corporation, a fourth or subsequent conviction shall mean a fourth or subsequent conviction attributable to any one employee-driver.

(Ord. No. 08-03, § 2, 2-26-08; Ord. No. 2010-05, § 1, 5-11-10)

State Law reference— 625 ILCS 5/15-113.

Secs. 82-12—82-35. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT^[2]

Footnotes:

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Cross reference— Administration, ch. 2.

Sec. 82-36. - Penalties generally.

Every person convicted of a misdemeanor for a violation of any provision of this chapter for which another penalty is not provided shall for first conviction be punished by a fine of not less than \$50.00 nor more than \$750.00; for a second such conviction within one year thereafter, such person shall be punished by a fine of not less than \$75.00 nor more than \$750.00; and for a third or subsequent conviction within one year after the first conviction, such person shall be punished by a fine of not less than \$150.00 nor more than \$750.00.

(Ord. No. 70-8, § 2-1-2, 9-22-70)

Sec. 82-37. - Authority of police and fire department officials.

- (a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all the state vehicle laws.
- (b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with the traffic laws; provided, however, that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
- (c) Officers of the fire department may exercise the powers and authority of police officers in directing traffic or assisting the police in directing traffic at the scene or in the immediate vicinity of the scene of any fire, or where the fire department has responded to an emergency call, for as long as fire department equipment is on the scene.

(Ord. No. 70-8, §§ 2-2-1—2-2-3, 9-22-70)

Sec. 82-38. - Unauthorized direction of traffic.

Except in case of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic.

(Ord. No. 70-8, § 2-4, 9-22-70)

Sec. 82-39. - Electronic speed detecting devices.

Where signs giving notice of a change in the speed limit have been erected, electronic speed detecting devices shall not be used within 500 feet beyond any such sign in the direction of travel. If so used, evidence obtained thereby shall be inadmissible in any prosecution for speeding.

(Ord. No. 70-8, § 5-5-5, 9-22-70)

Sec. 82-40. - Obedience to U-turn signs.

Whenever authorized signs are erected indicating that no U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(Ord. No. 70-8, § 5-8-2(a), 9-22-70)

Sec. 82-41. - Vehicle impoundment.

- (a) Any motor vehicle which is used in connection with the following illegal activities shall be subject to seizure and impoundment:
 - (1) Violation of Section 58.251 of the Braidwood City Code (possession of cannabis) or violation of any provision of the Illinois Cannabis Control Act (720 ILCS 550/1 et seq.);
 - (2) Violation of any provision of the Illinois Controlled Substances Act (720 ILCS 570/1 et seq.);
 - (3) Violation of Sections 11-14, 11-15, 11-15.1, 11-16, 11-18, 11-18.1, 11-19 or 11-19.1 of the Illinois Criminal Code of 1961 (725 ILCS 5/11-14; 11-15; 11-15.1; 11-16; 11-18- 11-18.1; 11-19; 11-19.9) (prostitution);
 - (4) Violation of Sections 58.221, 222 and 223 of the Braidwood City Code (weapons) or violation of any provision of Article 24 of the Illinois Criminal Code of 1961 (deadly weapons);

- (5) Violation of Sections 6-303 or 11-501 of the City of Braidwood Vehicle Code or Illinois Vehicle Code (driving while license suspended/revoked, driving under the influence);
 - (6) Arrested on an outstanding warrant for failing to appear in court on charges of driving while license suspended/revoked or driving under the influence;
 - (7) Illegal Transportation of Alcohol, 625 ILCS 5/11-502;
 - (8) No Valid Driver's License, 625 ILCS 5/6-101;
 - (9) Classification, 625 ILCS 5/6-104;
 - (10) Each arrest made by a previously issued warrant for arrest;
 - (11) Snowmobile Registration and Safety Act 625 ILCS 40/1-1 et. seq.
- (b) The owner of any motor vehicle seized and impounded under this section shall be liable to the city for an administrative penalty not to exceed \$500.00, plus any towing and storage fees as hereinafter provided.

(Ord. No. 05-08, § 1, 9-13-05; Ord. No. 2010-05, § 2, 5-11-10)

Sec. 82-42. - Exceptions.

- (a) Section 82-41 shall not apply if the motor vehicle used in connection with the violation was stolen at the time and the theft was reported to the appropriate police authorities within 72 hours after the theft was discovered.
- (b) Section 82-41(a)(1) and 82-41(a)(4) shall not apply if the vehicle was operating as a common carrier and the violation occurs without the knowledge of the individual in control of the vehicle.
- (c) Section 82-41(a)(4) shall not apply to or affect any of the following:
 - (1) Peace officers or any person summoned by any such officers to assist in making arrests and preserving the peace while he is actually engaged in assisting such officer;
 - (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other such institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty or commuting between their homes and places of employment;
 - (3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard or the Reserved Officers Training Corps, while in the performance of their official duty;
 - (4) Special agents employed by a railroad to perform functions, or employees of a detective agency, watchman-guard or patrolman agency, licensed by the State of Illinois, while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment;
 - (5) Manufacture or transportation of weapons which are not immediately accessible to any person, and sale of weapons to persons authorized under the law to possess them;
 - (6) Persons licensed as private security contractors, private detectives or private alarm contractors or employed by an agency certified by the Illinois Department of Professional Regulation with documentation on their person, if their duties include the carrying of a weapon under the provisions of the Private Detective, Private Alarm and Private Security Act of 1983 (225 ILCS 445/1 et seq.), while engaged in the performance of the duties of their employment;
 - (7) Persons employed by a financial institution for the protection of other employees and property related to such financial institution, while actually engaged in the performance of their duties, commuting between their homes and places of employment, or traveling between sites or properties owned by such financial institution, provided that any person so employed has successfully completed a course of study, approved by and supervised by the Illinois Department

of Professional Regulation, consisting of not less than 40 hours of training which includes theory of law enforcement, liability for acts and the handling of weapons;

- (8) Any person employed by an armored car company to drive an armored car, while actually engaged in the performance of his duties;
- (9) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges;
- (10) Licensed hunters or fishermen while engaged in hunting or fishing;
- (11) Transportation of weapons broken down in a non-functioning state; or
- (12) Such other exceptions as approved by the Illinois General Assembly.

(Ord. No. 05-08, § 1, 9-13-05)

Sec. 82-43. - Impoundment hearing.

- (a) Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to section 82-41, the police officer shall provide for the towing of a vehicle to a facility controlled or designated by the city or its agents. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this section.
- (b) If the owner of record of a vehicle seized pursuant to section 82-41 desires to appeal the seizure, said owner must make a request for said hearing within 72 hours of the seizure. Said request shall be in writing and filed with the chief of police or his designee. If an appeal is timely filed, a hearing officer of the city shall conduct such hearing within 72 hours after the request, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to section 82-41. In those cases where probable cause exists, the hearing officer shall order the continued impoundment of the vehicle, unless the owner of the vehicle posts a cash bond in the amount of \$500.00, plus any applicable towing and storage fees. In those cases where probable cause does not exist, the hearing officer shall order the immediate release of the vehicle.
- (c) Unless a hearing is held pursuant to (2) above, within ten days after a motor vehicle is seized and impounded pursuant to section 82-41, the city shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing to be conducted. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than 45 days after the vehicle was seized. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to section 82-41. If the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation and that no exception applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the city an administrative penalty in an amount not to exceed \$500.00. If the hearing officer finds that the vehicle was not used in connection with a violation or that an exception applies, the hearing officer shall order the immediate return of the vehicle or posted cash bond.
- (d) If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing to the city. If a cash bond has been posted pursuant to this section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the city may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by

law. Except as provided otherwise in this section, a vehicle shall continue to be impounded until: (1) the penalty, plus any applicable towing and storage fees, is paid to the city, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle; (2) the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed under this section against an owner of record who is in default for failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought or within 30 days after an action seeking administrative review has been resolved in favor of the city, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under Section 4-208 of the Illinois Vehicle Code (625 ILCS 5/14-208). Except as otherwise specifically provided by law, no owner, lienholder or other person shall be legally entitled to take possession of a vehicle impounded under this section until the civil penalty and fees applicable under this section has been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund the city the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lienholders of record, not to exceed \$500.00, plus the applicable fees.

- (e) For purposes of this section, the "owner of record" of a vehicle is the record titleholder as registered with the Illinois Secretary of State.

(Ord. No. 05-08, § 1, 9-13-05)

Sec. 82-44. - Hearing officer.

The police commission or a quorum of the police commission shall serve as the hearing officers for purposes of these sections. Whenever any reference to any hearing officer is used herein, those hearing officers are appointed for purposes for the adjudication system and, pursuant to said applicable ordinance, shall be and are hereby deemed to be authorized to act as hearing officers, pursuant to these sections.

(Ord. No. 05-08, § 1, 9-13-05)

Secs. 82-45—82-65. - Reserved.

ARTICLE III. - OPERATION

Sec. 82-66. - Maximum speed restrictions.

No person shall drive any motor vehicle on any street within the city at a speed which is greater than the maximum speed limit established by this article; provided, however, that no person shall drive any vehicle on any street or highway within the city under the jurisdiction of the state, the department of public works and buildings, or of the county at a speed exceeding that lawfully set for such street by those corporate authorities.

(Ord. No. 70-8, § 5-5-1, 9-22-70)

Sec. 82-67. - Alteration of speed limits.

If the corporate authorities, by ordinance, set other limits as provided by 625 ILCS 5/11-604, after an engineering or traffic survey, then such limit shall govern the rate of speed on the streets indicated in such ordinance. Appropriate signs shall be posted showing such speed limits. Pursuant to 625 ILCS 5/11-604, et seq., the maximum speed in a park district for all vehicles shall be 20 miles per hour.

(Ord. No. 70-8, § 5-5-1(c), 9-22-70; Ord. No. 10-06, § 1, 6-8-10)

Sec. 82-68. - Safety zones.

No vehicle shall at any time be driven through or within a safety zone.

(Ord. No. 70-8, § 5-10, 9-22-70)

Sec. 82-69. - Obstructing traffic.

No vehicle shall be operated or allowed to remain upon any street or highway in such manner as to form an unreasonable obstruction to the traffic thereon.

(Ord. No. 70-8, § 5-14, 9-22-70)

Sec. 82-70. - Riding on runningboards.

No person shall ride upon the fenders, runningboard or outside step of any vehicle.

(Ord. No. 70-8, § 5-18, 9-22-70)

Sec. 82-71. - Operation of trucks.

No person shall operate a truck upon any street where truck operation is prohibited by ordinance and where such signs or prohibition are posted, except that a truck may be operated thereon for the purpose of delivering or picking up loads, materials, or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

(Ord. No. 70-8, § 5-25, 9-22-70)

Sec. 82-72. - Riding or driving animals or animal-drawn vehicles.

- (a) It shall be unlawful for any person to drive a vehicle drawn by a horse, mule, or other animal, or to ride upon any such animal upon any sidewalk in the city or upon any private property without the consent of the owner of such property, at all times.
- (b) It shall be unlawful for any person to drive a vehicle drawn by a horse, mule or other animal, or to ride upon any such animal upon any public street, alley or thoroughfare within the city limits after the official hour of sunset and before the official hour of sunrise.

(Ord. No. 75-9, §§ 1, 2, 6-24-75)

Sec. 82-73. - Unattended animals.

No person shall leave any horse or other draft animal unattended in any street without having such animal securely fastened.

(Ord. No. 70-8, § 5-26, 9-22-70)

Sec. 82-74. - Climbing on motor vehicle in motion.

It shall be unlawful for any person to climb upon or into any automobile, wagon, carriage, sleigh or other vehicle while the same may be in motion, or attach his sled or cart to any such vehicle.

(Ord. No. 77-17, § 2.040, 10-25-77)

Sec. 82-75. - Operation of motorcycles.

- (a) All motorcycles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive a motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.
- (b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- (c) No person shall operate a motorcycle between lanes of traffic or between adjacent lanes or roads of vehicles.
- (d) Motorcycles shall not be operated more than two abreast in a single lane.
- (e) Subsections (b) and (c) of this section shall not apply to police officers in performance of their official duties.
- (f) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.
- (g) No person riding upon a motorcycle shall attach himself with a motorcycle to any other vehicle on a roadway.

(Ord. No. 70-8, §§ 5-29-2—5-29-4, 9-22-70)

Sec. 82-76. - Loading zones.

It shall be unlawful for the driver of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, in any place designated by ordinance as a loading zone and marked as such, or in any of the following designated places:

- (1) At any place not to exceed 75 feet along the curb before the entrance to any hospital or hotel at any time.
- (2) At any place not to exceed 75 feet along the curb before the entrance to a public building between 8:00 a.m. and 6:00 p.m., except on a Sunday.
- (3) Directly in front of the entrance to any theatre at any time that the theatre is open.

(Ord. No. 70-8, § 9-8, 9-22-70)

Sec. 82-77. - Exhibition driving.

- (a) Any person who shall engage in any exhibition driving of a motor vehicle as defined in subsection (b) of this section, upon any highway, or any other place open to the general public, including any area designated for the parking of motor vehicles, shall be guilty of a misdemeanor.
- (b) Exhibition driving is defined as the driving of a motor vehicle in such an unusual manner or out of the usual flow of traffic, whether or not other traffic is present, so as it is likely to attract the attention of the public, whether or not there is anyone present, or it shall consist of any two or more of the following acts:
 - (1) Rapid acceleration;
 - (2) Squealing, peeling or burning of the tires;
 - (3) The swaying of a motor vehicle from side to side, commonly referred to as "fishtailing";
 - (4) Racing or running the engine of a motor vehicle at such high revolutions per minute, combined with the engaging of the gears, causing excessive or unusual noise;
 - (5) Unnecessary and excessive changing of lanes; and
 - (6) The emission of any unreasonably loud or raucous or disturbing and unnecessary noise from the engine or exhaust system of any motor vehicle.
- (c) Any person who, as an operator of a motor vehicle, is convicted of exhibition driving shall be fined, upon a first conviction, not less than \$25.00 nor more than \$250.00, and in a second or subsequent conviction, shall be fined not less than \$100.00 nor more than \$750.00.

(Ord. No. 70-8, § 5-30, 9-22-70; Ord. No. 88-6, § i)

Sec. 82-78. - Weight limits on city streets.

- (a) The commissioner of streets and alleys may designate any public road, street or alley as permanently or temporarily unsuitable for use by vehicles in excess of 12,000 pounds GVW, due to weather conditions, damage or any other reasonable cause, and may direct that such road, street or alley be posted with appropriate signs giving reasonable notice of the prohibition on use by such vehicles.
- (b) It shall be unlawful for any person to operate a vehicle in excess of 12,000 pounds GVW on any city street which has been posted with signs giving notice of such weight limit, without a permit issued by the chief of police or his designees such permit shall be issued by the chief of police only when it is clearly necessary for an overweight vehicle to traverse a city street in order to make a delivery to or pickup at a location within the city. When issuing a permit, the chief of police may define the precise route to be taken by the overweight vehicle, the date and time on which the permit shall be valid, and any measures to be taken by the operator to protect city streets and other property. The chief of police shall make arrangements for the posting of weight limit notices at the entrances to the city and at such other locations as the chief shall designate. Violation of this section shall be punishable upon conviction by a fine of not less than \$750.00 for each violation.

(Ord. No. 08-17, § 2, 9-23-08)

Secs. 82-79—82-100. - Reserved.

ARTICLE IV. - STOPPING, STANDING AND PARKING

Sec. 82-101. - Parking on streets.

No vehicle shall be parked on any street, highway or parkway (which consists of the area between the curb of the street and the innermost edge of the sidewalk) within the city except under the following conditions:

- (1) Physicians on emergency calls.
- (2) Emergency vehicles as follows:
 - a. The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law or when responding to, but not upon returning from, a fire alarm, may park or stand, irrespective of the provisions of this article.
 - b. Subsection (a)(2)a. of this section shall not relieve the driver of an emergency vehicle from the duty to park or stand with due regard for the safety of all persons, nor shall such provision protect the driver from the consequences of his reckless disregard for the safety of others.
- (3) *Multiple automobiles at same address.* When there are three or more passenger automobiles, each of which is licensed to the same residence address under the provisions of this chapter, and three or more of such automobiles are present at the same time at the residence address, two of the automobiles shall be parked off the street and parkways and the remaining automobiles, not exceeding two, may be parked immediately in front of the residence address, provided the accumulation of snow on the street does not exceed one inch in depth.

(Ord. No. 70-8, §§ 9-1-1—9-1-3, 9-22-70)

Sec. 82-102. - Parking near driveway.

It shall be unlawful for any person to stand or park a vehicle, whether occupied or not, except momentarily to pickup or discharge passengers, in front of a public or private driveway, or within five feet as measured along the street on either side of a public or private driveway.

(Ord. No. 83-9B, § 1, 11-10-83)

Sec. 82-103. - Parking in alleys.

No person shall park a vehicle within an alley except for the purpose of loading and unloading merchandise and then not in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

(Ord. No. 70-8, § 9-3, 9-22-70)

Sec. 82-104. - Removal of illegally parked vehicles.

The police department and all members of the police department assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, obstructs or may obstruct the movement of any emergency vehicle, or which has been parked in any public street or other public place for a period of more than 24 consecutive hours. Vehicles so towed away shall be stored on any city property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the city in removing and storing such vehicles.

(Ord. No. 70-8, § 9-5, 9-22-70)

Sec. 82-105. - Parking of vehicles for sale.

It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any street from which vehicle merchandise is peddled or sold.

(Ord. No. 70-8, § 9-7, 9-22-70)

Sec. 82-106. - Parking during street cleaning.

It shall be unlawful to park any vehicle on any public street or portion of a public street in the city at any time when such street is being cleaned or snow removed. Signs indicating such cleaning or snow removal shall be posted before such work is done.

(Ord. No. 70-8, § 9-9, 9-22-70)

Sec. 82-107. - Time limit parking.

It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by ordinance and so posted.

(Ord. No. 70-8, § 9-10, 9-22-70)

Sec. 82-108. - Cabstands; bus stands.

No vehicle other than a licensed taxicab shall be parked in any area designated by ordinance as a cabstand, and no vehicle other than a bus shall be parked in a place so designated as a bus loading zone.

(Ord. No. 70-8, § 9-11, 9-22-70)

Sec. 82-109. - Parking motor vehicles on private property.

It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

(Ord. No. 70-8, § 9-12, 9-22-70)

Sec. 82-110. - Signs.

Appropriate signs shall be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions.

(Ord. No. 70-8, § 9-13, 9-22-70)

Sec. 82-111. - Presumption.

The fact that an automobile which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such parking.

(Ord. No. 70-8, § 9-15, 9-22-70)

Sec. 82-112. - Parking violations.

- (a) *Notice; contents.* Whenever any motor vehicle is found to be parked in violation of this article with respect to rules prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, police officers of the city shall conspicuously attach to such vehicle a notice on a form provided by the city, which notice shall contain the registration number of such vehicle, and shall instruct the owner or operator that such vehicle has been parked in violation of the provision of this article, and shall advise the owner or operator of the vehicle of the penalty provided therefor and the method of paying such penalty within 48 hours from the time of the issuance of the notice.
- (b) *Settlement of claim within five business days.* Any owner or operator of such vehicle may settle and compromise the claim against him for such illegal parking by paying to the city at city hall \$25.00 for each such offense within five business days of the time such alleged offense was committed. A receipt shall be issued for all money so received, and such money shall be promptly turned over to the treasurer.
- (c) *Settlement of claim in 15 days.* Any owner or operator of such vehicle who fails to settle and compromise the claim against him within five business days of the time of the alleged offense may settle and compromise the claim against him for such illegal parking by paying to the city at city hall, within 15 business days of the date that such alleged offense was committed, the sum of \$50.00 for each such offense. A receipt shall be issued for all money so received, and such money shall be promptly turned over to the city treasurer.
- (d) *Penalty for failure to settle.* The failure of the owner or operator of such vehicle to make payment within 15 business days, as provided in this section, shall render such owner or operator subject to a penalty of not less than \$75.00 nor more than \$750.00.
- (e) *Application of section.* This section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where police or fire department apparatus or other emergency equipment is kept or housed, or so as to block an emergency entrance to a hospital. Nor shall this section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley, or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to move a vehicle illegally parked at the request of any member of the police department.

(Ord. No. 70-8, § 9-17, 9-22-70; Ord. No. 82-13, § 1, 10-26-82; Ord. No. 83-3, § 1, 4-18-83; Ord. No. 12-31, § 1, 11-13-12)

Sec. 82-113. - Parking of hazardous materials transportation vehicles.

It shall be unlawful for any motor vehicle which is authorized to transport hazardous material (as defined by the Hazardous Materials Transportation Act) to park (except when actively engaged in the authorized loading or unloading of materials, except when on a meal break at a restaurant, except when parked at a facility based in the city where vehicles are loaded, or except when obtaining fuel) on any public or private property within the city, whether or not the motor vehicle contains hazardous materials.

(Ord. No. 00-25, § 1, 11-14-00)

Sec. 82-114. - Prohibited stopping, standing or parking.

It shall be unlawful for any motor vehicle to stop, stand or park along Illinois Route 129 and Illinois Route 53 from Center Street to the southerly boundary of the City of Braidwood. The owner of any vehicle in violation of this section shall be responsible for any towing, storage and administrative charges as a result of the removal of a vehicle that is found to be in violation of this section.

(Ord. No. 05-06, § 1, 7-12-05)

Sec. 82-115. - No overnight parking in city lots.

No person should park any privately owned vehicle in a municipal parking lot between the hours of 3:00 a.m. and 6:00 a.m.

(Ord. No. 11-09, § 1, 5-10-11)

Sec. 82-116. - No parking on the east side of Comet Drive.

No person should park any privately owned vehicle on the east side of Comet Drive from Caleb to Route 113 nor parking within 15 feet of the east side curb.

(Ord. No. 13-11, § 1, 5-28-13)

Secs. 82-117—82-160. - Reserved.

ARTICLE V. - BICYCLES

Sec. 82-161. - Riding on sidewalks.

No person shall ride a bicycle on a sidewalk within a business district.

(Ord. No. 70-8, § 5-28-6, 9-22-70)

Secs. 82-162—82-185. - Reserved.

ARTICLE VI. - ABANDONED VEHICLES^[3]

Footnotes:

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Editor's note— Ord. No. 11-12, § 1, adopted May 10, 2011, deleted the former Art. VI, §§ 82-186—82-190, and enacted a new Art. VI as set out herein. The former Art. VI pertained to abandoned vehicles and derived from Ord. No. 70-8, §§ 10-2—106, 9-22-70; Ord. No. 89-4, adopted 3-28-89.

Sec. 82-186. - Definitions.

For purposes of this article, the following words shall have the respective meaning ascribed to them:

Abandoned vehicle. Any vehicle located on public or private property that had not been moved or used for at least seven days or more or any vehicle left at any place for such a time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned. However, a vehicle located on the property of the owner thereof, or the owner's bailee, shall not be considered abandoned.

Inoperable vehicle. Any vehicle in a state of disassembly or disrepair for a period of at least seven days which renders the vehicle of being driven under its own power; for purposes of this article, any vehicle which is unregistered and unlicensed shall be presumed to be inoperable. The term inoperable vehicle shall not include a motor vehicle which has been rendered temporarily (less than seven days) incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

Owner. A person who holds legal title of a vehicle, a person who has registered a vehicle in his name with the state and/or the city, or in the event of a conditional sale, lease or other financing arrangement which vests an immediate right to possession of the vehicle, the person then vested with the right to possession shall be deemed the owner.

Vehicle. A machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, runners, or slides and to transport persons or property or to pull machinery, and shall include, but not be limited to, automobiles, trucks, trailers, buses, recreational vehicles, tractors, motorcycles, snowmobiles, buggies and wagons.

(Ord. No. 11-12, § 1, 5-10-11)

Sec. 82-187. - Removal of vehicles.

A police officer is authorized to impound and tow, or to have towed by a commercial towing service, to a safe place of storage:

- (a) Any vehicle known to be stolen; or
- (b) Any illegally parked, abandoned, inoperable or otherwise unattended vehicle which by its position in relation to any highway, street, or alley or by its physical appearance, creates or constitutes a traffic hazard which impedes the free flow of traffic, blocks the use of a fire hydrant or of a private drive, obstructs or may obstruct the movement of any emergency vehicle, or otherwise endangers public safety.

(Ord. No. 11-12, § 1, 5-10-11)

Sec. 82-188. - Impounding procedures.

- (a) Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the statutes of the state and provisions of this chapter; provided, however, that any vehicle shall not be removed and impounded as provided in this section until the chief of police has given written notice of his intention to impound the article within ten days from the date of the notice of the vehicle has not been removed at the end of such time. Such notice shall be given by:
 - (1) Affixing such notice on the vehicle; or
 - (2) Sending notice by mail to the owner of such vehicle at his last known address if the owner is reasonably ascertainable; or
 - (3) By sending notice by mail to the person owning or controlling the property on which such vehicle is located.
- (b) The chief of police, or his representative, may enter upon private property in accordance with the provisions of this Code for the purpose of inspecting such vehicle, posting notice thereon, and removing and impounding such vehicle, and it is unlawful for any person to prevent the chief of police from entering on private property for purposes of carrying out his duties hereunder or to interfere with him in the lawful performance of his duties under the provisions of this chapter.

(Ord. No. 11-12, § 1, 5-10-11)

Sec. 82-189. - Storage of vehicles on property.

No vehicle which is currently unregistered and unlicensed shall be kept on any property located in the city. A vehicle which is unregistered and unlicensed may be presumed inoperable for purposes of this article.

(Ord. No. 11-12, § 1, 5-10-11)

Sec. 82-190. - Unlicensed and unregistered vehicles.

A vehicle is unregistered when it does not have current Illinois license plate or registration applied for sticker displayed thereon. A vehicle is unlicensed when it does not have a current city vehicle license displayed upon it in accordance with applicable ordinances.

(Ord. No. 11-12, § 1, 5-10-11)

Sec. 82-191. - Public nuisances.

Abandoned and inoperable vehicles, whether located on public or private property, are hereby declared to be a nuisance and shall be subject to removal in accordance with this title or any other applicable section of this Code. No person shall permit any abandoned or inoperable vehicle to be kept or stored on that persons property. Any abandoned or inoperable vehicle located on the premises of a business lawfully engaged in the wrecking or junking of vehicles shall not be deemed a nuisance.

(Ord. No. 11-12, § 1, 5-10-11)

Secs. 82-192—82-215. - Reserved.

ARTICLE VII. - SNOWMOBILES⁴

Footnotes:

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Editor's note— Section 1 of Ord. No. 97-2, adopted January 14, 1997, repealed Ord. No. 82-1, adopted January 26, 1982; subsequently, §§ 82-216—82-223, which derived from §§ 1—6, 8, and 9 of Ord. No. 82-1 and pertained to snowmobiles, were also repealed.

Sec. 82-216. - Governed by state law.

The ownership, possession, control, and operation of all snowmobiles within the city shall be governed exclusively by the Snowmobile Registration and Safety Act, 625 ILCS 40/1-1 et seq.

(Ord. No. 97-2, § 2, 1-14-97)

Editor's note— Section 2 of Ordinance No. 97-2, adopted January 14, 1997, did not specifically amend the Code; hence, codification of said section as § 82-216 was at the discretion of the editor.

Secs. 82-217—82-250. - Reserved.

ARTICLE VIII. - RESERVED⁵

Footnotes:

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Editor's note— Ord. No. 17-19, § 1, adopted December 21, 2017, repealed §§ 82-251—82-261, which pertained to vehicle licenses and derived from Ord. No. 81-2, §§ 1—11, 12, 3-24-81; Ord. No. 82-4, § 2, 3-9-82; Ord. No. 95-19, §§ 1, 4, 9-12-95; Ord. No. 97-1, § 1, 1-14-97; Ord. No. 03-5, §§ 1, 2, 4-8-03; Ord. No. 03-11, § 1, 7-8-03; Ord. No. 14-17, § 1, 12-9-14.

Secs. 82-251—82-274. - Reserved.

ARTICLE IX. - NON-HIGHWAY VEHICLE ACT

Sec. 82-275. - Definitions.

All terms used in this article shall have the definitions provided in the Illinois Vehicle Code (625 ILCS 5).

(Ord. No. 11-37, § 1, 9-13-11)

Sec. 82-276. - Findings of fact.

Considering the volume, speed, and character of traffic on roadways within the city, the corporate authorities of this city have determined that the public safety will not be jeopardized by the operation of certain non-highway vehicles, as specified below, on those roadways under the city's jurisdiction, excluding locations where signs are posted by the city prohibiting such operation, where all authorized non-highway vehicles shall continue to be prohibited.

(Ord. No. 11-37, § 1, 9-13-11)

Sec. 82-277. - Operation of certain non-highway vehicles on streets and roads in the city.

The following non-highway vehicles ("authorized non-highway vehicles") may be operated on roadways within the city, but only on those streets solely under the jurisdiction of the city, excluding locations where signs are posted by the city prohibiting such operation, where all authorized non-highway vehicles shall continue to be prohibited:

A golf cart, as defined in 625 ILCS 5/1-123.9.

(Ord. No. 11-37, § 1, 9-13-11)

Sec. 82-278. - Limitations on use of authorized non-highway vehicles.

- (a) An authorized non-highway vehicle may be operated within the [city] only on streets where the posted speed limit is 35 miles per hour or less, but this does not prohibit an authorized non-highway vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.
- (b) A person may not operate an authorized non-highway vehicle upon any street or roadway in the city unless he or she is 18 years of age or older and has a valid Illinois driver's license issued in his or her name by the Illinois Secretary of State; and unless a current, valid vehicle sticker is displayed as required by section 82-251 of this chapter; and the operator has in his possession the required proof of insurance for such vehicle, as required by the Illinois Motor Vehicle Code (625 ILCS 5).

- (c) No authorized non-highway vehicle may be operated on a city roadway at a speed in excess of 20 miles per hour.
- (d) No authorized non-highway vehicle may be operated on a city roadway unless, at a minimum, it has the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a "slow moving" emblem (as required of other vehicles in 625 ILCS 5/12-709) on the rear of the authorized non-highway vehicle, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a city roadway, an authorized non-highway vehicle shall have its headlight and tail lamps lighted as required by 625 ILCS 5/12-201.
- (e) A person who drives or is in actual physical control of an authorized non-highway vehicle on a roadway while under the influence is subject to 625 ILCS 5/11-500 through 625 ILCS 5/11-502.
- (f) Any person who operates an authorized non-highway vehicle on a street or roadway within the city shall be subject to the mandatory insurance requirements under the Illinois Motor Vehicle Code (625 ILCS 5).
- (g) Except as otherwise provided in this chapter, it is unlawful for any person to drive or operate an authorized non-highway vehicle upon any street or roadway in this city.

(Ord. No. 11-37, § 1, 9-13-11)

Sec. 82-279. - Appropriate signs.

The city shall post signs at locations deemed appropriate by the commissioner of streets and alleys in accordance with the purpose of this article.

(Ord. No. 11-37, § 1, 9-13-11)

Chapter 86 - UTILITIES⁽¹⁾

Footnotes:

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Cross reference— Supervisor of public works, § 2-101 et seq.; buildings and building regulations, ch. 22; civil emergencies, ch. 30; manufactured homes and trailers, ch. 54; planning, ch. 62; solid waste, ch. 66; subdivision regulations, ch. 74.

ARTICLE I. - IN GENERAL

Sec. 86-1. - Combined water and sewer system.

- (a) The waterworks system, as it existed on April 26, 1977, in its entirety, together with all additions, improvements and extensions thereto that may be made and the sewer system in its entirety, as acquired and constructed, together with all additions, improvements and extensions thereto that may be made, of the city, are hereby declared to be a combined system. Such combined waterworks and sewer system shall be maintained and operated as a single utility, and a charge or rate shall be established for the use of such combined system, which shall be reasonable and commensurate with the service performed by such combined system, and shall be sufficient to pay the cost of operation and maintenance of such system, to provide an adequate depreciation fund and to pay the principal of and interest upon all revenue bonds/EPA loan(s) that are payable from the revenues of such combined system.

- (b) All property, real, personal and mixed, comprising the waterworks system and the sewer system, as described in the preamble to Ordinance No. 77-3, is hereby found, determined and declared to constitute the properties of the combined waterworks and sewer system of the city.
- (c) Such waterworks system and sanitary sewer system shall be owned and operated by the city as a combined utility, known as the combined waterworks and sewer system of the city. All improvements and extensions to such waterworks or sewer system, either or both, shall be considered as improvements and extensions to the combined utility; and all the properties, assets, obligations and liabilities, of all kinds, of the waterworks system and of such sewer system, existing, outstanding and accruing or to accrue, shall be held, used, confessed and acknowledged as the properties, assets, obligations and liabilities of the combined utility.

(Ord. No. 77-3, §§ 1—3, 4-26-77; Ord. No. 13-19, § 1, 8-13-13)

Secs. 86-2—86-30. - Reserved.

ARTICLE II. - WATER

DIVISION 1. - GENERALLY

Sec. 86-31. - Water connection required.

Any building which uses potable water or which has a sanitary sewer connection shall be connected to the city water system provided that a city water main is located in the public right-of-way or easement not more than 75 feet from the lot line in which the building is located. No valves, B-Box or shut offs, shall be located under any permanent structure including driveways and/or roadways. Once connected to the city water system, no building shall use any well for source of potable water. Any person found to be violating this section shall be subject to the provisions of section 86-95.

(Ord. No. 04-29, § 1, 11-23-04; Ord. No. 16-14, § 1, 9-13-16)

Sec. 86-32. - Water wells prohibited.

- (a) It shall be unlawful for any person to drill a water well which is used as a source of portable or non-portable water if the well draws water from the Maquoketa Limestone and Shale Aquifer of the Ordovician system, generally at a depth of 150 feet or more, from which the wells of the city community water system shall draw water.
- (b) It shall be unlawful for any person connected to the city community water system to use a private water well as a source of portable water.
- (c) It shall be unlawful for any person other than a contractor licensed under the Water Well and Pump Installation Contractor's License Act to draw any water well.
- (d) Any person found to be violating this section shall be subject to the provisions of section 86-95.

(Ord. No. 04-29, § 2, 11-23-04)

Secs. 86-33—86-45. - Reserved.

DIVISION 2. - METERS

Sec. 86-46. - Required.

All city water consumed shall be measured through a gallonage meter. All meters shall be connected by a licensed plumber. All users shall allow the city or its duly authorized representative access to the premises of all water users for the purposes of installation, inspection, meter readings and any other incidental purposes consistent with the intent of this article. The meters shall remain the property of the city, will be supplied by the city to each user, and shall be installed on every new dwelling or building to which water service is presently maintained or will be furnished in the future.

(Ord. No. 89-5, § 1, 4-11-89)

Sec. 86-47. - Type to be designated by city.

The water meters required to be installed under this division shall be designated by the city.

(Ord. No. 89-5, § 2, 4-11-89)

Sec. 86-48. - Tampering with.

No persons other than those authorized by the city shall break or cause to break any seal or connection at the water meter. Any person found guilty of violating this section shall be guilty of a misdemeanor and be subject to punishment as provided in section 1-8.

(Ord. No. 89-5, § 3, 4-11-89)

Sec. 86-49. - Installation in newly constructed buildings.

Meters shall be installed at all newly constructed buildings and shall be obtained from the city upon payment of a deposit fee as approved by city resolution, motion or otherwise.

(Ord. No. 89-5, § 6, 4-11-89)

Sec. 86-50. - Inspections; damage.

- (a) The city, by and through its agents and employees, shall be permitted access to the service address at all reasonable times for the purpose of inspecting the water meter and any and all connections at the premises to the city water system and to any and all connections to the city sewer system. Such inspections may be done but are not necessarily limited to the sale of the subject premises, a change in the account or as part of the city's program of maintenance, repair and inspection.
- (b) It shall be the duty of the owner and occupant of the premises to protect the meter and/or any associated metering equipment from any damage from all causes and if such meter and associated metering equipment is damaged or rendered inoperable for any reason then the cost of said repair and/or replacement shall be added to the next water bill. If such repair or replacement requires a call out between the hours of 3:00 p.m. and 7:00 a.m. then the fee for such overtime work shall be paid by the owner or occupant.

(Ord. No. 92-1, § 7, 1-28-92; Ord. No. 09-05, § 2, 4-28-09)

Secs. 86-51—86-65. - Reserved.

DIVISION 3. - BACKFLOW PREVENTION

Sec. 86-66. - When device required.

All plumbing installed within the city shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If in accordance with the state plumbing code or in the judgment of the superintendent of water, an approved backflow prevention device is necessary for the safety of the public water supply system, the superintendent of water will give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the state plumbing code, state environmental protection agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the state plumbing code, state environmental protection agency and local regulations.

(Ord. No. 87-18, § 1, 10-13-87)

Sec. 86-67. - Connection of other water supply to public system.

No person shall establish or permit to be established, or maintain or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the city shall enter the supply or distribution system of the municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the superintendent of water and the state environmental protection agency.

(Ord. No. 87-18, § 2, 10-13-87)

Sec. 86-68. - Periodic surveys and investigations.

It shall be the duty of the supervisor of public works, supervisor of water or his/her authorized designee to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two years, or as often as the superintendent of water shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.

(Ord. No. 87-18, § 3, 10-13-87; Ord. No. 13-19, § 2, 8-13-13)

Sec. 86-69. - Inspector's right of entry.

The approved cross-connection control device inspector (CCDI) shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the city for the purpose of verifying the presence or absence of cross connections. The water superintendent or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the city for connection control inspection. On demand, the owner, lessees or occupants of any property so served shall furnish to the supervisor of public works, supervisor of water or his/her authorized designee any information which he may request regarding the piping system or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the supervisor of public works, supervisor of water or his/her authorized designee be deemed evidence of the presence of improper connections as provided in this article.

(Ord. No. 87-18, § 4, 10-13-87; Ord. No. 13-19, § 3, 8-13-13)

Sec. 86-70. - City's enforcement powers.

The city supervisor of public works, supervisor of water or his/her authorized designee is hereby authorized and directed to discontinue, after reasonable notice to the occupant, the water service to any property wherein any connection in violation of the provisions of this article is known to exist, and to take such other precautionary measures as he may deem necessary to crminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this article, and until a reconnection fee of \$75.00 is paid to the city. Immediate disconnection with verbal notice can be effected when the superintendent of water is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply; provided, however, that in the reasonable opinion of the supervisor of public works, supervisor of water or his/her authorized designee or the state environmental protection agency, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the public water supply, the superintendent of water, or its agents or assigns, shall be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this article, whether or not such termination was with or without notice.

(Ord. No. 87-18, § 5, 10-13-87; Ord. No. 13-19, § 4, 8-13-13)

Sec. 86-71. - Responsibility for cleanup of contaminated potable water supply.

The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of cleanup of the potable water supply system.

(Ord. No. 87-18, § 6, 10-13-87)

Secs. 86-72—86-79. - Reserved.

DIVISION 4. - CONNECTIONS TO POTABLE WATER SYSTEMS AND OTHER REGULATIONS²

Footnotes:

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Editor's note— Ord. No. 02-7, § 1, adopted July 24, 2002, amended the Code by adding provisions designated as § 22-190. At the discretion of the editor, the provisions of said Ord. No. 02-7 have been included herein as §§ 86-80—86-85. See the Code Comparative Table.

Cross reference— Buildings and building regulations, ch. 22

Sec. 86-80. - Definitions.

For the purpose of this section the following definitions shall apply unless the context clearly requires otherwise:

Air gap means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

Approved means accepted by the Braidwood Water Department as meeting an applicable specification stated or cited in this section, or as suitable for the proposed use.

Auxiliary supply means any water source or system other than the potable water supply that may be available in the building or premises.

Backflow means the flow of any water, foreign liquids, gases or other substances back into the distribution pipes of the potable water system. All approved backflow prevention device assemblies must have full port control valves on each side of the device, resilient seated up to two inches and resilient wedge two and one-half inches and larger, and shall not exceed five feet from the device.

Backflow preventer means a device or means to prevent backflow.

Back-siphonage means the flowing back of used, contaminated or polluted water due to a negative gauge or subatmospheric pressure in that pipe.

Contamination. See pollution.

Cross-connection means any actual or potential connection between the potable water supply and a source of possible contamination or pollution.

Superintendent means the superintendent of public works or his authorized designee.

Drain means any pipe that carries waste water or waterborne wastes in a building drainage system.

Fixture-plumbing means installed receptacles, devices or appliances supplied with water or that receive or discharge liquids for liquid-borne wastes.

Flood-level rim means the edge of the receptacle from which water overflows.

Hazard, health means any conditions or devices which, in the judgment of the superintendent, may create a danger to the health and well-being of a water consumer. An example of a health hazard is a structural defect in the water supply system, whether of location, design or construction, that regularly or occasionally may prevent satisfactory treatment of the water supply or cause it to be polluted from extraneous sources.

Hazard, plumbing means any arrangement of plumbing, including piping and fixtures, whereby a cross-connection is created or is possible.

Hydropneumatic tank means a pressure vessel in which air pressure acts upon the surface of the water contained within the vessel, pressurizing the water distribution piping connection to the vessel.

Non-residential means all buildings and uses which do not consist of single family residential or multi-family (apartment or condominium) housing.

Outlet means the open end of the water supply pipe through which the water is discharged into the plumbing fixture.

Plumbing system includes the water supply and distribution pipes, plumbing fixtures, traps, soil pipes, waste pipes, vent pipes, building drains and building sewers, including their respective connections, devices and appurtenances, any of which are located within the property lines of the premises; and water-treating or water-using equipment.

Pollution means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that, either by itself or in combination with another substance in the water, tends to, or has the potential to, degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Reduced pressure principle backflow preventer means an assembly of differential valves and check valves, including an automatically opened spillage port to the atmosphere designed to prevent backflow.

Receiving tank means the receiving, non-pressure vessel forming part of the air gap separation between a potable and an auxiliary supply.

Superintendent means the supervisor of public works, supervisor of water or his/her authorized designee.

Vacuum means any pressure less than that exerted by the atmosphere.

Water, potable means water free from contaminants in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the federal and state drinking water regulations and to any regulations of the applicable public health authority having local jurisdiction.

Water, non-potable means water that is not safe for human consumption or that is of questionable potability.

(Ord. No. 02-7, § 1, 7-24-02; Ord. No. 13-19, § 5, 8-13-13)

Sec. 86-81. - Cross connections prohibited.

- (a) Cross connections between potable water systems and other systems or equipment containing water or other substances are prohibited except when and where approved cross connection control devices such as a reduced pressure zone backflow preventer are installed, tested and maintained to ensure proper operation on a continuing basis.
- (b) To protect the public water system from contamination due to contaminants through the water service connection into the public water system, a program of inspection and regulation shall be provided.
- (c) The superintendent shall cause the inspection of plumbing in every building or premises served by the public water system to be conducted by an Illinois journeyman plumber. The superintendent may personally conduct such inspections if he/she is an Illinois journeyman plumber. Such inspection shall be made as frequently as in the superintendent's judgment may be necessary to ensure that such plumbing has been installed and maintained in such a manner as to prevent the possibility of pollution of the water supply of the city. The superintendent shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such building or premises, to correct, within a reasonable time set by the superintendent, any plumbing installed or existing contrary to or in violation of this section or any other applicable law or ordinance, and which, in his judgment, may therefore permit the pollution of the city water supply, or otherwise adversely affect the public health.
- (d) The journeyman plumber shall have the right of entry into any building during reasonable hours for the purpose of making inspection of the plumbing systems installed in such building or premises, provided that, with respect to the inspection of any single family dwelling, consent to such inspection shall first be obtained from a person of legal age and in control thereof. Consistent refusal to allow inspection of a specific dwelling may be cause for requiring installation of a suitable backflow protection device approved by the city, or discontinuation of potable water service in the manner provided in this section.

(Ord. No. 02-7, § 1, 7-24-02; Ord. No. 04-10, § 1, 6-8-04; Ord. No. 13-19, § 6, 8-13-13)

Sec. 86-82. - Technical requirements.

A potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from non-potable liquids, solids, or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system.

- (1) Connection to the potable water supply system is prohibited unless protected against backflow as set out herein. Examples of fixtures and equipment from which the potable water supply system must be protected include, but is not limited to are:
 - a. *Bidets.*
 - b. *Operating, dissection, embalming, and mortuary tables or similar equipment.* In such installation, the hose used for water supply shall terminate at least 12 inches away from every point of the table or attachments.

- c. *Pumps for non-potable water, chemicals or other substances.* Priming connections may be made only through an air gap.
 - d. *Building drainage, sewer, or vent systems.*
- (2) Potable water connections to boilers shall be made through an air gap or provided with a city-approved backflow preventer.
 - (3) Except where potable water provided for a refrigerator condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, the inlet connection shall be provided with a city-approved check valve. Also adjacent to and at the outlet side of the check valve, a city-approved pressure relief valve set to relieve at five PSI above the maximum water pressure at the point of installation shall be provided if the refrigeration units contain more than 20 pounds of refrigerants.
 - (4) Protection against backflow and back-siphonage.
 - a. *Water outlets.* A potable water system shall be protected against backflow and back-siphonage by providing and maintaining at each outlet, an air gap, as specified below, between the potable water outlet and the flood level rim of the fixture it supplies, or between the outlet and any other source of contamination, or, an approved device or means to prevent backflow.
 - b. *Minimum required air gap.*
 - 1. *How measured.* The minimum required air gap shall be measured vertically from the lowest end of a potable water outlet to the flood rim or line of the fixture or receptacle into which it discharges.
 - 2. *Size.* The minimum required air gap shall be twice the effective opening of a potable water outlet unless the outlet is a distance less than three times the effective opening away from a wall or similar vertical surface, in which case the minimum required air gap shall be three times the effective opening of the outlet. In no case shall the minimum required air gap be less than one inch.
 - (5) Before any device for the prevention of backflow or back-siphonage is installed, it shall have first been certified by the Foundation for Cross-Connection Control Research of the University of Southern California, or the American Society of Sanitary Engineers. Devices, other than reduced pressure zone backflow preventers, installed in a residential potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person or persons responsible for the maintenance of the system. Reduced pressure zone backflow preventers installed in a non-residential building potable water supply distribution system shall be tested and maintained by a state certified backflow preventer maintenance/tester. The superintendent shall cause the routine inspection of such devices by any Illinois licensed plumber holding a cross-connection control device inspector approval (CCCDI). The superintendent may personally conduct such inspections if he/she is an Illinois licensed plumber holding CCCDI approval. The superintendent may review any records submitted by a CCCDI to ensure that the owner of the backflow devices has authorized and approved any maintenance or servicing required. If such systems are found to be defective or inoperative, the superintendent shall notify the owner of his obligation to have the device repaired within 72 hours of oral or written notice. If the building owner does not perform the necessary repairs within 72 hours, the superintendent shall require the replacement thereof and shall engage the services of a plumber to perform the required work, which cost shall be invoiced to the building owner, plus a cost of ten percent for processing costs, to be paid to the city. In the case of an emergency repair, the superintendent may require the replacement of the device and arrange with a plumber for the device to be removed. The cost of this work will be invoiced to the building owner at actual cost. Following such repairs, the superintendent shall cause a follow-up inspection to be made by a CCCDI to document that the assembly or device is functioning properly. The superintendent may personally conduct such follow-up inspections if he/she is a CCCDI.
 - (6) Installation of devices.

- a. A reduced pressure principle type backflow preventer may be installed subject to full static pressure.
 - b. Backflow and back-siphonage preventing devices containing backflows to separate fixtures shall be accessibly located, preferably in the same room with the fixture they serve. Installation in utility or service spaces, provided they are readily accessible, is also permitted. All approved backflow prevention devices may be installed in the horizontal or vertical position and must be installed between a vertical height of one and one-half feet to five feet above the finished floor for testing, maintenance and accessibility.
- (7) Below rim supply.
- a. Where a potable water outlet terminates below the rim of a tank or vat, and the tank or vat has an overflow of diameter not less than two inches, the overflow pipe shall be provided with an air gap as close to the tank as possible.
 - b. The potable water outlet to the tank or vat shall terminate a distance not less than one and one-half times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat and with all outlets except the air gap overflow outlet closed. The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.
- (8) City-approved devices to protect against backflow and back-siphonage shall be installed at all fixtures and equipment where backflow and back-siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood level rim.
- a. *Connections subject to back pressure.* Where a potable water connection is made to a line, fixture, tank, vat, pump, or other equipment with a hazard of backflow or back-siphonage where the water connection is subject to back pressure, and an air gap cannot be installed, the superintendent will require adequate protection which will include the use of an approved reduced pressure principle backflow preventer.
- (9) When a booster pump is used on a water pressure booster system, and the possibility exists that a positive pressure of less than 20 PSI may occur on the suction side of the pump, there shall be installed a low pressure cutoff on the booster pump to prevent the creation of a vacuum or negative pressure on the suction side of the pump, thus cutting off water to other outlets.

(Ord. No. 02-7, § 1, 7-24-02; Ord. No. 04-10, § 1, 6-8-04)

Sec. 86-83. - Backflow prevention devices required.

- (a) All new residential and non-residential construction, and all remodeling, additions, or rehabilitations of existing residential and non-residential construction involving revisions or additions to the potable water system shall require the installation of a backflow prevention device immediately downstream of the water meter. Such installation shall be made as part of the construction and shall be a condition of any building permit. Backflow prevention devices shall also be installed by January 1, 2003 on any existing building used for any of the following purposes:
 Hospitals, mortuaries, clinics, nursing homes, laboratories, piers, docks, water front facilities. Sewage treatment plants, sewage pumping stations or storm water pumping stations. Food or beverage processing plants. Chemical plants. Metal plating industries. Petroleum processing or storage plants. Radioactive material processing plants or nuclear reactors. Car washes. Other hazardous uses determined by the superintendent.
- (b) Backflow preventers shall be installed by a licensed plumber at the sole expense of the owner of the premises being served. All devices shall be installed in accordance with manufacturer's recommendations. Reduced pressure principle backflow preventers shall be installed as follows:

- (1) Reduced principle backflow preventers shall be installed on fire lines and potable water service lines separately, downstream of the respective meters for both the fire lines and water service lines.
 - (2) Reduced principle backflow preventers shall be installed with two resilient seat gate valves, with a test cock on the number one gate valve.
 - (3) Installation shall be in a location where the unit is readily accessible for maintenance and testing. Location should be immediately "downstream" of the water meter.
 - (4) Minimum clearances recommended by the manufacturer shall be observed.
 - (5) The unit shall be protected against flooding and freezing.
 - (6) Free draining of the relief port must be maintained under all conditions, and provisions to accomplish the same, such as floor drains, shall be provided.
 - (7) If installed at ceiling level, a collection system shall be installed with a fixed and proper air gap under the drain port to protect areas below the unit from drainage, and a proper air gap between the discharge of the collection system and structure accepting the discharged water.
 - (8) There shall be no reduction made in the size of the relief port drain.
 - (9) Provision shall be made for easy and unrestricted removal of the unit.
- (c) Testing of reduced pressure principle backflow preventers.
- (1) Each year the city may cause the testing of each reduced pressure principle backflow preventer installed.
 - (2) Testing of units shall be the responsibility of the building owner and be performed in accordance with manufacturers recommendation. Minimal maintenance such as internal cleaning, if needed, shall be provided. Costs for tests, parts and replacement of units will be the responsibility of the building owner.
 - (3) Testing of initial installation before occupancy shall be required. Initial certification test will be done at no charge.
 - (4) The water department may cause random inspections and testing to be performed by a CCCDI each year, based on the anniversary date of the installation. Such tests shall be conducted, where possible, within 60 days of said anniversary date.
 - (5) The building owner shall be responsible for authorizing a qualified licensed plumber to perform all necessary tests and file all necessary reports with state and local authorities, and will certify that owners reduced pressure backflow preventers are operating and being maintained in accordance with existing state code requirements and manufacturers recommendations. These reports shall be submitted annually to the superintendent. A copy of the maintenance and inspection records shall be on file at the plant facility and shall be made available to the inspector or backflow maintainer on request.
 - (6) Cost of subsequent annual inspections and testing of units shall be the owners responsibility. The charge for random inspection and test by the city will be based on its actual cost to the city.
 - (7) All parts necessary to rebuild a unit to meet factory and state standards shall be provided by the manufacturer of the backflow preventer, and shall be new parts.
 - (8) Any maintenance and inspections requested of the water department by owner between annual inspections will be performed by an Illinois licensed plumber or a CCCDI; any testing requested of the water department by owner will be performed by a CCCDI.
 - (9) Tampering prohibited. No persons other than a CCCDI or the superintendent, if he/she is an Illinois licensed plumber holding CCCDI approval, shall remove, repair, test or perform any maintenance on any reduced pressure principle backflow preventer.

- (10) Owners of all reduced pressure principle backflow preventers shall provide easy access to units and necessary tools and equipment and shall furnish any CCCDI or Illinois licensed plumber, as may be required, with necessary ladders and scaffolding, and shall assign an employee or employees to assist the CCCDI or Illinois licensed plumber in performing any necessary testing and service according to this Code, as may be necessary, all at owner's expense. The owner of each device shall maintain in a neat and orderly manner, a manufacturer's maintenance manual and manufacturer's testing instructions at the point of installation of the device.
- (d) Out of service—Repair. When a unit is out of service, or otherwise is in need of service, the water department shall be notified within 24 hours.
- (e) By-passes. If there is only one service line and the water service cannot be interrupted, a second backflow preventer may be installed in parallel with the first. Under no circumstance will a backflow preventer be bypassed by unprotected piping. For buildings where water service cannot be interrupted during normal city working hours, a bypass will be required with a backflow preventer.
- (f) Fire protection systems. All new fire protection systems require a double check detector assembly with approved cubic feet meters. When the water service has a compound meter, the fire protection system requires double check valve assembly. All new existing fire protection systems which contains additives such as antifreeze, fire retardant or other chemicals require a reduced pressure zone assembly which must be located at the point of connection to that specific section of the system containing such additives.

(Ord. No. 02-7, § 1, 7-24-02; Ord. No. 04-10, § 1, 6-8-04)

Cross reference— When device required, § 86-66.

Sec. 86-84. - Notification of violation.

The superintendent shall notify the owners, or authorized agent of the owner, of the building or premises in which there is found a violation of this section. The superintendent shall set a reasonable time, based on the level or hazard to health, for the owner to have the violation removed or corrected, and shall include in such notification an indication that water service may be terminated if the owner fails to correct the defect in such time. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the superintendent may, if in his judgment an imminent health hazard exists, cause the water service to the building or premises to be terminated.

(Ord. No. 02-7, § 1, 7-24-02)

Sec. 86-85. - Hearing.

Any owner required to take action may request a hearing before the superintendent by sending a written request within five days of receiving a written notice of violation. The superintendent may schedule a hearing for any owner or property and send notice to the effected persons. When practicable, all hearings shall be held within 15 days of the notice or request therefor.

(Ord. No. 02-7, § 1, 7-24-02)

ARTICLE III. - SEWERS AND SEWAGE DISPOSAL³

Footnotes:

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Cross reference— Health and sanitation, ch. 46.

DIVISION 1. - GENERALLY

Sec. 86-86. - Definitions.

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:

Administrator means the administrator of the U.S. Environmental Protection Agency.

Approving authority means the city council.

Basic user charge means the basic assessment levied on all users of the public sewer system.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer which is designed and intended to receive wastewater, stormwater, surface water and groundwater drainage.

Control manhole means a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a control manhole is to provide access for the city representative to sample and/or measure discharges.

Debt service charge means the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding and shall be computed by dividing the annual debt service by the number of users connected to the wastewater facilities.

Director means the director of the state environmental protection agency.

Easement means an acquired legal right for the specific use of land owned by others.

Effluent criteria means as defined in any applicable NPDES permit.

Equivalent unit charge means the product of the equivalent unit factor appropriate to the classification and basic equivalent unit charge.

| Classification | Equivalent Unit Factor |
|---|------------------------|
| Single-family residence | 1.0 |
| Multifamily residence (per living unit) | 1.0 |
| Trailer park (per pad) | 1.0 |
| Commercial/Industrial (based on water meter size in inches) | |
| 5/8 | 1.0 |

| | |
|----|------|
| ¼ | 1.5 |
| 1 | 2.5 |
| 1½ | 5.0 |
| 2 | 8.0 |
| 3 | 15.0 |
| 4 | 40.0 |

Federal act means the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended by the Federal Water Pollution Control Act of Amendments of 1972 (Pub. L. 92-500) and (Pub. L. 93-243).

Federal grant means the U.S. government participation in the financing of the construction of treatment works as provided for by title II, Grants for Construction of Treatment Works of the Act and implementing regulations.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sales of produce.

Industrial user means any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (1) Division A—Agriculture, Forestry, and Fishing.
- (2) Division B—Mining.
- (3) Division D—Manufacturing.
- (4) Division E—Transportation, Communications, Electric, Gas and Sanitary Services.
- (5) Division I—Services.

A user in the divisions listed may be excluded if it is determined by the council that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

Industrial waste means any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

Major contributing industry means an industrial user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average workday;
- (2) Has a flow greater than ten percent of the flow carried by the municipal system receiving the waste;
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the federal act; or

- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

Milligrams per liter means a unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

NPDES permit means any permit or equivalent document or requirements issued by the administrator, or, where appropriated by the director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to section 402 of the federal act.

Person means any and all persons, natural or artificial, including any individual, firm, company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

pH means the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in Standard Methods.

Population equivalent means a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

ppm means parts per million by weight.

Pretreatment means the treatment of wastewater from sources before introduction into the wastewater treatment works.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half of an inch (1.27 centimeters) in any dimension.

Public sewer means a sewer provided by or subject to the jurisdiction of the city. It shall also include sewers within or outside the city boundaries that serve one or more persons and ultimately discharge into the city sanitary (or combined) sewer system, even though those sewers may not have been constructed with city funds.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential or commercial or nonindustrial user means any user of the treatment works not classified as an industrial user or excluded as an industrial user as provided for in this section.

Sanitary sewer means a sewer that conveys sewage or industrial wastes, or a combination of both, and into which stormwater, surface water, and groundwater or unpolluted industrial wastes are not intentionally admitted.

Sewage is used interchangeably with wastewater.

Sewer means a pipe or conduit for conveying sewage or any other waste liquids, including stormwater, surface water and groundwater drainage.

Sewerage means the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

Standard Methods means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

State act means the Illinois Anti-Pollution Bond Act of 1970 (30 ILCS 405/1 et seq.).

State grant means the state participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act (30 ILCS 405/1 et seq.) and for making such grants as filed with the Illinois Secretary of State.

Storm sewer means a sewer that carries stormwater, surface water and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Stormwater runoff means that portion of the precipitation that is drained into the sewers.

Surcharge means the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than the concentration values established in division 3 of article IV of this chapter.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in Standard Methods.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Useful life means the estimated period during which the collection system and/or treatment works will be operated and shall be 20 years from the date of startup of any wastewater facilities constructed with a state grant.

User charge means a charge levied on users of treatment works for the cost of operation and maintenance.

User class means the type of user, either residential or commercial (nonindustrial) or industrial.

Wastewater means the spent water of a community. From this standpoint, of course, it may be a combination of the liquid- and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and stormwater that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and transport effluent to a watercourse.

Wastewater service charge means the charge per quarter or month levied on all users of the wastewater facilities. The service charge shall be computed as outlined in division 3 of article IV of this chapter and shall consist of the total of the basic user charge, the debt service charge and a surcharge, if applicable.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with waste treatment plant, wastewater treatment plant or pollution control plant.

Water quality standards means those defined in the state water pollution regulations.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waterworks and sewerage fund means the principal accounting designation for all revenues received in the operation of the combined waterworks and sewer system.

(Ord. No. 77-19, ch. 3, §§ 1—13, 11-26-77; Ord. No. 91-20, § 2, 10-8-91; Ord. No. 13-19, § 7, 8-13-13)

Cross reference— Definitions generally, § 1-2.

Sec. 86-87. - Disposal to comply with federal requirements.

All disposal by any person into the sewer system is unlawful except those discharged in compliance with federal standards promulgated pursuant to the federal act and more stringent state and local standards.

(Ord. No. 77-19, ch. 1, art. III, § 2, 11-26-77)

Sec. 86-88. - Specifications for connections.

- (a) All connections from the sewage collection system of the city to buildings served thereby shall be done in compliance with Exhibit A and specifically made a part of this section by reference, except as provided in this section.
- (b) Any property owner who determines that he cannot comply with the specifications incorporated by reference in this section shall apply in writing to the city council for a variance in the specifications, indicating why their installation cannot be made in conformity to Exhibit A.
- (c) Any connection which does not comply with Exhibit A and for which the council has not granted a specific variance to those specifications is hereby declared to be unlawful and shall be disconnected by the city until compliance is secured.

(Ord. No. 94-2, §§ 1—3, 2-22-94)

Editor's note— Exhibit A, referred to in section 86-88, is not printed in such section, but is on file in the city offices.

Sec. 86-89. - Unsanitary deposits on public or private property.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(Ord. No. 77-19, ch. 1, art. I, § 1, 11-26-77)

Sec. 86-90. - Prohibited discharges to natural outlets.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(Ord. No. 77-19, ch. 1, art. I, § 2, 11-26-77)

Sec. 86-91. - Connection to public system; when required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located any public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after the date of official notice to do so, provided that the public sewer is within 100 feet of the property line.

(Ord. No. 77-19, ch. 1, art. I, § 4, 11-26-77)

Sec. 86-92. - Damaging system.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this section shall be subject to immediate arrest under a charge of disorderly conduct.

It shall be the duty of the owner and occupant of the premises to protect the meter and/or any associated metering equipment from any damage from all causes and if such meter and associated metering equipment is damaged or rendered inoperable for any reason, the cost of said repair and/or replacement shall be added to the next water bill. If such repair or replacement requires a call out between the hours of 3:00 p.m. and 7:00 a.m., the fee for such overtime work shall be paid by the owner or occupant.

(Ord. No. 77-19, ch. 1, art. V, § 1, 11-26-77; Ord. No. 13-19, § 8, 8-13-13)

Sec. 86-93. - Powers and authority of inspectors.

- (a) The council and/or its duly authorized employees, the state environmental protection agency, and the U.S. Environmental Protection Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The council or its representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment.
- (b) While performing the necessary work on private properties referred to in subsection (a) of this section, the council or duly authorized employees, the state environmental protection agency, and the U.S. Environmental Protection Agency shall observe all safety rules applicable to the premises established by the property owner, and such owner shall be held harmless for injury or death to the city employees. The city shall indemnify the owner against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in section 86-172.
- (c) The council and/or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. No. 77-19, ch. 1, art. VI, §§ 1—3, 11-26-77; Ord. No. 13-19, § 9, 8-13-13)

Sec. 86-94. - Application forms for sewer permits.

The following forms shall be used for applications for sewer permits for:

- (1) Residential or commercial building sewers;
- (2) Private sewage disposal; and
- (3) Industrial sewers.

*Residential or Commercial Building
Sewer Application*

To the City of Braidwood:

(a) The undersigned, being the _____ property located at _____ does hereby request a permit to install and connect a building to serve the _____ at said location.

(1) The following indicated fixtures will be connected to the proposed building sewer:

| Number | Fixtures | Number | Fixtures |
|------------------------------|---------------|--------|------------------|
| _____ | Kitchen sinks | _____ | Water closets |
| _____ | Lavatories | _____ | Bathtubs |
| _____ | Laundry tubs | _____ | Showers |
| _____ | Urinals | _____ | Garbage grinders |
| Specify other fixtures _____ | | | |

(2) The maximum number of persons who will use the above fixtures is _____.

(3) The name and address of the person or firm who will perform the proposed work is _____.

(4) Plans and specifications for the proposed building sewer are attached hereunto as Exhibit A.

(b) In consideration of the granting of this permit, the undersigned agrees to:

(1) Accept and abide by all provisions of the city Code of the City of Braidwood, and of all other pertinent ordinances or regulations that may be adopted in the future.

(2) Maintain the building sewer at no expense to the city.

(3) Notify the council when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

| | |
|-------------|------------------|
| Date: _____ | Signed: _____ |
| | _____ Address |

(Certification by city treasurer)

\$_____ connection fee paid.

\$_____ inspection fee paid.

Application approved and permit issued:

| | |
|-------------|---------------|
| Date: _____ | Signed: _____ |
|-------------|---------------|

Private Sewage Disposal Application

To the City of Braidwood:

- (a) The undersigned, being the _____ of the property located at _____ does hereby request a permit to install sanitary sewage disposal facilities to serve the _____, at said location.
- (1) The proposed facilities include: _____ to be constructed in complete accordance with the plans and specifications attached hereunto as Exhibit A.
 - (2) The area of the property is _____ square feet (or _____ square meters).
 - (3) The name and address of the person or firm who will perform the work is: _____.
 - (4) The maximum number of persons to be served by the proposed facilities is: _____.
 - (5) The locations and nature of all sources of private or public water supply within the 100 feet (30.5 meters) of any boundary of said property are shown on the plat attached hereunto as Exhibit B.
- (b) In consideration of the granting of this permit, the undersigned agrees to:
- (1) Furnish any additional information relating to the proposed work that shall be requested by the council.
 - (2) Accept and abide by all provisions of the city Code of the City of Braidwood, and of all other pertinent ordinances or regulations that may be adopted in the future.
 - (3) Operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the city and at no expense to the city.
 - (4) Notify the council at least 24 hours prior to commencement of the work proposed, and again at least 24 hours prior to the covering of any underground portions of the installation.

| | |
|-------------|---------------|
| Date: _____ | Signed: _____ |
|-------------|---------------|

| | |
|--|------------------|
| | _____ Address |
|--|------------------|

\$ _____ inspection fee paid.

| |
|---|
| _____ Certification by city treasurer. |
|---|

Application approved and permit issued:

| | |
|-------------|---------------|
| Date: _____ | Signed: _____ |
|-------------|---------------|

Industrial Sewer Connection Application

To the City of Braidwood:

- (a) The undersigned being the _____ of the property located at _____ does hereby request a permit to _____ an industrial sewer connection serving the _____ which company is engaged in _____ at said location.
- (1) A plat of the property showing accurately all sewers and drains now existing is attached hereunto as Exhibit A.
 - (2) Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as Exhibit B.
 - (3) A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge, and representative analyses, is attached hereunto as Exhibit C.
 - (4) The name and address of the person or firm who will perform the work covered by this permit is _____.
- (b) In consideration of the granting of this permit the undersigned agrees to:
- (1) Furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be adopted in the future.
 - (2) Operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City of Braidwood.
 - (3) Cooperate at all times with the council, and its representative in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.

- (4) Notify the council immediately in event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

| | |
|-------------|---|
| Date: _____ | Signed: _____ |
| | _____ Address |
| | _____ Certification of city treasurer. |

\$_____ connection fee paid.

\$_____ inspection fee paid.

Application approved and permit granted:

| | |
|-------------|---------------|
| Date: _____ | Signed: _____ |
|-------------|---------------|

(Ord. No. 77-19, ch. 4, § 1, 11-26-77)

Sec. 86-95. - Violation notices; penalty for violation of article.

- (a) Any person found to be violating any provision of this article except section 86-92 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The city may revoke any permit for sewage disposal as a result of any violation of any provision of this article.
- (b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section shall be guilty of a misdemeanor and, on conviction, shall be subject to punishment as provided in section 1-8.
- (c) Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Ord. No. 77-19, ch. 1, art. VII, §§ 1—3, 11-26-77)

Secs. 86-96—86-110. - Reserved.

DIVISION 2. - BUILDING SEWERS AND CONNECTIONS

Sec. 86-111. - Permit—Required.

No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the council.

(Ord. No. 77-19, ch. 1, art. III, § 1, 11-26-77)

Sec. 86-112. - Same—Classes; applications.

There shall be two classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the council. A permit and inspection fee of \$10.00 for a residential or commercial building sewer permit shall be paid to the city at the time the application is filed. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity. The \$10.00 fee required by this section shall be in addition to any tax or fees or other charges otherwise required by the city.

(Ord. No. 77-19, ch. 1, art. III, § 3, 11-26-77; Ord. No. 78-8, § 1, 5-23-78)

Sec. 86-113. - Same—Issuance restricted.

A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

(Ord. No. 77-19, ch. 1, art. III, § 4, 11-26-77)

Sec. 86-114. - Costs incident to installation; city indemnity.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 77-19, ch. 1, art. III, § 5, 11-26-77)

Sec. 86-115. - Separate sewer required.

A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. No. 77-19, ch. 1, art. III, § 6, 11-26-77)

Sec. 86-116. - Old sewer use.

Old building sewers may not be used in connection with new buildings.

(Ord. No. 77-19, ch. 1, art. III, § 7, 11-26-77)

Sec. 86-117. - Size, slope, alignment and materials.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in the state shall apply.

(Ord. No. 77-19, ch. 1, art. III, § 8, 11-26-77)

Sec. 86-118. - Elevation; lifting.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with section 86-87, and discharged to the building sewer.

(Ord. No. 77-19, ch. 1, art. III, § 9, 11-26-77)

Sec. 86-119. - Design requirements.

- (a) *Overhead plumbing.* All new buildings with basements, floors, rooms, or occupancy areas below ground level at the building site shall have overhead plumbing.
- (b) *Roof drains.* All down-spouts and roof drains shall discharge onto the ground or be connected to a storm sewer. No down-spouts or roof drains shall be connected to the sanitary sewer system.
- (c) *Footing drains.* All footing drains shall be connected to sump pumps which discharge onto the ground or into a storm sewer. No footing drains shall be connected to the sanitary sewer system.
- (d) *Window well and outside drains.* All window well, area-way and outside drains shall be connected to sump pumps which discharge onto the ground or into a storm sewer. No window well, area-way and outside drains shall be connected to the sanitary sewer system.
- (e) *Interior floor drains.* Floor drains in basements shall be connected to a sump pump and discharge into the sanitary sewer system.
- (f) *Sump pumps.* Sump pumps installed to receive groundwaters or other stormwaters shall discharge onto the ground or be connected to a storm sewer. Sump pumps installed to receive interior floor drainage or sanitary sewage shall be connected to the sanitary sewer system. A sump pump shall be used for one function only, either the discharge of stormwaters or the discharge of sanitary sewage.

(Ord. No. 77-19, ch. 1, art. III, § 10, 11-26-77; Ord. No. 02-6, § 1, 6-11-02)

Sec. 86-120. - Connection standards.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in the state. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved and documented by the council before installation.

(Ord. No. 77-19, ch. 1, art. III, § 11, 11-26-77)

Sec. 86-121. - Notice to inspect.

The applicant for the building sewer permit shall notify the council when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the council or its representative.

(Ord. No. 77-19, ch. 1, art. III, § 12, 11-26-77)

Sec. 86-122. - Excavation safeguards.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 77-19, ch. 1, art. III, § 13, 11-26-77)

Secs. 86-123—86-140. - Reserved.

DIVISION 3. - PRIVATE SEWAGE DISPOSAL

Sec. 86-141. - Construction and maintenance restricted.

Except as provided in this division, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Ord. No. 77-19, ch. 1, art. I, § 3, 11-26-77)

Sec. 86-142. - When required.

Where a public sanitary sewer is not available under the provisions of section 86-91, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

(Ord. No. 77-19, ch. 1, art. II, § 1, 11-26-77)

Sec. 86-143. - Construction permit.

- (a) *Required.* Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the county health department.
- (b) *Application; fee.* The application for such permit shall be made on a form furnished by the county health department, which the applicant shall supplement by any plans, specifications and other

information as are deemed necessary by the county health department. A permit and inspection fee shall be paid to the county health department at the time the application is filed, as required by that department. No building permit will be issued by the city until such permit is obtained and exhibited to the city.

- (c) *Not effective until inspection completed.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the county health department. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the county health department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made by the county health department.

(Ord. No. 77-19, ch. 1, art. II, §§ 2, 3, 11-26-77)

Sec. 86-144. - Types, capacities, location and layout of systems.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state Private Sewage Disposal Licensing Act (225 ILCS 225/1 et seq.) and Code and with the state environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. No. 77-19, ch. 1, art. II, § 4, 11-26-77)

Sec. 86-145. - Discontinuance; connection to public system upon availability.

- (a) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 86-91, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- (b) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days, and the private sewage disposal system shall be cleaned of sludge and filled with clean bank run gravel or dirt.

(Ord. No. 77-19, ch. 1, art. II, §§ 5, 8, 11-26-77)

Sec. 86-146. - Owner to maintain and operate in sanitary manner.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the city.

(Ord. No. 77-19, ch. 1, art. II, § 6, 11-26-77)

Sec. 86-147. - Rates and procedures for disposing of water and septic materials.

- (a) It shall be unlawful for any person to dispose of, dump or deposit any waste or septic material into any manhole opening or unauthorized connection.
- (b) It shall be unlawful for any person to dispose of, dump or deposit any waste or septic material at the city wastewater treatment facility unless a permit has been procured for such purpose, as provided in this section, except that recreational campers, travel trailers and motor homes shall not be required to obtain a permit.

- (c) It shall be unlawful for any person to dispose of any hazardous materials as defined from time to time by the state environmental protection agency into any public sewer or wastewater treatment facility operated by the city.
- (d) The city reserves the right to reject, at the discretion of its wastewater treatment facility operator, any waste material presented for disposal. Each time the operator rejects waste, he shall, within three days, report to the city clerk the fact of rejection and the reason therefor.
- (e) For commercially-hauled anaerobic waste; for noncommercial, chemically activated waste materials and nonrecreational and recreational campers, travel trailers and motor homes; and for commercially hauled, chemically activated waste, there shall be an \$85.00 charge per truck load.
- (f) Charges imposed by subsection (e)(2) of this section shall be paid to the city hall prior to delivery of the waste. Charges imposed by subsections (e)(1) and (e)(2) of this section shall be billed monthly to the waste hauler and shall be due within 30 days after the date of billing. Any hauler who has an unpaid invoice more than 30 days old from its billing date shall not be allowed to haul further waste until all of the overdue invoices are paid in full.
- (g) Any person convicted of a violation of this section shall be deemed guilty of a misdemeanor and shall be subject to a fine therefor of not less than \$250.00, nor more than \$750.00.

(Ord. No. 78-15B, §§ 1—7, 10-10-78; Ord. No. 83-8, § 1, 8-9-83; Ord. No. 87-7, § 1, 5-12-87; Ord. No. 13-19, § 10, 8-13-13)

Sec. 86-148. - Division not to interfere with county health department requirements.

Nothing in this division shall be construed to interfere with any additional requirements that may be imposed by the county health department.

(Ord. No. 77-19, ch. 1, art. II, § 7, 11-26-77)

Secs. 86-149—86-165. - Reserved.

DIVISION 4. - DISCHARGE RESTRICTIONS AND PROHIBITIONS

Sec. 86-166. - Discharge of certain waters to sanitary sewers.

No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(Ord. No. 77-19, ch. 1, art. IV, § 1, 11-26-77)

Sec. 86-167. - Stormwater, unpolluted drainage to be discharged to storm sewers or natural outlets.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the council. Industrial cooling water or unpolluted process waters may be discharged, on approval of the council, to a storm sewer or natural outlet.

(Ord. No. 77-19, ch. 1, art. IV, § 2, 11-26-77)

Sec. 86-168. - Prohibited discharges to public sewers.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.
- (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, mild containers, etc., either whole or ground by garbage grinders.

(Ord. No. 77-19, ch. 1, art. IV, § 3, 11-26-77)

Sec. 86-169. - Discharge of certain wastes restricted.

- (a) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the council that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the council will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:
 - (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 - (2) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 degrees and 65 degrees Celsius).
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the council.
 - (4) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.
 - (5) Any waters or wastes containing iron, chromium, copper, zinc or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the council for such materials.
 - (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the council as necessary after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the council in compliance with applicable state or federal regulations.
 - (8) Any waters or wastes having a pH in excess of 9.5.

- (9) Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the council in compliance with applicable state and federal regulations.
 - (10) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the council in compliance with applicable state and federal regulations.
 - (11) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
 - d. Unusual volume of flow or concentrations of wastes constituting slugs.
- (b) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (a) of this section, and/or which are in violation of the standards for pretreatment provided in chapter 1, EPA Rules and Regulations, subchapter D, Water Programs Part 128 - Pretreatment Standards, Federal Register Volume 38, No. 215, Thursday, November 8, 1973, and any amendments thereto, and which in the judgment of the council may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the council may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of section 86-173.

If the council permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the council and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. No. 77-19, ch. 1, art. IV, §§ 5, 6, 11-26-77)

Sec. 86-170. - Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided by the user when, in the opinion of the council they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. No. 77-19, ch. 1, art. IV, § 7, 11-26-77)

Sec. 86-171. - Maintenance of preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. No. 77-19, ch. 1, art. IV, § 8, 11-26-77)

Sec. 86-172. - Control structures.

Each industry shall be required to install a control manhole and, when required by the council, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the council. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Ord. No. 77-19, ch. 1, art. IV, § 9, 11-26-77)

Sec. 86-173. - Measurements, tests and analyses generally.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether grab samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.

(Ord. No. 77-19, ch. 1, art. IV, § 11, 11-26-77)

Sec. 86-174. - Measurements, tests and analyses of industrial wastes.

The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this division and any special conditions for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the city, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to ensure that compliance with the federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at such times and in such manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At such times as are deemed necessary, the city reserves the right to take measurements and samples for analysis by an outside laboratory service.

(Ord. No. 77-19, ch. 1, art. IV, § 10, 11-26-77)

Sec. 86-175. - Special agreements.

Nothing in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor; in accordance with article IV of this chapter, by an industrial concern, provided such payments are in accordance with federal and state guidelines for a user charge system.

(Ord. No. 77-19, ch. 1, art. IV, § 12, 11-26-77)

Sec. 86-176. - Discharge of stormwater by pumps or drains upon adjacent property.

- (a) No person, firm, entity, corporation, or other business association existing under the laws of the state shall cause any drainage ditch, culvert, or drainage course existing on the municipal right-of-way, or currently existing upon any privately owned property, to be filled, altered, removed, or otherwise changed to reduce or eliminate the drainage capabilities of the aforesaid without the express consent of the city council as a whole.
- (b) No person, firm, entity, corporation, or other business association existing under the laws of the state shall cause or place any sump pump drain, other drain, or other discharge outlet in such a position or location so as to allow the discharge of or cause excess stormwater or other water to accumulate upon any adjacent property. All sump pump stormwater discharge or other water discharging drain shall be directed so as to flow or be directly discharged into the drainage courses or ditches existing in the front of properties or to discharge upon the property of the sump pump owner so as to not allow the flow of water upon the property of another nor to accumulate in such a location.
- (c) In areas in the city with storm sewer service, sump pumps shall be discharged so as to direct the flow of the discharged stormwater into the storm sewer across municipal rights-of-way only.
- (d) Penalty. Any person who shall violate the provisions of this section shall be fined not less than \$100.00 nor more than \$750.00 for each violation hereof. Each day a violation exists shall be deemed to be a separate violation.

(Ord. No. 96-27, §§ 1—4, 7-23-96)

Editor's note— Ordinance No. 96-27, adopted July 23, 1996, did not specifically amend the Code; hence, codification of §§ 1—4 of said ordinance as § 86-176 was at the discretion of the editor.

Secs. 86-177—86-190. - Reserved.

ARTICLE IV. - RATES AND CHARGES^[4]

Footnotes:

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Cross reference— Taxation, ch. 78.

DIVISION 1. - GENERALLY^[5]

Footnotes:

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Editor's note— The "Exhibits" referred to in this division are not printed herein but are on file in the city offices.

Sec. 86-191. - Liability for charges.

Liability for any water, sewer, garbage, and any other city provided utility charges are the responsibility of the owner and shall run with the land. In the event that the utility charges are for a leased premise, both the owner and the tenant are jointly and severally responsible for the charges. Bills shall be sent to the owner.

(Ord. No. 92-1, § 1, 1-28-92; Ord. No. 98-4, § 1, 1-27-98; Ord. No. 12-32, § 2, 11-27-12; Ord. No. 13-01, § 1, 1-8-13; Ord. No. 13-19, § 11, 8-13-13)

Sec. 86-192. - Billing of late charges.

Utility billings are calculated using established rates approved by the city council and are subject to change. Property owners will be billed bi-monthly on the last day of the month. Each property owner will receive a bill every other month for the fees associated with that property. All charges are due the 15th calendar day of the subsequent month. A \$20.00 late charge will be applied on any unpaid balance as of the 16th day of the month the bill is due.

If there remains an unpaid balance on the 30th day of the month, a shut-off notice will be mailed to the property owner.

(Ord. No. 92-1, § 2, 1-28-92; Ord. No. 03-7, § 3, 4-22-03; Ord. No. 13-19, § 12, 8-13-13; Ord. No. 16-07, § 1, 5-10-16; Ord. No. 17-03, § 1, 4-25-17)

Sec. 86-193. - Discontinuation of utility services.

In the event that utility bill remains unpaid 15 days after the due date, a shut-off notice will be posted on the front door of the subject property. This notice will indicate the total amount that is currently due including any late charges and the procedure available to petition the city for hearing prior to the shut-off of service and proposed shut-off date. On the 16 calendar day or the next business day after the established shut-off date water service will be disconnected/terminated and a \$75.00 shut off fee will then be recorded on the property owners' account. In addition to shut-off charge, a \$75.00 charge will also be posted on the owners' account to reinstate water service when requested. The total amount due including any rate changes, shut-off/tum on fees and accrued interest shall be paid in full prior to any reinstatement of utility services provided by the city.

(Ord. No. 96-24, § 1, 6-25-96; Ord. No. 03-14, § 1, 9-9-03; Ord. No. 09-05, § 3, 4-28-09; Ord. No. 13-19, § 13, 8-13-13; Ord. No. 16-07, § 2, 5-10-16; Ord. No. 17-03, § 2, 4-25-17)

Sec. 86-194. - Petition for hearing/formal meeting.

In the event that a resident/property owner has any issues of dispute regarding meter readings, usage and/or misapplication of credits due/payments not recorded, a written letter requesting a hearing/meeting with the appropriate city representatives is to be sent to the city clerk within ten days of the billing date. A request for a hearing/meeting to discuss payment terms or reasons for the nonpayment of the amount due will not be granted.

A hearing, if granted, will be informal in nature and will be conducted by the sewer and water commissioner and the city clerk. A written decision will be issued immediately after the hearing with copies given to the property owner and the city clerk.

(Ord. No. 96-24, § 2, 6-25-96; Ord. No. 13-19, § 14, 8-13-13)

Sec. 86-195. - Final billings.

- (a) *Sale of property.* A customer/property owner shall request a final reading no later than five days prior to the final billing. A final receipt will be issued upon payment by cash; certified or cashier's check or money order,
- (b) *Unpaid balances.* If there is an unpaid balance outstanding at any service address, liability for the unpaid balance shall run with the land. The property owner is responsible for any unpaid balance. Any unpaid balance must be paid in full prior to the new owner or tenant establishing service.

(Ord. No. 92-1, § 5, 1-28-92; Ord. No. 16-07, § 3, 5-10-16; Ord. No. 17-03, § 3, 4-25-17)

Sec. 86-196. - Water meter installation charge and deposit.

- (a) The installation charge and deposit for each meter newly installed shall be levied against the user for the following specified meters in the amounts stated below:
 - 1-inch water meter\$400.00
 - Larger than 1-inch water meterActual cost of installation
- (b) Users who are not located within the territorial boundaries of the city and therefore not contributing to the costs incurred by the city by way of municipal taxes for the personnel, accounting, computing, and other costs incurred by the city, shall be charged for installation and levied therefore as follows:
 - 1-inch water meter\$800.00
 - Larger than 1-inch water meterActual cost of installation.
- (c) If a meter/meter head is damaged other than through normal wear and tear the actual cost (currently \$400.00) to replace the meter shall be paid by the resident.

(Ord. No. 89-1, § 4, 1-24-89; Ord. No. 89-5, § 4, 4-11-89; Ord. No. 92-1, § 6, 1-28-92; Ord. No. 04-08, § 1, 6-10-04; Ord. No. 07-11, § 1, 7-10-07; Ord. No. 08-29, 11-11-08)

Sec. 86-197. - Water and sewer rates as of May 1, 2021.

- (a) The fees for water service shall be as follow:
 - (1) Water rate gallons per month:
 - City residents\$6.02/1,000 gallons
 - Out of City residents\$33.64 monthly flat rate
 - (2) Sewer rate gallons per month:
 - City residents\$2.81/1,000 gallons
 - Out of City residents\$14.48/1,000 gallons
 - (3) Minimum monthly sewer delivery charge:
 - City residents\$32.39/month
 - Commercial\$64.78/month

Industrial\$64.78/month

- (b) Each May 1, each of the rates shall increase by four percent unless the city council, prior to the first day of May shall by motion decide that an increase will not be imposed for the next fiscal year.

(Ord. No. 89-5, § 5, 4-11-89; Ord. No. 99-4, § 1, 2-24-99; Ord. No. 01-7, § 1, 6-12-01; Ord. No. 04-08, § 2, 6-10-04; Ord. No. 07-11, § 2, 7-10-07; Ord. No. 07-13, § 2, 8-15-07; Ord. No. 08-11, 5-27-08; Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 15, 8-13-13; Ord. No. 13-27, § 1, 10-8-13)

Sec. 86-198. - Discounts for users over 65 years of age.

Any user over the age of 65, upon appropriate proof of age shall be entitled to a discount equivalent to 20 percent of the water rate only.

(Ord. No. 89-5, § 5, 4-11-89; Ord. No. 92-1, § 6, 1-28-92; Ord. No. 04-08, § 3, 6-10-04; Ord. No. 07-11, § 3, 7-10-07; Ord. No. 07-13, § 3, 8-15-07; Ord. No. 13-19, § 16, 8-13-13; Ord. No. 16-07, § 4, 5-10-16)

Sec. 86-199. - Costs and expenses of installation and connection to be borne by owner.

All costs and expenses incident to the installation and connection of the building sewer and/or water service including, but not limited to, the restoration of the roadway, its surface, curb and berm and any damages caused during such construction, shall be borne by the owner. The owner shall indemnify the city for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer and/or water service. The costs in this section shall be in addition to the costs established by section 86-216. The costs in this section shall also be in lieu of any tap-on fees or like costs heretofore established by the city, but are not intended to repeal or amend the inspection fee of \$10.00. There shall be a \$200 on-and-off fee for discontinuance of service or for the purposes of making repairs.

(Ord. No. 79-2, § 6, 3-13-79; Ord. No. 08-29, 11-11-08)

Sec. 86-200. - Interference with discontinued water service.

If water service has been discontinued, it will be unlawful to interfere, tamper with, or otherwise attempt to restore service other than by the authority of the city. Any person violating this section shall be guilty of a misdemeanor and upon conviction, shall be fined no less than \$250.00 and no more than \$750.00. It shall be a rebuttable presumption that if service which has been unlawfully restored by a person not authorized by the city, that the user of the water service has violated this section.

(Ord. No. 13-32, § 1, 11-27-12; Ord. No. 13-19, § 17, 8-13-13)

Sec. 86-201. - Bulk water purchases.

All bulk water purchases by any and all vendors, businesses, corporations, non-registered companies, and any other persons or entities shall be charges at the then current nonresident water rates plus a \$100 service fee.

(Ord. No. 13-19, § 18, 8-13-13; Ord. No. 21-02, § 1-26-2021)

Sec. 86-202. - Filling of residential pools. **ORDINANCE AMENDED**

Filling of Residential Pools of Chapter 86 of the Braidwood Code of Ordinances is hereby amended.

(Ord. No. 2015-06, § 1, 6-23-15; Ord. No. 21-12, §, 4, 7-13-2021)

Secs. 86-203—86-215. - Reserved.

DIVISION 2. - CAPACITY USER FEES

Sec. 86-216. - Established.

- (a) *Sewer.* A sanitary sewer system capacity user fee (connection charge pursuant to Section 11-150-1 of the Illinois Municipal Code, 65 ILCS 5/11-150-1) is hereby established for any structure which will require sanitary sewer service and for any new construction which will require sanitary sewer service, for which a building permit is required and for which no city sanitary sewer special assessment was assessed against and paid on behalf of the property on which the structure is to be built. The sanitary sewer capacity user fee (sometimes referred as a tap-on fee) shall be \$1,750.00 per connection. This fee shall be due and payable to the city clerk at the time a building permit shall be issued under the building code in force in the city from time to time. No building permit shall be issued for a structure which will require sanitary sewer service until the sanitary sewer system capacity user fee shall have been paid.
- (b) *Water.* The water system capacity user fee (connection charge pursuant to Section 11-15-1 of the Illinois Municipal Code, 65 ILCS 5/11-150-1) is hereby established for any structure which will require water service and for any new structure will require water service for which a building permit is required. The water system user capacity fee (sometimes referred as a tap-on fee) shall be \$500.00 for any new structure. This fee shall be due and payable to the city clerk at the time a building permit shall be issued under the building code in force in the city from time to time. No building permit shall be issued for a structure which will require water service until the water system capacity user fee shall have been paid.

(Ord. No. 79-2, § 1, 3-13-79; Ord. No. 90-11, § 1, 11-13-90; Ord. No. 94-5B, §§ 1, 2, 7-12-94; Ord. No. 04-08, § 4, 6-10-04; Ord. No. 06-04, § 1, 2-14-06; Ord. No. 07-11, § 4, 7-10-07; Ord. No. 09-05, § 1, 4-28-09; Ord. No. 11-28, § 2, 6-14-11; Ord. No. 2015-08, § 1, 10-13-15)

Sec. 86-217. - To be in addition to other fees.

The fees imposed by section 86-216 shall be fees charged in addition to the fees required to be charged for water tap-on fees, permit fees and inspection fees. The fees imposed by section 86-216 shall also be charged in addition to the fees required under the terms of any agreement with any subdivider or developer of real estate in the city.

(Ord. No. 79-2, § 2, 3-13-79)

Sec. 86-218. - Disposition.

- (a) Any and all fees collected under subsections (a) and (b) of section 86-216 shall be recorded in a separate fund. This fund shall be used only for capital improvements, capital repairs and expansion of the city's waterworks system and the sewage collection and treatment system, without regard to whether the capacity user fees are spent on the specific system for which they were imposed.
- (b) In no event shall capacity user fees be spent for operating expenses of the waterworks and the sewage operations or for any legal and engineering expenses for the systems.

(Ord. No. 79-2, § 3, 3-13-79; Ord. No. 13-19, § 19, 8-13-13)

Sec. 86-219. - Payment of fees not to guarantee issuance of building sewer permit or water connection.

- (a) Notwithstanding the payment of all required fees, a building sewer permit will only be issued and a sewer connection shall only be allowed if it can be adequately demonstrated to the council that the downstream sewer facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.
- (b) Notwithstanding the payment of all required fees, a water connection to the city's waterworks system shall only be allowed if it can be adequately demonstrated to the council that the quantity of water and the water pressure available at the site for which connection is sought are sufficient to adequately provide water service to such additional structure, without materially impeding water service to structures already supplied water by the city from its waterworks system.

(Ord. No. 79-2, §§ 4, 5, 3-13-79)

Secs. 86-220—86-235. - Reserved.

DIVISION 3. - WASTEWATER SERVICE CHARGES⁶

Footnotes:

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Editor's note— Ord. No. 08-29, adopted Nov. 11, 2008, deleted the former Art. IV, Div. 3, §§ 86-236—86-251, and enacted a new Art. IV, Div. 3 as set out herein. The former Div. 3 pertained to wastewater service charges and derived from Ord. No. 77-19, ch. 2, art. I, §§ 1—6, 11-26-77; Ord. No. 77-19, ch. 2, art. III, §§ 1—7, § 9, 11-26-77; Ord. No. 91-20, § 1, 10-8-91; Ord. No. 96-23, § 1, 6-25-96.

Sec. 86-236. - Sewer service fees.

Sewer service fees shall consist of a monthly fixed user charge plus a volume charge. Such fees shall apply to any premises for which city sewer service is reasonably available, whether or not the premises utilize the city sewer system.

- (a) *Residential service.*
 - (1) The fixed user charge for residential serviced shall be \$28.78 per month.
 - (2) The volume charge for residential users of metered water shall be \$2.39 per 1,000 gallons of metered water.
 - (3) The volume charge for residential users of nonmetered water shall be \$39.80 per month.
- (b) *Industrial and commercial service.*
 - (1) The fixed user charge for industrial and commercial service shall be \$57.55 per month.
 - (2) The volume charge for industrial and commercial users of metered water shall be \$2.39 per 1,000 gallons of metered water.
- (c) Each May 1, each of the rates shall increase by four percent unless the city council, prior to the first day of May shall by motion decide that an increase will not be imposed for the next fiscal year.

- (d) If a commercial or industrial building is vacant and the user's account associated with that property is paid in full and there are no additional fees or costs owed to the city by the owner or occupant, then that commercial or industrial user may request that the city suspend the minimum monthly billing charge by submitting a written application to the city. The city shall provide a response to the applicant within 14 days after the receipt of the request. Once the building is no longer vacant, any suspension granted pursuant to this subsection shall cease and the owner shall be responsible for the payment of the fees described in this section.

(Ord. No. 08-29, 11-11-08; Ord. No. 09-05, § 4, 4-28-09; Ord. No. 13-27, § 2, 10-8-13; Ord. No. 16-07, § 5, 5-10-16)

Sec. 86-237. - Measurement of flow.

The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of 1,000 gallons.

- (1) If the person discharging wastes into the public sewers procures any part, or all, of his water from sources other than the public waterworks system, all or a part of which is discharged into the public sewers, the person shall install and maintain, at his expense, water meters of a type approved by the council for the purpose of determining the volume of water obtained from these other sources.
- (2) Devices for measuring the volume of waste discharged may be required by the council if these volumes cannot otherwise be determined from the metered water consumption records.
- (3) Metering devices for determining the volume of waste shall be installed, owned and maintained by the person. Following approval and installation, such meters may not be removed, unless service is cancelled, without the consent of the council.

(Ord. No. 08-29, 11-11-08)

Sec. 86-238. - Discharge of wastewater from vehicles; fees.

Whenever a vehicle desires to discharge wastewater into the city wastewater facilities, the owner or operator of such vehicle shall first make arrangements with the mayor or the sewer and water commissioner regarding payment of the fees required by this division. The fee may be paid up front prior to discharge, or the owner/operator may be allowed to pay through billing statements issued by the city. The fee for discharging into the city wastewater facilities shall be \$85.00 per truck load. If an owner/operator of a vehicle discharging wastewater either fails to pay a fee or is delinquent more than 60 days in payment of billing statements, the mayor and/or water and sewer commissioner may unilaterally bar access to discharge points until full payment is made.

(Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 20, 8-13-13)

Sec. 86-239. - Surcharge rate.

The rates of surcharges for BOD and SS shall be as follows: Upon recommendation of the city engineer, based on individual sewage flows (volume and strength), in accordance with this chapter.

(Ord. No. 08-29, 11-11-08)

Sec. 86-240. - Computation of surcharge.

The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the council, and shall be binding as a basis for surcharges.

(Ord. No. 08-29, 11-11-08)

Secs. 86-241, 86-242. - Reserved.

Editor's note— Ord. No. 13-19, § 21, adopted August 13, 2013, repealed §§ 86-241, 86-242, which pertained to bills generally and delinquent bills. See Code Comparative Table for complete derivation.

Sec. 86-243. - Lien—Notice of delinquency.

If a charge for any city provided service remains unpaid for 30 days. The city clerk, at his/her option, may file with the county recorder a lien on the property. This lien notice shall indicate the legal description of the property the total amount currently due and a statement that the city shall also be entitled to recover any additional costs incurred. The property owner will be sent via first class mail a formal notification that a lien had been filed on the property and that if the outstanding charges remain unpaid by a specific date, the city would have the legal right to enforce the lien and could foreclose on the premises.

(Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 22, 8-13-13)

Sec. 86-244. - Foreclosure.

If foreclosure proceedings are initiated by the city for nonpayment of charges due the city, such foreclosures shall be by bill-in-equity in the name of the city. The city attorney is hereby authorized to handle such matters.

(Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 23, 8-13-13)

Sec. 86-245. - Disposition of revenues.

All revenues generated from the waterworks and the sewer operations shall be recorded in separate water/sewer ledger accounts. These general ledger accounts shall be properly handled in accordance with established governmental accounting procedures (GASH) and proper internal controls.

(Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 24, 8-13-13)

Sec. 86-246. - Accounts.

The city will establish and maintain a proper accounting system with good internal controls implemented for all of its operations. This system will include and encompass all financial transactions for any and all of the city provided services.

In addition, an annual financial audit of the city's books of record and internal controls will be performed by an independent auditing/accounting firm. This company will prepare a certified report which will list the city's revenues and operating expenses for the fiscal year then ended as well as the city's assets and liabilities as of the last day of the fiscal year.

In conjunction with this audit, all of the city's billing, data collection and service functions will be tested in detail and evaluated for possible procedural weaknesses.

(Ord. No. 08-29, 11-11-08; Ord. No. 13-19, § 25, 8-13-13)

Sec. 86-247. - Notice of rates.

A copy of article III of chapter 2 of Ordinance No. 77-19, properly certified by the city clerk, shall be filed in the office of the recorder of deeds of the county and shall be deemed notice to all owners of real estate of the charges of the sewer system of the city on their properties.

(Ord. No. 08-29, 11-11-08)

Sec. 86-248. - Access to records.

The state environmental protection agency or its authorized representative shall have access to any books, documents, papers and records of the city which are applicable to the city system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to ensure compliance with the terms of the special and general conditions to any state grant.

(Ord. No. 08-29, 11-11-08)

Secs. 86-249—86-300. - Reserved.

Chapter 90 - VEGETATION^[1]

Footnotes:

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Cross reference— Solid waste, ch. 66.

ARTICLE I. - IN GENERAL

Sec. 90-1. - Purpose.

The purpose of this chapter is to beautify and preserve the appearance of the city by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or—nuisance conditions.

(Ord. No. 11-36, § 1, 8-23-11)

Sec. 90-2. - Definitions.

For use in this chapter, the following terms are defined:

Curb, curb line or *curbing* means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.

Cut or *mow* means to mechanically maintain the growth of grass, weeds or brush at a uniform height.

Owner means a person owning private property in the city and any person occupying private property in the city.

Parking means that part of a street, avenue or highway in the city not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

(Ord. No. 11-36, § 1, 8-23-11)

Sec. 90-3. - Cutting specifications and standards of practice.

- (1) Every property owner shall cut, now and maintain all grass, weeds and brush upon the owner's property including an area in which the city has an easement, and adjacent to the curb line or outer boundary of any street, which shall include the parking area abutting the owner's property, to a uniform height as defined in section 90-4 of this article.
- (2) Every property owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner's property.
- (3) Vacant and undeveloped property are exempted from subsections (1) and (2) of this section, except for the area within 100 feet of the property line where adjoining an improved street, alley, or developed property including all areas between the property line and the centerline of a street, alley or easement.

(Ord. No. 11-36, § 1, 8-23-11)

Sec. 90-4. - Uniform height specifications.

Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications.

- (1) Developed residential areas not to exceed six inches.
- (2) Undeveloped residential areas not to exceed six inches.
- (3) Business and industrial areas not to exceed six inches.
- (4) Agriculture areas, not exempted by section 90-3 of this article, not to exceed 15 inches.

Grass, weeds and brush which are allowed to grow in excess of the above specified limitations shall be deemed to be in violation of this chapter. (Ord. No. 11-36, § 1, 8-23-11)

Secs. 90-5—90-30. - Reserved.

ARTICLE II. - WEEDS²¹

Footnotes:

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State Law reference— Authority to provide for cutting of weeds, 65 ILCS 5/11-20-7.

Sec. 90-31. - Declared nuisance—Definitions.

Except in designated natural landscape areas or preserves as provided under 725 ILCS 30/1, et seq., all premises and exterior property within the city shall be maintained free from weed or plant growth

more than eight inches in height, and any premises not so maintained is hereby declared a public nuisance.

For purposes of this section, "weeds" shall be defined as plant growth including all grasses, annual plants and vegetation other than trees, shrubs or common garden crops such as farm food; provide, however, this term shall not include cultivated flowers and gardens. "Cultivated" shall be defined as to loosen or dig (soil) for growing plants. Uncultivated gardens shall be treated the same as weeds. The definition of "weeds" shall include but is not limited to those plants determined to be noxious weeds as established under the Illinois Noxious Weed Law, 505 ILCS 100/1, et seq., as amended and under the department of agriculture's operating regulations. "Owner" shall mean the owner, occupant, or any person having control over any parcel within the city.

(Ord. No. 96-25, § 1, 6-25-96; Ord. No. 04-13, § 1, 6-22-04; Ord. No. 05-07, § 1, 7-27-05)

Sec. 90-32. - Duties of owner to abate; failure to comply with notice; maintenance of nuisance.

It shall be the duty of the owner to cut down and remove any weed that is described in section 90-31 deemed to be a nuisance pursuant to section 90-31.

(Ord. No. 96-25, § 2, 6-25-96; Ord. No. 05-07, § 1, 7-27-05)

Sec. 90-33. - Notice of violation.

All weeds growing in violation of the provisions of section 90-31 shall be cut and removed by the owner within five days after receiving notice from the city. Notice will be served on the owner by leaving a violation notice with a member of the family above the age of 14 years or by mail to the last known address of the owner of the property as recorded on the most recent tax assessment, or by posting a copy of such notice on the premises. The notice shall include the address of the property on which the nuisance occurs, the location of the nuisance on the parcel, and the requested action by the city.

(Ord. No. 96-25, § 3, 6-25-96; Ord. No. 05-07, § 1, 7-27-05)

Sec. 90-34. - Abatement by city.

If any nuisance as described in section 90-31 detailed in any notice issued and served in accordance with section 90-33 is not abated within the time set forth in such notice, the city, through its code enforcement department, shall abate the nuisance or violation in question by destroying, cutting or otherwise removing the same. Express power to enter upon such premises and destroy such nuisance is hereby conferred upon the code enforcement officer or his assign to abate the nuisance described in this article.

(Ord. No. 05-07, § 1, 7-27-05)

Sec. 90-35. - Notice to property owner.

After removal of the nuisance on any premises by the city, the city shall send notice of the same to the person to whom was sent the most recent tax bill for the general tax of the property for the last preceding year, by personal service or certified mail. The notice shall identify the property by common description, location of the nuisance removed, and the cost for such service. In addition, the notice shall state the substance of this ordinance, including the fact that a lien has been or will be filed with the recorder of deeds of the county in which such lot or plot is located within.

(Ord. No. 05-07, § 1, 7-27-05)

Sec. 90-36. - Failure to pay; lien; release of lien; cost associated.

In the event the expenses incurred by the city in the removal of the nuisance upon any particular premises is not paid by the owner, the city shall have a lien upon the premises for the reasonable cost of removal, including recording fees.

The city shall file, in the name of and on behalf of the city, a notice of lien in the office of the recorder of deeds of the county in which the parcel on which the nuisance was located within 60 days after such expense is incurred. Such notice shall consist of a sworn statement setting out:

- (1) A description of the real estate sufficient for the identification thereof;
- (2) The amount of money representing the cost and expense incurred or payable for this service; and
- (3) The date or dates when such cost and expense was incurred by the city.

Upon payment of the cost and expense by the owner after a notice of lien has been filed, the city shall issue a release of lien in said recorder's office, the cost of which shall be paid by the owner of the parcel on which the nuisance was removed.

(Ord. No. 05-07, § 1, 7-27-05)

Secs. 90-37—90-50. - Reserved.

ARTICLE III. - TREES AND SHRUBS^[3]

Footnotes:

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Editor's note— Ordinance No. 96-29, adopted August 20, 1996, did not specifically amend the Code; hence, codification of §§ 1—8 of said ordinance as §§ 90-51—90-58 was at the discretion of the editor.

Sec. 90-51. - Intent.

It is the intent of the city council that the terms of this article will be construed so as to promote:

- (1) The planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the city; and
- (2) The protection of community residents from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

(Ord. No. 96-29, § 1, 8-20-96)

Sec. 90-52. - Definitions.

As used within this article, the following terms will have the meanings set forth in this section:

Arboricultural Specifications and Standards of Practice for Braidwood (hereinafter, "arboricultural specifications manual") means a manual prepared by the arborist pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon city-owned property.

Arborist means the City Arborist of Braidwood, Illinois.

City-owned property means property within the city limits of Braidwood, Illinois, and:

- (1) Owned by the city in fee simple absolute; or
- (2) Impliedly or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements.

Property owner means the record owner or contract purchaser of any parcel of land.

Trees, shrubs and other plants means all vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.

(Ord. No. 96-29, § 2, 8-20-96)

Sec. 90-53. - Establishment, duties of city arborist.

- (a) *Establishment.* The position of the arborist is hereby established as a volunteer position reporting to the commissioner of public works.
- (b) *Duties.* The arborist will perform the following duties:
 - (1) Recommend amendments to this article, and alterations or revisions to the arboricultural specifications manual, and alterations or revisions of the urban forestry plan.
 - (2) Recommend or establish policy concerning selection, planting, maintenance and removal of trees, shrubs and other plants within the city.
 - (3) Establish educational and informational programs.
 - (4) Develop policies and procedures regarding the arborist's duties.
 - (5) Develop, and each subsequent year update, the urban forestry plan. The plan shall outline urban forestry program activities for a minimum of the next five years. This plan will describe the urban forestry activities to be undertaken by the city, the reasons for those activities, the possible funding source(s), the means of accomplishing the activities, the alternatives available to the city to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed. Activities may include, but are not limited to, street tree inventory, planting, tree removal, beautification projects and educational projects.
 - (6) Develop and periodically review and revise, as necessary, the arboricultural specifications manual. This manual shall contain regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon city-owned property.
 - (7) Cause the urban forestry plan and the arboricultural specifications manual, and all revisions and amendments to it, to be published and promulgated and cause three copies of the manual, and all revisions and amendments to it, to be available for public inspection at the office of the city clerk. Notice that such information is available for public inspection will be published in a newspaper of general circulation within the city at least one weekday of each of four consecutive weeks immediately following the initial availability of the arboricultural specifications manual, or revisions or amendments thereto. The arboricultural specifications manual and any revisions and additions thereto will become effective on the tenth day following the final publication as required under this subsection.
 - (8) Make available to any interested person copies of the tree ordinance, copies of the arboricultural specifications manual and copies of the urban forestry plan.
 - (9) Administer the urban forestry plan, this article and the provisions of the arboricultural specifications manual.

- (10) Perform whatever acts are necessary, including the planting and maintenance of trees, shrubs and other plants located on city-owned property, [to] conform with the urban forestry plan, the arboricultural specifications manual and this article.
- (11) Issue such permits as are required by this article and obtain, as a condition precedent to the issuance of such permits, the written agreement of each person who applies for such permits that he or she will comply with the requirements of this article, the urban forestry plan and with the regulation, and will have the right to inspect all work performed pursuant to such permits. If the arborist finds that the work performed is not in compliance with the requirements of this article, the urban forestry plan or with the regulations or standards of the arboricultural specifications manual, the arborist will provide written notice of his/her finding to the permit applicant. The notice shall contain a copy of subsection 90-54(b)(5) of this article and:
 - a. The permit will be void;
 - b. The arborist may issue a written order that the permit applicant cease and desist all work for which the permit was required;
 - c. The permit applicant shall be subject to penalty under the terms of this article; and
 - d. The arborist may take steps to correct the results of the noncomplying work and the reasonable costs of such steps shall be charged to the permit applicant.
- (12) The arborist will establish a program of public information and education that encourages the planting, maintenance, or removal of trees, shrubs and other plants on private property in furtherance of the goals of the urban forestry plan.

(Ord. No. 96-29, § 3, 8-20-96)

Sec. 90-54. - Permits.

- (a) *Scope of requirement.* No person except the arborist, an agent of the arborist, a representative/employee of the city, or a contractor hired by the city may perform any of the following acts without first obtaining from the city a permit for which no fee shall be charged, and nothing in this section will be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:
 - (1) Plant on city-owned property or treat, prune, remove or otherwise disturb any tree, shrub or other plant located on city-owned property; except that this provision will not be construed to prohibit owners of property adjacent to city-owned property from watering or fertilizing, without a permit, any tree, shrub or other plant located on such city-owned property.
 - (2) Trim, prune or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on city-owned property and thereby to cause damage to persons or property.
 - (3) Place on city-owned property, either above or below ground level, a container for trees, shrubs or other plants.
 - (4) Damage, cut, tap, carve or transplant any tree, shrub, or other plant located on city-owned property.
 - (5) Attach any rope, wire, nail, sign, poster or any other manmade object to any tree, shrub or other plant located on city-owned property.
- (b) *Issuance.* Within seven days of receipt of the application, the city will issue a permit to perform, within 30 days of the day of issuance, any of the acts specified above for which a permit is requested whenever:
 - (1) Such acts would result in the abatement of a public nuisance; or

- (2) Such acts are not inconsistent with the development and implementation of the urban forestry plan or with any regulations or standards of the arboricultural specifications manual; and
 - (3) An application has been signed by the applicant and submitted to the arborist detailing the location, number, size and species of trees, shrubs or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used and presenting any additional information that the arborist may find reasonably necessary;
 - (4) The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this article, the urban forestry plan and with the regulations and standards set forth in the arboricultural specifications manual;
 - (5) The applicant certifies that he or she has read and understands those provisions of the urban forestry plan, this article and the arboricultural specifications manual which are pertinent to the work for which the permit is sought; and
 - (6) If the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon city-owned property, and if such felling is done by one other than the owner of the property on which such felling is done, the applicant shall agree to indemnify and to hold the city harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the city clerk a liability insurance policy in the amount of \$100,000.00 per person/\$300,000.00 per accident for bodily injury liability and \$50,000.00 aggregate for property damage liability, which policy shall name the city as an additional insured.
- (c) *Public utility companies.* Public utility companies or their agents are not exempted from any of the requirements of this article.

(Ord. No. 96-29, § 4, 8-20-96)

Sec. 90-55. - Public nuisances.

- (a) *Enumerated.* The following are hereby declared public nuisances under this article:
- (1) Any dead or dying tree, shrub, or other plant, whether located on city-owned property or on private property;
 - (2) Any otherwise healthy tree, shrub or other plant, whether located on city-owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub or other plant;
 - (3) Any tree, shrub or other plant or portion thereof, whether located on city-owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;
 - (4) Any tree, shrub or other plant or portion thereof, whether located on city-owned property or on private property, which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on city property;
 - (5) Any tree, shrub or other plant or portion thereof, whether located on city-owned property or on private property, which dangerously obstructs the view as such may be determined by the city engineer pursuant to this article.
- (b) *Right to inspect.* The officers, agents, servants and employees of the city have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.
- (c) *Abatement.* Public nuisances under this article will be abated as follows:

- (1) Any public nuisance under this article which is located on city-owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
- (2) Any public nuisance under this article which is located on privately owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to abate the nuisance. No property owner may be found guilty of violating this provision unless and until the following notice requirements have been satisfied:
 - a. The arborist or the code enforcement officer causes a written notice to be personally served or sent, by registered mail, to the property owner:
 1. Describing the kind of tree, shrub or other nuisance, its location on the property and the reason for declaring it a nuisance.
 2. Describing by legal description or by a common description the premises.
 3. Stating the actions that the property owner may undertake to abate the nuisance.
 4. Stating that the elimination of the nuisance [must occur] within 30 days of the date the notice is delivered or sent to the property owner.
 - b. Reserved.
- (3) The arborist or code enforcement officer is authorized to immediately abate any public nuisance, provided that the nuisance is determined by the arborist to be an immediate threat to any person or property.

(Ord. No. 96-29, § 5, 8-20-96)

Sec. 90-56. - Interference with arborist or code enforcement officer.

No person shall hinder, prevent, delay or interfere with the arborist or code enforcement officer or his/her agents while engaged in the execution or enforcement of this article.

(Ord. No. 96-29, § 6, 8-20-96)

Sec. 90-57. - Violation; penalty.

Any person who violates any provision of this article or who fails to comply with any notice issued pursuant to the provisions of this article, upon being found guilty of violation, shall be subject to a fine not to exceed (\$750.00) for each separate offense. Each day during which any violation of the provisions of this article occurs or continues will be a separate offense. If, as the result of the violation of any provision of this article, the injury, mutilation, or death of a tree, shrub or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant will be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," as published by the International Society of Arboriculture.

(Ord. No. 96-29, § 7, 8-20-96)

Sec. 90-58. - Appeal.

Any party who elects to dispute any action or decision by the city arborist or code enforcement officer shall be entitled to appeal to the city council for a final determination.

(Ord. No. 96-29, § 8, 8-20-96)

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