

## **ARTICLE I. STATUTORY AUTHORITY AND PURPOSE**

### **Sec. 106-1. Authority.**

The regulations of this chapter are adopted under the authority granted by Wis. Stats. §§ 61.35, 61.351, 61.354, 62.23(7), 87.30, 144.26 and 144.266. Therefore, the common council ordains the contents of this chapter.

(Ord. No. OR98-24, § I(106.0102), 10-26-1998)

### **Sec. 106-2. Purpose.**

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this community.

(Ord. No. OR98-24, § I(106.0102), 10-26-1998)

### **Sec. 106-3. Intent.**

It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; regulate and restrict lot coverage, population distribution and density; and regulate and restrict size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; facilitate the use of solar energy devices and other innovative development techniques; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's comprehensive plan or plan components. In addition, the floodland zoning regulations set forth in this chapter have been adopted to prevent and control erosion, sedimentation and other pollution of surface waters; to further the maintenance of safe and healthful water conditions and prevent flood damage to persons and property; and to minimize expenditures for flood relief and flood control projects. To this end, it is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(Ord. No. OR98-24, § I(106.0103), 10-26-1998)

### **Sec. 106-4. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permit previously adopted or issued pursuant to laws. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. No. OR98-24, § I(106.0104), 10-26-1998)

### **Sec. 106-5. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other power granted by the state statutes.

(Ord. No. OR98-24, § I(106.0105), 10-26-1998)

#### **Sec. 106-6. Severability.**

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(Ord. No. OR98-24, § I(106.0106), 10-26-1998)

#### **Sec. 106-7. Warning and disclaimer of liability.**

The degree of flood protection provided by the chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flooding and the associated flood damages. Nor shall this chapter create a liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damages that may result from reliance on this chapter.

(Ord. No. OR98-24, § I(106.0107), 10-26-1998)

#### **Sec. 106-8. Repeal.**

All other ordinances or parts of ordinances of the city inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

(Ord. No. OR98-24, § I(106.0108), 10-26-1998)

#### **Sec. 106-9. Title.**

This chapter shall be known as, referred to, or cited as the "Zoning Chapter, City of Brillion, Calumet County, Wisconsin."

(Ord. No. OR98-24, § I(106.0109), 10-26-1998)

Secs. 106-10--106-35. Reserved.

### **ARTICLE II. GENERAL PROVISIONS**

#### **Sec. 106-36. Jurisdiction.**

The jurisdiction of this chapter shall include all lands and waters within the corporate

limits of the city.

(Ord. No. OR98-24, § I(106.0201), 10-26-1998)

### **Sec. 106-37. Compliance.**

No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered except in conformity with the regulations specified in this chapter for the district in which it is located.

(Ord. No. OR98-24, § I(106.0202), 10-26-1998)

### **Sec. 106-38. Municipalities and state agencies regulated.**

Unless specifically exempted by law all cities, villages, towns and counties are required to comply with this chapter and obtain all required permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt from compliance when Wis. Stats. § 30.12(4)(a) applies.

(Ord. No. OR98-24, § I(106.0203), 10-26-1998)

### **Sec. 106-39. Duties of the building inspector.**

The city building inspector is hereby designated as the administrative and enforcement officer for the provisions of this chapter. The duty of the building inspector shall be to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The building inspector shall further:

- (1) Maintain records of all permits issued, inspections made, work approved and other official actions.
- (2) Record the first floor and lowest floor (basement or crawlway) elevations of all structures erected, moved, altered or improved in the floodland districts.
- (3) Inspect all structures, lands and waters as often as necessary to ensure compliance with this chapter.
- (4) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters; give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises; and report uncorrected violations to the city attorney in a manner specified by him.
- (5) Assist the city attorney in the prosecution of chapter violations.
- (6) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Wis. Stats. § 66.122.

- (7) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (8) Request assistance and cooperation from the city police department and city attorney as deemed necessary.
- (9) Attend all meetings of the city plan commission and the city zoning board of appeals.
- (10) Make available to the public, to the fullest extent possible, all reports and documents concerning the city's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps and engineering data shall be readily available and widely distributed. The city plan commission may set fees necessary to recover the cost of providing information to the public. Where useful, the zoning administrator or his agent may set marks on bridges or buildings or other markers which show the depth of the 100-year recurrence interval flood; or may set marks delineating the boundaries of wetlands.
- (11) Perform the duties assigned by the common council.

(Ord. No. OR98-24, § I(106.0204), 10-26-1998)

#### **Sec. 106-40. Building permit--Required.**

No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged or structurally altered until after the owner or his agent has secured a building permit from the building inspector, unless otherwise exempted pursuant to section 106-41. Application for a building permit shall be made in duplicate to the building inspector on forms furnished by the building inspector and shall include the following, where required:

- (1) Name and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
- (2) Description of the subject site by lot, block and recorded subdivision or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor, or sketch drawn to scale and approved by the zoning administrator, showing the location, boundaries, dimensions and elevations to city datum, uses and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yards. In addition, the plat of survey or sketch shall show the location, elevation and use of any abutting lands and their structures within 40 feet of the subject site.
- (4) Proposed sewage disposal plan. All new developments must hook up to the city's municipal sewage system. If municipal sewerage service is not available, this plan shall include a copy of the permit issued by [the city for] the absorption

sanitary sewage disposal system or other appropriate means of waste disposal. The city engineer shall certify that satisfactory, adequate and safe sewage disposal is possible on the site as shown in the private sewage disposal plan.

- (5) Proposed water supply plan. All new developments must hook up to the city's municipal water system. If municipal water service is not available, this plan shall be in accordance with Wis. Admin. Code ch. NR112, and shall be approved by the city engineer, who shall certify in writing that an adequate and safe supply of water will be provided.
- (6) Condominium declaration. Any developer of land in the city who elects to create a condominium, pursuant to Wis. Stats. ch. 703, shall submit a copy of the condominium declaration, and any amendment thereto, to the building inspector to be attached to the file copy of the building permit application.
- (7) Additional information as may be required by the city plan commission, city engineer and building inspector.

(Ord. No. OR98-24, § I(106.0205), 10-26-1998)

#### **Sec. 106-41. Building permit--Time table.**

A building permit shall be granted or denied in writing by the building inspector within 30 days after application. All conditional use permits shall be granted or denied in accordance with section 106-118 within 60 days after application. The permit shall expire within six months unless substantial work has commenced, and within 18 months if the structure for which the permit was issued is not substantially completed. Any permit issued in conflict with the provisions of this chapter shall be null and void.

(Ord. No. OR98-24, § I(106.0206), 10-26-1998)

#### **Sec. 106-42. Certificate of compliance required.**

- (a) No vacant land shall be occupied or used, and no building or premises shall be erected, altered or moved, or create a change in use, and no nonconforming use shall be maintained, renewed, changed or extended until a certificate of compliance shall have been issued by the building inspector. Such certificate shall show that the building or premises, or part thereof, is in compliance with the provisions of this chapter. Such certificate shall be applied for at the time of occupancy of any land and/or building.
- (b) No land within the floodplain districts shall be developed, occupied or used, and no structure hereafter erected, altered or moved shall be occupied until the applicant submits to the building inspector a certification by a registered professional engineer or land surveyor that the floodland regulations set forth in this chapter have been fully complied with. Such certification shall include the first floor and basement floor elevations of any structure erected on the site.
- (c) No building located in a commercial or industrial district and used for business or industrial purposes shall be occupied by a new tenant or a new owner, or shall have the use changed without the issuance of a new certificate of compliance by the building inspector. Such certificate shall show that the building or premises or part thereof is in

compliance with the provisions of this chapter, uniform dwelling code, electrical code, fire prevention code and the plumbing code of the city and state. Such certificate for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for a certificate of compliance shall be made in the same manner as for a building permit pursuant to section 106-33.

(Ord. No. OR98-24, § I(106.0207), 10-26-1998)

#### **Sec. 106-43. Conditional use permit required.**

Provisions relating to conditional use permits are found in article V of this chapter.

(Ord. No. OR98-24, § I(106.0208), 10-26-1998)

#### **Sec. 106-44. Sign permit required.**

Provisions relating to sign permits are found in article VIII of this chapter.

(Ord. No. OR98-24, § I(106.0209), 10-26-1998)

#### **Sec. 106-45. Other permits.**

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal or county agency. This includes, but is not limited to, a water use permit pursuant to Wis. Stats. ch. 30 or a wetland fill permit pursuant to section 404 of the Federal Water Pollution Act.

(Ord. No. OR98-24, § I(106.0210), 10-26-1998)

#### **Sec. 106-46. Site restrictions.**

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The city building inspector, in applying the provisions of this section, shall, in writing, recite the particular facts upon which he bases his conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the city plan commission may affirm, modify or withdraw the determination of unsuitability. In addition:

- (1) All lots shall abut upon a public street, and each lot shall have a minimum frontage at the road right-of-way of not less than 40 feet unless otherwise set forth in this chapter.
- (2) All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot in single-family and two-family residential districts. The plan commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly

development of the parcel. Where additional structures are permitted, the plan commission may impose additional yard requirements, landscaping requirements or parking requirements or require a minimum separation distance between principal structures.

- (3) No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (4) Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(Ord. No. OR98-24, § I(106.0211), 10-26-1998)

### **Sec. 106-47. Use restrictions.**

The following use restrictions and regulations shall apply:

- (1) *Principal uses.* Only those principal uses specified for a district, their essential services, and the uses described in this section shall be permitted in that district.
- (2) *Accessory uses and structures.* Accessory uses and structures are permitted in any district as follows: (i) the principal structure is present; (ii) the principal structure is under construction; or (iii) upon public hearing and approval by the city plan commission, if the city plan commission believes, in its sole discretion taking into consideration the land use plan intended by these articles and under other applicable law, that the principal structure shall be built within five years of the date of the commencement of such accessory use or structure. Any approval of an accessory use or structure by the city plan commission as provided in (iii) above shall likewise include reasonable provisions, conditions, and/or enforcement to insure that the principal structure is ultimately built as indicated.
- (3) *Conditional uses.* Conditional uses and their accessory uses are considered as special uses requiring review, public hearing and approval by the city plan commission in accordance with article V of this chapter. Any development within 500 feet of the existing or proposed rights-of-way, an interstate highway and controlled access trafficways and within 1,500 feet of their existing or proposed turning lane rights-of-way shall be deemed to be conditional uses. Such development shall be specifically reviewed and approved by the city plan commission as provided in article V of this chapter.
- (4) *Home occupations and professional home offices.* Home occupations and professional home offices are permitted accessory uses in any residential district not requiring a building permit, provided that:
  - a. The use of the residential dwelling for the home occupation or professional home office shall be clearly incident and subordinate to its

residential use and shall not occupy more than 25 percent of the floor area of one floor.

- b. No home occupation or professional home office shall be located in or conducted in an accessory structure.
  - c. No person other than members of the family residing on the premises shall be employed or engaged in such home occupation or professional home office.
  - d. Home occupations shall use only household equipment and no stock in trade shall be kept or sold except that made on the premises.
  - e. No traffic shall be generated by the home occupation or professional home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.
  - f. No outdoor storage of equipment or product shall be permitted.
  - g. Home occupations, which comply with the conditions set forth in this section, may include, but are not limited to, babysitting, canning, crafts, desktop publishing and other computer services, dressmaking, laundering, millinery, piano teaching and word processing.
  - h. Home occupations shall not include auto body or engine repair, barbering, beauty shops, construction trades, dance studios, photographic studios or real estate brokerages.
- (5) *Unclassified or unspecified uses.* Unclassified or unspecified uses may be permitted by the city plan commission, provided that such uses are similar in character to the principal uses permitted in the district.
- (6) *Temporary uses.* Temporary uses, such as real estate sales or rental field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted for a period of up to one year by the city plan commission. Temporary use permits may be renewed if the plan commission deems such renewal appropriate. Additional temporary conditional use permits are set forth in section 106-129 and may be permitted as set forth in that section.
- (7) *Pets.* Pets are permitted, provided that the number of household pets is in accordance with chapter 10 concerning limitation on number of animals, limitations per lot in any residential, R-1, R-2 and R-3, district or agricultural district.
- a. Household pets shall include dogs, cats, rabbits and other small animals housed inside or outside of a residential dwelling. Very small animals kept indoors at all times, such as hamsters, gerbils, white mice, parakeets and canaries, tropical fish and small lizards, are not subject to the three animal per lot limit.

- b. Exotic pets shall include pygmy goats, nonpoisonous snakes, deodorized skunks, ferrets, parrots and other small exotic animals except potbellied pigs. Only two exotic pets shall be allowed per lot and shall be included in the three pets per lot limit.
- c. Exotic pets kept outdoors shall require a conditional use permit for the R-1, R-2, R-3 and agricultural districts. The city plan commission, as provided in article V of this chapter, shall specifically review the following items when making their determination:
  - 1. Type of exotic pet.
  - 2. Location and size of lot.
  - 3. Type of fenced-in enclosure and house for the exotic pet.
  - 4. Method of pet waste disposal.
  - 5. A certificate of purebred registration.
  - 6. A health certificate and certificate of required shots.
  - 7. The exotic pet shall [not] be hazardous, harmful, offensive or otherwise adverse to the health, welfare, environment or value of the neighborhood or the community.
- d. The keeping of livestock such as potbellied pigs, cattle, horses, donkeys, mules, burros, llamas, sheep, hogs, goats and other farm animals is prohibited in any residential district.
- e. The keeping of poultry or fowl such as chickens, pigeons, roosters, ducks, guinea hens, geese, turkeys, peacocks and game birds is only permitted in the agricultural district.
- f. The keeping of bears, lions, tigers, leopards, monkeys, wolves, foxes, poisonous snakes and reptiles or other dangerous animals is prohibited in the city. In the event of a dispute over whether an animal is dangerous, the city council shall make a determination after review and public hearing.

(Ord. No. OR98-24, § I(106.0212), 10-26-1998; Ord. No. OR01-13, § I, 12-10-2001)

**Sec. 106-48. Reduction or joint use.**

No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

(Ord. No. OR98-24, § I(106.0213), 10-26-1998)

Secs. 106-49--106-65. Reserved.

## ARTICLE III. FEES AND PENALTIES

### Sec. 106-66. Permit fees.

All persons performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the city clerk/treasurer to help defray the cost of administration, investigation, advertising and processing of permits and variances. The permits for which a fee is required are the building permit, occupancy permit, conditional use permit, sign permit and land disturbing permit. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. The fees shall be as follows:

TABLE INSET:

Building permit	Per municipal ordinance or resolution
Certificate of compliance	\$25.00
Sign permit	Per municipal ordinance or resolution
Conditional use permit	\$100.00
Land excavation permit	\$10.00/\$25.00
Variance or appeal	\$100.00
Amendment to chapter (map or text)	\$100.00
Planned unit development (PUD) review	\$200.00

(Ord. No. OR98-24, § I(106.0301), 10-26-1998)

### Sec. 106-67. Double fee.

A double fee shall be charged by the building inspector if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

(Ord. No. OR98-24, § I(106.0302), 10-26-1998)

### Sec. 106-68. Violations.

It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the city council, the building inspector, the city plan commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.

(Ord. No. OR98-24, § I(106.0303), 10-26-1998)

### Sec. 106-69. Remedial action.

Whenever an order of the building inspector has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises,

the city council, the building inspector or the city attorney may institute appropriate legal action or proceedings to prohibit such owner, agent or occupant from using such structure, land or water.

(Ord. No. OR98-24, § I(106.0304), 10-26-1998)

**Sec. 106-70. Penalties.**

Any person that fails to comply with the provisions of this chapter shall, upon conviction, forfeit not less than \$50.00, nor more than \$200.00 and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

(Ord. No. OR98-24, § I(106.43), 10-26-1998)

Secs. 106-71--106-87. Reserved.