

ORDINANCE NO. OR06-07

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
CHAPTER 106, ZONING, ARTICLE V., CONDITIONAL USES,
SECTION 106-118 THROUGH SECTION 106-129,
AS IT RELATES TO ZONING
IN THE CITY OF BRILLION, CALUMET COUNTY, WISCONSIN**

The Common Council of the City of Brillion do ordain as follows:

SECTION 1. Chapter 106, Zoning, Article V, Conditional Uses, Section 106-118, through Section 106-129, are hereby repealed and recreated as follows:

ARTICLE V. CONDITIONAL USES

Sec. 106-118. Permits.

The city plan commission may issue a conditional use permit for conditional uses after review and a public hearing as provided in the state statutes, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.

Sec. 106-119. Application.

Applications for conditional use permits shall be made in duplicate to the building inspector on forms furnished by the building inspector, and shall include the following:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
- (b) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodplain conditional uses, such description shall also include information that is necessary for the plan commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity or cause danger to human or animal life. This additional information may include plans certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.
- (c) Plat of survey prepared by a registered land surveyor or a sketch drawn to scale and approved by the building inspector, showing all of the information required under section 106-40 for a building permit and, in addition, the mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing and proposed landscaping.
- (d) Additional information as may be required by the city plan commission, city engineer or building inspector.

Sec. 106-120. Review and approval.

- (a) The city plan commission shall review the site, existing and proposed structures, proposed plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed plan of operation.
- (b) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the city plan commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- (c) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic and highway access, shall be required of all conditional uses. Variances shall only be granted as provided in Article XIII of this chapter.
- (d) Amendments. Changes subsequent to the initial issuance of a conditional use permit, which would result in a need to change the initial conditions, shall require an amendment to the conditional use permit. Enlargement of a conditional use shall be considered an amendment. The process for amending a permit shall, generally follow the procedures for granting a permit as set forth in section 106-118.
- (e) Revocation of conditional use permit. Should a permit applicant, his heirs or assigns fail to comply with the conditions of the permit issued by the plan commission or should the use or characteristics of the use be changed without prior approval by the plan commission, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a permit as set forth in section 106-118.

Sec. 106-121. Hearings.

The city plan commission shall hold a public hearing on each application giving public notice as specified in section 106-362. The plan commission may subsequently issue the conditional use permit with appropriate conditions, deny the permit with reasons or require the submittal of a modified application.

Sec. 106-122. Conditional uses in agricultural districts.

- (a) Airports, airstrips, and landing fields, provided that the site is not less than 20 acres.
- (b) Utility substations, wells, pumping stations and towers, provided that all principal structures and uses are not less than 50 feet from any residential lot line.
- (c) Cemeteries and crematories, provided that no structure is located closer than 50 feet from any lot line.
- (d) Dumps, disposal areas, incinerators and sewage treatment plants.
- (e) Topsoil removal and the sale of topsoil removed from a parcel. The plan commission shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.
- (f) Clubs, fraternities, lodges and meeting places of a noncommercial nature, provided that all principal structures and uses are not less than 25 feet from any lot line.

Sec. 106-123. Conditional uses in residential districts.

- (a) Housing for the elderly in the R-3 residential district, provided that the density of such housing shall not exceed 18 units per net acre; and provided that there shall be a minimum living area of 500 square feet for a one-bedroom dwelling unit and a minimum living area of 750 square feet for a two-bedroom or larger dwelling unit.
- (b) Rest homes, nursing homes, clinics and children's nurseries in the R-3 residential district, provided that all principal structures and uses are not less than 50 feet from any lot line.
- (c) Community living arrangements which have a capacity for nine or more persons in the R1-H, R1-M, R1-L, R-2 and R-3 residential districts.
- (d) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential districts.
- (e) Community living arrangements which have a capacity for 16 or more persons in the R-3 residential district.
- (f) Cemeteries and crematories in the R1-H, R1-M, R1-L, R2 and R3 districts, provided that no structure is located closer than 50 feet from any lot line.
- (g) Home industries in any residential district. A home industry is similar to a home occupation and shall generally be limited by the standards for home occupations set forth in section 106-47. The plan commission may, however, permit the conduct of a home industry in an accessory building. The plan commission may further permit the assembly and manufacturing of small-scale piece work or the use of nonhousehold appliances and tools when it is deemed not to be disruptive to the neighborhood.
- (h) Accessory buildings in the R1-H, R1-M, R1-L, R-2, and R-3 residential districts:
 - (1) Private detached garages over 960 square feet in size in any residential district.
 - (2) Other accessory buildings larger than 144 square feet in size, but not exceeding 960 square feet in size, including garden and utility sheds.
- (i) Accessory buildings in the R1-H, R1-M, R1-L, R-2, and R-3 residential districts:
 - (1) Private detached garages over 960 square feet in size in any residential district. Double frontage lots must comply with all setback requirements relating to street yard and side yard setbacks for the principal structure. In addition to the conditions set forth by the plan commission, materials and colors shall be consistent with the primary structure.
 - (2) Other accessory buildings larger than 144 square feet in size, but not exceeding 960 square feet in size, including garden and utility sheds. Double frontage lots must comply with all setback requirements relating to street yard and side yard setbacks for the principal structure. In addition to the conditions set forth by the plan commission, materials and colors shall be consistent with the primary structure.
- (j) Bed and breakfast establishments in the R1-H, R1-M, and R1-L residential districts, subject to the following conditions, in addition to those set forth by the Plan Commission:
 - (1) A site plan and a plan of operation shall be approved by the Plan Commission. The site plan shall include a parking plan.

- (2) Traffic conditions in the neighborhood shall not be adversely impacted by access to the property, traffic generated by the use, or any other aspects of the proposal.
 - (3) At least one off-street parking stall shall be provided for each bedroom plus at least one stall shall be located on the site for the operator.
 - (4) Dwelling being considered for conversion to bed and breakfasts shall exhibit unique architectural and historic characteristics.
 - (5) Owner of any bed and breakfast shall reside in the establishment.
 - (6) Individual rentals shall not exceed five (5) consecutive days in length.
 - (7) No retail sales shall occur in a bed and breakfast establishment.
 - (8) All requirements set forth in Section 50.51 (b) of the Wis. Stats. and Ch. HSS 197 Wis. Admin. Codes shall be fully complied with. Necessary state permits and licenses shall be been secured.
- (k) Utility substations, wells, pumping stations and towers in all residential districts, provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
- (l) Public, parochial and private elementary and secondary schools and churches in all residential districts, provided that the lot area is not less than two acres, and all principal structures and uses are not less than 50 feet from any lot line.
- (m) Topsoil removal and the sale of topsoil removed from a parcel. The plan commission shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.

Sec. 106-124. Conditional uses in commercial districts.

- (a) Drive-in theaters in the C-2 highway commercial district, provided that a planting screen at least 25 feet wide is created along any side abutting a residential district, and no access is permitted to or within 1,000 feet of an arterial street.
- (b) Funeral homes in any commercial district, provided that all principal structures and uses are not less than 25 feet from any lot line.
- (c) Gasoline service stations in all commercial districts, provided that all gas pumps meet the setback requirements and are located not closer than 40 feet from any side lot line.
- (d) Radio and television transmitting towers, receiving towers, relay and microwave towers and broadcast studios in the C-2 highway commercial district.
- (e) Limited manufacturing concerns featuring an outlet store and bearing the appearance of a retail establishment may be permitted in all commercial districts.
- (f) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all commercial districts.
- (g) Roof-mounted satellite dish antennas in all commercial districts.
- (h) Satellite dish antennas. Any satellite dish antenna in the C-1 commercial district shall be considered a conditional use. Satellite dish antennas exceeding six feet in diameter requires a conditional use permit in all commercial districts.

- (i) Solar collectors in the C-1 commercial district.
- (j) Clubs, fraternities, lodges and meeting places of a noncommercial nature in all commercial districts, provided that all principal structures and uses are not less than 25 feet from any lot line.
- (k) Utility substations, wells, pumping stations and towers in all commercial districts, provided that all principal structures and uses are not less than 50 feet from any residential lot line.
- (l) Public passenger transportation terminals such as heliports, and bus, but excluding airports, airstrips and landing fields, in all commercial districts, provided that uses are not less than 100 feet from any residential district lot line.
- (m) Cemeteries and crematories in all commercial districts, provided that no structure is located closer than 50 feet from any lot line.
- (n) Animal hospitals in the C-2 highway commercial district, provided that all principal structures and uses are not less than 100 feet from any residential lot line.
- (o) Commercial recreation facilities, such as arcades, bowling alleys, clubs, dancehalls, driving ranges, gymnasiums, indoor swimming pools, lodges, miniature golf facilities, physical culture facilities, pool and billiard halls, racetracks, indoor firearm ranges, Turkish baths, skating rinks and theaters in all commercial districts.
- (p) Lumberyards, millwork, saw mills and planing mills in the C-2 commercial district.
- (q) Topsoil removal and the sale of topsoil removed from a parcel in all commercial districts.
The plan commission shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.

Sec. 106-125. Conditional uses in industrial districts.

- (a) Dumps, disposal areas, incinerators and sewage treatment plants in the I-2 heavy industrial district.
- (b) Processing and industrial manufacture of feeds prepared for animals and fowl; storage of animal feeds, fertilizer, seeds, animal health products, and lawn and garden equipment in all industrial districts, provided that all storage operations are conducted within an enclosed building.
- (c) Processing, manufacturing and storage of hazardous chemicals in the I-2 heavy industrial district.
- (d) Lumberyards, millwork, saw mills and planing mills in all industrial districts.
- (e) Manufacturing and processing of dimension hardwood flooring, veneer and plywood in all industrial districts.
- (f) Roof-mounted satellite dish antennas in all industrial districts. Any satellite dish antenna exceeding six feet in diameter requires a conditional use permit.
- (g) Freight yards, freight terminals, and transshipment depots in all industrial districts.
- (h) Commercial service facilities, such as restaurants and fueling stations, in all industrial districts, provided that all such services are physically and sales-wise oriented toward industrial district users and employees, and that other users are only incidental customers.

- (i) Topsoil removal and the sale of topsoil removed from a parcel in all industrial districts. The plan commission shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.
- (j) Foundry/plating [plating] company in the I-2 industrial district.
- (k) Clubs, fraternities, lodges and meeting places of a noncommercial nature in all industrial districts, provided that all principal structures and uses are not less than 25 feet from any lot line.
- (l) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums, in all industrial districts.
- (m) Utility substations, wells, pumping stations and towers, in all industrial districts, provided that all principal structures and uses are not less than 50 feet from any residential lot line.
- (n) Public passenger transportation terminals such as heliports, and bus, but excluding airports, airstrips and landing fields, in all industrial districts, provided that uses are not less than 100 feet from any residential lot line.
- (o) Crematories in all industrial districts provided that no structure is located closer than 50 feet from any lot line.
- (p) Animal hospitals in all industrial districts, provided that all principal structures and uses are not less than 100 feet from any residential lot line.
- (q) Airports, airstrips, and landing fields in all industrial districts, provided that the site is not less than 20 acres.
- (r) Gasoline service stations in all industrial districts, provided that all gas pumps meet the setback requirements and are located not closer than 40 feet from any side lot line.
- (s) Radio and television transmitting towers, receiving towers, relay and microwave towers and broadcast studios in all industrial districts.

Sec. 106-126. Conditional uses in park districts and institutional districts.

- (a) Archery ranges, camps, conservatories, driving ranges, indoor firearm ranges, golf courses, gymnasiums, music halls, polo fields, pools, riding academies, stadiums and zoological and botanical gardens in the park district, provided that the lot area is not less than three acres and all structures are not less than 50 feet from any district boundary.
- (b) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in the park district.
- (c) Utility substations, wells, pumping stations and towers in the park district and the institutional district, provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
- (d) Public, parochial and private elementary and secondary schools and churches in the park district, provided that the lot area is not less than two acres, and all principal structures and uses are not less than 50 feet from any lot line.

- (e) Clubs, fraternities, lodges and meeting places of a noncommercial nature in the park district, provided that all principal structures and uses are not less than 25 feet from any lot line.

Section 106-127. Conditional uses in planned unit development districts.

- (a) Utility substations, wells, pumping stations and towers, provided that all principal structures and uses are not less than 50 feet from any residential lot line.
- (b) Cemeteries and crematories, except in residential areas, provided that no structure is located closer than 50 feet from any lot line.
- (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature in any nonresidential planned unit development district, provided that all principal structures and uses are not less than 25 feet from any lot line.

Section 106-128. Conditional uses in conservancy districts and shoreland-wetland districts

- (a) Utility substations, wells, pumping stations and towers in all districts, provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
- (b) Provisions related to floodland uses are found in Chapter 38 of this code.

Sec. 106-129. Temporary uses.

The following uses are conditional uses and may be permitted as specified:

- (a) Flea markets may be permitted in a C-1, C-2 or any industrial district for a period not to exceed ten days. Special requirements may be imposed by the plan commission for parking, sanitary facilities, lighting and hours of operation. No temporary use listed in this subsection shall be conducted within the street right-of-way. Temporary uses permitted under this subsection may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies and debris shall be removed from the site within ten days following the temporary activity.
- (b) Circuses and animal shows may be permitted in a PD, C-1, C-2 or any industrial district for a period not to exceed ten days. Special requirements may be imposed by the plan commission for parking, sanitary facilities, lighting and hours of operation. The plan commission may limit or prohibit the display of dangerous animals such as tigers or snakes. No temporary use listed in this subsection shall be conducted within the street right-of-way. Temporary uses permitted under this subsection may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies and debris shall be removed from the site within ten days following the temporary activity.
- (c) Fireworks sales facilities may be permitted in a C-1, C-2 or any industrial district for a period not to exceed 30 days. No permit to sell fireworks may be granted until the fire chief has reviewed the plan of operation and reported his findings and recommendations to the plan commission. No permit to sell fireworks shall be granted on any site where alcoholic beverages are served. Special requirements may be imposed by the plan commission for parking, sanitary facilities, lighting and hours of operation. No temporary use listed in this subsection shall be conducted within the street right-of-way. Temporary uses permitted under this subsection may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all

sides. All buildings, tents, equipment, supplies and debris shall be removed from the site within ten days following the temporary activity.

- (d) Christmas tree sales may be permitted in a C-1, C-2 or any industrial district for a period not to exceed 45 days. Special requirements may be imposed by the plan commission for parking, sanitary facilities, lighting and hours of operation. No temporary use listed in this subsection shall be conducted within the street right-of-way. Temporary uses permitted under this subsection may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies and debris shall be removed from the site within ten days following the temporary activity. An approved garden center does not need a conditional use permit to sell Christmas trees.
- (e) Farmers markets may be permitted in a C-1, C-2 or any industrial district for a period not to exceed 60 days which may be nonconsecutive during any calendar year. Farmers market permits may be renewed by the plan commission for parking, sanitary facilities, lighting and hours of operation. No temporary use listed in this subsection shall be conducted within the street right-of-way. Temporary uses permitted under this subsection may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies and debris shall be removed from the site within ten days following the temporary activity.

SECTION II: This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR06-07 introduced and its adoption moved by Alderperson Unbehaun; and seconded by Alderperson Edinger.

Upon a pole vote thereon, the result was as follows:

 9 Votes Cast
 9 Votes Yes
 0 Votes No

The Mayor declared Ordinance Number OR06-07 adopted, approved and signed the same this 26th day of June, 2006.

Gerald Sonnabend
Mayor

Attested:

Lori M. Gosz, CMC
City Administrator/Clerk-Treasurer