

6/1/2011

**48-O-11**

**AN ORDINANCE**

**Provisionally Adopting, Enacting, and Re-enacting New and Amended Code Provisions to Titles 4 and 5 of the City of Evanston Code of Ordinances; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending Such Title; and Providing When Such Title and this Ordinance Become Effective**

**WHEREAS**, the City of Evanston, Cook County, Illinois, (the "City") is a home rule unit of government under the Illinois Constitution of 1970; and

**WHEREAS**, the City adopted an Evanston City Code in 1979 for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the City and its officers, employees, and residents; and to promote the public health, safety, and welfare of its residents; and

**WHEREAS**, the City Council finds and determines that the current City Code needs to be significantly amended and updated to satisfy its purpose; and

**WHEREAS**, the City Council finds and determines that the purpose of the City Code will be accomplished by provisionally adopting these 2011 amendments and revisions; and

**WHEREAS**, these provisional approvals and enactments are intended to be subject to a final City Council review and approval, and the City Council will adopt a revision and codification of the entire City Code (excepting Title 6), later this year.

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That Title 4 and 5 of the Evanston City Code of 1979, as amended, are hereby provisionally amended as set forth, respectively, in Exhibit A, “Title 4 Amendments and Revisions”, and Exhibit B, “Title 5 Amendments and Revisions”, attached hereto and incorporated herein by reference.

**SECTION 2:** All ordinances of a general and permanent nature enacted on or before the date of this provisional adoption continue in full force and effect and are not repealed or affected by this Council action.

**SECTION 3:** Additions or amendments to the Code when passed in such form as to indicate the intent 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**SECTION 4:** Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been adopted or repealed by a subsequent ordinance.

**SECTION 5:** This Ordinance shall not become effective. It is a provisional policy expression which is expressly subject to and conditioned upon final review and recommendation by the City Council. Upon such final review and recommendation by the City Council, the amendments and revisions in Section 1 hereof shall be adopted via a subsequent and separate ordinance “Adopting the Evanston City Code, 2011.”

Introduced: \_\_\_\_\_, 2011

Approved:

Provisionally  
Adopted: \_\_\_\_\_, 2011

\_\_\_\_\_, 2011

\_\_\_\_\_  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

\_\_\_\_\_  
Rodney Greene, City Clerk

\_\_\_\_\_  
W. Grant Farrar, Corporation Counsel

**EXHIBIT A**

Title 4 Amendments and Revisions

**EXHIBIT B**

Title 5 Amendments and Revisions

## TITLE 4 – BUILDING REGULATIONS

### CHAPTER 1 – BUILDING, INSPECTIONS AND PERMITS DIVISION

#### 4-1-1: DEPARTMENT CREATED; COMPOSITION:

There is hereby created an executive division of the City's Department of Community & Economic Development which shall be known as the ~~Department~~ Division of Building, Inspections and Permits. Said division shall consist of the ~~Director~~ Manager of Building and Inspections and Permits Services and such other deputies and employees as may from time to time be assigned thereto.

#### 4-1-2: BUILDING OFFICIAL:

- (A) Powers and Duties: The Building Official shall have the powers and duties as described in the adopted Building Code.
- (B) Police Powers: In addition to the powers authorized in the adopted building Code, the Building Official and his/her duly appointed building and technical inspectors shall have full police powers to issue complaints, citations, notices to appear, and summonses for the violation of any provision of the various building, mechanical, electrical, structural, plumbing and energy Codes that the Building Official is charged with enforcing.

#### 4-1-3: DEPUTY MANAGERS OF BUILDING AND INSPECTION SERVICES:

The Fire Chief and the Director of the Health Department of the City are each hereby made ex officio deputy ~~Directors~~ Managers of Building and Inspections and Permits Services.

- (A) Fire Chief: It is hereby made the duty of the Fire Chief, as ex officio ~~Director~~ Manager of Building and Inspections and Permits Services, to aid the ~~Director~~ Manager of Building and Inspections and Permits Services in administering and enforcing the building Code. Such Deputy ~~Director~~ Manager of Building and Inspections and Permits Services shall give special attention to and render assistance in enforcing all provisions of the building code pertaining to safeguarding life and property against, and in the event of, fire in any building, structure or portion thereof, now existing or which may hereafter be constructed.
- (B) Director of Health Department: It is hereby made the duty of the Director of the Health Department, as ex officio ~~Director~~ Manager of Building and Inspections and Permits Services, to aid the ~~Director~~ Manager of Building and Inspections and Permits Services in enforcing and administering the building code. Such Deputy ~~Director~~ Manager of Building and Inspections and Permits Services shall give special attention to and render assistance in enforcing all provisions of the building code pertaining to the sanitation of any building, structure or portion thereof now existing or which may hereafter be constructed.

## CHAPTER 2 - BUILDING CODE

### 4-2-1: ADOPTION:

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Building Code, with the exceptions and amendments below stated. All advisory or text notes, other than the rules and regulations contained in the 2003 International Building Code adopted hereby are expressly excluded from this Chapter.
- (B) Any reference in the 2003 international building code to "Building Official" shall refer to the ~~Assistant Director of Community Development for the Building Division~~ Manager of Building and Inspection Services. Any reference to "municipality" shall mean the City of Evanston.
- (C) In the event that any provision of the 2003 International Building Code adopted hereby is in conflict with any provision of the zoning ordinance or any provision of any City fire prevention ordinance or safety control ordinance or any amendment thereto, the most stringent shall control.
- (D) Wrecking, demolishing, or razing of buildings:
  - 1. Written notice stating the date on which work is to begin shall be given to the Director of Community & Economic Development and to owners/occupants of adjoining property at least forty eight (48) hours before beginning the wrecking, demolishing, or razing of any building or other structure.
  - 2. On completion of demolition, the site shall be filled where necessary with clean soil, cinders, or other inorganic material and graded to the level of sidewalks, alleys, or adjoining property with allowance for settlement.
  - 3. Debris caused from the demolition of a building or structure in excess of that required to fill openings shall be removed from the site as wrecking progresses. Salvaged material, if left on the premises, shall be neatly stored. Debris shall be kept from adjacent properties and public ways at all times.
  - 4. During the erection, alteration, or demolition of any building, any temporary structure erected adjacent to or on any public way, used as temporary storage for debris and wreckage, shall be outfitted with reflective orange material outlining every top and bottom corner of said temporary structure, which reflective material will be visible when struck by headlight beams three hundred feet (300') away at night. Said markings shall be approved by the City Engineer.

### 4-2-2: - AMENDMENTS:

The 2003 International Building Code adopted hereby shall read as follows with respect to these Sections:

**101.2: Scope:** The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

**Exceptions:** Detached one- (1-) and two- (2-) family dwellings not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the *International Residential Code* adopted by the City.

**101.4.1: Electrical:** The provisions of the *National Electrical Code* adopted by the City shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

**101.4.4: Plumbing:** The provisions of the *International Plumbing Code* adopted by the City shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

**101.4.6: Fire Prevention:** The provisions of the *2003 NFPA Life Safety Code 101* adopted by the City shall apply to matters affecting or relating to structures, processes, and premises from the hazard of fire and explosion arising from the storage, handling, or use of structures, materials, or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration, or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

**101.4.7: Energy:** Delete.

### **103: Department Of Community & Economic Development:**

**103.1: Creation Of Enforcement Agency:** The ~~assistant Director, community development, building division,~~ Manager of Building and Inspection Services shall be known as the "Building Official."

**103.2: Appointment:**

**103.3: Deputies:** The Building Official shall have the authority to appoint such technical officers, inspectors, plan examiners and other employees as he/she deems necessary to effectuate the purposes of this Code. Such employees shall have powers as delegated by the Building Official. For the maintenance of existing properties, see the *International Property Maintenance Code* adopted by the City.

**104.6: Right Of Entry:** This Section shall be deleted in its entirety from the *2003 International Building Code*, adopted hereby, and the following Section 104.6



substituted therefor:

**104.6: Right Of Entry:** The Building Official and his/her authorized representatives are hereby authorized to make inspections of all buildings, structures, and premises located within the City to determine their compliance with the provisions of this Chapter. For the purpose of making such inspections, the Building Official and his/her authorized representatives are hereby authorized to examine and survey all buildings, structures, and premises within the City. Such inspections shall be made between the hours of 7:30 A.M. and 8:00 P.M., unless circumstances dictate the need for earlier or later inspections, and any days except Sunday, subject to the following standards and conditions:

a) Such inspections may take place only if: 1) a complaint respecting said premises has been received by the Building Official and such complaint, in the opinion of said Building Official, provides reasonable grounds for belief that a violation exists, or 2) if such inspection is undertaken as part of a regular inspection program whereby certain areas of the City are being inspected in their entirety by direction of the Building Official or the City Manager, or 3) if said official has other personal knowledge of conditions providing reasonable grounds to believe that a violation exists;

b) Such inspections shall be made by the Building Official or the City Manager or by any duly authorized representative upon direction of either of said officers;

c) Any person making such inspection shall furnish to the owner or occupant of the structure sought to be inspected, sufficient identification and information to enable the owner or occupant to determine that he/she is a representative of the City of Evanston and to determine the purpose of said inspection.

**105.2: Work Exempt From Permit:** This Section is omitted entirely. Contact the building division of Community & Economic Development for information regarding work exempt from permits.

**105.7: Placement Of Permit:** The building permit or a legible copy of the building permit shall be kept on the site of operations, open to public inspection during the entire time of prosecution of the work and until the completion of the same. Said permit must be posted within forty-eight (48) hours of permit issuance, must remain posted until a certificate of occupancy is issued or the permit expires, and must be visible from the public way. Failure to post and maintain the permit as required by this Section may result in revocation of the building permit and forfeiture of all permit fees.

**105.8: Hours of Work Permitted for the Construction, Repair, and Demolition of Buildings:** The creation (including excavation), demolition, alteration or repair of any building within the City, other than between the hours of seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M. on weekdays, and eight o'clock (8:00) A.M. and five o'clock (5:00) P.M. on Saturdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Manager or his/her designee, or the Director of Community & Economic Development or his/her designee,

which permit may be granted while the emergency continues. If the City Manager, his/her designee, or the Director of Community & Economic Development, or his/her designee, should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, or the excavation of streets and highways between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. on weekdays, and before eight o'clock (8:00) A.M. and after five o'clock (5:00) P.M. on Saturdays, and if it shall further be determined that loss or inconvenience would result to any party in interest, said official may grant permission for such work to be done between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. on weekdays, and before eight o'clock (8:00) A.M. and after five o'clock (5:00) P.M. on Saturdays upon request. Sandblasting, jackhammering, or similar noise-producing activities are prohibited between six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. weekdays, between six o'clock (6:00) P.M. Friday and eight o'clock (8:00) A.M. Saturday, and between five o'clock (5:00) P.M. Saturday and seven o'clock (7:00) A.M. Monday unless special permission is granted by the City Manager or his/her designee. In addition, any other construction noise which exceeds a decibel level of eighty (80) (measured from the property line from which the noise is emanating) is prohibited between six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. weekdays, between six o'clock (6:00) P.M. Friday and eight o'clock (8:00) A.M. Saturday, and between five o'clock (5:00) P.M. Saturday and seven o'clock (7:00) A.M. Monday unless special permission is granted by the City Manager or his/her designee.

**106.1: Information On Construction Documents:** Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules, and regulations, as determined by the Building Official. All floor plans, including mechanical, electrical, plumbing and fire protection plans, shall indicate all required fire ratings and where they occur by graphic means with a legend or key.

**110: Digital Submission of Construction Documents Prior to Issue of Certificate of Occupancy:**

1) In addition to the requirement of filing hard-copy construction documents, submission of a series of construction/design documents in a computer digital format is required as part of the permitting process prior to the issuance of any final certificates of occupancy pursuant to the guidelines stated immediately below if one or more of the following applies:

a) The valuation of the construction project is, in its entirety, greater than \$500,000.00 (five hundred thousand and no/100 dollars).

b) When the Director of Community & Economic Development, or his/her designee, determines that there are significant changes to the physical characteristics of the property or the structures on or around that property to warrant the submission of

electronic documents.

2) Digital data shall be submitted according to the following guidelines:

a) The digital data submission shall contain the following three (3) document types:

i) Site Plan: A plan view, drawn to scale, depicting the project's location and showing at a minimum: property lines, building footprints, building elevation changes, sidewalks, driveways, proximate reference points identifiable within the City, and any fire lanes.

ii) Floor Plan: Exterior plan view for each floor, drawn to scale, showing at a minimum: interior walls, exterior walls, doors, and any stairs and elevators.

iii) Elevation Views: Exterior profile view, drawn to scale, showing at a minimum: height of building sections, main entrance, and roofline.

b) Data shall be submitted via compact disk, 3 1/2" floppy disk, FTP, e-mail or any other media deemed permissible by the Director of Community & Economic Development or his/her designee.

c) All digital submissions shall be in a format approved by the City's geographical information systems division.

d) The data must be a proportionally accurate representation of the construction project, sufficient to fully explain and reproduce the project, with the defined scale clearly represented.

e) The permit applicant shall resubmit newly updated information pursuant to the above requirements whenever the applicant or his/her agent makes corrections or updates to the originally submitted information requiring the resubmission of printer-paper documents.

3) Upon request by the person required to submit information in a digital format, or if that party is unwilling or unable to digitally submit information, the City's geographical information systems division will digitally convert paper-based submitted documents. The fee for digital conversion shall be \$100.00 (one hundred and no/100 dollars) for each submitted page equal to or smaller than ledger-sized (11" by 17") paper, and \$200.00 (two hundred and no/100 dollars) for each submitted page exceeding ledger-sized (11" by 17") paper.

4) Any person who fails to comply with all requirements of this Section shall be subject to denial or revocation of any temporary or final certificates of occupancy pertaining to the project for which the violation has occurred. Denial or revocation of any temporary or final certificates of occupancy shall not preclude the City from seeking fines, costs, and other relief against the violator by filing a complaint or citation with the circuit court or division of administrative hearings.

**112: Means Of Appeal:** This Section shall be deleted in its entirety from the 2003 International Building Code, adopted hereby.

**403.15: Response Cart:** In any high-rise structure or structure where the layout of the buildings makes it difficult to mobilize equipment close to the interior of the structure, a response cart is required by the Fire Official. The cart includes, but is not limited to, the following equipment:

- Extra deep shelf cart on wheels
- 100 feet of 1-3/4" hose with national standard threads lightweight rocker lugs
- 100 feet of 2-1/2" hose with national standard threads lightweight rocker lugs
- Nozzle as specified by Fire & Life-Safety Services Department
- Nozzle tip as specified by Fire & Life-Safety Services Department
- Wye appliance
- Female to male reducer adapter
- 2 spanners
- 30" haligan bar
- 8 lb. pick-head axe
- Sledge hammer

**406.0: Carbon Monoxide Detector:** ~~A house current carbon monoxide detector is required within fifteen feet (15') of sleeping areas of single family and multi-family homes with attached garages. In new home construction with attached garages, the detector is to be hard-wired Delete.~~

**901.2.1: Emergency Key Box:** Delete.

**901.2.2: Contents And Key Box:** Delete.

**901.3: Modifications:** No person shall remove or modify any fire protection system installed or maintained under the provisions of this Code or the *2003 International Building Fire Code* without approval by the Fire Official.

**903.3.1: Standards:** Delete. ~~Sprinkler systems shall be designed and installed in accordance with section 903.3.1.1, section 903.3.1.2, or section 903.3.1.3. In the design of all systems, provide a minimum of 10 psi safety factor in the fire protection system hydraulic calculation. The system demand shall be 10 psi below the seasonal low water test supply.~~

**903.3.1.2.2: Chlorinated Polyvinyl Chloride (CPVC) Piping:** Delete ~~Whenever CPVC piping is used for sprinkler systems conforming to the requirements of NFPA 13, the following conditions shall also apply:~~

~~1) Steel pipe shall be used for fire department connections and all risers.~~

~~2) In areas where it is determined by the fire official that the CPVC piping may be subject to damage, steel piping shall be required.~~

**903.3.3.1: Movable File Or Storage Shelving Units:** ~~Udelete.~~ Movable shelving storage units present a unique problem for sprinkler systems in that the units hold a large fire load and compress to a point where sprinkler water penetration is difficult at best. In order to address these installations, any movable file/storage system must comply with the following sprinkler requirements:

~~1) Storage height cannot exceed twelve feet (12') and must have a clearance of eighteen inches (18") from the sprinkler deflector.~~

~~2) Two levels of sprinkler protection are required:~~

~~a) Horizontal sidewall sprinklers with a density of .75 gpm/sq. ft. over a minimum of five (5) sprinklers operating.~~

~~b) Pendent sprinkler spaced at one hundred square feet (100 sq. ft.) maximum with a density of .32 gpm/sq. ft. the most remote fifteen hundred square feet (1,500 sq. ft.) of operation.~~

~~Sprinklers shall be of the quick-response type. If pendant sprinkler protection can be spaced over the movable file cabinets, a minimum of .55 gpm/sq. ft. over the most remote fifteen hundred square feet (1,500 sq. ft.) of operation is required. The top of the units must be opened to allow for water penetration.~~

**903.3.7: Fire & Life-Safety Services Department Connections:** ~~Udelete.~~ The location of fire department connections shall be approved by the fire official.

**903.3.7.1: Access To Fire & Life-Safety Services Department Connections:** ~~Udelete.~~ Any fire department connection that is located behind any landscaping or vegetation shall have a concrete path from the sidewalk or closest public way to the connection for fire department access.

**903.3.7.2: Number Of Fire & Life-Safety Services Department Connections:** ~~Udelete.~~ The fire official will determine the number of fire department connections required for the building.

**903.3.7.3: Type Of Fire & Life-Safety Services Department Connections:** ~~Udelete.~~ The type of fire department connection must be approved by the fire official. No single two and one-half inch (2-1/2") fire department connection is permitted.

**903.3.7.4: Fire & Life-Safety Services Department Connections:** ~~Udelete.~~ Provide a white strobe light above the fire department connection(s) to flash upon activation of the fire alarm system. The device(s) shall be mounted at a height that is visible from the street.

**Exception:** Existing systems, unless the system is altered, modified, or upgraded.

**903.4.3: Floor Control Valves:** ~~Delete.~~ Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor in all high-rise buildings. Control valves shall also be required for each individual unit (commercial, residential, or business) where the units share a common water supply and have individual entrances.

**905.2: Installation Standards:** ~~Delete.~~ Standpipe systems shall be installed in accordance with this section and NFPA 14. A one and one-half inch (1-1/2") reducer with a cap connected to a chain shall be required at each hose connection.

**909.2.1: Duct Detectors Reset:** ~~Delete.~~ Resets for duct detectors shall be located at the main fire alarm panel and labeled as to their location. A floor plan identifying the duct detectors shall be laminated near the fire alarm panel.

**911.1: Features:** ~~Delete.~~ Where required by other sections of this code, a fire command center for fire department operations shall be provided. The location and accessibility of the fire command center shall be separated from the remainder of the building by not less than a one (1) hour fire-resistance-rated fire barrier. The room shall be a minimum of ninety-six square feet (96 sq. ft.) (9 m<sup>2</sup> mm) with a minimum dimension of eight feet (8') (2,438 mm). A layout of the fire command center and all features required by the section to be contained therein shall be submitted for approval prior to installation. All fire command centers shall comply with NFPA 72, and shall be equipped with a five (5) button combination keypad for entry into the room or other entry device as approved by the fire official.

**1007.6.1.1: Area Of Refuge:** The floor of the area of refuge shall be designed with striping or other such means and labeled with the international symbol of access, such that this area is reserved at all times for the intended purpose.

**1023.1: General:** Exits shall discharge directly to the exterior of the building. The exit discharge shall be at grade or shall provide direct access to grade. The exit discharge shall not reenter a building. The exit discharge shall include a paved surface connecting the exit to a public way. The width and slope shall conform to all requirements of the Illinois Accessibility Code, April 24, 1997, and all future revisions as published by the Capitol Development Board, State of Illinois. The exit discharge shall be illuminated at the exterior.

**1203.1 General.** Buildings shall be provided with natural ventilation in accordance with Section 1202.4, or mechanical ventilation in accordance with the *International Mechanical Code*. All sleeping rooms in new buildings shall be provided with natural ventilation in accordance with Section 1202.4, which may be supplemented with mechanical ventilation in accordance with the *International Mechanical Code*. The provisions of Section 1203.4.1.1 that allow use of adjoining spaces for ventilation shall not apply to sleeping rooms in new buildings.

**1205.1 General.** Every space intended for human occupancy shall be provided with

natural light by means of exterior glazed openings in accordance with Section 1205.2 or shall be provided with artificial light in accordance with Section 1205.3. Exterior glazed openings shall open directly onto a public way or onto a yard or court in accordance with Section 1206. Notwithstanding the rest of this Section 1205.1, all sleeping rooms in new buildings shall be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2, which may be supplemented with artificial light in accordance with Section 1205.3. The provisions of Section 1205.2.1 that allow use of adjoining spaces for light shall not apply to sleeping rooms in new buildings.

**Table 1607.1: Minimum Uniformly Distributed Live Loads and Minimum Concentrated Live Loads:**

<b>Occupancy Or Use</b>	<b>Uniform (psf)</b>	<b>Concentrated (lbs.)</b>
Balconies and porches (exterior)	100	—
On one- and two-family residences only, and not exceeding 100 square feet.	60	—

**3105.1: General:** Awnings or canopies shall comply with the requirements of this Section and other applicable Sections of this Code. No person shall erect, install, remove, re-hang, alter, or maintain over public property any awning or canopy for which a permit is required under the provisions of this Code until the requirements of the sign regulations ordinance, Title 4, Chapter 42 10 of the City Code, are met.

**3106.1: General:** Marquees shall comply with this Section and other applicable Sections of this Code. No person shall erect, install, remove, re-hang, alter, or maintain over public property any marquee for which a permit is required under the provisions of this Code until the requirements of Title 4, Chapter 42 10 of the City Code, are met.

**3107.1: General:** Signs shall be designed, constructed, and maintained in accordance with this Code. No person shall erect, install, remove, re-hang, alter, or maintain over public property any sign for which a permit is required under the provisions of this Code until the requirements of the sign regulations ordinance, Title 4, Chapter 42 10 of the City Code, are met.

**3201.5: Building Deterioration:** In the event that a piece or part of an existing building dislodges and falls onto the public way evidencing movement of building components that comprise imminent danger, the following shall be required:

- 1) Within forty-eight (48) hours of a written notice of the imminent danger or failed condition by the City of Evanston, the property owner(s) shall install illuminated sidewalk and/or street protection as required by the City of Evanston. If this is not completed in accordance with all City Codes, the City may install such protection at the expense of the property owner(s).
- 2) Within thirty (30) days of such notice, the property owner shall submit to the City a written report of the conditions by a state of Illinois licensed engineer. If this requirement is not fulfilled in accordance with all City Codes, the violator is subject to a fine of a minimum of \$75.00 (seventy-five and no/100 dollars) for each day until the report is

submitted.

3) Within sixty (60) days of such notice, the property owner shall obtain permits for all required repairs. If this requirement is not fulfilled in accordance with all City Codes, the violator is subject to a fine of a minimum of \$75.00 (seventy-five and no/100 dollars) per day until the report is submitted.

4) Within one hundred eighty (180) days of such notice, all work associated with the repair of the deterioration must be completed and inspected. If the requirement of completion is not fulfilled in accordance with all City Codes, the violator is subject to a fine of a minimum of \$75.00 (seventy-five and no/100 dollars) per day until the work is completed, as verified by a City inspector.

**3301.2: Storage And Placement:** Construction equipment and materials shall be stored and placed so as not to endanger the public, the workers or adjoining property for the duration of the construction project. In no case, shall construction equipment or materials be kept or stored on any public way or property.

**Table 3306.1: Protection of Pedestrians:**

Occupancy Or Use	Uniform (psf)	Concentrated (lbs.)
Balconies and porches (exterior)	100	—
On one- and two-family residences only, and not exceeding 100 square feet.	60	—

**Chapter 34: Existing Structures:** This entire Chapter is deleted.

**4-2-3: - BUILDING CONTRACTORS:**

- (A)** Definition: The term "building contractor" means any person, individual, company, or corporation engaged in the business of constructing, enlarging, altering, removing, or remodeling any structure by furnishing of labor, material, and methods necessary to accomplish a given result, and who retains for himself the control of the means, method, and manner of accomplishing this desired result. The term "building contractor" shall not be construed to include any person, individual, company, or corporation currently licensed as a plumbing contractor, electrical contractor, or heating, air conditioning or refrigeration contractor.
- (B)** License Required: No person shall engage in the business of building contractor within the City without first having secured a license in the manner provided herein.
- (C)** Application for License: Application for license shall be made to the Community & Economic Development department. All licenses shall be subject to the provisions of this Code, other ordinances of the City and the statutes of the state of Illinois.



- (D)** License Fee: The amount of the annual license fee for persons engaged in the business of building contractor shall be established from time to time by action of the City Council.
- (E)** Examination Required: No person shall receive such a license until he/she has passed a standardized examination administered and designed by the building division of the department of Community & Economic Development. Said examination shall be for the purpose of determining that all licensees are knowledgeable in the business of building, contracting, and life safety components of the building Code.
- (F)** Suspension or Revocation of License:
1. If any person shall violate any of the provisions of this Chapter or the Code adopted hereby, he/she shall be liable to be prosecuted against for any fine or penalty imposed thereto and his/her license may be suspended or revoked by the City Manager.
  2. No such license shall be so revoked or suspended except after a hearing by the City Manager or his/her designee with a three (3) business day notice to the licensee affording the licensee an opportunity to appear and defend. The notice shall specify the reason for the contemplated suspension or revocation and shall give the date, time, and room number in the civic center of the hearing. Notice shall be sufficient if sent to the address stated on the licensee's application.
  3. If the Building Official certifies to the City Manager that he/she has reason to believe that immediate suspension of the license is necessary to prevent the threat of immediate harm to the community, the City Manager may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the license suspended for not more than seven (7) days. The City Manager may extend the suspension during the pendency of a hearing upon a written determination that doing so is necessary to prevent the aforesaid harm to the community.
  4. Hearings shall be conducted in accordance with procedures drafted by the Corporation Counsel.
  5. The City Manager shall issue his/her decision within ~~three~~ ten (3 10) business days after the close of the hearing. In reaching a decision, the City Manager may consider any of the following:
    - a. The nature of the violation.
    - b. The nature and extent of the harm caused by the licensee's action or failure to act.

- c. The factual situation and circumstances surrounding the violation.
  - d. Whether or not the action or failure to act was willful.
  - e. The record of the licensee with respect to violations.
6. The City Manager may suspend a license for a period of up to ninety (90) days. A licensee whose license has been revoked shall not be eligible to reapply for a license.

**4-2-4: PENALTY FOR VIOLATIONS:**

Any person found to have violated any provision of the 2003 International Building Code as adopted by the City, or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a building or structure in violation of any approved plan or direction of the Building Official or of any permit or certificate issued by the Building Official or his/her designee, shall be guilty of an offense, punishable as follows:

- (A)
  - 1. The fine for a first violation is seventy five dollars (\$75.00).
  - 2. The fine for a second violation is two hundred dollars (\$200.00).
  - 3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in Subsection (A) of this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

**4-2-5: - SEVERABILITY:**

It is the intention of the City Council that the provisions of this Chapter and the Code adopted hereby are severable and the invalidity of any Section or any portion of any such Section of either of them shall not affect any other Section.

**CHAPTER 4 3 - BUREAU OF FIRE PREVENTION**

**4-4 3-1: ESTABLISHMENT; CHIEF INSPECTOR:**

A bureau of Fire Prevention in the Fire & Life-Safety Services Department is hereby established which shall be operated under the supervision of the Fire Chief as defined in Title 9 of this Code.

The Fire Chief shall designate an officer of the Fire & Life-Safety Services Department

as Chief of the Bureau of Fire Prevention, who shall hold this office at the pleasure of the Fire Chief. The Fire Chief may also designate such number of assistant inspectors as shall from time to time be authorized by the City Manager.

#### **4-4 3-2: DUTIES:**

In General: It shall be the duty of the Chief of the Bureau of Fire Prevention to enforce all laws, provisions of this Code and other ordinances of the City covering the following.

- (A) The prevention of fires;
- (B) The storage and use of explosives and flammables;
- (C) The installation and maintenance of automatic and other fire alarm systems and fire-extinguishing equipment;
- (D) The maintenance and regulation of fire escapes;
- (E) The means and adequacy of exits in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose.
- (F) The investigation of the cause, origin and circumstances of fires.

He/She shall have such other powers and perform such other duties as are set forth in other Sections of this Code, and as may be conferred and imposed from time to time by law. The Fire Chief may delegate any of his/her powers or duties under this Chapter to the Chief of the Bureau of Fire Prevention.

#### **4-4 3-3: FIRE CHIEF'S DUTIES:**

- (A) **Recommending Additional Ordinances:** It shall be the duty of the Fire Chief to investigate and to recommend to the City Council such additional ordinances, or amendments to existing ordinances, as he/she may deem necessary for safeguarding life and property against fire.
- (B) **Instructions and Forms:** The Fire Chief shall prepare instructions for the Chief of the Bureau of Fire Prevention and his/her assistants, and forms for their use in the reports required by this Chapter.

### **CHAPTER 5 4 - FIRE PREVENTION REGULATIONS**

#### **4-5 4-1: ADOPTION OF CODES:**

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Fire Code and the 2003 National Fire Protection Association 101,

Life Safety Code, which codes shall be used together with the below stated additions and amendments as criteria for the control and regulation of conditions which would constitute fire hazards to persons or property within the City or which would interfere with fire suppression forces, excepting therefrom the Sections which are modified or deleted in Section ~~4-5-2~~ of this Chapter.

- (B) Any reference in the 2003 International Fire Code and the 2003 National Fire Protection Association 101, Life Safety Code to "administrative authority" or "Fire Official" shall mean the Fire Official of the City of Evanston. Any reference to "municipality" shall mean the City of Evanston.

#### **4-5 ~~4-2~~: AMENDMENTS:**

The hereinabove adopted 2003 International Fire Code and the 2003 National Fire Protection Association ("NFPA") 101, Life Safety Code are amended to incorporate by reference the 2010 NFPA reference publication 72, "National Fire Alarm Code." Said Codes are further amended read as follows:

#### **(A) 2003 International Fire Code**

**101.1: Title:** These regulations shall be known as the fire Code of the City of Evanston, hereinafter referred to as "this code."

**101.2.3: Gas Shut-Off Valves:** All fuel burning appliances shall have individual gas shut off valves located within five feet (5') of the appliance, within the same room.

**102.9: Conflicting Provisions:** Where there is a conflict between a general requirement and a specific requirement, the most stringent requirement shall be applicable.

**108.0: Delete.**

**108.1: Appeals:** Any person, firm or corporation affected by any decision, interpretation or order of the Fire Official made under any provision of these Codes or the standards adopted herein, may appeal such decision, interpretation, or order to the Fire Chief by filing a written notice of such intent to the office of the Fire Chief within fifteen (15) days after the day the decision, interpretation, or order was served. For purposes of this Section, a decision, interpretation, or order is served upon delivery, in the case of personal delivery, and in the case of mailing, five (5) days after deposit in the U.S. mail with first-class postage prepaid. The Fire Chief, or his/her designee, shall convene a hearing upon such appeal within ten (10) days of receipt thereof and may, when no immediate hazard exists, continue such hearing from time to time for cause. The Fire Chief shall establish reasonable rules for such hearings and shall make a record of proceedings. The rules shall be on file with the Fire Chief's office. The decision of the Fire Chief shall be deemed final as to the order or interpretation appealed from. The decision shall be in writing and shall be issued within two (2) business days of its rendering. Where there are practical difficulties in the implementation of the strict provisions of these Codes, the Fire Chief may modify such provision provided that such

modification shall effect substantial conformance with the provisions hereof, provide for the public safety.

A person is "affected" for the purposes of an appeal pursuant to this Section when the person has a material or definitive interest in the decision, interpretation, or order of the official. An application for appeal shall be based on a claim that the true intent of a Code adopted by the City or the rules legally adopted thereunder, have been incorrectly interpreted, or the provision of these Codes are adequately satisfied by other means.

**202.0: Fire Watch:** Fire watch shall be required when determined by the Fire Official or his/her designee that a condition exists that requires trained personnel to monitor the structure.

**307.5 Fire Pit Regulations:** The use of fire pits will be allowed provided the following regulations are complied with:

1. For clarity, a fire pit includes a permanent below ground fire pit, a permanent grade level outdoor fireplace or a portable outdoor fireplace, all intended to contain and control outdoor wood fires.
2. Portable fire pits, constructed of steel, brick, or masonry, shall be used in accordance with the manufacturers specifications and safety guidelines and must be placed upon a non-combustible surface.
3. Only natural seasoned firewood or commercial logs may be burned.
4. The fires in fire pits shall be kept manageable.
5. The use of the fire pit must be attended and supervised by a competent adult property owner until the fire has been completely extinguished. A legal resident/tenant of a property may use a fire pit in accordance to this ordinance as long as the property owner or assigned management company grants written permission to the legal resident/tenant. The use of the fire pit must be attended and supervised by the legal resident/tenant until the fire has been completely extinguished.
6. A portable ten (10) pound ABC type fire extinguisher or other approved extinguishing equipment, such as a garden hose, bucket of sand, or dirt, must be readily available.
7. The use of a fire pit which creates a hazardous or objectionable condition shall be prohibited. The Code Official is authorized to order the extinguishment of a fire in a fire pit creating a hazardous or objectionable condition.
8. The use of the fire pit shall not be located within ten feet (10') of a structure or any combustible material. In no case shall the appliance be located directly under overhead combustible construction.
9. The use of the fire pit shall not cause any building fire alarm system to activate.

10. Guidelines when using fire pit shall include common sense, respect for neighbors and neighborhoods.

**308.3.1.1: Open-Flame Cooking Grills:** Barbecue grills shall not be used on any stairs or porches that serve as a means of egress. The use of barbecues will be allowed on balconies or at ground level provided the following regulations are complied with:

- The use of a cooking grill which creates or adds to a hazardous or objectionable situation shall be prohibited.
- Read the owners manual for safety guidelines.
- The use of the barbecue shall not cause the building's fire alarm system to activate.
- A portable fire extinguisher shall be located in close proximity to the barbecue, but not affixed to the grill. The fire extinguisher shall be at least a 10 pound ABC type extinguisher.
- Extreme caution shall be exercised when lighting the barbecue to prevent flames from elevating to an excessive height.
- Hot ashes or cinders shall be deposited into noncombustible receptacles free of all combustible material and away from combustible construction.

**~~408.8.3.1~~ 408.9.3.1: Emergency Instructions:** Emergency instructions shall be provided to each living unit on an annual basis indicating the life-safety systems installed in the building, location of alarm devices, type of alarm activations, egress paths, and actions to be taken in the event of a fire or in response to an alarm system activation. Living units include apartments, condominiums, dormitories, hotels, and any other type of residential or commercial living unit.

**505.1.1: Address on the Rear and Side Doors:** Signage with the address, including the name of the street and business name or building name, shall be installed at all other entrance and exit doors. The sign shall be installed at a height of approximately five feet (5') above the standing surface. The sign shall be installed immediately to the side of the door so it is visible with the door in the open or closed position. All other installation locations shall be approved by the Fire Official.

**505.3: Truss Construction Signage:** Identification signage as designated by the Fire Official shall be installed on all structures in which the roof is of a bowstring truss construction design. The signage shall be approved by the Fire Official and installed so that it is visible from the street for the Fire & Life-Safety Services Department use.

**506.1: Key Boxes:** When a property is protected by an automatic fire detection system and/or automatic suppression system or where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the Fire Official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the Fire Official.

**509.1.16: Fire Command Center:** All fire command centers shall be equipped with a five (5)-button combination keypad for entry into the room or other entry device approved by the Fire Official.

**510.2: Room Identification:** Signage shall be placed at all doors, identifying the room's intended use. The signage shall be installed at a height of approximately five feet (5') above the standing surface. The signage shall be installed immediately to the side of the door so it is visible with the door in the open or closed position.

**510.3: Directional Signage:** Directional signage in corridors shall be provided leading to specific rooms and/or areas.

**604.2.18.1: Elevator Standby Power:** Standby power shall be manually transferable to all elevators in each bank. This transfer switch shall be located in the fire command room or location designated by the Fire Official.

**901.7: Systems Out of Service:** Any required fire protection/detection system placed out of service for more than six (6) hours in a day and/or for a cumulative total of twenty (20) hours a week shall require the approval of the Fire Official or his/her designee. Any fire protection/detection system placed out of service for periods equal to or greater than those stated without the approval of the Fire Official, will be subject to the following fines:

- |                                  |           |
|----------------------------------|-----------|
| ■ First warning                  | No charge |
| ■ Second warning                 | \$200.00  |
| ■ Third warning                  | \$300.00  |
| ■ Fourth and subsequent warnings | \$500.00  |

**903.2: Where Required:** Approved automatic sprinkler systems shall be installed in all new buildings, structures, and occupancies that exceed 5,000 square feet in area.

**903.3.1: Standards:** Sprinkler systems shall be designed and installed in accordance with Section 903.3.1.1, Section 903.3.1.2, or Section 903.3.1.3. In the design of all systems, provide a minimum of 5 psi safety factor in the fire protection system hydraulic calculation. The system demand shall be 5 psi below the seasonal low-water test supply. Sprinklers shall be required in all clothes closets, linen closets, pantries, and bathrooms, regardless of size, except in one- and two-family dwellings.

**903.3.5.3: Water Supply to Required Fire Pumps for High-Rise Buildings:** Required fire pumps for high-rise buildings shall be supplied by connections to at least two (2) water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

**Exceptions:** Two (2) connections to the same main shall be permitted provided the main is valved in such that an interruption can be isolated so that the water supply will continue without interruption through at least one (1) of the connections.

**903.3.7.2: Access to Fire & Life-Safety Services Department Connections:** Any Fire & Life-Safety Services Department connection located behind or within landscaping or vegetation shall have a concrete path from the sidewalk or closest public way to the connection. A concrete pad shall also be provided at the Fire & Life-Safety Services Department connection.

**903.3.7.3: Number of Fire & Life-Safety Services Department Connections:** The Fire Official shall determine the number of Fire & Life-Safety Services Department connections appropriate for the building.

**903.3.7.4: Type of Fire & Life-Safety Services Department Connections:** The type of Fire & Life-Safety Services Department connection shall be approved by the Fire Official. No single two and one-half inch (2 1/2") Fire & Life-Safety Services Department connection is permitted. Fire & Life-Safety Services Department connections shall be installed between twenty-four inches (24") and forty-two inches (42") above the standing surface.

**903.3.7.5: Fire & Life-Safety Services Department Connection Locator:** Provide a white strobe light above all Fire & Life-Safety Services Department connections to flash upon activation of the fire alarm system. All strobes shall be installed at a height that will make it visible from the street.

**Exception:** Existing systems, unless the system is altered, modified, or upgraded.

**903.4.3: Sprinkler Control Valves:** Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor in all buildings. Control valves shall also be provided for each individual unit (commercial, residential, or business) where the units share a common water supply and have individual entrances.

**904.2.1.1: Hood System Suppression:** ~~Delete All commercial hood and duct suppression systems shall comply with the UL 300 standard.~~

**905.3.1.1: Building Length:** Class I standpipe systems shall be installed throughout buildings where the floor level of the highest story is less than thirty feet (30') (9144 mm) above the lowest level of the Fire & Life-Safety Services Department vehicle access, but the length of hose laid by the Fire & Life-Safety Services Department is greater than one hundred fifty feet (150') from the point of the Fire & Life-Safety Services Department vehicle's access to the furthest point in the building.

**905.4.3: Standpipe Hose Connections:** All standpipe hose connections shall include a two and one-half inch to one and one-half inch (2 1/2" to 1 1/2") reducer with a cap attached to a chain. The hose connections shall be installed on a forty-five degree (45°) angle towards the floor level unless otherwise approved by the Fire Official.



**905.4.4: Standpipe Pressure Gauge:** All standpipe risers shall include a pressure gauge at the top of each riser.

**906.1.1: Exceptions:** Delete.

**906.6.1: Fire Extinguisher Signage:** Projection style signage shall be installed above each extinguisher to identify the location. The sign shall be installed at a height of approximately six to seven feet (6' to 7') above the standing surface where the extinguisher is mounted. Style of that sign must be approved by the Fire Official.

**907.2: Smoke Detectors, Where Required:** Smoke detectors, installed as part of an approved automatic fire alarm system, shall be installed at the top of all interior stairways unless otherwise directed by the Fire Official.

**907.2.10: Single and Multiple Station Smoke Alarms:** The detectors required in this Section shall be installed on the ceiling and at least six inches (6") from any wall, or a wall located between four (4") and six (6") inches from the ceiling.

**907.2.12.2: Emergency Voice/Alarm Communication System:** The operation of any automatic fire detector, sprinkler water-flow device or manual fire alarm box shall automatically sound an alert tone followed by voice instructions giving approved information and directions on a general or selective basis to the following terminal areas on a minimum of the alarming floor, two floors above and the floor below in accordance with the building's fire safety and evacuation plans required by Section 404.

**907.3: Fire Alarm System:** ~~Apartment buildings~~ Group R-2 Occupancies with more than three (3) stories or with more than eleven (11) units shall have a fire alarm system installed in accordance with NFPA 72. These systems shall include both manual and automatic initiating devices.

**907.3.2: Single And Multiple Station Smoke Alarms:** The detectors required in this Section shall be installed on the ceiling and at least six inches (6") from any wall, or a wall located between four (4") and six (6") inches from the ceiling.

**909.2.1: Duct Detectors Reset:** Resets for duct detectors shall be located at the main fire alarm panel and labeled as to their location. A floor plan identifying the duct detectors shall be laminated near the fire alarm panel.

**1009.12: Roof Access:** ~~Delete. Roof access shall be provided from all required stairways. Access shall be by means of the continuation of the stairway or by means approved by the Fire Official.~~

**1011.2: Exit Signs:** Exit signs shall be internally illuminated.

**1019.1.7: Stairwell Signage:** All stairwells greater than two (2) stories must install information signage on each floor landing. The sign shall be installed approximately five feet (5') above the standing surface and on the wall opposite the door swing so that it is visible with the door in the opened or closed position. It shall include the following

elements:

- Unique stairwell identifier
- Floor number and number of floors in building
- Floor of actual exit from building
- If roof access is possible from stairwell

Actual sign layout is available from the Evanston Fire Prevention Bureau. All stairwell signage shall be approved by the Evanston Fire Prevention Bureau prior to installation.

**1019.1.6.1: Exit Discharge Identification:** Add, "The top of the approved barrier shall not be less than thirty-six inches (36") from the finished floor of the landing. The barrier shall be self-closing. The only approved method of holding the barrier in the open position shall be a magnetic 'hold open' connected to the building fire alarm system. The barrier shall be a contrasting color from the colors in the immediate area."

### **Fireworks:**

**3301.1.3:** Replace this Section with the following:

**3301.1.3: Fireworks and Explosives:** The possession, manufacture, storage, sale, handling and use of fireworks and explosives are prohibited except as approved by Fire Official.

**3301.1.3:** Delete exceptions.

**3301.2.1 — 3301.2.4:** Delete.

**3302.0:** Replace the definition of fireworks with the following:

**3302.0: Fireworks:** Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include blank cartridges, toy pistols, toy cannons, toy canes and toy guns in which explosives are utilized; balloons requiring fire underneath to propel the balloon; firecrackers, torpedoes, skyrockets, Roman candles, sparklers and other devices of similar construction; any device containing any explosive or flammable compound; and any tablets and other devices containing any explosive substance.

The term "fireworks" shall not include automobile flares, paper caps containing not more than an average of 0.25 grain (16 mg) of explosive content per cap, and toy pistols, toy canes, toy guns, and other devices utilizing such caps. The sale and utilization of types of explosive devices listed herein which are not considered fireworks shall be permitted at all times.

**3308.2:** Replace this Section with the following:

**3308.2: Permit Application:** Prior to issuing permits for fireworks display, plans for the display, inspections of the display site, and demonstrations of the display operations shall be approved. All requests for permits must be made at least fifteen (15) days in advance of the event unless otherwise approved by the Fire Official.

**3308.2.2: Proximate Audience Displays:** ~~Where the separation distances required by section 3308.4 and NFPA 1123 are unavailable or cannot be secured, only proximate audience displays conducted in accordance with NFPA 1126 may be allowed. Applications for proximate audience displays shall include plans indicating the required clearances for spectators and combustibles, crowd control measures, smoke control measures, and requirements for standby personnel and equipment when provision of such personnel or equipment is required by the Fire Official.~~

**3308.11:** Delete.

**(B) 2010 NFPA Life Safety Code 101**

**28.2.10:** Means of egress shall have signs in accordance with Section 7.10 and New Hotels and Dormitories shall have floor proximity exit signs installed in accordance with Section 7.10.1.6.

**4-5 4-3: AUTOMATIC SPRINKLER SYSTEMS:**

Automatic sprinkler systems shall be installed as required by this Section, which is hereby in addition to section 903 of the International Fire Code.

**(A) Definitions:**

**AUTOMATIC SPRINKLER SYSTEMS:** An engineered system to automatically detect and contain or suppress a fire through fixed piping and nozzles. The system shall be designed in accordance with the fire protection system requirements of the 2003 International Building Code, 2003 International Fire Code and referenced NFPA standards as adopted by the City, and good fire protection practices. The City must approve in writing all systems prior to their installation.

**DORMITORIES:** A space in a structure associated with or serving an educational institution, the primary use of which structure is group sleeping accommodations provided in one room, or in a series of closely associated rooms, for persons not members of the same family group including structures used for dormitories, sororities, fraternities and similar uses, but excluding rooming and lodging houses.

**EXISTING:** ~~That which is already in existence on December 22, 2004, the effective date of ordinance 108-0-04 which adopted the automatic sprinkler system installation requirements.~~

**FULLY SPRINKLERED:** A sprinkler system that provides protection to the entire structure.

**HOSPITAL:** A structure under the I - 2 use group as defined by the 2003 International Fire Code.

IBC: International Building Code 2003, as adopted by the City.

ICC: International Code Council (which publishes the adopted International Building and Fire Codes).

IFC: International Fire Code 2003, as adopted by the City.

NFPA: National Fire Protection Association edition as adopted by the City.

NFPA 13: National Fire Protection Association standard 13. Provides the minimum requirements for the design and installation of automatic fire sprinkler systems.

NONOWNER OCCUPIED ROOMING/LODGING HOUSE: A rooming/lodging house which the owner of the property does not occupy as his/her primary residence.

NURSING HOME FACILITY: Any facility that is licensed or subject to licensure under title 8, Chapter 15 of this Code regulating long term care facilities or under similar provisions in Illinois law.

RETROFIT: To install in, within, or on an existing structure.

ROOMING/LODGING HOUSE: Any facility that is licensed or subject to licensure under title 5, Chapter 2 of this Code regulating lodging establishments.

STRUCTURE: That which is built or constructed.

**(B)** Systems Provided In Existing Structures: Automatic sprinkler systems shall be provided in the following existing structures ~~on the schedule established in Subsection (D) of this Section:~~

- Dormitories
- Hospitals
- Nonowner occupied rooming/lodging houses
- Nursing homes

**(C)** System Requirements: Any structure required to be retrofitted with a sprinkler system under this Chapter shall have such a system designed and installed in accordance with the fire protection system requirements of the 2003 International Building Code, 2003 International Fire Code and referenced NFPA standards as adopted by this Code.

**(D)** ~~Installation Schedule: Existing structures required by Subsection (B) of this Section to be retrofitted with an automatic sprinkler system shall comply with this schedule:~~

Date	Requirements	Progress Date	Report Date
------	--------------	------------------	----------------

First year	<del>January 1, 2005 to December 31, 2005</del>	<del>Complete system design and provide an adequate water supply which may include installation of a fire pump assembly to provide said supply</del>	<del>January 31, 2006</del>
Second year	<del>January 1, 2006 to December 31, 2006</del>	<del>At least 33 percent of the structure to be retrofitted</del>	<del>January 31, 2007</del>
Third year	<del>January 1, 2007 to December 31, 2007</del>	<del>At least 66 percent of the structure to be retrofitted</del>	<del>January 31, 2008</del>
Fourth year	<del>January 1, 2008 to December 31, 2008</del>	<del>Entire structure to be retrofitted by December 31, 2008</del>	<del>January 31, 2009</del>

~~For each year of this four (4) year period, written progress reports shall be submitted to the Evanston Fire & Life Safety Services Department's fire prevention bureau by January 31 of the following year, in accordance with the above schedule. Systems can be installed earlier than the stated schedule. Requests for extensions must be in writing and received by the Fire Chief prior to December 31 preceding the year for which extension is sought. Any modifications to this schedule will require the advance written approval of the Fire Chief or his/her designee.~~

~~For perfected sprinkler permit applications filed during the period of January 1, 2005 through January 31, 2008, the City will waive sprinkler permit fees for structures required by Subsection (B) of this Section to be sprinklered, except for nonCity staff review fees. The fee waiver shall not apply to any sprinkler system installed prior to December 22, 2004, the effective date of ordinance 108-0-04.~~

~~(E) Penalties: Failure to comply with the installation provisions of Subsection (D) of this Section and any extensions thereof approved in writing by the Fire Chief or his/her designee shall subject the violator to the following penalties:~~

<del>Failure to meet the requirements for year 1:</del>	<del>\$1,000.00</del>
<del>Failure to submit year 1 progress report:</del>	<del>250.00</del>
<del>Failure to meet the requirements for year 2:</del>	<del>2,000.00</del>
<del>Failure to submit year 2 progress report:</del>	<del>250.00</del>
<del>Failure to meet the requirements for year 3:</del>	<del>3,000.00</del>
<del>Failure to submit year 3 progress report:</del>	<del>250.00</del>
<del>Failure to meet the requirements for year 4:</del>	<del>4,000.00</del>
<del>Failure to submit year 4 progress report:</del>	<del>250.00</del>

~~a penalty of \$500.00 per month for each month after January 31, 2009. The City may, in addition to monetary penalties, avail itself of any legal or equitable remedy provided for by law.~~

~~Occupancies for which a City license is required are not eligible to obtain or retain said license if they fail to meet the schedule imposed by Subsection (D) of comply with this Section, subject to and any extension thereof approved in writing by the Fire Chief or his/her designee.~~

**(F) Appeal Process:**

1. ~~Any owner or operator ("appellant") of a facility or structure subject to the sprinkler retrofit requirements of this Section aggrieved by any decision, interpretation, or order of the Fire Official regarding this Section, may appeal such decision, interpretation, or order to the Fire Chief by filing a written appeal pursuant to this Subsection (F) with the Fire Chief within thirty (30) days of the decision, interpretation, or order appealed from. Computation of the thirty (30) day period shall begin on the fourth business day after deposit of the decision, interpretation, or order in question in the U.S. mail, first class postage prepaid, return receipt requested, or, in the case of personal delivery, upon the first day after such delivery. The appeal shall state with specificity the objection(s) to the action of the Fire Official appealed from, a factual basis for the Fire Chief to find in the appellant's favor on the provisions of Subsection (F)2a or (F)2b of this Section appealed from, the relief sought, and shall be accompanied by legible copies of all documentation the appellant relies on to support his/her appeal. The burden is on the appellant to provide sufficient information to enable the Fire Chief to determine the merits of the relief sought. The Fire Chief shall decide the appeal on the written evidence submitted within a reasonable time, having due regard for the public interest and the complexity of the issues. The decision shall be in writing, shall contain specific findings to support the decision made, and shall advise the appellant of his/her right to appeal the decision to the circuit court.~~
2. ~~The Fire Chief shall grant the appeal or modify the decision, interpretation, or order appealed from only upon finding that:~~
  - a. ~~The facility or structure is not subject to this Chapter; or~~
  - b. ~~The systems, methods, or devices proposed by the appellant are of superior quality, strength, fire resistance, effectiveness, durability and safety over those prescribed by the applicable Codes adopted by the City.~~
3. ~~If the appeal is from denial of an extension of compliance time, the Fire Chief shall grant the appeal only upon a finding that the appellant has acted with due diligence, and that if further time is given, compliance will be achieved during the period of extension.~~

**4-5 ~~4-4~~: PENALTY FOR VIOLATIONS:**

Except for the penalties specifically relating to the automatic sprinkler installation schedule as set forth in Section 4-5 ~~4-3-(D)~~ of this Chapter, any person found to have violated any provision of the 2003 International Fire Code or the 2003 National Fire Protection Association 101, Life Safety Code as adopted by the City, or who shall fail to

comply with any of the requirements thereof, or who shall erect, construct, alter or repair a building or structure in violation of any approved plan or direction of the Fire Official or of any permit or certificate issued by the Fire Official or his/her designee, shall be guilty of an offense, punishable as follows:

- (A) 1. The fine for a first violation is seventy five dollars (\$75.00).
  - 2. The fine for a second violation is two hundred dollars (\$200.00).
  - 3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in Subsection (A) of this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

#### **4-5-5: APPEALS:**

**108.0:** Delete.

~~**108.1: Appeals:** Any person, firm or corporation affected by any decision, interpretation or order of the Fire Official made under any provision of these Codes or the standards adopted herein, may appeal such decision, interpretation, or order to the Fire Chief by filing a written notice of such intent to the office of the Fire Chief within fifteen (15) days after the day the decision, interpretation, or order was served. For purposes of this Section, a decision, interpretation, or order is served upon delivery, in the case of personal delivery, and in the case of mailing, five (5) days after deposit in the U.S. mail with first-class postage prepaid. The Fire Chief, or his/her designee, shall convene a hearing upon such appeal within ten (10) days of receipt thereof and may, when no immediate hazard exists, continue such hearing from time to time for cause. The Fire Chief shall establish reasonable rules for such hearings and shall make a record of proceedings. The rules shall be on file with the Fire Chief's office. The decision of the Fire Chief shall be deemed final as to the order or interpretation appealed from. The decision shall be in writing and shall be issued within two (2) business days of its rendering. Where there are practical difficulties in the implementation of the strict provisions of these Codes, the Fire Chief may modify such provision provided that such modification shall effect substantial conformance with the provisions hereof, provide for the public safety.~~

~~A person is "affected" for the purposes of an appeal pursuant to this Section when the person has a material or definitive interest in the decision, interpretation, or order of the official. An application for appeal shall be based on a claim that the true intent of a Code adopted by the City or the rules legally adopted thereunder, have been incorrectly interpreted, or the provision of these Codes are adequately satisfied by other means.~~

~~Appeals from automatic sprinkler installation requirements shall be governed by Subsection 4-5-3-(F) of this Chapter.~~

#### **4-4-5: SIGNAL BOOSTING:**

**(A)** Emergency Responder Radior Coverage In Buildings: All buildings shall have approved radio coverage for emergency responders within the building, based upon the existing coverage levels of the public safety communication systems of the City of Evanston at the exterior of the building. This Section shall not require improvement of the existing public safety communication system.

Existing buildings that do not have approved radio coverage for emergency responders within the building shall be equipped with such coverage according to one of the following:

1. Wherever existing wired communication system cannot be repaired or is being replaced.
2. Within a time frame established by the Fire Official.

**(B)** Radio Signal Strength: A building shall be considered to have acceptable emergency responder radio coverage when signal strength measurements in ninety-five percent (95%) of all areas on each floor of the building meet the following requirements:

1. A minimum signal strength of -95 dBm.
2. A minimum signal strength of -100 dBm received at the closest City of Evanston Radio Communications site.
3. The frequency range which must be supported shall be 151-155 MHz and 450-470 MHz.

When measuring the performance of a bi-directional amplifier, signal strength measurements shall be based on one (1) input signal adequate to obtain a maximum continuous operating output level.

**(C)** Amplification Systems Allowed: Buildings and structures that do not support the required level of radio coverage shall be equipped with either a radiating cable system or an internal multiple antenna system, with or without FCC type accepted bi-directional required MHz amplifiers, as needed. If any part of the installed system or systems contains an electrically-powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least twelve (12) hours without external power input. The battery system shall automatically charge in the presence of an external power input. If used, bi-directional amplifiers shall include filters to reduce adjacent frequency interference to at least 35 dB below the COE P/S band. The filters shall be tuned to 154 MHz and to 470 MHz so that they will be 35 dB below



the COE P/S frequencies of 154 MHz and 470 MHz respectively. Other settings may be used provided they do not attenuate the COE- P/S frequencies and are not more than one (1) MHz from the COE-P/S frequencies.

**(D) Testing Procedures:**

- 1. Acceptance Test Procedure:** When an in-building radio system is required, and upon completion of installation, it shall be the building owner's responsibility to have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of ninety-five percent (95%). Each floor of the building shall be divided into a grid of approximately twenty (20) equal areas. No more than one (1) such area shall be allowed to fail the test. In the event that two (2) or more of the areas fail the test, in order to be more statistically accurate, the floor may be divided into forty (40) equal areas. In such event, no more than two (2) nonadjacent areas will be allowed to fail the test. If, after the forty (40)-area test, the system continues to fail, the building owner shall have the system altered to meet the ninety-five percent (95%) coverage requirement. The test shall be conducted using a Motorola HT1250, or equivalent, portable radio, talking through the City of Evanston Radio Communications System (COE-911) as specified by the authority having jurisdiction. A spot located approximately in the center of a grid area shall be selected for the test, then the radio shall be keyed to verify two-way communications to and from the outside of the building through the City of Evanston 911 center. Once the spot has been selected, prospecting for a better spot within the grid area shall not be permitted.

The building owner shall keep the gain values of all amplifiers and the test measurement results on file so that the measurements may be verified each year during annual tests. In the event that the measurement results are lost, the building owner shall repeat the acceptance test to reestablish the gain values.

- 2. Annual Tests:** When an in-building radio system is required, the building owner shall test, at once every twelve (12) months, all active components of the system, including, but not limited to, amplifiers, power supplies and backup batteries. Amplifiers shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance. Backup batteries and power supplies shall be tested under load for a period of one (1) hour to verify that, they will properly operate during an actual power outage. If, within the one (1) hour test period, the battery exhibits symptoms of failure in the opinion of the testing technician, the test shall be extended for additional one (1) hour periods until the testing technician confirms the integrity of the battery. All other active components shall be checked to determine that they are operating within the manufacturer's specifications for the intended purpose.

3. Five Year Tests: In addition to the annual test, the building owner shall perform a radio coverage test at least once every five (5) years to ensure that the radio system continues to meet the requirements of the original acceptance test. The procedure set forth above shall apply to such tests.
  4. Qualifications of Testing Personnel: All tests shall be conducted, documented and signed by a person in possession of a current FCC license, or a current technician certification issued by the Associated Public-Safety Communications Officials International (APCO) or the Personal Communications Industry Association (PCIA). All test records shall be retained on the inspected premises by the building owner and a copy submitted to the Fire Official.
- (D) Field Testing: Police and fire personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to be certain that the required level of radio coverage is present.
- (E) Maintenance: The public radio coverage system shall be maintained operational at all times.
- (F) Permits: A construction permit is required for installation of or modification to emergency responder radio coverage systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

#### **4-5 4-6: SEVERABILITY:**

It is the intention of the City Council that the provisions of this Chapter and the Code adopted hereby are severable, and the invalidity of any Section or any portion of any such Section of any of them shall not affect any other Section.

## **CHAPTER 6 5 - PLUMBING CODE**

### **4-6 5-1: ADOPTION:**

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Plumbing Code, which Code shall be used with the below stated new sections, revisions, and deletions to govern the issuance of permits and standards of performance and materials for the construction, alteration, and installation of plumbing work in the City of Evanston. All references to the 2003 International Plumbing Code shall be read as including amendments made by this Chapter.
- (B) Any reference to "administrative authority", "Code Official" or "Building Official" shall mean the ~~assistant Director of Community & Economic Development, building division,~~ Manager of Building and Inspection Services of the City of

Evanston. Any reference to "municipality" shall mean the City of Evanston.

**4-6 5-2: AMENDMENTS:**

**Means Of Appeal:** This Section shall be deleted in its entirety from the 2003 International Plumbing Code, adopted hereby.

**4-6 5-3: ADDITIONAL REQUIREMENTS:**

The following are requirements additional to the 2003 International Plumbing Code:

- (A) Existing Plumbing: Where a health or safety hazard exists on a premises by reason of an existing plumbing installation, or lack thereof, the owner's agent shall install additional plumbing or make such corrections as are necessary to abate such nuisance and bring the plumbing installation within the provisions of this Code. Plumbing fixtures not maintained shall be disconnected, removed, and sealed.
- (B) Safety: Any part of a structure or premises which is changed, altered, or for which replacement is required as a result of the installation, alteration, renovation, or replacement of a plumbing system, or any part thereof, shall be left in a safe, nonhazardous condition. All penetrations through fire rated construction shall be fire stopped with a through penetration protection system approved by the Building Official.
- (C) Installation: All plumbing installed within the City of Evanston shall be installed in accordance with the 2003 International plumbing Code. If required by the Code Official, 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 property owner or person in charge (collectively, "property owner") of the building structure or premises to install such an approved device immediately. The property owner shall, at his/her own expense, immediately install such an approved device at a location and in a manner in accordance with the 2003 International Plumbing Code; state of Illinois Plumbing Code; Illinois Environmental Agency Rules and Regulations, Title 35: Environmental Protection, Subtitle F: public water supply, Chapter I: pollution control board, part 607: operation and record keeping, Section 607.104: cross connections; and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and annually thereafter, at a minimum. The property owner shall maintain records to document that testing, servicing, and repairs are conducted as required.
- (D) Right Of Entry: A City inspector, who shall be a licensed plumber, 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 information submitted by the property owner or person in charge of the building, structure, or premises regarding the required cross connection control inspection. On demand, the property owner or person in charge of the building, structure, or

premises so served shall furnish to the Code Official, his/her authorized agent, or approved cross connection control device inspector any information which these individuals may request regarding the piping system or systems or water use on such property. The Code Official or his/her authorized agents shall have a 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 information submitted by the property owner or person in charge of the building, structure, or premises regarding the required cross connection inspection.

- (E)** Contamination: The occupant or property owner of the building, structure, or premises responsible for back siphoned material or contamination of the potable water supply system which 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. Said costs to include, but not be limited to, overhead and administrative costs of the City and any other costs reasonably incurred by the City in the cleanup.
- (F)** Discharge to Sanitary Drainage System: Every plumbing fixture, drain, appliance, or appurtenance thereof which is to receive water or waste, or discharge any liquid wastes or sewage, shall discharge to the sanitary drainage system of the structure in accordance with the requirements of this Chapter.
- (G)** Automatic Clothes Washing Machine Floor Drains: A pan or receptor with a drain, or an impervious floor with a floor drain, shall be required for all automatic clothes washing machines in multi-family and commercial occupancies. Also, a pan or receptor with a drain, or an impervious floor with a floor drain, shall be required for all water heaters.
- (H)** Underground Piping: Piping installed in underground plumbing systems shall be protected from structural damage by an approved method of installation which accounts for the conditions of the installation and application and the type of piping material. In new construction, all plumbing shall be overhead.
- (I)** Sillcocks: All buildings have a minimum of two (2) frostproof antisiphon type sillcocks.
- (J)** Public Toilet Room Drains: All public toilet rooms, including employee facilities, shall be graded into floor drains.
- (K)** Unmaintained Plumbing Fixtures: All plumbing fixtures not maintained shall be disconnected, removed, and sealed.
- (L)** Corrosion: Pipes subject to corrosion by passing through or under corrosive fill including, but not limited to, cinders, concrete or other corrosive material, shall be protected against external corrosion by a protective coating, wrapping, or other means that will resist such corrosion. All copper pipe shall be adequately protected against galvanic action by proper insulation against contact with other metals.

- (M)** Freezing: Water service piping shall be installed below recorded frost penetration, but not less than five feet zero inches (5'0") below grade. Plumbing piping in any exterior building walls or in any areas subjected to freezing temperatures shall be protected against freezing by insulation or heat or both.
- (N)** Sewer Depth: Building sewers shall be a minimum of four feet zero inches (4'0") below grade.
- (O)** Water Service Pipe: All water service pipe or underground distribution pipe to be ductile iron, cast iron, or type K copper tube.
- (P)** Water Distribution Pipe: All water distribution pipe is to be metallic. Nonmetallic pipe is prohibited. Copper pipe must be type L or type M.
- (Q)** Building Sewer Pipe: Building sewer pipe, in a separate trench from the water service, shall be limited to cast iron, concrete, vitrified clay tile, plastic pipe (type SDR 26 only), or ductile iron pipe. The building (house) drain is to be cast iron with rubber gasket joints or lead and oakum joints, or in cases of corrosive waste or soil conditions, use polypropylene pipe (PVC) or polyvinyl chloride pipe and fittings, for a minimum distance of five feet zero inches (5'0") from the foundation (building) wall.
- (R)** Building Sewer Pipe In Trench With Water Service: Where the building sewer is installed in the same trench as the water service, the building sewer pipe shall conform to one of the standards for cast iron pipe, copper, or copper alloy tubing, or PVC plastic pipe listed in section 890, appendix A, table A, of the state of Illinois Plumbing Code. No cell core plastic pipe shall be permitted.
- (S)** Subsoil Drain Pipe: Subsoil drains shall be open jointed, horizontally split or perforated pipe. Footing drains to be connected to the sump pump as discharge shall be made to storm or combination sewers, and not to sanitary sewers. All windows wells require drains. The drains shall be connected to drain tile, and drain into sump.
- (T)** Roof Drains: Roof drains shall conform to ASME A112.21.2. Buildings in R1, R2 and R3 zoning districts, and all one- and two-family dwelling units shall drain roof stormwater by gutters and downspouts to the front and rear of the property in a manner which will not disturb adjoining property. No connections to the combined sewer shall be made in the above zoning districts. All roofs of buildings not mentioned above may drain directly in the storm sewer system.
- (U)** Car Wash Facilities: New car wash facilities or replacement of existing facilities shall be equipped with water recycling systems, unless designed to use thirty (30) gallons or less of water per wash.
- (V)** Reduced Pressure Principle Backflow Preventers: Reduced pressure principle backflow preventers shall conform to ASSE 1013, AWWA C511 or CSA CAN/CSA-B64.4. These devices shall be allowed where subject to continuous

pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged. All domestic and fire suppression water systems located within one thousand seven hundred feet (1,700') of a nonpotable water source and all fire safety systems that contain such additives as antifreeze shall be equipped with a reduced pressure principle backflow preventer (RPZ).

**4-6 ~~5~~-4: PENALTY:**

Persons who ~~shall~~ violates any provision of this Chapter or fails to comply with any of the requirements thereof, or erects, installs, alters, or repairs work in violation of the approved construction documents or directives of the Code Official, or of a permit or certificate issued under the provisions of this Chapter, shall be fined as set forth in this Section. A separate offense shall be deemed to have been committed for each day that an offense continues.

- (A)
  - 1. The fine for a first violation is seventy five dollars (\$75.00).
  - 2. The fine for a second violation is two hundred dollars (\$200.00).
  - 3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation for which a fine may be imposed in accordance with the fine schedule set forth in Subsection (A) of this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

**4-6 ~~5~~-5: SEVERABILITY:**

It is the intention of the City Council that the provisions of this Chapter and the Code adopted hereby are severable and the invalidity of any Section or part of any Section of this Chapter and the Code hereby adopted shall not affect any other Section or portion of said Chapter or Code.

**CHAPTER ~~7~~ 6 - ELECTRICAL CODE**

**4-7 ~~6~~-1: ADOPTION:**

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference, as criteria for the issuance of construction, reconstruction, alteration, or installation permits, the provisions of the 2005 National Electrical Code.
- (B) Any reference in said 2005 National Electrical Code as to "administrative authority" or "Building Official" or "Code Official" shall mean the ~~assistant Director~~

of Community & Economic Development, building division, Manager of Building and Inspection Services of the City of Evanston or his/her designee.

#### **4-7 ~~6~~-2: APPLICATION OF REGULATIONS:**

The regulations of said 2005 National Electrical Code shall apply to all matters concerning the construction, reconstruction, alteration, or installation of all electrical wiring apparatus, fixtures, machinery, or devices, and their service equipment, and shall apply to all existing or proposed buildings and structures in the City.

#### **4-7 ~~6~~-3: AMENDMENTS:**

**(A)** The following amendments to the 2005 National Electrical Code adopted hereby are made:

**Article 210-52 (E) Outdoor Outlets:** Add the following:

For each dwelling unit of a multi-family dwelling where the dwelling is provided with a balcony, porch, deck or similar area, that area shall be served with at least one GFCI protected receptacle outlet not more than forty-eight inches (48") above the grade or decking.

**Article 230 Services:** Add the following:

The maximum number of branch circuits allowed for a 100-amp, 120/240 volt, single phase service is twenty-four (24). The maximum number of branch circuits allowed for a 200-amp, 120/240 volt, single phase service is forty (40).

**Article 230 Services:** Add the following:

No additional fuse or breaker boxes shall be installed without the prior written approval of the Building Official.

**Article 250-91(a) Grounding Electrode Conductor:** Delete and substitute therefor:

(a) **Grounding Electrode Conductor:** Copper wire shall be used for all ground conductors and water meter jumpers.

**Article 334 Nonmetallic Sheathed Cable: Types NM, NMC, and NMS:** Delete.

**Article 338 Service Entrance Cable: Types SE and USE:** Delete.

**Article 362 Electrical Nonmetallic Tubing: Types ENT:** Delete.

**Article 422.25 Unit Switch(es) As Disconnecting Means:** Delete and substitute therefor:

**Unit Switch(es) As Disconnecting Means:**

(A) Unit switches which are a part of an appliance shall not be considered as taking the place of the disconnecting means required by part D (Control And Protection Of Appliances) of this article, unless there are other means for disconnection as follows:

(1) **Multi-Family Dwellings:** In multi-family (more than two) dwellings, the disconnecting means shall be within the apartment, or on the same floor as the apartment in which the appliance is installed, and may control lamps and other appliances.

(2) **Two-Family Dwellings:** In two-family dwellings, the disconnecting means may be outside the dwelling unit in which the appliance is installed. This unit permits an individual switch for the dwelling unit.

(3) **In Single-Family Dwellings:** In single-family dwellings, the service disconnecting means shall not be used.

(4) **Other Occupancies:** In other occupancies, the branch-circuit switch or circuit breaker, where readily accessible to the user of the appliance, may be used for this purpose.

**Appeals:** This Section shall be deleted in its entirety from the 2005 National Electrical Code, adopted hereby.

#### **4-7 ~~6~~-4: PERMIT FEES:**

Fees for electrical constructions, reconstructions, alterations or installations as required by the 2005 National Electrical Code adopted hereby, shall be those established from time to time by ordinance of the City Council. The fee for the installation of standby generators shall be the same as the fee for that size of service. All standby generators shall be inspected and operated every six (6) months in the presence of a City electrical inspector. The fee for this inspection shall be the minimum permit fee.

#### **4-7 ~~6~~-5: PERMITS; INVALIDITY:**

Any permit issued by the ~~assistant Director of Community & Economic Development~~ Manager of Building and Inspection Services shall become invalid if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work, or not commenced within six (6) months after the issuance of any permit.

#### **4-7 ~~6~~-6: ADDITIONAL REGULATIONS:**

(A) **Copper Wire:** Copper wire shall be used for all ground conductors and water meter jumpers.

(B) **Treatment of Aluminum Wire:** All aluminum wire installed in any installation shall be wire brushed and treated with a compound according to manufacturers' recommendations.



- (C) Fuse and Breaker Boxes: No additional fuse or breaker boxes shall be installed without written approval of the Director of Community & Economic Development.

**4-7 ~~6~~-7: ELECTRICAL CONTRACTORS:**

- (A) Definition: The term "electrical contractor", as used in this Section, means any person, firm, or corporation engaged in the business of installing or altering by contract electrical equipment for the utilization of electricity for light, heat, or power. But the term "electrical contractor" shall not include the installing or altering of:

1. Radio apparatus or equipment for wireless reception of sounds and signals, or
2. Apparatus, conductors, or other equipment installed for or by public utilities, including common carriers, which are under the jurisdiction of the Illinois commerce commission, for use in their operation as public utilities.

Nor shall the term include the employees employed by an electrical contractor to do or supervise his/her work.

- (B) Registration Required: No person shall engage in the business of electrical contracting within the City without first having approved registration with the assistant Director of Community & Economic Development, building division.

- (C) Registration Fee: The amount of the annual registration fee for persons engaged in the business of electrical contractor shall be as approved by the City Council.

- (D) Exemptions:

1. An electrical contractor who is registered in one City or village within the state of Illinois shall not be required by any other municipality to be registered or to pay a registration fee in such other municipality.
2. Nothing contained in this Section shall prohibit the owner-occupant of a single-family residence from planning, installing, altering, or repairing the electrical system of such residence, provided that said owner-occupant complies with all ordinances, rules and regulations of the City, and provided further, that any such owner-occupant may not employ any person other than a registered electrical contractor to assist him in such work.

**4-7 ~~6~~-8: PENALTY:**

Any person who shall violate any provisions of the 2005 National Electrical Code adopted hereby, or who shall be found to have failed to comply with any of the requirements thereof, or who shall be found to have changed, moved, or altered any wiring apparatus, fixture, machinery or device in violation of any approved plan or

direction of the assistant Director of the department of Community & Economic Development or of any permit or certificate issued under the provisions of said 2005 National Electrical Code, adopted hereby, shall be guilty of an offense, punishable as follows:

- (A) 1. The fine for a first violation is seventy five dollars (\$75.00).
  - 2. The fine for a second violation is two hundred dollars (\$200.00).
  - 3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

#### **4-7 ~~6-9~~: SEVERABILITY:**

It is the intention of the City Council that this Chapter and the Code adopted hereby are severable, and the invalidity of any Section or part of any Section of this Chapter and the Code hereby adopted shall not affect any other Section or portion of said Chapter or Code.

### **CHAPTER 8 - ELECTRICAL COMMISSION**

#### **4-8-1: ESTABLISHMENT:**

~~An Electrical Commission for the City is hereby created under the provisions of Division 37 of the Illinois Municipal Code <sup>14031</sup>, as amended. Such Commission shall consist of six (6) members as follows: the Electrical Inspector of the City shall be a member and ex officio chairman of the Commission; one Commissioner shall be a registered professional engineer; one an electrical contractor; one a journeyman electrician; one a representative of an inspection bureau maintained by the Fire Underwriters, if such a representative resides in the City, and if no such representative resides in the City, then the Chief of the Fire & Life-Safety Services Department, and one representative of an electrical supply company. If there is no person residing in the City who is qualified under any one of these descriptions, the Mayor may appoint some other person to fill that position. All members of the Electrical Commission shall be appointed by the Mayor with the advice and consent of the City Council.~~

~~Each of the members, other than the Electrical Inspector, shall serve for a term of four (4) years, except that two (2) members shall be initially appointed to serve two (2) years, two (2) members shall be initially appointed to serve three (3) years, and one member shall be initially appointed to serve four (4) years. If the Chief of the Fire & Life-Safety Services Department is appointed in lieu of a representative of an inspection~~

bureau, as herein provided, he/she shall remain a member of the Commission as long as he/she remains Chief of the Fire & Life Safety Services Department. The Electrical Inspector shall remain a member and ex officio chairman of the Commission for as long as he/she shall hold the position of Electrical Inspector.

#### **4-8-2: - STANDARDS; PERMITS; FEES:**

The Electrical Commission shall recommend the following:

**(A)**— Safe and practical standards and specifications for the installation, alteration and use of electrical equipment designed to meet the necessities and conditions of the City;

**(B)**— Reasonable rules and regulations governing the issuance of permits by the Department of Inspections and Permits; and

**(C)**— Reasonable fees to be paid for the inspection by the Department of Inspections and Permits of all electrical equipment installed or altered within the City.

The standards, specifications, rules, regulations and fees so recommended shall not become effective until adopted by ordinance of the City Council. All fees so adopted shall be paid into the City Treasury.

#### **4-8-3: - APPLICATION FOR APPEAL:**

The owner of a building or structure or any other person may appeal from a decision of the Building Official to grant a modification to the provisions of the National Electrical Code. Application for appeal may be made when it is claimed that: the true intent of the Code or the rules legally adopted thereunder have been incorrectly interpreted. The applicant shall establish by a clear preponderance of the evidence that his/her proposal is equivalent or superior to the adopted Code requirement. The application for appeal must be in writing and include a statement of the proposal, prepared by the applicant and approved as to content and form by the Building Official together with any and all documentation which would aid in the Commission's deliberations. A filing fee shall be submitted to the Commission. Said fee shall be established by the Building Official and such fee shall be twenty five dollars (\$25.00) for administrative processing plus the estimated cost of the Commission's plan review.

#### **4-8-4: - APPEALS PROCEDURE:**

The Electrical Commission shall hear all appeals filed pursuant to Section 4-8-3. An appeal must be filed with the Commission no later than ten (10) days after the decision of the Building Official is submitted to the applicant. The Commission shall meet upon notice of the chairman within twenty (20) days of the filing of the appeal. The concurring vote of four (4) members shall be necessary to decide in favor of an applicant.

### **CHAPTER 9 7 - MECHANICAL CODE**

#### **4-9 7-1: ADOPTION:**

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Mechanical Code, which Code shall be used together with the below stated additions and amendments to govern the issuance of permits and the standards of performance and materials for the construction, alteration, and installation of mechanical work in the City of Evanston.
- (B) Any reference in the 2003 International Mechanical Code to "administrative authority", or "Building Official" shall mean the assistant Director of Community Development of the City of Evanston. Any reference to "municipality" shall mean the City of Evanston.

#### **4-9 7-2: AMENDMENTS:**

The following sections of the 2003 International Mechanical Code, are amended or added, to read as follows:

**106.3.1: Construction Documents:** Construction documents shall include a ventilation schedule using the "IMC ventilation schedule" form available from the Community & Economic Development department.

**106.5.2: Fee Schedule:** The permit fee for inspection, construction, reconstruction, alteration and installation shall be those established from time to time by the City Council of the City of Evanston.

**108.5: Unlawful Continuance:** Any person who shall continue any mechanical work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine as set forth in Section 4-9 7-4.

**109.0: Means Of Appeal:** ~~Delete. This Section shall be deleted in its entirety from the 2003 International Mechanical Code, adopted hereby.~~

**303.6: Outdoor Locations:** Appliance installed in other than indoor locations shall be listed and labeled for outdoor installation. Noise levels from any air handling or any other such mechanical or electrical equipment, shall not exceed fifty-five (55) decibels measured at the property line.

**603.6.1.1: Duct Length:** Flexible air ducts shall be limited in length to a maximum of 5'-0" (five feet zero inches).

**603.6.2.1: Connector Length:** Flexible air connectors shall be limited in length to a maximum of 5'-0" (five feet zero inches).

#### **4-9 7-3: HEATING, VENTILATING, AIR CONDITIONING (HVAC) CONTRACTORS:**

- (A) License Required: No person shall engage in the business of heating, ventilating and air conditioning contractor within the City without having first secured a

license in the manner provided herein.

- (B)** Application For License: Application for license shall be made to the Community & Economic Development department. All licenses shall be subject to the provisions of this Chapter, other ordinances of the City and the statutes of the state of Illinois.
- (C)** License Fee: The amount of the annual license fee for persons engaged in the business of building contractor shall be established from time to time by action of the City Council.
- (D)** Examination Required: No person shall receive such a license until he/she has passed a standardized examination administered and designed by the building division of the department of Community & Economic Development. Said examination shall be for the purpose of determining that all licensees are knowledgeable in the business of building, contracting, and life safety components of the building Code.
- (E)** Suspension or Revocation of License:

  - 1. If any person shall violate any of the provisions of this Chapter or the Code adopted hereby, he/she shall be liable to be prosecuted against for any fine or penalty imposed thereto and his/her license may be suspended or revoked by the City Manager.
  - 2. No such license shall be so revoked or suspended except after a hearing by the City Manager or his/her designee with a three (3) business day notice to the licensee affording the licensee an opportunity to appear and defend. The notice shall specify the reason for the contemplated suspension or revocation and shall give the date, time, and room number in the civic center of the hearing. Notice shall be sufficient if sent to the address stated on the licensee's application.
  - 3. If the Building Official certifies to the City Manager that he/she has reason to believe that immediate suspension of the license is necessary to prevent the threat of immediate harm to the community, the City Manager may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the license suspended for not more than seven (7) days. The City Manager may extend the suspension during the pendency of a hearing upon a written determination that doing so is necessary to prevent the aforesaid harm to the community.
  - 4. Hearings shall be conducted in accordance with procedures ~~on file with the City Clerk~~ drafted by the Corporation Counsel.
  - 5. The City Manager shall issue his/her decision within ~~three~~ ten (3 10) business days after the close of the hearing. In reaching a decision, the

City Manager may consider any of the following:

- a. The nature of the violation.
  - b. The nature and extent of the harm caused by the licensee's action or failure to act.
  - c. The factual situation and circumstances surrounding the violation.
  - d. Whether or not the action or failure to act was wilful.
  - e. The record of the licensee with respect to violations.
6. The City Manager may suspend a license for a period of up to ninety (90) days. A licensee whose license has been revoked shall not be eligible to reapply for a license ~~until the expiration of one year after the effective date of the revocation.~~

**4-9 ~~7~~-4: PENALTY:**

**(A)** Any person who shall violate any provisions of the 2003 International Mechanical Code adopted hereby, or who shall be found to have failed to comply with any of the requirements thereof, or who shall be found to have changed, moved, or altered any wiring apparatus, fixture, machinery or device in violation of any approved plan or direction of the assistant Director of the department of Community & Economic Development or of any permit or certificate issued under the provisions of said 2003 International Mechanical Code, adopted hereby, shall be guilty of an offense, punishable as follows:

1. The fine for a first violation is seventy five dollars (\$75.00).
  2. The fine for a second violation is two hundred dollars (\$200.00).
  3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B)** Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this Section.
- (C)** The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

**4-9 ~~7~~-5: SEVERABILITY:**

It is the intention of the City Council that the provisions of this Chapter and the 2003 International Mechanical Code adopted hereby are severable and that the invalidity of any Section or part of any Section of this Chapter and the Code adopted hereby shall

not affect any other Section or portion of this Chapter or Code.

## **CHAPTER 40 8 - ENVIRONMENTAL CONTROL CODE**

### **4-40 8-1: TITLE:**

This Chapter of the municipal Code shall be known as the Environmental Control Code of the City of Evanston and herein referred to as such or "this Code".

### **4-40 8-2: PURPOSE:**

This Code is to regulate the production and emission of smoke and other air contaminants of such character as would create air pollution within the City; to make provision for the measurement and control of such emissions; ~~to establish an environmental control board;~~ to establish the ~~Director of inspections and permits~~ Manager of Building and Inspection Services as enforcement officer; to provide for permits where applicable for the installation, construction or modification, and certificates of operation for use, of combustion or process equipment, air pollution control equipment and environmental control equipment; to control the issuance of permits and certificates of operation, and to establish fees thereof; and to provide fines and penalties for violations of the provisions of this Code.

### **4-40 8-3: DEFINITIONS:**

#### **(A) General Provisions:**

1. Interchangeability: Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular.
2. Terms Defined In The Building Code: Where terms are not defined in this Code and are defined in the basic building Code adopted in Chapter 2 of this Title, they shall have the meanings ascribed to them as in the building Code.
3. Terms Not Defined: Where the terms are not defined in this Code or in the basic building Code, they shall have ascribed to them their ordinarily accepted meanings as implied by context.

#### **(B) Applied Meaning of Words and Terms:** Unless otherwise expressly stated, for the purpose of this Code, the following terms shall have the meanings indicated in this Section:

AIR CONTAMINANTS:	Particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapors or odors or any combination thereof.
AIR POLLUTION:	Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or to unreasonably interfere with the enjoyment

		of life or property.
AIR POLLUTION CONTROL EQUIPMENT:		Fly ash collector, electrostatic precipitator, smoke-arresting or smoke preventing equipment, dust-separation equipment and similar equipment.
BUILDING NEW FIRE:	A	Starting a fresh fire, but not replenishing an existing fire with additional fuel or refuse.
CITY:		City of Evanston, Illinois.
COMBUSTION EQUIPMENT:		Any furnace, incinerator, fuel-burning equipment, refuse-burning equipment, boiler, apparatus, device, mechanism, stack, chimney, breeching or structure in which fuel or other combustible material is burned or through which the products of combustion pass.
DECISION:		Ruling, regulation, determination, rule, requirement or other order.
DIRECTOR:		The <del>Director of Inspections and Permits</del> <u>City Manager, Manager of Building and Inspection Services</u> , or his/her duly authorized representative.
DOMESTIC HEATING EQUIPMENT:		Equipment used for heating water or air for a dwelling containing fewer than five (5) dwelling units only.
DOMESTIC REFUSE-BURNING EQUIPMENT:		Any refuse-burning equipment or incinerator used for a dwelling containing fewer than five (5) dwelling units only.
DOWNDRAFT FURNACE:		A furnace containing two (2) separate grates, one above the other: the top grate consists of water tubes; the bottom grate, consisting of common grate bars, is fed by partially consumed fuel falling from the upper grate. The air for combustion enters through the upper fire door and passes first through the bed of green fuel on the upper grate and then over the incandescent fuel on the lower grate.
FUEL:		Any form of combustible solid, liquid or vapor, except that refuse shall not be considered a fuel.
FUEL-BURNING EQUIPMENT OF THE AUTOMATIC, MECHANICALLY-FIRED TYPE:		Any combustion equipment incorporating means by which fuel is automatically and mechanically introduced from outside the furnace into the zone of combustion.
FUEL-BURNING EQUIPMENT OF THE HAND-FIRED TYPE:		Any combustion equipment in which fresh fuel is manually introduced directly into the furnace.
GARBAGE:		Animal and vegetable wastes originating in dwelling units, residences, kitchens, restaurants, hotels, produce markets, etc.
HIGH-PRESSURE BOILER:		Any boiler designed to operate at a steam pressure greater than fifteen (15) pounds per square inch.
INCINERATOR:		Any device designed and intended for the destruction of refuse by burning, but not including heating equipment.
LOW-PRESSURE BOILER:		Any boiler designed to operate at a steam pressure of fifteen (15) pounds per square inch or less.
LOW-VOLATILE SOLID FUEL:		A solid fuel, the volatile content of which is twenty three percent (23%) or less on an ash-free and moisture-free basis, or a solid fuel approved as hereinafter stated.
MULTIPLE-CHAMBER INCINERATOR:		Any incinerator consisting of two (2) or more refractory-lined combustion furnaces in series, physically separated by refractory walls interconnected by gas passage ports or ducts and designed for maximum combustion of the material to be burned. This shall not be the heating plant.
MULTIPLE-FAMILY DWELLINGS:		For this Code only, dwellings containing five (5) or more dwelling units.
OPEN FIRE:		Any fire from which the products of combustion are admitted directly into the open air without passing through a stack or chimney.



PERSON: Any individual, company, organization, operator, user, owner, employee, or any representative thereof acting in any capacity.

POTENTIALLY INFECTIOUS MEDICAL WASTE (PIMW): The following types of waste generated in connection with the diagnosis, treatment (i.e., provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the provision or testing of biologicals:  
 Animal Waste: Discarded materials, including carcasses, body parts, body fluids, blood, or bedding originating from animals inoculated during research, production of biologicals, or pharmaceutical testing with agents infectious to humans.  
 Cultures And Stocks: This waste shall include, but not be limited to, cultures and stocks of agents infectious to humans, and associated biologicals; cultures from medical or pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live or attenuated vaccines; or culture dishes and devices used to transfer, inoculate, or mix cultures.  
 Human Blood And Blood Products: This waste shall include discarded human blood, blood components (e.g., serum and plasma), or saturated material containing free flowing blood or blood components.  
 Human Pathological Wastes: This waste shall include tissue, organs, and body parts (except teeth and the contiguous structures of bone and gum), body fluids that are removed during surgery, autopsy, or other medical procedures; or specimens of body fluids and their containers.  
 Isolation Waste: This waste shall include discarded materials contaminated with blood, excretions, exudates, and secretions from humans that are isolated to protect others from highly communicable diseases. "Highly communicable diseases" means those diseases identified, pursuant to the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.).  
 Unused Sharps: This waste shall include, but not be limited to, the following unused, discarded sharps: hypodermic, intravenous, or other needles; hypodermic or intravenous syringes; or scalpel blades.  
 Used Sharps: This waste shall include, but not be limited to, discarded sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories; hypodermic, intravenous, or other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood vials. This waste shall also include, but not be limited to, other types of broken or unbroken glass (including slides and cover slips) in contact with infectious agents. "Potentially infectious medical waste" does not include:  
 1. Waste generated as general household waste;  
 2. Waste (except for sharps) for which the infectious potential has been eliminated by treatment; or  
 3. Sharps that meet both of the following conditions:  
 a. The infectious potential has been eliminated from the sharps by treatment; and  
 b. The sharps are rendered unrecognizable by treatment.

PROCESS EQUIPMENT: Any equipment employed in commercial, industrial or manufacturing processes such as heat treating furnaces, byproduct coke plants, ovens, mixing kettles, crushing, milling or grinding equipment, cupolas, blast furnaces, puddling furnaces, sintering plants, Bessemer converters, electric steel furnaces, foundries, stills and kilns, dryers, roasters, and equipment used in connection therewith, and all other forms of manufacturing or processing equipment which may emit air contaminants.

REFUSE: Garbage, rubbish or trade waste, or any combination thereof.

RINGELMANN CHART: The chart published and described in the "U.S. Bureau Of Mines Information Circular 8333", and on which are illustrated various percentages of total blackness for use in estimating the light obscuring capacity of smoke.

RUBBISH: Waste materials including, but not limited to: rags, clothes, leather, rubber,

- carpets, wood, excelsior, leaves, paper, ashes, tree branches, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.
- SANDBLASTING:** The abrasive cleaning of any architectural surface by the use of sand, shot or any other grit removing substance or combination of substances expelled from a device utilizing gaseous or hydraulic pressure.
- SMOKE:** Small gasborne particles other than water that form a visible plume in the air.
- TRADE WASTE:** Solid or liquid materials including, but not limited to: rubbish, plastic products, chemicals and cinders which result from any construction (destruction, demolition), business, trade or industry.

**4-10 ~~8-4~~: DIRECTOR OF INSPECTIONS AND PERMITS:**

It shall be the duty and responsibility of the Director ~~of inspections and permits,~~ hereinafter referred to as the "Director", to enforce the provisions of the environmental control Code, and in connection therewith, said Director is obligated and empowered:

- (A)** Supervision: To act as enforcement officer for all ordinances, rules and regulations pertaining to air pollution as provided for in this Code.
- (B)** Examination Of Plans: To examine and approve plans of combustion or process equipment, air pollution equipment or environmental control equipment installed, constructed or modified in any building or structure or on any premises, as herein provided, to assure that they are in accordance with the requirements of this Code.
- (C)** Inspections:
  1. Equipment; Subsequent Inspections: To make inspections of newly installed, constructed or modified combustion or process equipment, air pollution control equipment or other environmental control equipment, and to make subsequent inspections not less frequently than every two (2) years, as herein provided, to determine whether such equipment is in compliance with the provisions of this Code.
  2. Right of Entry: To make inspections of all buildings, structures and premises located within the City to determine their compliance with the provisions of this Code.
- ~~**(D)** Official Badge: To adopt a badge of office which shall be displayed for the purpose of identification.~~
- (E) (D)** Complaints: To investigate complaints of violations of this Code and to make inspections and observations of environmental control conditions.
- ~~**(F)** Advisor to Environmental Control Board: To serve as an advisor to the environmental control board.~~
- ~~**(G)** Recommendations: To investigate and make recommendations from time to time to the environmental control board with respect to amendments to this Code.~~

(H) ~~(F)~~ Records and Notices: To issue all permits, certificates or notices required under the provisions of this Code and to deliver written notices of violations, by leaving a copy with a person owning, operating or in charge of the equipment or premises involved, or by mailing a copy to the last known address of the person to be notified.

(I) ~~(G)~~ Supply of Documents: To supply, on request and on payment of the cost, copies of this Code and of all documents referred to in this Code.

#### **4-10 ~~8~~-5: RIGHT OF ENTRY:**

For the purpose of making such inspections, the Director ~~of~~ is hereby authorized to examine and survey all buildings, structures and premises within the City. Such inspections shall be made between the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. on any day except Sunday, subject to the following standards and conditions:

- (A) Such inspection may take place only if a complaint respecting said premises has been received by the Director and such complaint, in the opinion of said Director, provides reasonable grounds for belief that a violation exists, or if such inspection is undertaken as part of a regular inspection program whereby certain areas of the City are being inspected in their entirety by direction of the Director ~~or the City Manager~~.
- (B) Such inspections shall be made by the Director or the City Manager or by any duly authorized representative upon the direction of either of said officers.
- (C) Any person making such inspection shall furnish to the owner or occupant of the structure sought to be inspected, sufficient identification and information to enable the owner or occupant to determine that he/she is an authorized representative of the Director or City Manager, and to determine the purpose of said inspection.

The Director or the City Manager or any duly authorized representative, upon the direction of either of said officers, may apply to any court of competent jurisdiction for a search warrant or other legal process for the purpose of securing entry to any premises if the owner shall refuse to grant entry.

#### **4-10 ~~8~~-6: MUNICIPAL COOPERATION:**

The Director may call upon the Police, Fire and Health Departments and all other Municipal officials for assistance and cooperation in the enforcement of this Code.

#### **4-10 ~~8~~-7: APPLICATIONS AND PERMITS:**

- (A) Permit Required: No person shall install, construct or modify or cause to be installed, constructed or modified any combustion or process equipment, air pollution control equipment or other environmental control equipment, excepting

domestic heating and domestic refuse-burning equipment, until an application for permit has been made on forms supplied by the Director and until the plans accompanying the application have been approved and a permit issued by the Director.

- (B) Plans and Specifications; Certificate: Suitable plans and specifications of the combustion or process equipment, air pollution control equipment or other environmental control equipment must be filed in duplicate as a part of the application for permit in the office of the Director by the owner, contractor, installer or other person. The equipment must be designed to conform to the provisions of this Code. The Director may waive the requirement for filing plans when the work involved is of a minor nature.

The plans and specifications submitted pursuant to this Subsection shall be prepared under the direction of or approved by a registered professional engineer and bear his/her seal.

- (C) Notice of Start: At least twenty four (24) hours' notice of start of work under the permit shall be given to the Director.
- (D) Compliance With Permit: All work shall conform to the approved application and plans for which the permit has been issued.
- (E) Plan Inspection Fees: Fees for inspection of plans pursuant to the foregoing for the installation, construction or modification of combustion or process equipment, air pollution equipment or other environmental control equipment shall be five dollars (\$5.00).

#### **4-10 ~~8~~-8: INSPECTIONS OF EQUIPMENT:**

- (A) Schedule of Inspections: Existing combustion or process equipment, air pollution equipment or other environmental control equipment, except domestic heating and domestic refuse-burning equipment, shall be inspected by the Director at least biennially, and any such new or modified equipment shall be inspected after its installation, construction or modification and before its operation.

- (B) Inspection Fees:

1. New or Modified Equipment: Fees shall be as follows for the examination or inspection of any new or modified combustion or process equipment or air pollution control equipment, after its installation, construction or modification:

Hot air furnace .....\$25.00 per unit

Low-pressure boiler ..... 25.00 per unit

High-pressure boiler, 100 h.p. capacity or less ..... 25.00 per unit

High-pressure boiler, over 100 h.p. capacity ..... 25.00 per unit  
Incinerator or refuse-burning equipment ..... 25.00 per unit  
Process equipment, for all process equipment in any plant ..... 25.00

**2. Biennial Inspection Fees:** Fees shall be as follows for each biennial inspection of combustion or process equipment or air pollution control equipment:

Hot air furnace .....\$20.00 per unit  
Low-pressure boiler ..... 20.00 per unit  
High-pressure boiler ..... 20.00 per unit  
Incinerator or refuse-burning equipment ..... 20.00 per unit  
Process equipment, for all process equipment in any plant ..... 20.00

**4-10 ~~8~~-9: CERTIFICATE OF OPERATION:**

- (A)** Issuance and Revocation: upon finding that any combustion or process equipment, air pollution control equipment or other environmental control equipment inspected on any original or subsequent inspection complies with the provisions of this Code, and after receipt of the prescribed fee, the Director shall issue a certificate of operation as of the date of such inspection; and upon any subsequent inspection, if the Director finds that any such equipment fails to comply with the provisions of this Code, he/she shall issue a revocation of the certificate of operation.
- (B)** Posting: All certificates of operation shall be posted in a conspicuous place on or near the equipment.
- (C)** Special Certifications: Certificates of operation may contain operating requirements and limitations, such as allowable fuels.
- (D)** Unlawful Operation: No person shall use or allow to be used any combustion or process equipment, air pollution control equipment or any other environmental control equipment, which is subject to inspections as hereinbefore set forth, without having ~~for it~~ a valid certificate of operation.

**4-10 ~~8~~-10: GENERAL REGULATIONS:**

**4-10 ~~8~~-10-1: SCOPE:**

All combustion or process equipment and open fires shall comply with the applicable requirements of this Code and the detailed provisions of this Section.

**4-10 8-10-2: GENERAL RESTRICTIONS ON AIR POLLUTION:**

(A) General Restrictions: No person shall cause or allow the emission from any source into the open air of air contaminants so as to cause air pollution. Such air pollution is declared to be a nuisance and may be summarily abated by the Director. Such abatement may be in addition to any fine imposed for violation of this provision.

(B) Smoke Maximum: No person shall cause or allow the emission from any source of smoke of a density, shade or opacity equal to or greater than that described as No. 2 on the Ringelmann Chart.

1. Exceptions: The provisions of this Subsection may be exceeded for combustion and process equipment as follows:

a. For a period aggregating four (4) minutes in any thirty (30) minutes of a density, shade or opacity equal to but not greater than that described as No. 2 on the Ringelmann Chart.

b. For a period aggregating four (4) minutes in any sixty (60) minutes of a density, shade or opacity equal to but not greater than that described as No. 3 on the Ringelmann Chart when building a new fire.

2. Method of Measurement: Where the density of the smoke as observed falls between two (2) consecutive Ringelmann Chart shades, the shade with the lower Ringelmann number shall be considered the density of the smoke observed.

(C) Open Fires: No open fires are allowed. No person shall burn leaves or other refuse in an open fire.

Open fires which are used primarily for cooking food at public and private gatherings are permitted. All open fires primarily used for organizational, ceremonial purposes shall meet the "rules for organizational, ceremonial fires" as established and promulgated by the Fire & Life-Safety Services Department of the City and application shall be made for a permit to the Fire Chief. Only those open fire organizational, ceremonial applications meeting the requirements of the "rules for organizational, ceremonial fires" shall receive a permit.

(D) Sulfur Content Limitation: No person shall cause or permit the use, or if intended for use in the City, the purchase, sale, offer for sale, storage or transportation, of fuel which, as determined by the methods of the American Society for Testing and Materials, contains more than ~~the following percentages~~ one percent (1%) of sulfur by weight:

~~For the period September 1, 1971 to August 31, 1972 .....1.25 percent~~

~~On and after September 1, 1972 .....1.0 percent~~

**(E) Sandblasting:**

1. No person shall sandblast the exterior of any building, structure or other architectural surface without having first obtained a permit therefor issued by the Director of ~~inspections and permits~~.
2. Applications for sandblasting permits shall be in such form as shall be prescribed by the Director of inspections and permits. Every such application for a permit shall be accompanied by a sworn statement that the applicant shall post signs approved by the Director of ~~inspections and permits~~ near the front and rear property lines of the property to be sandblasted no less than forty eight (48) hours prior to the commencement of any sandblasting. Said signs shall contain the following information:
  - a. The address of the location to be sandblasted;
  - b. The estimated date(s) of the sandblasting operation; and
  - c. The estimated time period of the entire sandblasting operation.
3. Fees for sandblasting permits shall be based upon the number of stories or portions thereof to be cleaned, as follows:
  - a. Fifty dollars (\$50.00) for the first three (3) stories; and
  - b. Ten dollars (\$10.00) per story for each successive story.
4. The immediate area of any building or structure undergoing sandblasting shall be enclosed with canvas or plastic sheathing to prevent the sandblasting material from transmission onto neighboring property, streets or sidewalks.
5. A vacuum machine shall be ~~maintained on the premises~~ used during all working hours to remove sandblasting material from landscaped areas, streets and sidewalks.

**(F) Hospital/Medical/Infection Waste Incinerators:** It shall be unlawful for any person to operate a PIMW incinerator or other thermal destruction device in the City of Evanston to burn or otherwise process "potentially infectious medical waste", as defined in Subsection 4-10-3(B) of this Chapter, ~~after October 15, 2004.~~

**~~4-10~~ 8-10-3: COAL BURNING EQUIPMENT:**

**(A) Automatic, Mechanically Fired Equipment:** All institutional, industrial and commercial buildings and multiple-family dwellings ~~using~~ shall not use coal for fuel ~~shall be equipped with fuel burning equipment of the automatic, mechanically fired type.~~

~~(B) Hand Fired Equipment: In buildings other than those referred to in Subsection (A) of this section, no person shall operate any hand fired fuel burning equipment with any solid fuel other than low volatile solid fuel.~~

~~(C) Approved Fuels: The Director shall maintain and upon request furnish a list of brands or trademarks of approved low volatile solid fuels and shall prescribe the requisite testing procedures for any person seeking approval of a solid fuel not so listed; the expense of any such test shall be borne by the person seeking approval.~~

#### **4-10 8-10-4: REFUSE DISPOSAL BY BURNING PROHIBITED:**

Disposal of refuse by burning is hereby prohibited (see Title 8 of this Code). This shall not prohibit the lawful use of barbecue, charcoal, natural gas, and similar home grills.

~~(A) Multiple Chamber Incinerators: No person shall burn refuse except in a multiple chamber incinerator equipped with auxiliary automatic gas firing equipment with adjustable operation cycle timers and pilot and flame failure protective devices. Such multiple chamber incinerators shall not be of the flue fed type.~~

~~(B) Construction: All incinerators in this classification shall be constructed in accordance with the applicable standards as set forth in the Incinerator Institute of America publication entitled "Incinerator Standards", 1963 edition, and they shall be of the requisite size as shown in table VII therein.~~

~~(C) Exceptions:~~

~~1. Burning Type I Class: The requirement for auxiliary automatic gas firing equipment with adjustable operation cycle timers may be waived by the Director if the multiple chamber incinerator is to be used only for the combustion of "Type I waste", as defined in the Incinerator Institute of America Publication entitled "Incinerator Standards", 1963 edition. This waiver will be rescinded upon a finding by the Director that the actual use of the incinerator is in violation of the requirements of Section 9-3-10-2 of this Chapter.~~

~~2. Existing Class II Incinerators: Existing flue fed Class II incinerators as defined in the Incinerator Institute of American publication entitled "Incinerator Standards", 1963 edition, may continue to be used provided that they meet or are modified to meet the following requirements:~~

~~a. These incinerators shall be served by a separate flue to which only the incinerator will be connected.~~

~~b. Flue door openings shall be designed so that the clear opening of the door shall not exceed one-third (1/3) of the cross-sectional area of the flue.~~



- ~~c. Flue doors and frames shall be approved and labeled by the Underwriters' Laboratories, Inc.~~
- ~~d. Flue doors shall be self-closing.~~
- ~~e. These incinerators shall be equipped with auxiliary automatic gas-firing equipment with adjustable operation cycle timers.~~
- ~~f. The auxiliary gas-firing equipment shall be equipped with pilot and flame-failure protective devices.~~
- ~~g. These incinerators shall have a roof-mounted settling chamber proportioned to reduce gas velocity to one-quarter (1/4) of the velocity in the flue.~~
- ~~h. These incinerators shall have a chimney height of five feet (5') above the highest point of the building or above any obstruction within fifty feet (50') of the chimney.~~
- ~~i. These incinerators shall have a minimum grate area of fifteen-hundredths (0.15) square feet per sleeping room or efficiency unit.~~
- ~~j. These incinerators shall have a minimum volume of three (3) cubic feet for each square foot of grate area.~~
- ~~k. These incinerators shall have secondary or overfire air provided through adjustable openings equivalent in area to two (2) square inches per square foot of grate area.~~

#### **4-10 8-10-5: SPRAYING AND COATING PROCESSES:**

This Section contains regulations for particulate coatings; processes involving application of metallic coatings; oil-base and other paints; catalyzed coatings; emulsion coatings; glass or mineral fiber; aerosols; lithographic and other inks; mastic, asphalt and like material when such material is applied or used regularly at a given site as in manufacturing or servicing industries.

- (A)** Emission Limitations: Criteria in this Subsection apply to plan examination. They are not intended to cover processes in which noxious, odorous, explosive or toxic materials are to be used. In such processes the design criteria for emission control provisions will be subject to approval by the Director. Approval will be based on the nature and quantity of the material used and the following sources of information:

American Public Health Service;

American Conference of Governmental Industrial Hygienists;

Dangerous Properties of Industrial Materials, 2nd Edition;

The manufacture of the materials used in the process; and

Other agencies or authorities of recognized standing or experience.

Approval by the Director of processes in which noxious, odorous, explosive or toxic materials are to be used shall not relieve any person from meeting the requirements of Section 4-40 ~~8~~-10-2 of this Chapter.

1. **Particulate Emission:** Particulate shall include liquids, condensable at sixty degrees (60§) F., exclusive of uncombined water. Particulate emission shall not exceed ten-hundredths (0.10) grains per standard cubic foot of exhaust gas, calculated on the basis of minimum velocity requirements hereinafter established.
  2. **Combustible Emission:** The maximum concentration of combustible gases shall not exceed ten percent (10%) of the lower explosion limit for the gas mixture. (Refer to Appendix C of NFPA 86A, Ovens and Furnace.)
- (B) Emission Control Equipment; Function, Basic Design Criteria:** Emission control equipment shall be provided for each spraying and coating process whenever the amount and type of material used is such as to constitute an air pollution problem or the amount used is in excess of one gallon of volatile materials in any twenty four (24) hour period.
1. It shall be the principal function of the emission control equipment to:
    - a. Capture in a moving airstream the airborne process materials which are not consumed in the process, and provide for partial removal of the air contaminants from the airstream prior to its discharge to the outdoor atmosphere.
    - b. Dilute the volatile materials to safe, unobjectionable levels. Typical emission control equipment shall consist of dry-type air filter spray booth, water-wash air filter spray booth, downdraft spray gratings with a dry filter or water-wash air filter, and combinations of such equipment especially designed for a particular process, including travelling spray booths and similar special facilities.
  2. The quantity required to capture the unconsumed airborne process materials, in the absence of any larger air requirements, shall be based upon maintaining an average airstream velocity of one hundred feet (100') per minute through the larger of the following:
    - a. The total gross area of all entrances to the equipment which are open during normal operation; or

- b. The total gross area of the largest cross-section perpendicular to flow within the equipment. Deductions from the gross cross-section in computing this area will be allowed only for nonremovable building structural members.
  - 3. Air exhausted from the process shall not be recirculated within the building.
  - 4. For materials containing highly volatile solvents with no oil binders, as in lacquers and resins, a water-wash air filter unit shall be provided whenever five (5) gallons or more of such material is used per eight (8) hour shift at each processing installation. For processes using less than five (5) gallons of these materials per eight (8) hour shift at each processing installation, a dry-type air filter may be used.
  - 5. For application of materials other than those in Subsection (B)4 above, a water-wash air filter unit shall be provided whenever ten (10) gallons or more of material is used per eight (8) hour shift at each processing installation. For processes using less than ten (10) gallons of materials, other than those in Subsection (B)4 above per eight (8) hour shift at each processing installation, dry-type air filter may be used.
- (C) Spray Booth Design:** The ventilation of spraying and coating process areas shall comply with the following requirements:
- 1. All spraying areas shall be provided with positive mechanical ventilation adequate to prevent the dangerous accumulation of vapors, and to safely remove such vapors to a safe location;
  - 2. Such mechanical ventilation shall be kept in operation at all times while the spraying operations are being conducted, and for a sufficient time thereafter to allow vapors from drying coated articles and finishing material residues to be exhausted;
  - 3. Each process area shall have an independent exhaust duct system discharging to the ventilation requirements of this Code. Multiple-cabinet spray booths in which identical spray finishing materials are used with a combined frontal area of not more than eighteen (18) square feet, may have a common exhaust. If more than one fan serves one spray area, all fans shall be so interconnected so that one fan cannot operate without operating all interconnected fans.
- (D) Filter System Requirements:**
- 1. **Dry-Type Air Filter Installations:** All dry-type air filter installations shall be equipped with an air pressure differential gauge for accurately indicating when filters should be replaced. The minimum allowable differential pressure shall be not less than one-fourth inch (1/4") W.G. If the Director

so requires, the differential gauge shall be suitably interlocked with the exhaust fan.

2. Water-Wash Type Air Filters: Water circulation systems shall be of sufficient capacity to provide a continuous, effective water-washing action at the exhaust openings of the spray booth.
3. Downdraft Spray Capturing Systems: If spraying is done in open areas of a building over a grating, the grating shall be larger than the object being sprayed, and the object being sprayed shall rest entirely within the grating boundaries.
4. Ducts and Vents: The process exhaust shall not discharge below any building openings or below the roofline of any surrounding building within a radius of one hundred feet (100') measured horizontally.

#### **4-10 ~~8~~-10-6: RESPONSIBILITY FOR EQUIPMENT AND ITS OPERATION:**

- (A) Equipment Operator's Responsibility: The person operating or in charge of the combustion or process equipment, air pollution control equipment or other environmental control equipment shall be responsible for meeting the provisions of this Code and may be cited for violations caused by his/her acts.
- (B) Owners' Or Agents' Responsibility: It shall be the duty of the owners of any combustion or process equipment, air pollution control equipment or any other environmental control equipment or their agents, to instruct or cause to be instructed the persons operating or in charge of such equipment in the proper use of the equipment, and any owner or agent may be cited for violations resulting from his/her failure to give such instructions.

#### **4-10 ~~8~~-10-7: PENALTY:**

Any person found to have failed or to have refused to comply with or to have resisted or opposed the enforcement of any of the provisions of this environmental Code shall be deemed to have committed a violation thereof punishable as follows:

- (A)
  1. The fine for a first violation is ~~fifty~~ seventy-five dollars (~~\$50.00~~ \$75.00).
  2. The fine for a second violation is ~~one~~ two hundred ~~fifty~~ dollars (~~\$150.00~~ \$200.00).
  3. The fine for a third or subsequent violation is three hundred seventy-five dollars (~~\$300.00~~ \$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a

court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

- (D) The fine for a violation of Subsection 4-10 8-10-2(F) of this Chapter is seven hundred fifty dollars (\$750.00) per day per violation. The City Manager is authorized to seek injunctive relief or other remedies in addition to or in lieu of a fine not to exceed seven hundred fifty dollars (\$750.00) per day per violation.

## CHAPTER 41 9 - RESIDENTIAL CODE

### 4-11 9-1: ADOPTION:

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Residential Code for One- and Two-Family Dwellings ("the Code"), which Code shall be used together with the below stated additions and amendments to govern the design, construction, prefabrication, alteration, repair, use occupancy, and maintenance of all detached one- and two-family dwellings not more than three (3) stories in height with separate means of egress and their accessory structures, in addition to the Code for use group R-3 structures in the Code adopted by the City. All advisory or text notes, other than the rules and regulations contained in the Code adopted hereby are expressly excluded from this Chapter.
- (B) Any reference to "administrative authority", "Building Official" or "Code Official" shall mean the ~~assistant Director of Community & Economic Development department, building division,~~ Manager of Building and Inspection Services of the City of Evanston, or his/her designee. Any reference to "municipality" shall mean the City of Evanston.

### 4-11 9-2: AMENDMENTS:

The following sections of the International Residential Code for One- and Two-Family Dwellings are amended to read as follows:

**R101.2: Scope:** The provisions of the *International Residential Code for One- and Two-Family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings not more than three stories in height with a separate means of egress and their accessory structures.

**R103.1: Creation Of An Enforcement Agency:** The assistant Director of the department of Community & Economic Development, building division, shall be responsible for the enforcement of the Code.

**R103.2: Appointment:**

**R103.3: Deputies:** The Building Official shall have the authority to appoint such

technical officers, inspectors, plan examiners, and other employees as he/she deems necessary to effectuate the purposes of this Code.

**R105.2: Work Exempt From Permit:** This Section is deleted in its entirety. Contact the building division of Community & Economic Development for information regarding work exempt from permits.

**R105.7: Placement Of Permit:** The building permit or a legible copy of the building permit shall be kept on the site of operations, open to public inspection during the entire time of prosecution of the work and until the completion of the same. Said permit must be posted within forty-eight (48) hours of permit issuance, must be visible from the public way. Failure to post the permit as required by this Section may result in revocation of the building permit and forfeiture of all permit fees.

**R105.9: Construction And Repair Of Buildings:** The creation (including excavating), demolition, alteration, or repair of any building within the City, other than between the hours of seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M. on weekdays, and eight o'clock (8:00) A.M. and five o'clock (5:00) P.M. on Saturdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Manager or ~~his/her designee, or the Director of building or zoning or his/her designee~~ Building Official, which permit may be granted while the emergency continues. If the City Manager, his/her designee, or the Director of ~~building or zoning~~ Community & Economic Development, or his/her designee, should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, or the excavation of streets and highways between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. on weekdays, and before eight o'clock (8:00) A.M. and after five o'clock (5:00) P.M. on Saturdays, and if it shall further be determined that loss or inconvenience would result to any party in interest, said official may grant permission for such work to be done between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. on weekdays, and before eight o'clock (8:00) A.M. and after five o'clock (5:00) P.M. on Saturdays upon request. Sandblasting, jackhammering, or similar noise-producing activities are prohibited between six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. weekdays, between six o'clock (6:00) P.M. Friday and eight o'clock (8:00) A.M. Saturday, and between five o'clock (5:00) P.M. Saturday and seven o'clock (7:00) A.M. Monday unless special permission is granted by the City Manager or his/her designee. In addition, any other construction noise which exceeds a decibel level of eight (80) (measured from the property line from which the noise is emanating) is prohibited between six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. weekdays, between six o'clock (6:00) P.M. Friday and eight o'clock (8:00) A.M. Saturday, and between five o'clock (5:00) P.M. Saturday and seven o'clock (7:00) A.M. Monday, unless special permission is granted by the City Manager or his/her designee.

**R106.1: Submittal Documents:** Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by Illinois law. An Illinois licensed architect must sign and seal drawing submissions where the construction cost exceeds

\$10,000.00 (ten thousand and no/100 dollars) or the construction involves structural work or new structures for one and two family dwellings, with the following exceptions: unheated porches, decks, exterior stairs, non-habitable detached garages and accessory buildings. For all installation of spas, hot tubs, whirlpools, and similar fixtures, structural design calculations shall be required.

**Exception:** The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this Code.

**R311.4.3: Landings At Doors:** There shall be a floor or landing on each side of each exterior door.

**R403.1.1.1: Trench Foundations:** Trench foundations incorporating a monolithically-poured footing and foundation wall shall be permitted for one story wood frame and wood frame with masonry veneer room additions, provided the following are met:

- 1) Trench foundations are to be designed in accordance with accepted engineering practice based on a minimum allowable soil pressure of 3000 psf and a minimum concrete compressive strength of 3000 psi at twenty-eight (28) days.
- 2) The foundation wall shall be a minimum of eight inches (8") wide and be belled at the bottom to a minimum width of twice the wall width for a depth of at least one foot (1').
- 3) Trench foundations shall be permitted only in those soils which exhibit cohesive characteristics so as to prevent collapse of the adjacent soil mass before, during and after placement of the concrete.
- 4) Trench foundations shall extend a minimum of forty-two inches (42") below adjacent grade.
- 5) Trench foundations shall comply with all applicable sections of the *2003 International Residential Code*, adopted by the City, except as previously mentioned.

**R403.1.4.1: Frost Protection:** Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

- 1) Extending below the frost line of forty-two inches (42") inches minimum;
- 2) Constructing in accordance with section R403.3;
- 3) Constructing in accordance with ASCE32-01; and
- 4) Erected on solid rock.

**R502.1.4: Prefabricated Wood I-Joists:** Structural capacities and design provisions for prefabricated wood I-joists shall be established and monitored in accordance with ASTM D 5055. Where prefabricated wood I-joists are used for floor and ceiling joist framing members in finished or unfinished spaces in one or two-family dwellings, the prefabricated wood I-joists shall be separated from adjacent spaces by a minimum five-eighths inch (5/8") thick, type "X" gypsum wall board, taped. Such separation shall not be required for structures fully equipped with an automatic sprinkler system designed and installed in accordance with N.F.P.A. 13R.

**R602.3: Design And Construction:** Exterior walls of wood frame construction shall be designed and constructed in accordance with the provisions of this Chapter and figures R602.3(1) and R602.3(2) or in accordance with AF&PA.s NDS. Components of exterior walls shall be fastened in accordance with table R602.3(1) through R602.3(4). Exterior walls covered with foam plastic sheathing shall be braced in accordance with section R602.10. Structural sheathing shall be fastened directly to structural framing members. Any wall which contains any plumbing or mechanical piping, and/or ductwork must have a minimum depth of the structural members of five and one-half inches (5-1/2").

#### **Appendix G - Swimming Pools, Spas And Hot Tubs:**

**AG105.2: Outdoor Swimming Pool:** An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:

9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346.

#### **Appendix K - Sound Transmission:**

**AK102.1: General:** Airborne sound insulation for wall and floor-ceiling assemblies shall meet a sound transmission class (STC) rating of 50 when tested in accordance with ASTM E 90.

**AK103.1: General:** Floor/ceiling assemblies between dwelling units or between a dwelling unit and a public or service area within a structure shall have an impact insulation class (IIC) rating of not less than 50 when tested in accordance with ASTM E 492.

**R112: Means Of Appeal:** This Section shall be deleted in its entirety from the Code adopted hereby.

#### **4-11 ~~9~~-3: PENALTY:**

Any person found to have violated any provision of the 2003 International Residential Code for One- and Two-Family Dwellings adopted by the City shall be guilty of a



violation punishable as follows:

- (A) 1. The fine for a first violation is seventy five dollars (\$75.00).
  - 2. The fine for a second violation is two hundred dollars (\$200.00).
  - 3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).
- (B) Each day a provision of this Chapter or the Code adopted hereby is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this Section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

**4-11 ~~9~~-4: SEVERABILITY:**

It is the intention of the City Council that the provisions of this Chapter and the Code adopted hereby are severable and the invalidity of any Section or part of any Section of this Chapter and the Code hereby adopted shall not affect any other Section or portion of this Chapter or Code.

**CHAPTER ~~12~~ 10 - SIGN REGULATIONS**

**4-~~12~~ 10-1: TITLE:**

This Chapter shall hereafter be known and cited as the Sign Regulations of the City.

**4-~~12~~ 10-2: PURPOSE:**

It is hereby determined that the primary purpose of signage is to help people find what they need without difficulty or confusion. Thus, while not restricting the freedom of expression, regulations must be established for preventing an overload of graphic messages in the environment. The purpose of signs is subordinate to the structures and land use functions they reference. Signs are to be considered accessory components of an overall composition of architectural elements, not as freestanding or dominant architectural elements by themselves.

This Chapter establishes standards for the erection, display, safety and maintenance of signs which are intended to allow a person to observe or ignore graphic messages, according to that person's own purpose, as well as to encourage the general attractiveness of the community and to protect property values therein. These standards are intended to meet the following objectives:

- (A) **Healthy Economy:** It is recognized that signs are an economical and effective means of communicating information and are thus an important asset to most

businesses. The continued health of business and economic activities shall be encouraged by the use of signs which:

1. Clearly and efficiently identify the goods, services, facilities and locations available to the community; and
2. Express the identity of businesses or the proprietors associated with those activities.

**(B)** Effective Communication: A reasonable, orderly and effective display of signs is to be promoted by authorizing the use of signs which are:

1. Legible in the circumstances in which they are viewed;
2. Harmonious with their surroundings and consistent with the character of their community context;
3. Protective of the value of architectural resources, ensuring the integrity of the architectural elements and character of the buildings and sites to which signs principally relate;
4. Respectful of the rights of nearby property owners; and
5. Appropriate to the function to which they pertain.

**(C)** Public Welfare: The public health, safety and welfare is to be preserved, protected and promoted through sign regulations which:

1. Recognize that signs are a necessary means of visual communication for the convenience of the general public taken as a whole, as opposed to the convenience of any individual person;
2. Minimize the blighting influences posed by visual clutter, decay, and neglect;
3. Eliminate confusion and distractions which jeopardize vehicular and pedestrian safety;
4. Prohibit the placement of signs which obstruct vision or access in a manner which creates dangerous conditions;
5. Protect the physical and mental well-being of the general public by encouraging a sense of aesthetic appreciation for the City's visual environment; and,
6. Preserve the value of private property by assuring the compatibility of signs with surrounding land uses.

#### **4-12 10-3: RULES AND DEFINITIONS:**

The definitions noted below apply only to this Chapter and supersede any conflicting definitions found elsewhere in other Chapters of the City Code.

**(A)** Rules of Interpretation: The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural the singular.
2. The present tense includes the past and future tenses, and the future the present.
3. The word "shall" is mandatory, while the word "may" is permissive.
4. ~~The masculine gender includes the feminine and neuter.~~

**(B)** Regulations: To the extent that any definition below includes regulatory standards, such as height or area limitations, for example, such regulations shall apply in addition to all others contained in this Chapter.

**(C)** Definitions: The following words and terms, wherever they occur in this Chapter, shall be defined as follows:

ABANDONED SIGN:	Any sign advertising a business, commodity, service, entertainment or activity which has been discontinued.
ADVERTISING STRUCTURE:	A structure, as defined by the Building Code, erected or used for the purpose of supporting or displaying a message or sign.
ARCHITECTURAL ELEMENT:	A prominent or significant part or feature of a building, structure, or site.
ARCHITECTURAL INTEGRITY:	The composite or aggregate of the characteristics of structure, form, materials, and function of a building, group of buildings, or other architectural composition.
ATTENTION GATHERING DEVICE:	A display that utilizes motion or flashing lights to attract attention of passers-by. Examples include strings of pennants, banners or streamers, advertising flags, clusters of flags, strings of twirlers or propellers, flares, balloons, strobe lights, and sequential flashing "runner" lights.
AUXILIARY SIGN:	A sign which provides secondary information such as accepted charge cards, hours of operation, or warnings, and which is not intended to identify the basic nature of a use, specific product or service information, or the identity of the proprietor.
AWNING:	Any structure entirely supported by the wall to which it is attached, which may project over public property, and which has a frame, being either retractable or in a fixed position, covered by nonrigid material, such as fabric or vinyl.
AWNING SIGN:	A sign that is mounted or painted on, or attached to an awning.

BOARD:	The Sign Review and Appeals Board.
BULLETIN BOARD:	A sign that identifies an institution or organization on whose premises it is located and which contains the name of the institution or organization and/or message in movable letters of two inches (2") or less in height.
CANOPY:	Any permanent exterior roof structure which extends over, or is suspended above, any public thoroughfare, and which is attached to a building at the inner end and supported on the outer end in conformance with the Building Code of the City of Evanston.
CANOPY SIGN:	A sign that is mounted or painted on, or attached to a canopy.
CITY:	The City of Evanston, Illinois.
CITY COUNCIL:	The City Council of the City of Evanston, Illinois.
COMMERCIAL MESSAGE:	A message placed or caused to be placed before the public by a person directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities which are the subject of the message that: <ol style="list-style-type: none"> <li>1. Refers to the offer for sale or existence for sale of products, property, accommodations, services, attractions, or activities; or</li> <li>2. Attracts attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.</li> </ol>
COMMERCIAL VARIABLE MESSAGE (CVMS):	A sign which may be manual, electronic or sign electrically controlled, capable of showing a series of different messages in a predetermined sequence.
COMPATIBLE:	The characteristic of appearance of two (2) or more buildings, structures, or architectural elements in the same vicinity which produces an aesthetically pleasing whole.
COMPREHENSIVE SIGN PLAN:	A set of criteria and a format approved by the Sign Review and Appeals Board for all signs to be located in a special sign district or on the premises of a unified business center.
CONSTRUCTION SIGN:	A sign identifying persons involved in design, planning, construction, wrecking, financing, or development taking place on the premises where the sign is posted.
DIRECTORY SIGN:	A sign which indicates the name and/or address of the occupants of a premises accommodating multiple occupants.
ELIGIBLE FAÇADE AREA:	That portion of a facade which is below the maximum sign height.
ERECT:	To build, construct, attach, hand, re-hang, suspend, place, affix, enlarge, substantially alter, post, display, or relocate and includes the painting of lettering or graphics for signs. Normal maintenance is not included within this definition.

EXTERIOR:	The outer part or surface of a building; such as a wall or window, which is exposed to outside environmental elements.
EXTERNAL ILLUMINATION:	Illumination of a sign which is produced by an artificial source of light which is not contained within the sign itself.
FACADE:	Any side, surface or wall below the roof of a building which is parallel or within forty five degrees (45°) of parallel with a parcel's frontage on a public thoroughfare, and which faces toward and relates to that public thoroughfare. If a building has a complex shape, then all walls or surfaces facing in the same direction, or nearly the same direction, are part of a single facade.
FESTOON LIGHTING:	A string of two (2) or more unshielded incandescent light bulbs suspended over a premises, (as opposed to being located on a building or structure). Holiday and ornamental lighting strung temporarily through trees shall not be construed to be festoon lighting.
FLASHING SIGN:	A directly or indirectly illuminated sign where the source of illumination is not maintained constant or stationary in intensity or color at all times when such sign is in use.
FREESTANDING SIGN:	Any sign which is erected such that it is detached from a building or structure.
FRONTAGE:	A lot line which is coterminous with the right of way of a single public thoroughfare.
IDENTIFICATION SIGN:	A sign which presents the name and/or address of a building, business, development or establishment, and may incorporate a logo, graphic, or image.
INFORMATION CYCLE:	The length of time used to display one continuous message from start to finish on a commercial variable message sign.
INSTITUTION:	An established organization or corporation of a public or eleemosynary character.
INTERCHANGEABLE COPY BOARD:	A sign whereon provision is made for letters or characters to be placed in or upon the surface area manually to provide a message or picture.
INTERNAL ILLUMINATION:	Illumination of a sign which is produced by an artificial source of light concealed or contained within the sign itself, and which becomes visible in darkness through the translucent portion of the sign face.
ITEM OF INFORMATION:	Any of the following: a word, an abbreviation, a number, a symbol, or a geometric shape contained in a sign. In addition, a sign which combines several different geometric shapes, or shapes of unusual configuration are to be assessed one additional item of information for each noncontinuous plane or surface.
LOT AREA:	The gross surface area of land contained within or below a premises. It may be a single parcel or it may include parts of or a combination of such parcels when adjacent to one another and used as one.
MAINTENANCE:	Provision of a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, cleaning and other acts

required to preserve the sign, advertising structure, marquee, canopy or awning in its originally permitted and installed condition.

MARQUEE:	Any hood or canopy of permanent construction supported entirely by the building, and projecting from the building's wall over a sidewalk or pedestrian thoroughfare, constructed for the purpose of permanently supporting an interchangeable copy board.
MARQUEE SIGN:	A sign permanently attached to and supported by a marquee, having all or a portion of its sign surface area comprising an interchangeable copy board.
NAMEPLATE:	A plate or plaque bearing a name, applied directly to or incorporated into a facade.
NEON SIGN:	A permanent sign fabricated entirely from glass tubing, illuminated with electrically-charged neon gas.
NONCOMMERCIAL MESSAGE:	Any message that is not a commercial message.
OCCUPANCY:	That portion of a building or premises of which is leased, owned, or otherwise controlled solely by an occupant, and of which that occupant has a tangible presence in the form of business, institution, residence or similar inhabitation.
OCCUPANT:	Any one of the following:  1. A household inhabiting a dwelling unit, or  2. An institutional, business, commercial or industrial endeavor that inhabits a distinguishable portion of a building or premises such that:  (a) The activity is a logical and separate entity from the other activities within the building and not a department of the whole; and  (b) The activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access from the exterior of the building.
OFFICIALLY REGISTERED NAME:	That name registered on legal papers of incorporation, partnership, or similar definition of proprietorship.
PERMANENT SIGN:	A sign that is solidly mounted or permanently affixed in accordance with the mounting requirements of this Chapter, Chapter 4-2 of this Title, or other Chapters of the City Code.
PERMITTEE:	That person designated on the application for a sign permit as being responsible for assuring sign maintenance and operation in conformance with the ordinance and the permit.
PERSON:	Any natural person, firm, partnership, association, corporation, company, institution, or organization of any kind.
PLACES OF	A business establishment, club, or institution which maintains a regular schedule of performing arts events. Restaurants without such live

ENTERTAINMENT:	entertainment schedules are not included within this definition.
PORTABLE SIGN:	Any sign not permanently affixed to the ground, a building, or other structure, which may be moved, or is intended to be moved, from place to place.
PREMISES:	A parcel, or contiguous parcels, of land including related building or buildings, distinguishable from surrounding parcels and buildings by use. A building and grounds that contains many separate occupancies is still classified as a single premises. Several buildings and associated parcels of land may in fact be a single premises if their use is unified.
PROPRIETARY INTEREST:	Having partial or exclusive title to, control over management authority over, present use, or legal right to, something.
PROPRIETOR:	An individual who owns or operates a business which is wholly separate and distinguishable from other business entities on the premises, and not merely a part of a larger business entity.
READ:	The capacity to perceive of the sign's message through visual observation by a normal-sighted person.
REAL ESTATE SIGN:	A sign pertaining to the sale or lease of the premises or portion of the premises on which the sign is located, or to the sale or lease of one or more structures or a portion thereof located thereon.
SIGN:	A name, identification, description, display, message or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land so as to be principally seen from out-of-doors and which directs attention to an object, product, place, activity, concept, thought, person, institution, organization, or business.
SIGN FACE:	The exterior sign surface area of a single sign which may be read from any one ground position.
SIGN SURFACE AREA:	The total exposed surface within a continuous perimeter composed of a single rectangle enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, together with any material, or color used as an integral part of the display or to differentiate the sign from the background on which it is placed.
TEMPORARY SIGN:	Any sign intended for a limited or intermittent period of display.
TIME AND TEMPERATURE DEVICE:	Any mechanism that displays the time and/or temperature, but does not display any advertising or establishment identification.
UNIFIED BUSINESS CENTER:	A premises containing four (4) or more individual nonresidential occupancies sharing a common building.
WALL SIGN:	Any sign erected upon or incorporated in the facade of any building with the plane of the sign face parallel to the plane of the facade.
WINDOW AREA:	Any transparent area on a facade through which the interior of a premises may be viewed from outside.

WINDOW SIGN: Any sign, either permanent or temporary, which is affixed or placed so that its message or image is read as part of the total composition of a window area.

#### **4-12 ~~10~~-4: ANNUAL SIGN FEE:**

All signs subject to this Chapter, with exception of those enumerated in Section ~~4-12-6~~ of this Chapter, are subject to an annual fee which shall be reestablished from time to time by ordinance of the City Council.

#### **4-12 ~~10~~-5: CONSTRUCTION/ALTERATION PERMIT REQUIRED:**

No "sign", as defined herein, shall be constructed, erected, originally painted, converted, altered, rebuilt, enlarged, remodeled, relocated or expanded until a permit for such sign has been obtained in accordance with the standards and procedures set out in this Chapter.

- (A) No Permit For Maintenance: No permit shall be required for maintenance of a "sign" as defined herein, nor for certain signs identified as exempt under Section ~~4-12-6~~ of this Chapter.
- (B) No Assignment Or Transfer: No permit issued hereunder may be assigned or transferred to any other person.

#### **4-12 ~~10~~-6: EXEMPT SIGNS:**

The following signs shall be exempt from the requirement to obtain a permit and from the limitation on items of information, but shall be subject to the other provisions of this Chapter, and (with the exception of "addresses") shall be included for purposes of determining the allowable total number and size of signs on a premises:

- (A) Addresses: Address numerals and other sign information required to identify a location by law or governmental order, rule, or regulation. Such address information cannot exceed two (2) square feet per officially assigned address, or the size required by the law, order, rule or regulation, whichever is greater.
- (B) Auxiliary Signs: Auxiliary signs placed in store windows regarding hours of operation, accepted charge cards, warnings or similar information.
- (C) Bulletin Boards: Bulletin boards, not exceeding twelve (12) square feet for public, eleemosynary or religious institutions where the bulletin board is located on the premises of said institutions.
- (D) Business Nameplates: Nonilluminated nameplates denoting the business name of an occupation legally conducted on the premises, provided that only one nameplate per proprietor may be erected and that such nameplate not exceed one square foot.



- (E)** Institutional Identify Signs: For an institution such as a college or university campus, an identity sign designating only the name and address of the institution or campus, not exceeding thirty (30) square feet. Such signs shall be located not less than ten feet (10') from a street lot line.
- (F)** Construction Signs: One construction sign per frontage, identifying individuals or companies involved in the design, construction, demolition, financing or project development when placed on the premises where work is under construction. Such signs shall not be erected prior to the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within ten (10) days of completion of work or the expiration of the permit. Construction signs for single-family residences shall not exceed sixteen (16) square feet. Construction signs for commercial, industrial, multi-family, or planned development uses on parcels of less than one hundred thousand (100,000) square feet shall not exceed forty eight (48) square feet; construction signs shall not exceed ninety six (96) square feet on parcels greater than one hundred thousand (100,000) square feet.
- (G)** Flags And Standards: Flags, standards, emblems and insignia of governmental, political, civic, philanthropic, religious or educational organizations, having a size less than fifty (50) square feet, and displayed for noncommercial purposes.
- (H)** Garage Sale Signs: No more than two (2) temporary signs per sale which advertise garage sales, yard sales, or similar merchandise sales, provided that such signs do not exceed four (4) square feet, are located with no more than one sign per street frontage either on the premises containing the sale or on other private property with permission of that property owner, and are only in place when the sale is actually taking place.
- (I)** Government Signs: Signs of a duly constituted governmental body, including traffic signs or other similar regulatory devices, directional signs, Evanston historic district signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs pertaining to health, hazards, parking, swimming, dumping, and such emergency or nonadvertising signs as may be approved by the traffic engineer for safety purposes or by the City Council.
- (J)** Historic Markers: Commemorative plaques, memorial tablets, or emblems of official historical bodies, provided that no such marker shall exceed four (4) square feet and provided further that all such markers shall be placed flat against a building, monument stone, or other permanent surface.
- (K)** Holiday Decorations: Temporary displays of a primarily decorative nature, clearly incidental and customary with traditionally accepted civic, patriotic or religious holidays.
- (L)** Interior Signs: Signs which are located on the interior of a premises and which are exclusively oriented to persons within that premises.

- (M)** Management Signs: Signs not exceeding four (4) square feet which designate the real estate management agent for a premises.
- (N)** Menu Board Signs: One menu board sign for a drive-in or drive-through facility, provided that the sign does not exceed twenty five (25) square feet or eight feet (8') in height.
- (O)** Model Home Signs: Signs not exceeding four (4) square feet identifying a nonoccupied dwelling unit used as a demonstrator for selling or renting other dwelling units in the same complex. Such signs shall be permitted only when more than one dwelling unit is available on the premises.
- (P)** Monument Signs: Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure denoting the name of that structure and its date of erection.
- (Q)** Noncommercial Signs: Noncommercial signs, not exceeding six (6) square feet per occupancy.
- (R)** "Open" Signs: Signs, not exceeding four (4) square feet, which advertise a premises open for inspection, with no more than one sign per street frontage on the subject property, and an overall maximum of two (2) signs per property. Such signs may not be located in the public right of way, nor be directly illuminated. They may only be in place when the related premises is actually open for inspection.
- (S)** Political or Campaign Signs: Signs promoting candidates for public office or issues on election ballots, not exceeding six (6) square feet per occupancy, posted on private property.
- (T)** Real Estate Sign: One real estate sign per street frontage of a premises, advertising the availability of a sale or lease of that premises. Such signs may not be located in the public right of way, nor be directly illuminated. They shall not exceed six (6) square feet for residential districts, twenty four (24) square feet for commercial districts, or forty eight (48) square feet for industrial districts. Display of real estate signs shall be limited to one hundred eighty (180) days. For nonexempt real estate signs see Subsection ~~4-12-10~~(L), "Temporary Real Estate Signs", of this Chapter.
- (U)** Residential And Institutional Nameplates: One nonilluminated name-plate, not exceeding twelve (12) square feet, for a multiple-family dwelling, college, university or theological school building, fraternity or sorority. Such signs shall include only the name and/or address of the building and be located not less than ten feet (10') from a street lot line.
- (V)** Service Station Price Signs: Price signs not exceeding the minimum requirements established by state statute for service stations.

- (W) Site Information Signs: Signs of no more than four (4) square feet which, without including an advertising reference of any kind, provide direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying restrooms, public telephones, walkways, traffic flow, parking restrictions, and features of a similar nature.
- (X) Special Displays: Special displays used for public demonstrations, the promotion of civic welfare, or charitable purposes, provided they are approved by the City Council after submission of a written application, they contain no noncharitable advertising, and they are removed by the deadline established by the council in its approval.
- (Y) Temporary Window Signs: Signs temporarily affixed to the inside of a window, advertising commercial situations relating to goods or services sold on premises, provided that the total of all signs in the window area, including temporary and permanently mounted signs does not exceed twenty five percent (25%) of the window area; and further provided that each temporary window sign has the initial date of display permanently and visibly affixed on its face, and that no temporary window sign is displayed for longer than thirty (30) days. For any occupancy using no other signs than a permanent window sign the amount of permanent and temporary window sign area may be increased to thirty five percent (35%) of the window area.
- (Z) Vending Machine Signs: Permanent, nonflashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines, not exceeding four (4) square feet for each exposed face, nor exceeding an aggregate sign surface area of eight (8) square feet.

**4-12 10-7: PROHIBITED SIGNS:**

All signs not specifically permitted in this Chapter are prohibited in any location in the City.

**4-12 10-8: GENERAL STANDARDS:**

- (A) Applicable Regulations: In addition to the provisions of this Chapter, all signs must conform to the regulations and design standards of all other applicable Chapters of the City Code.
- (B) Obscene Messages: No sign shall be permitted to contain statements, words or pictures of an obscene, and/or pornographic, ~~or immoral~~ character.
- (C) Wind Pressure and Dead Load Requirements: Every sign or advertising structure shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of net surface area and shall be constructed to receive dead loads as required by Chapter ~~4-2~~ of this Title and other applicable Chapters of the City Code.

**(D)** Obstruction to Doors, Windows, or Fire Escapes: No sign or advertising structure shall be erected, relocated or maintained so as to prevent free ingress to, or egress from any door, window or fire escape. No sign or advertising structure shall be attached to a standpipe or fire escape. No sign shall interfere with any opening required for ventilation.

**(E)** Signs Not to Constitute Traffic Hazards: In order to ensure reasonable traffic safety, it shall be unlawful to erect or maintain any fluttering, undulating, swinging, rotating, blinking, or flashing sign or attention gathering device. No sign or advertising structure nor its associated landscaping shall be erected, installed or maintained in such a manner as to obstruct free and clear vision, or as to distract the attention of the driver of any vehicle by reason of position, shape, color or lighting thereof.

Pursuant to the foregoing, no sign or advertising structure shall be erected or maintained in such a manner as to be likely to interfere with, obstruct the view of, or imitate, resemble, or be confused with any authorized traffic sign, signal or device. Accordingly, no sign or advertising structure shall make use of the words "stop", "go", "slow", "look", "caution", "warning", "danger", or any similar word, phrase, symbol, or character, or employ any red, yellow, orange, green or other colored lamp or light, in such a manner as to interfere with, mislead or confuse traffic.

**(F)** Advertising Vehicles: No person shall, for the flagrant purpose of providing advertisement of products or directing people to a business or activity, park on the public right of way, public property, or private property so as to be prominently visible from a public right of way, any vehicle or trailer which has attached thereto, or located thereon, any sign or advertising device. The foregoing shall not apply to mobile food vehicle vendors licensed pursuant to Title 8 of this Code.

**(G)** Electrical Clearance: Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the Evanston Electrical Code, depending on the voltages concerned. However, in no case shall a sign be installed closer than twenty four inches (24") horizontally or vertically from any conductor or public utility guy wire.

**(H)** Face of Sign to be Smooth: No signs or advertising structures which are constructed on public thoroughfares, or within five feet (5') thereof, shall have nails, tacks or wires or other hazardous projections protruding therefrom, except electrical reflectors and devices which may extend over the top and in front of such advertising structures.

**(I)** Glass; Limitation: Any glass forming a part of any sign shall be safety glass. In case any single piece or pane of glass has an area exceeding three (3) square feet, it shall be wired glass.

- (J)** Reflectors, Spotlights and Floodlights; Limitations and Prohibition: Gooseneck and similar reflectors and lights shall be permitted on free-standing and wall signs; provided, however, the reflectors and lights shall concentrate the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. It shall be unlawful to maintain any sign which extends over public property, and which is wholly or partially illuminated by floodlights or spotlights, unless such lights are completely concealed from view from the public thoroughfare.
- (K)** No Tree Mounting: No signs shall be nailed, tacked or otherwise affixed to trees or other vegetation in such a way as to puncture bark.
- (L)** No Handbills: No handbills, posters, notices, or similar attention gathering devices shall be posted or affixed on traffic control boxes, signs, lamp poles, utility poles, traffic control supports, viaducts, or other locations as further regulated under Title 3 of this Municipal Code.
- (M)** Illuminated Signs: All illuminated signs shall be subject to the following requirements:
1. Electrical Permit: In addition to complying with the provisions of this Chapter, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the City Electrical Code, Title 4, Chapter ~~4-12-6~~ of the City Code. No permit for the erection of a sign shall be granted prior to approval and issuance of a valid electrical permit for that sign.
  2. Voltage Displayed: The voltage of any electrical apparatus used in connection with a sign shall be conspicuously noted on that apparatus.
  3. External Illumination: A building or structure, along with signs, awnings, and canopies attached to the building or structure, may be illuminated externally, but all lighting used for this purpose must be designated, located, shielded, and maintained in such a manner that the light source is fixed and not directly visible from any adjacent public rights of way or surrounding premises.
  4. Internal Illumination: Internal illuminated signs shall permit light to shine fully through only the lettering and graphic elements of the sign. The background for such lettering and graphics shall be opaque or translucent. If translucent, it shall transmit light at a level substantially less than that transmitted through the lettering and graphics. If the contrast between the lettering or graphic elements and background does not permit adequate legibility (according to the judgment of the sign owner) a translucent white border of up to one inch (1") in width may be placed around said lettering or graphic elements.
  5. Brightness Limitation: In no instance shall the lighting intensity of any sign,

whether resulting from internal illumination or external illumination, exceed:

- a. Seventy five (75) foot-candles measured perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign; or
  - b. When the sign is located in a residential zoning district, fifty (50) foot-candles measured perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign; or
  - c. One foot-candle on adjoining residential property, measured three feet (3') above the surface of the ground.
6. Glare: All artificial illumination shall be so designed, located, shielded, and directed so as to prevent the casting of glare or direct light upon adjacent public rights of way or surrounding property.
7. Flashing Signs: Except for commercial variable message signs (CVMS), illuminated signs shall not have any flashing, scintillating, traveling, or blinking lights or rotating beacons, nor shall any beam of light be projected through a mechanism which periodically changes the color of the light reaching the sign.
- (N) Movable Sign Parts:** No sign or its parts shall be permitted to be movable or rotating, nor shall any sign have illuminated effects which convey the illusion of movement.
1. No Changeable Copy: With the exception of marquee signs, gasoline price signs, CVMS signs, and exempt signs, no sign may contain movable letters or other changeable copy.
  2. Items Secured: All manually movable items on a sign, such as covers to service openings, shall be secured by chains or hinges.

**4-12 10-9: AREA AND MEASUREMENT STANDARDS:**

- (A) Signs in Residential Districts:** Except in conjunction with legal nonconforming commercial and industrial uses, no signs other than those exempted under Section ~~4-12-6~~ of this Chapter shall be permitted on property in a residential zoning district.
- (B) Commercial Message Location:** A sign which displays a commercial message is permitted only on the premises where the business, profession, accommodation, commodity, service, entertainment, or other commercial activity represented on the sign is located.

Any sign that may display a commercial message may also display any

noncommercial message, either in place of or in addition to the commercial message, so long as the sign complies with the other requirements of this Chapter.

- (C)** Interchangeable Noncommercial Messages: Any sign that may display one type of noncommercial message may also display any other type of noncommercial message, so long as the sign complies with the other requirements of this Chapter.
- (D)** Sign Area Limitation: The combined total sign surface area of signs on a premises shall not exceed the greater of:
  1. Area of Facade: An area equivalent to fifteen percent (15%) of the total eligible facade area of buildings which constitute the premises; or
  2. Area of Premises: An area equivalent to one-half of one percent (0.5%) of the lot area of the premises.

At no time shall the combined total sign surface area of all signs pertaining to any occupant, other than exempt signs or temporary window signs, exceed five hundred (500) square feet.

The maximum aggregate sign surface area may be divided between as many sign types as desired by an occupant, subject to number, location and area restrictions for each sign type delineated herein.

On a premises with multiple occupants, the maximum permitted sign surface area for each occupant shall be a proportional share of the total permitted sign surface area for the premises. Each occupant's total permitted sign area shall be calculated as the ratio of floor area (or lot area where no principal buildings are present) occupied by that occupant to the total floor area (or lot area where no principal building is present) of the premises.

- (E)** Sign Face Calculation: The sign surface area of a sign shall be calculated only on the basis of the sign face(s) that can be seen at one time. On a multiple sided sign with opposite faces that cannot be read simultaneously, only one of the faces shall be calculated for purposes of determining sign surface area.
- (F)** Structure and Base Excluded: Structural supports and bases, bearing no message, copy or graphics, and of a neutral or subdued color(s), shall not be included in calculating the sign surface area.
- (G)** Items of Information: Subject to the requirements of all other provisions of this Chapter, each sign face shall contain no more than seven (7) items of information. However, if the officially registered name of the occupant of the premises to which the sign refers contains more than seven (7) items of information, the name may be displayed on each sign face, provided no other information is displayed on such sign.

In calculating items of information, characters two inches (2") or less in height shall be excluded. They are considered to be principally directed toward pedestrian observation.

- (H)** Maximum Sign Height: With the exception of tall building identification signs and window signs, all signs shall be subject to the maximum height limitation of fifteen and one-half feet (15.5'). The height of a sign shall be measured from the adjoining ground level or the elevation of the street upon which the sign faces, whichever is lower, to the tallest portion of the sign.

#### **4-12 10-10: PERMITTED SIGN TYPES:**

**(A)** Wall Signs:

1. Number: If an occupant displays more than one wall sign on a facade, that occupant's total permitted sign surface area for wall signs on that facade is reduced by an increment of twenty percent (20%) for each additional wall sign.
2. Area: The total permitted sign surface area of all wall signs on a facade shall not exceed ten percent (10%) of the eligible facade area. No individual wall sign shall exceed one hundred twenty five (125) square feet in area.
3. Area Bonus: An occupant's permitted sign surface area for wall signs on a facade may be increased by twenty percent (20%), though not exceeding the two hundred (200) square foot individual sign area maximum, when the following standards are met:
  - a. The occupant is displaying no more than one wall sign on the facade; and
  - b. The sign consists only of individual alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the signs are to be affixed; and
  - c. If illuminated, such illumination is achieved through internal illumination, shielded silhouette lighting, or shielded spot lighting.

This does not include any lighting where the light source is visible or exposed.
4. Location: Wall signs may only be located on a portion of an exterior wall that is coterminous with the occupancy to which the signs refer.

No wall sign shall extend above or beyond the wall to which it is attached.

Except as permitted below, no wall sign shall extend above the maximum



sign height of fifteen and one-half feet (15.5').

5. Projection From Wall: No wall sign, including any illuminating device or other structural part, shall project more than twelve inches (12") beyond the plane of the wall to which it is attached.
6. Tall-Building Identification Sign: On buildings of six (6) stories or greater, where the occupant between the second story and the top story is the same, one tall-building identification sign per facade may be placed between the floor of the top story and the top of the wall of the building. This identification wall sign shall not exceed one hundred (100) square feet in sign surface area.
7. Installation Considerations: To preserve the architectural integrity of any building, no wall sign shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestrations, or ornamental detailing.

All mounting brackets and other hardware used to affix a sign to a wall, and all electrical service hardware and equipment shall be concealed by architectural elements of the building or the sign itself.

**(B) Freestanding Signs:**

1. Number: There shall be no more than one freestanding sign for each frontage of a premises.

On premises having a principal building, no freestanding sign shall be permitted on a frontage unless every facade related to the frontage is set back at least thirty feet (30') from the street right of way. On premises having no principal building, there shall be no more than one freestanding sign for each frontage of the premises.

2. Area: Except as conditioned below, the total sign surface area of a freestanding sign shall not exceed one quarter percent (0.25%) of the lot area of the premises, nor a maximum of one hundred twenty (120) square feet of sign surface area.
  - a. The maximum sign surface area of a freestanding sign on a frontage may not exceed twelve (12) square feet unless that frontage is one hundred (100) or more feet in length.
  - b. A fifteen percent (15%) bonus in sign surface area shall be permitted for any freestanding sign which is the only freestanding sign on a premises on which more than one such sign would otherwise be permitted.

3. Location: No freestanding sign shall extend beyond the perimeter lot line

of a premises or within twenty feet (20') of any circulation lane which provides access to a public right of way.

4. Height: A freestanding sign within three feet (3') of any perimeter lot line of a premises may not exceed three feet (3') in height. The height of any freestanding sign three (3) or more feet from any lot line may not exceed the distance between the sign and any lot line, nor shall the top of the freestanding sign exceed the maximum elevation of a principal building on the premises to which it pertains.

No freestanding sign shall exceed the maximum sign height of fifteen and one-half feet (15.5').

5. Permanent Mounting: All freestanding signs shall be permanently mounted in the ground. No portable signs are permitted.

**(C) Permanent Window Signs:**

1. Area: The sign surface area of permanent window signs in any window shall not exceed twenty percent (20%) of that window area.
2. Location: Permanent window signs must be confined within the transparent glazed area of the window and shall not encroach upon the frame, mullions or other supporting features of the glass.
3. Installation Considerations: All permanent window signs which have their lettering or graphic elements directly on the glazing shall be painted, metal leafed, vinyl transferred, or in some other manner permanently applied to either side of the glass of an exterior building or window or door. No application using a temporary adhesive shall be permitted unless the Administrative Officer determines the application to be safe and will be permanent.

**(D) Commercial Variable Message (CVMS) Signs:**

1. Time and Temperature Only: CVMS displaying messages other than time and temperature information shall be prohibited.
2. Length of Cycle: The total length of the information cycle of a CVMS shall not be shorter than three (3) seconds nor longer than seven (7) seconds. Items of information may not be repeated at intervals that are short enough to cause the CVMS to have the effect of a flashing sign.
3. Brightness Adjustment: CVMS shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination.
4. Included Area: The illuminated or message displaying areas of the CVMS

shall be included within the maximum aggregate sign surface area for the premises.

5. Maintenance: CVMS must be maintained so as to be able to display messages in a complete and legible manner.

**(E) Marquee Signs:**

1. Number: There shall not be more than one marquee sign on any facade. Advertising and identification messages on any of the vertical or nearly vertical faces of a marquee are calculated as a single marquee sign.
2. Area: The total sign surface area of a marquee sign shall not exceed five hundred (500) square feet.
3. Location: A sign may be affixed to or located upon any vertical or nearly vertical face of a marquee, so that no portion of the sign falls above or below the face of the marquee.

In no instance shall a marquee sign be lower than ten feet (10') above the sidewalk or public thoroughfare.

In no instance shall a marquee sign be located so that it extends beyond the curb line of the street.

4. Use of Marquee: Marquee signs are only permitted for use on theaters, places of entertainment, and hotels.

**(F) Canopy and Awning Signs:**

1. Commercial Message: Use of canopy or awning area for display of commercial messages shall be limited to the name, logo and address of the business or businesses within the building upon which the awning is attached. Canopy or awning signs shall be flush to the face of the canopy or awning.
2. Area: The sign surface area of a canopy or awning sign shall not exceed fifteen percent (15%) of the area of the vertical section of the canopies and awnings. The vertical section of the canopies and awnings is calculated as the height of the canopy or awning (difference between the highest and lowest point on the canopy or awning) multiplied by the length of the canopy or awning measured parallel to the facade upon which it is attached.

Signs on any surface of a canopy or awning other than the surface running parallel with the building face shall be limited to letters or graphics not exceeding four inches (4") in height.

3. Location: Canopies and awnings shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than seven feet six inches (7'6"), and the lowest portion of the descending skirt shall be not less than six feet eight inches (6'8") above the level of the sidewalk or public thoroughfare.

No portion of the canopy or awning sign shall be extended above or beyond the canopy or awning upon which it is attached; however, signs may be hung beneath canopies parallel to the building frontage so long as they do not descend below the minimum six foot eight inch (6'8") minimum clearance.

Awnings shall project a minimum of thirty six inches (36") out from the building upon which they are attached, and a maximum of twenty four inches (24") from the vertical surface of the street curb line.

4. Installation Considerations: To preserve the architectural integrity of a building, no canopy or awning, and no canopy or awning sign shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestrations or ornamental detailing.
5. Illumination of Awnings and Canopies: Awnings and canopies may be illuminated where the following conditions are maintained:
  - a. Both interior type strip lighting and exterior type gooseneck lighting is permitted, not exceeding a maximum light level of eighteen (18) foot-candles measured three feet (3') from and perpendicular to the light source.
  - b. Awnings shall be allowed to be lighted whether or not signs are to be displayed on the awning.
  - c. Internally illuminated awnings and canopies shall permit light to shine fully through only the lettering and graphic elements. The bottom of any internally illuminated awning or canopy shall be enclosed.
  - d. Illumination of canopies, awnings, canopy signs and awning signs is further regulated in Section ~~4-12-8~~ of this Chapter.
6. Nonrigid Materials Prohibited: Canopy or awning signs covered by nonrigid materials and supported on the outer (street) end are prohibited.

**(G)** Neon Signs: The area defined by neon shall not exceed twenty percent (20%) of the window area. Neon signs shall not extend to all edges of the windows.

**(H)** Scoreboards:

1. Location: No scoreboard shall be erected or maintained such that it is visible from a public thoroughfare.
2. Internal Scoreboard: The number, area, height, and location of scoreboards visible only from within the stadium area are regulated as part of Section ~~4-12-8~~ of this Chapter.

**(I)** Temporary Signs:

1. Number: There shall not be more than two (2) permits for temporary signs issued for the same occupant of a premises within one calendar year.
2. Area: Temporary signs shall not exceed thirty two (32) square feet in sign surface area for each exposed face, nor sixty four (64) square feet total sign surface area.
3. Location: Temporary signs shall be located only upon the premises to which the special, unique, or limited activity, service product, or sale is to occur. Temporary signs shall take the form of wall signs or free-standing signs and shall conform to the location requirements of the respective sign type described elsewhere in this Chapter. No temporary signs shall be permitted on vehicles.
4. Time Limitations: Temporary signs shall be erected and maintained for a period not to exceed thirty (30) days, and shall be removed within three (3) days of termination of the activity, service, project, or sale.
5. Materials and Mounting Limitations:
  - a. All temporary signs shall be anchored and supported in a manner which reasonably prevents the possibility of the signs becoming hazards to the public health and safety as determined by the ~~Administrative Officer~~ Sign Administrator.
  - b. Any temporary sign weighing in excess of fifty (50) pounds must conform to the safety requirements of the City Code.
6. Certain Temporary Signs Exempt: Temporary window signs as qualified in Section ~~4-12-6~~ of this Chapter are exempt from the conditions of this Section.

**(J)** Unified Business Center Signs:

1. Comprehensive Sign Plan: No permit shall be issued for a sign to be located in a unified business center until a comprehensive sign plan has been approved for the center as described in Section ~~4-12-18~~ of this Chapter, and said sign complies with the provisions thereof.

2. Center Identification Sign: In addition to the signs permitted for each separate occupant, there may be one identification sign for the center itself.
  - a. Said identification sign may only include the name, address, or graphic logo of the center.
  - b. The permitted sign surface area of said identification sign shall not exceed an area equivalent to one tenth of one percent (0.1%) of the lot area of the premises nor a maximum of one hundred twenty (120) square feet.
  - c. Unless specifically exempted by the provisions of the comprehensive sign plan for the unified business center, said identification sign shall conform to all of the regulations (except those governing number and area) for individual sign types found elsewhere in this Chapter.
3. Directory Signs: In addition to the permitted identification sign for the center, a unified business center may have common Directory signs to guide pedestrians to individual businesses on the site. Such signs shall be limited to a maximum of one square foot per occupant listed on the sign.

**(K) Vehicular Dealership Signs:**

1. Number:
  - a. Each dealership may have one freestanding sign. Each parcel may have no more than two (2) freestanding signs. In the event a business entity consists of multiple dealerships, no more than two (2) dealership signs may appear on one freestanding pole.
  - b. One wall sign per business entity.
2. Area:
  - a. The maximum gross surface area for freestanding signs is one hundred forty (140) square feet per sign face.
  - b. For wall signs, the maximum gross surface area must not exceed twenty five percent (25%) of the square foot area of the facade to which the sign is attached.
3. Location:
  - a. Freestanding Signs:
    - (1)** Freestanding signs are permitted at the lot line.

(2) Freestanding signs shall be separated by a minimum of fifty feet (50').

b. Wall Signs:

(1) Wall signs are not to extend above the roofline of the wall upon which the sign is attached.

4. Height: Freestanding signs erected after the effective date hereof shall not exceed twenty five feet (25'). Freestanding signs in existence prior to that time shall not exceed their preenactment height.

5. Uniform Sign Package: When a dealership changes ownership or acquires a new vehicle line, no new sign(s) may be erected and no modifications to existing signs may be made without the owner having filed a sign package with the City and receiving the City's approval therefor.

6. Flags:

a. Flags may be used on used car lots only, provided that:

(1) They are of uniform color, and

(2) Worn flags are replaced so as to maintain a neat appearance.

7. Conflict With Other Provisions Of This Chapter: In the event of a conflict between this Subsection (K) and the other provisions of this Chapter, this Subsection shall prevail.

(L) Temporary Real Estate Signs: For temporary, nonilluminated real estate signs for multi-family, residential projects, the permitted regulations are as follows:

5 to 36 dwelling units = 32 square foot maximum, 10'0" maximum sign height

All temporary real estate signs shall be limited to a maximum of twelve (12) months total duration, or until all the units are sold.

**4-12-11: AMORTIZATION:**

~~(A) All commercial signage within the City shall be in full compliance with this sign Chapter by January 1, 2005, unless a variance, based on unusual land and/or building configurations only, is sought and approved by the sign review and appeals board.~~

~~(B) Petitioners for variances relating to signage in place prior to the effective date hereof must file a completed application for hearing on the variance by March 1, 2004. No application may be filed after this date.~~

#### **4-12-12 4-10-11: ADMINISTRATION:**

- (A) Administrative Officer: The City Manager shall designate the ~~administrative officer~~ Sign Administrator for the purpose of administering this Chapter. If no such person is designated, the City Manager himself or herself shall function as the ~~administrative officer~~ Sign Administrator.
- (B) Permit Approval Procedure: Any sign for which a permit is required under Section ~~4-12-5~~ of this Chapter must receive that permit prior to being constructed, erected, originally painted, converted, altered, rebuilt, enlarged, remodeled, relocated or expanded. The following procedures must be followed for approval of a permit:
1. Complete Application: A permit application must be submitted to the City of Evanston Department of ~~building and zoning~~ Community & Economic Development. No application shall be accepted until it is complete, along with all necessary fees, bonds, and evidence of ownership or authorization as described below in this Section.
  2. Permit Issuance: Once an application is accepted as complete, the ~~administrative officer~~ Sign Administrator shall direct an examination of the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed, and shall request additional plans and information if necessary to determine conformance. If the ~~administrative officer~~ Sign Administrator determines the proposed sign or signs to be in conformance with this and other applicable Chapters of the City Code, the ~~administrative officer~~ Sign Administrator shall issue a permit for the proposed sign.
  3. Permit Denial: If the proposed sign does not conform with this or other applicable Chapters of the City Code, the ~~administrative officer~~ Sign Administrator shall, on the basis of written findings, approve the sign subject to specific modifications or, on the basis of written findings, deny the sign application.
- (C) Permit Application: Application for permits to erect, construct, or alter a sign shall be submitted on a form and in the manner prescribed by the ~~administrative officer~~ Sign Administrator. Each application shall be signed by the owner of the sign and the owner of the property upon which it is to be located. Applications for permits shall be accompanied by such information as may be required to assure compliance with all applicable regulations, including:
1. Name, address and telephone number of the applicant;
  2. A drawing or drawings indicating the location of the building, structure or lot to which or upon which the sign or advertising structure is to be attached or erected;



3. A drawing or photograph showing the position of the sign or advertising structure in relation to structures;
  4. Two (2) blueprints or ink drawings of the plans and specifications of the proposed sign or advertising structure, including the methods of construction and attachment to the buildings or in the ground. Such plans must include all text and graphics proposed on the sign, drawn to scale with dimensions;
  5. If required by the ~~administrative officer~~ Sign Administrator, a copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure as required by this Chapter and all other applicable Chapters of the City Code;
  6. Name of person, firm, corporation or association responsible for erecting the sign or advertising structure.
  7. Written consent of the owner or agent of the premises on which the sign or advertising structure is to be erected;
  8. A completed application for any electrical permit required to be issued for said sign or advertising structure;
  9. A copy of the insurance policy or bond as required by Subsection ~~4-12-~~ 12(G) of this Chapter;
  10. A declared total value of the sign or advertising structure and its installation;
  11. Documentation of all existing signs on the premises, including their type and area, location, and the occupant of the site to which each sign pertains; and
  12. Any additional information as the ~~administrative officer~~ Sign Administrator shall require to show full compliance with this and all other applicable Chapters of the City Code.
- (D) Temporary Permit Applications: Applications for temporary sign permits shall be accompanied by such information as may be required to assure compliance with all applicable regulations, including those listed in paragraphs 1, 2, 3, 4 and 6 of Subsection (C) of this Section. No fee shall be charged for any temporary sign.
- (E) Annual Inspection Permit: The ~~administrative officer~~ Sign Administrator shall ~~direct an inspection~~ annually, and at such other times as the Officer deems necessary, of each sign and advertising structure for the purpose of ascertaining whether the same is secure, whether it is in need of removal or repair, and whether it is in compliance with the provisions of this Chapter. To meet the expense of such inspection, the sign permittee shall pay to the City Collector an

annual fee, and receive an annual inspection permit. In the event that the sign permittee can not be located, any person owning or in possession, charge or control of the sign or advertising structure shall pay the inspection fee after being properly invoiced by the ~~administrative officer~~ Sign Administrator or the sign or advertising structure shall be removed.

- (F)** Permit Fees: Fees to be charged for permits issued shall be as established in a separate fee ordinance which may be, from time to time, adopted by the City Council. Persons guilty of erecting or maintaining a sign without first securing the necessary permit shall be subject to a penalty fee of fifty percent (50%) of the normal fee amount in addition to the obligation to pay the normal fee.

No fee for an annual inspection permit shall be charged during the calendar year in which the sign or advertising structure is erected. All annual inspection fees shall be due on the anniversary date of the original erection date.

- (G)** Bond, Insurance and Indemnification Requirements:

1. Insurance: A general liability insurance policy issued by any approved insurance company authorized to do business in the State of Illinois, conforming to this Section, may be permitted in lieu of bond, provided that said insurance policy names the City as an additional insured and agrees to hold harmless and indemnify the City, its officers, agents, and employees from any and all claims of negligence resulting from such work.
2. Public Property: All persons responsible for the erection, alteration, relocation, maintenance of a sign or advertising structure in or over or immediately adjacent to a public right of way or public property so that a portion of the public right of way or public property is used or encroached upon by that person, shall agree to hold harmless and indemnify the City, its officers, agents, and employees from any and all claims of negligence resulting from such work.

- (H)** Pre-Installation Inspection: The person responsible for the installation of a sign shall schedule with the ~~administrative officer~~ Sign Administrator a pre-installation inspection prior to installing any sign requiring a permit. Such inspection shall include a footing inspection, if applicable, and confirmation of the other details of mounting and placement.

- (I)** Final Inspection: The person responsible for the installation of a sign shall notify the ~~administrative officer~~ Sign Administrator upon completion of the work for which a permit is required and so schedule a final inspection.

- (J)** Six Month Deadline: If the work authorized under a permit has not been completed within six (6) months after the date of issuance, the permit shall be null and void.

- (K)** Denial or Revocation: All rights and privileges acquired under the provisions of

this Chapter, or any amendment thereto, are deemed mere licenses permits which may be denied, suspended or revoked any time for cause by the ~~administrative officer~~ Sign Administrator of, and all such permits shall be subject to this Section. The ~~administrative officer~~ Sign Administrator is authorized and empowered to deny, suspend, or revoke any permit upon failure of the permittee to comply with any provision of this Chapter or whenever the permit is issued on the basis of a misstatement of fact or fraud. The ~~administrative officer~~ Sign Administrator shall refuse to issue any further permit to any such party or owner, or their agents or representatives, who is in violation of the requirements of this Chapter, or refuses to pay costs assessed for corrective action under the provisions of this Chapter.

**4-12-13 4-10-12: MAINTENANCE AND OPERATION:**

- (A) Maintenance and Repair: Every sign, including but not limited to those signs for which permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, cleaning and other acts required to maintain the sign, advertising structure, marquee, canopy or awning in its originally permitted and installed condition in accordance with the following criteria and with the applicable Chapters of the City Code.
1. Paint or Treat: To prevent rust, peeling, flaking, fading or rotting, the permittee of any sign or advertising structure shall, as required, paint all parts and supports thereof unless the same are galvanized or otherwise treated.
  2. Repairs: Broken panels, missing letters, defective illumination, torn fabric, flaking or peeling paint and other damage to a sign, advertising structure, marquee, awning, canopy or support structure shall be repaired.
  3. Clean and Sanitary: All signs or advertising structures and the area surrounding same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all debris, rubbish and obnoxious substances, and any related grassed area or landscaping shall be kept trimmed and in a healthy condition.
  4. Notification: Every sign or advertising structure hereafter erected shall have painted or permanently affixed in a conspicuous place thereon and continuously maintained, in legible letters, the date of erection, the name of the permittee, and the voltage of any electrical apparatus use in connection therewith.
- (B) Obsolete or Abandoned Signs: Where the ~~administrative officer~~ Sign Administrator finds any sign or advertising structure now or hereafter existing, which advertises a business, commodity, service, entertainment, activity, or event which has been discontinued, or is located on property which has been

vacant and unoccupied he/she shall give written notice requiring removal to the permittee thereof, or if the permittee cannot be located, to the owner, agent or person having the beneficial use of the building, structure or premises upon which it is found. If, after notification, the proper person fails to remove the sign or structure within sixty (60) days after such notice the ~~administrative officer~~ Sign Administrator is hereby authorized to cause the removal of such sign or advertising structure.

(C) **Unsafe and Unlawful Signs:** Where the ~~administrative officer~~ Sign Administrator finds that any sign or advertising structure is unsafe or insecure, or is a menace to the public, or has been constructed or erected, or is being maintained in violation of the provisions of this Chapter, he/she shall give written notice to the permittee thereof, or if the permittee cannot be located, to the owner, agent or person having the beneficial use of the building, structure or premises upon which it is found. If, after notification, the proper person fails to remove or alter the structure so as to comply with the standards herein set forth within twenty (20) days after such notice, the ~~administrative officer~~ Sign Administrator is hereby authorized to cause the removal of such sign or advertising structure. The ~~administrative officer~~ Sign Administrator may summarily and without notice cause the removal of any sign or advertising structure which is an immediate peril to persons or property. The permittee shall be liable for any and all such costs incurred by the City.

(D) **Lien to Recover Costs:** In the event of failure by any party to reimburse the City within sixty (60) days for costs incurred for repair or removal ordered by the ~~administrative officer~~ Sign Administrator, ~~the City Council shall certify the charges for repair or removal to the Corporation Counsel who will be then authorized to file a notice of lien in the office of the Cook County Recorder of Deeds to foreclose this lien, and to sue the owner of the real estate, or sign permittee, or their agents, in a civil action to recover the money due to the foregoing services, plus all expenses, including as hereinafter more fully described, and reasonable attorney's fees to be fixed by the court.~~ Included in the expenses recoverable by the City, are the costs of filing the notice of lien, foreclosing said lien, and all litigation costs, together with all office and legal expense incurred in connection with the collection of the amount due hereunder.

#### **4-12-14 4-10-13: NONCONFORMING SIGNS:**

(A) **Legal Nonconforming Signs:** Any sign located within the City ~~on the date of adoption of this Chapter, or located in an area annexed to the City thereafter,~~ which does not conform with the provisions of this Chapter is eligible for characterization as a "legal nonconforming" sign and is permitted, providing it also meets the following requirements:

1. **Proper Permits:** The sign was erected or installed under authority of proper sign permits prior to the date of adoption of this Chapter, if one was required under applicable Code or law; or

2. No Permit Required: If no sign permit was required under applicable Code or law for the sign in question and the sign was in all respects in compliance with applicable Code or law on the date of adoption of this Chapter.
- (B) Unlawful Nonconformance: Any sign which does not conform with the provisions of this Chapter and is not eligible for characterization as a legal nonconforming sign is unlawful, and must be brought into compliance with this Chapter or shall be removed within thirty (30) days of the adoption of this Chapter, upon written notification of such unlawful nonconformance by the ~~administrative officer~~ Sign Administrator.
- (C) Loss of Status: A sign loses its legal nonconforming status if one or more of the following occurs:
1. Sign Altered: The sign is altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Chapter than it was before alteration; provided, however, in the case of vehicular dealerships, the face of a freestanding sign may be modified without causing the sign to be nonconforming.
  2. Message Changed: The sign message or graphic display is changed in any way, except for normal maintenance or repair that does not increase the nonconformity; provided, however, that in the case of vehicular dealerships, the change of a sign to reflect new ownership does not cause the sign to be nonconforming.
  3. Sign Relocated: The sign is relocated either on the premises or to another location;
  4. Sign Unsafe: The sign fails to conform to the Sections of this Chapter regarding maintenance and operation, and public safety standards;
  5. Sign Damaged: Damage occurs to a sign which requires repairs exceeding fifty percent (50%) of the replacement value of the sign;
  6. Excessive Maintenance Costs: Maintenance is required which will exceed fifty percent (50%) of the replacement value of the sign; or
  7. New Occupancy Permit: A change in use occurs which requires a new occupancy permit for the premises to which a legal nonconforming sign relates.

On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Chapter with a new permit secured, therefor, or shall be removed within thirty (30) days of that date.

~~(D)~~ ~~Inventory of Existing Signs: Upon adoption of this Chapter the Administrative Officer shall, as soon as practicable, conduct an inventory of signs within the City to establish a benchmark evidencing the existence of all signs subject to regulation under this Chapter. Such inventory shall include a photographic or video recording, indexed by street and location.~~

~~(E)~~ **(D)** Continuing Obligation: Nothing in this Section shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provisions of this Chapter regarding safety, maintenance, and repair of signs, provided however, that any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure, sign face or message in such a way which makes the sign more nonconforming.

#### **4-12-15 4-10-14: SIGN REVIEW AND APPEALS BOARD:**

**(A)** Board Creation: There is hereby created a Sign Review and Appeals Board (Board):

1. Board Composition: The Board shall be composed of five (5) members appointed by the Mayor with the consent of the City Council. Two (2) members of the Board shall be experienced or actually engaged in graphic design arts. One member shall be engaged in the field of advertising and two (2) additional members shall be principals engaged in business in Evanston, which are not involved in graphic or design arts or advertising. In making appointments to the Board, the Mayor shall seek to appoint as members persons possessing qualities of impartiality and broad judgment, who are recognized as experienced in matters of aesthetic judgment and perception by virtue of training, education and experience, (such as architects, landscape architects, land planners, sign contractors, graphic designers or persons specifically qualified by reason of education, training or experience in the area of graphic or allied arts) and persons with training or experience in marketing and advertising.
2. Conflict of Interest: No member of the Board shall participate in discussion or vote on items before the Board from any client said member is serving or from any business or property in which said member has a substantial interest of which said members is an officer or employee.
3. Terms and Officers: Each member shall serve for a period of three (3) years at which time he/she may either be reappointed for a maximum of one additional three (3) year term or replaced by a new member by the Mayor, subject to the majority consent of the City Council. ~~One member of the Board shall be designated as chairperson by the Mayor with the consent of the City Council.~~ The members of the Board shall elect from among themselves one member to serve as chairperson and another member to serve as the vice chairperson.

4. Meetings and Quorum: Meetings of the Board shall be on the call of the chairperson, or in the absence of the chairperson the vice chairperson, at such times and places within the City as the Board may determine. A majority of the five (5) members of the Board shall be necessary for a quorum at each meeting.
5. Public Records: All testimony by witnesses at any public hearing provided for in this Chapter shall be of public record. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The minutes of all hearings and meetings and all recommendations, orders, requirements, findings, decisions, and determinations of the Board shall be filed with the Administrative Officer and shall be public records.

**(B)** Jurisdiction: The Board is hereby vested with the following jurisdiction and authority:

1. Appeals: The Board shall hear all appeals from any order, requirement, decision, determination, or interpretation of the ~~administrative officer~~ Sign Administrator acting within the authority vested from this Chapter and make written findings and decisions for the disposition of such appeals.
2. Variations: The Board shall hear all petitions for variations from the provisions of this Chapter, make written findings, and approve, modify, approve with conditions or deny such petitions for variations.
3. Unified Business Centers: The Board shall hear all requests for the establishment or amendment of comprehensive sign plans for unified business centers, make written findings, and approve, modify, approve with conditions or deny such requests.
4. Special Sign Districts: The Board shall hear all proposals for the creation or amendment of special sign district boundaries, make written findings, and recommend the approval, modification, approval with conditions or denial of such proposals to the City Council.

The Board shall hear all requests for the establishment or amendment of comprehensive sign plans for special sign districts, make written findings, and recommend the approval, modification, approval with conditions or denial of such requests to the City Council.

**4-12-16 4-10-15: APPEALS:**

**(A)** Notification to Aggrieved Party: It shall be the responsibility of the Administrative Officer to provide written notification to the aggrieved party of an action denying a permit. Said notice shall include the following:

1. The date and specific reason for denial of the permit.

2. All forms and procedures required for filing an appeal.
- (B) Petition for Appeal: An appeal may be taken to the Sign Review and Appeals Board by any person aggrieved by an order, requirement, decision, determination, or interpretation of the ~~administrative officer~~ Sign Administrator acting with respect to the authority of this Chapter.
1. Application Deadline: An appeal shall be filed within forty-five (45) working days after notification of the alleged erroneous order, requirement, decision, determination, or interpretation.
  2. Application Form: An appeal shall be filed in writing with the Administrative Officer on a form supplied by him. It shall be accompanied by such documents and information as the Board may by rule require.
  3. Filing Fee: Each appeal to the Board shall be accompanied by a filing fee as established ~~in a separate fee~~ by ordinance which may, from time to time, be adopted by the City Council. If the appeal is granted by the Board the filing fee shall be refunded to the applicant.
- (C) Transmittal of Record: The ~~administrative officer~~ Sign Administrator shall, at the time of filing an appeal, forthwith transmit to the Sign Review and Appeals Board all of the documents constituting the record upon which the action appealed from was taken.
- (D) Effect of Appeal: The appeal shall stay all proceedings in furtherance of the action appealed from, unless the ~~administrative officer~~ Sign Administrator certifies to the Sign Review and Appeals Board after the appeal has been filed that, by reason of the facts stated in the application, a stay would in the ~~administrative officer's~~ Sign Administrator's opinion cause imminent peril to life or property. In such case, the proceeding shall not be stayed unless a restraining order is issued by ~~the City Council or~~ by a court of competent jurisdiction, and then only if due cause can be conclusively shown.
- (E) Action of the Board: The Sign Review and Appeals Board shall hold a public hearing on an appeal within thirty (30) days of receipt of a completed written application.
1. Hearing Notice: Notice shall be given of the time, place, and purpose of the public hearing by posting on the premises which is the subject of the hearing a notification sign which meets the following standards:
    - a. The sign shall be a minimum of twenty inches by thirty inches (20" x 30").
    - b. All capital lettering on the sign shall be a minimum of three inches (3") high and the colors utilized shall provide suitable contrast for readability from the adjacent public street.



- c. The sign shall contain: the title "PUBLIC NOTICE" at the top; a statement of the purpose of the hearing; the date, time and place of the hearing; and reference that the hearing is before the Evanston Sign Review and Appeals Board.
  - d. The sign shall be placed near the front door of the premises, or as required, to be fully visible from the public street on which the premises is located. If the premises has frontage on more than one public street a separate sign shall be required for each frontage.
  - e. The sign shall be posted not less than fifteen (15) days before the hearing to which it refers. It shall be removed within five (5) days after the final decision of the Sign Review and Appeals Board on the petition.
2. Required Attendance: Both the aggrieved petitioner and the ~~administrative officer~~ Sign Administrator or their authorized representatives shall attend the meetings of the Board at which the appeal is to be heard.
  3. Decision: Within fifteen (15) working days of the close of the required public hearing of the appeal, the Board shall prepare and submit written findings, and by a majority vote, issue a decision to grant, deny, wholly or in part, or modify said appeal.
- (F)** Council Action: Following receipt of the findings and decision of the Board the Planning and Development Committee of the City Council may choose to review the decision of the Board and on the basis of the record may affirm, modify or reverse the decision of the Board. If no motion to review a Board decision is made and adopted at the Planning and Development Committee meeting following the receipt of the findings and decision of the Board, that decision of the Board shall be final.

~~**(G)** (Deleted per City 11-8-93)~~

~~**(H)**~~**(G)** Maintenance of Records: The ~~administrative officer~~ Sign Administrator shall maintain complete records of all findings and decisions of the Sign Review and Appeals Board and all determinations of the City Council relative to an appeal. All such records shall be open to the public for inspection.

**4-12-17 4-10-16: VARIATIONS:**

It is the intent of this Section to permit variations from the requirements of this Chapter ~~only so as if necessary~~ to achieve a ~~parity~~ uniformity among signs similarly located and classified.

**(A)** Petition for Variation: A petition for a variation from any provision(s) of this Chapter may be made by any person having a proprietary interest in the sign for which such variation is requested.

1. Petition Contents: A petition for variation shall be filed in writing with the ~~administrative officer~~ Sign Administrator on a form supplied by him/her and shall be accompanied by such documents and information as are necessary to clearly exhibit the practical difficulty for which the variation is necessary, including:
  - a. The name, address, and telephone number of the petitioner, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person responsible for erecting or affixing the sign.
  - b. A description of the requested variation.
  - c. Justification of the requested variation.
  - d. The location of the premises on which the sign is to be erected or affixed.
  - e. A site plan of the premises involved, showing accurate placement thereon of the proposed sign.
  - f. A blueprint or ink drawing of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, materials, color, and weight.
  - g. The written consent of the owner of the premises on which the sign is to be erected or affixed.
  - h. A fee, as determined by ordinance ~~adopted by the City Council from time to time~~, to be paid at the time of filing of the petition for variation.

**(B)** Action of the Board: The Sign Review and Appeals Board shall hold a public hearing on the petition for variation within thirty (30) days of receipt of a completed written application.

1. Hearing Notice: Notice shall be given of the time, place and purpose of the public hearing by posting on the premises which is the subject of the hearing a notification sign which meets the following standards:
  - a. The sign shall be a minimum of twenty inches by thirty inches (20" x 30").
  - b. All capital lettering on the sign shall be a minimum of three inches (3") high and the colors utilized shall provide suitable contrast for readability from the adjacent public street.

- c. The sign shall contain: the title "PUBLIC NOTICE" at the top; a statement of the purpose of the hearing; the date, time and place of the hearing; and reference that the hearing is before the Evanston Sign Review and Appeals Board.
  - d. The sign shall be placed near the front door of the premises, or as required, to be fully visible from the public street on which the premises is located. If the premises has frontage on more than one public street a separate sign shall be required for each frontage.
  - e. It shall be the responsibility of the petitioner to remove the sign(s) within five (5) days after the final decision of the Sign Review and Appeals Board on the petition.
- 2. Required Attendance: Both the aggrieved petitioner and the ~~administrative officer~~ Sign Administrator or their authorized representatives shall attend the meetings of the Board at which the variation is to be heard.
  - 3. Decision: Within fifteen (15) working days of the close of the required public hearing on the variation, the Board shall prepare and submit written findings, and by a majority vote, issue a decision to grant, deny, wholly or in part, or modify said variation.

**(C) Appeals from Decision of Sign Review and Appeals Board (SRAB):**

- 1. Decisions of the SRAB may be appealed to Planning and Development Committee by applicant.
- 2.
  - a. If the sign which is the subject of the variation is located in a residential Zoning District, a property owner whose property is within a two hundred fifty foot (250') radius from the property on which the sign is proposed to be located may appeal the SRAB's approval of the variation. Such an appeal may be filed only by a property owner who: 1) appeared in person or by an authorized representative at all public hearings at which the variation was considered and who presented his/her objections to the SRAB, or 2) who filed written objections with the SRAB to the variation.
  - b. The appeal must: 1) be filed with the ~~administrative officer~~ Sign Administrator, within ten (10) calendar days from the date of the SRAB's written decision, 2) be in writing, and 3) specify with particularity the ground(s) for objection. The applicant is permitted to file a written response to any ground(s) asserted in the appeal but not raised before the SRAB.
  - c. Within five (5) working days of receiving the appeal, the ~~administrative officer~~ Sign Administrator shall send a copy of the appeal to the applicant by first-class mail, return receipt requested.

Any response the applicant files must be received by the Administrative Officer within ten (10) working days of the date the appeal was mailed to the applicant. The ~~administrative officer~~ Sign Administrator will send a copy of any response to the appellant property owner.

- d. After receiving the appeal and any response thereto, the ~~administrative officer~~ Sign Administrator shall set the appeal for the next available regular Planning and Development Committee meeting and notify the applicant and appellant property owner in writing of the meeting date.
3. The Planning and Development Committee shall decide whether or not to hear the appeal, and if granted, set a hearing date for said appeal. A decision to not hear the appeal shall be in writing and shall be issued no later than the Committee's next regular meeting.
  4. The hearing shall be confined to a review of the SRAB's decision, and, if applicable, of the written objections submitted by the appellant property owner and response(s) thereto filed by the applicant. No verbal presentations shall be heard except upon invitation by the Committee and any such presentation shall be confined to facts and matters contained in the written materials on file in the appeal.
- (D) The Planning and Development Committee shall either approve, approve with conditions, deny the application, or refer the matter back to the SRAB for further proceedings. The Committee's decision shall be in writing and shall be issued no later than the next regular meeting after the decision is made.
- (E) Standards: Variations shall only be approved to overcome an exceptional condition which poses practical difficulty or particular hardship in such a way as to prevent the display of a sign as intended by this Chapter. No variation shall be granted unless the Board finds that the petition meets each of the following standards:
1. Unique Hardship: The proposed variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship which would result if the strict letter of the regulations were carried out and which is not generally applicable to other property within the City.
  2. Reasonable Return: The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in this Chapter.
  3. Not Self Created: The alleged hardship has not been created by the petitioner or any person presently having a proprietary interest in the premises.

4. Not Harm Public Welfare: The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood. The proposed variation will not by itself or with other signs contribute to the creation of visual distraction which may lead to personal injury or a substantial reduction in the value of property.
  5. Graphic Effectiveness Demonstrated: The petitioner has demonstrated that all reasonable efforts (utilizing color, contrast, lettering legibility, illumination, and graphic composition) have been made to increase the reading effectiveness of the proposed sign within the normal requirements of this Chapter.
  6. Consistent with Intent: The proposed variation is in harmony with the intent, purpose, and objectives of this Chapter.
- (F) Conditions: Such conditions and restrictions may be imposed on the premises to be benefited by a variation as may be necessary to comply with the standards set forth herein, to reduce or minimize any injurious effect of such variation on other property in the neighborhood, and to implement the general intent, purpose, and objectives of this Chapter.
- (G) Revocation: In any case where a variation has been granted, and where no work pertinent thereto has been initiated within one year from the date of approval of the requested variation, then without further action by the Sign Review and Appeals Board, said variation shall become null and void.
- (H) Maintenance of Records: The ~~administrative officer~~ Sign Administrator shall maintain complete records of all findings of fact and decisions of the Sign Review and Appeals Board relative to a variation. All such records shall be open to the public for inspection.

**4-12-18 4-10-17: UNIFIED BUSINESS CENTER:**

No permit shall be issued for a sign to be located in a unified business center until a comprehensive sign plan has been approved for the center and the sign complies with the provisions hereof.

- (A) Comprehensive Sign Plan Approval: Approval of a comprehensive sign plan for a unified business center shall be at the discretion of the Sign Review and Appeals Board in accordance with the criteria noted herein.
- (B) Site Plan Review: No permit shall be issued for a sign, and no final approval shall be granted for a comprehensive sign plan prior to review and approval by the Site Plan Review Committee of all comprehensive sign plans. The Site Plan Review Committee shall forward to the Sign Review and Appeals Board its recommendations for approval, denial or modification of the proposed comprehensive sign plan.

- (C)** Application Content: In addition to the requirements listed for permit applications in ~~Subsection 4-12-12(C)1, 2, and 7~~ Subsection 11-(C) of this Chapter, the application for a comprehensive sign plan for a unified business center shall include a format for all signs to be used in the center, including their maximum size, color, location, illumination details, lettering type, mounting details, and (if any) landscaping details.
- (D)** Criteria: The criteria used by the Sign Review and Appeals Board in its review of the proposed comprehensive sign plan for a unified business center shall include:
1. Scale and Proportion: Every sign shall have good scale and proportion in its design and in its visual relationship to the other signs, buildings and surroundings.
  2. Integral Elements: The signs in the plan shall be designed as integral architectural elements of the building and site to which they principally relate and shall not appear as incongruous "add-ons" or intrusions.
  3. Restraint and Harmony: The colors, materials and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
  4. Effective Composition: The number of graphic elements and letters shall be held to the minimum needed to convey each sign's message and shall be composed in proportion to the area of the sign's face.
  5. Compatibility: Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
  6. Unified Image: The effect of the signs proposed in the plan shall be the establishment of a unified image for the center.
- (E)** Permitted Variations: In conjunction with the approval of the comprehensive sign plan for a unified business center, the Sign Review and Appeals Board may authorize limited variations to the regulations included in this Chapter. Such variations shall be permitted only when the applicant demonstrates that they are necessary to provide an improved comprehensive solution that is consistent with the purpose of this Chapter as found in Section ~~4-12-2~~ of this Chapter. The variations permitted are limited to the following:
1. Wall Signs: For wall signs the Sign Review and Appeals Board may vary the required twenty percent (20%) reduction on multiple signs and the requirement that signs be coterminous with the occupancy to which the signs refer.
  2. Freestanding Signs: For freestanding signs the Sign Review and Appeals Board may vary the thirty foot (30') facade setback requirement, the height

limitations up to the maximum of fifteen and one-half feet (15.5') or the height of the principal building to which the sign pertains (whichever is lower), and the area limitations up to the maximum of one hundred twenty (120) square feet per sign (as long as the total permitted sign surface area for either the occupant or the premises is not exceeded).

#### **4-12-19 4-10-18: SPECIAL SIGN DISTRICTS:**

Upon the finding of unique circumstances, specific geographic areas of the City may be designated by ordinance of the City Council as special sign districts for the purpose of improving the overall appearance of signs in the district.

**(A)** Circumstances for Designating a District: A special sign district may be created when there are unique circumstances relating to a geographic area which require regulations beyond the application of the provisions of this Chapter. Examples of these circumstances are:

1. Special Improvement Plans: Certain business or neighborhood areas in the City may have special improvement plans which require unique considerations for signs.
2. Historic or Distinctive Architectural Areas: Certain areas in the City may have a dominant historical or architectural character that requires specialized treatment of signage to ensure compatibility.
3. Major Institutional Campuses: The premises of certain very large institutions, such as hospitals or universities, may have signage needs that are unique.

**(B)** Initiating a District: Any interested person may initiate the consideration of a special sign district by presenting a request therefore to the Planning and Development Committee of the City Council. If the committee feels that the request is detailed enough and has merit for further deliberation they may refer it to the Sign Review and Appeals Board for a recommendation.

**(C)** Comprehensive Sign Plan: No sign for which a permit is required may be erected in a special sign district unless it is in conformance with the comprehensive sign plan for that district.

1. Initial Sign Plan: Prior to the creation of a special sign district the sign review and appeals board shall examine all signs within the proposed district and recommend to the planning and development committee of the City Council a comprehensive sign plan for the district, including special sign district regulations where appropriate. The special sign district regulations contained in the comprehensive sign plan may supersede regulations found in this Chapter.
2. Amendments: The comprehensive sign plan for a district may be amended

by following the same procedure that is used to establish the initial sign plan.

- (D) Sign Review and Appeals Board Recommendation: No special sign district shall be created by the City Council without receiving a prior recommendation from the sign review and appeals board on the suitability of creating such district.
1. Public Hearing: The board shall hold a public hearing on the question of forming the proposed district and the recommended comprehensive sign plan therefore. Notice shall be given of the time and place of the public hearing not more than thirty (30) days nor less than fifteen (15) days before the hearing, by publishing a notice thereof at least once in one or more newspapers published in the City, or if no newspaper is published therein, then in one or more newspapers having a general circulation within the City. At the hearing, any party may appear in person or by agent or by attorney.
  2. Recommendation: Within thirty (30) days of the close of the required public hearing the board shall prepare written findings of fact, and by majority vote, issue to the planning and development committee of the City Council a recommendation on the suitability of creating the proposed district and adopting the related comprehensive sign plan.
- (E) City Council Action: The planning and development committee shall forward to the full City Council the recommendation of the sign review and appeals board, together with whatever additional comment is appropriate from the committee. The City Council, upon receipt of the recommendation and comments and without further public hearing, may approve by ordinance or deny the creation of the special sign district and the adoption of the comprehensive sign plan therefor.

**4-12-20 4-10-19: REVOCATION FOR CAUSE:**

All rights and privileges acquired under the provisions of this Chapter, or any amendment thereto, are deemed mere licenses revocable at any time for cause by the ~~administrative officer~~ Sign Administrator. The ~~administrative officer~~ Sign Administrator is authorized and empowered to revoke any permit upon failure of the permittee to comply with any provision of this Chapter.

**4-12-21 4-10-20: PENALTY:**

Any person found to have violated the provisions of the sign regulations adopted by the City shall be punished as follows:

- (A)
1. The fine for a first violation is ~~fifty~~ seventy-five dollars (~~\$50.00~~ \$75.00).
  2. The fine for a second violation is ~~one~~ two hundred ~~fifty~~ dollars (~~\$150.00~~ \$200.00).



3. The fine for a third or subsequent violation is three hundred seventy-five dollars (~~\$300.00~~ \$375.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation.
- (C) The penalties provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

#### **4-12-22 4-10-21: SEPARABILITY:**

In accordance with the following, it is hereby declared that the several provisions of this Chapter are separable:

- (A) **Provision of Ordinance:** If any court of competent jurisdiction determines any provision of this Chapter to be invalid, such determination shall not affect any other provision of this Chapter not specifically included in the court's judgment order.
- (B) **Any Particular Sign:** If any court of competent jurisdiction determines any provision of this Chapter to be invalid as applied to any particular sign, such determination shall not affect the application of such provision to any other sign not specifically included in the court's judgment order.

#### **CHAPTER 43 11 - SUBDIVISIONS**

##### **4-13 11-1: APPROVAL OF PLATS:**

- (A) **Issuance of Building Permits:** No building permit shall be issued nor shall any construction be undertaken on any lot or parcel of land within the City unless such lot or parcel is shown, in its entirety, on a plat of subdivision recorded in the office of the Cook County Recorder of Deeds.
- (B) **City Council Approval:** Any new map, plat, subdivision, consolidation or re-subdivision of any block, lot, subplot or part thereof, or any piece or parcel of land shall, before recording the same, be submitted to the City Council for its approval by resolution. Each map, plat, subdivision, consolidation or re-subdivision so submitted shall be accompanied by a report of the Directors of Public Works and Utilities, describing the public improvements available or required to serve the parcels shown on such map, plat, subdivision, consolidation or re-subdivision. No such map, plat, subdivision, consolidation or re-subdivision shall be approved by the City Council unless it conforms with all the applicable ordinances of the City. The City Council may condition any such approval on any/all of the following that it determines is applicable:

1. the applicant's dedication to the City of any land required for public streets, alleyways, and/or other rights-of-way identified in the report of the Directors of Public Works and Utilities;
2. the applicant's granting of easements to the City for all required public utilities infrastructure, including, but not limited to, water and sewer mains, that must be located on applicant's property, as identified in the report of the Directors of Public Works and Utilities;
3. the applicant's execution of a development agreement, in form and content approved by the City, wherein he/she commits to construct, pursuant to City-issued permits, all required public improvements identified in the report of the Directors of Public Works and Utilities, and to transfer ownership of said public improvements to the City after their construction;
4. the applicant's submission to the City of a cash bond or other security in accord with 65 ILCS 5/11-39-3, as amended, in an amount equal to one hundred ten percent (110%) of the estimated costs of any required public improvements identified in the report of the Directors of Public Works and Utilities, to ensure their construction. Should the bond or other security become due to expire, and the Applicant fail to submit a replacement to the City at least fourteen (14) days prior to the expiration date thereof, the City may draw on said bond or security in accordance with the terms thereof, and use the funds drawn to complete the construction of the aforementioned required public improvements;
5. the applicant's recordation, in the office of the Cook County Recorder of Deeds, of the resolution approving the submitted map, plat, subdivision, consolidation and/or re-subdivision, along with all exhibits thereto.

Should any resolution approving a map, plat, subdivision, consolidation and/or re-subdivision require the applicant to dedicate land to the City, grant the City an easement(s), and/or construct and transfer ownership of public improvements to the City, the City may accept said dedication(s) of land, easement(s), and/or ownership of public improvements by ordinance(s).

- (C) Survey Prerequisite; Owner's Responsibility:** No plat, map or subdivision of any block, lot, subplot or part thereof, or any piece or parcel of land shall be approved by the City Council until the same shall be properly certified by a surveyor and acknowledged by the owner as provided by the general laws of the State of Illinois; and until the owner shall swear or affirm that he/she is the owner in fee of the property described in such plat; and until the same shall have been approved by the Director of Public Works, Director of Utilities, City Attorney and Director of Community and Economic Development.

#### **4-43 11-2: CONFORMITY WITH EXISTING SUBDIVISIONS, STREETS AND ALLEYS**

## **REQUIRED:**

No plat, map or subdivision of any block, lot, subplot or part thereof, or any piece or parcel of land shall be approved by the City Council until the same shall conform with existing subdivisions, streets and alleys so as to provide uniformity as to location, direction and width of the streets and alleys in the City.

### **4-13 11-3: SERVICES REQUIRED:**

No building may be erected for habitation on any lot or parcel of land within the City unless a highway, road, street or way for public service facilities, improved with water mains and sanitary sewers is provided to serve the lot or parcel of land.

## **CHAPTER 15 12 - DANGEROUS BUILDINGS CODE**

### **4-15 12-1: DANGEROUS, UNSAFE BUILDINGS DEFINED:**

All buildings or structures which have any or all of the following defects shall be ~~deemed defined as~~ dangerous or unsafe buildings and are declared public nuisances:

All buildings or structures which have any or all of the following defects shall be deemed dangerous or unsafe buildings and public nuisances:

- (A)** Those which have improperly distributed loads upon the floors or roof or on which the same are overloaded, or which have insufficient strength to be reasonably safe for the purposes used, imposed loads or for the intended design load.
- (B)** Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, limb or property of the occupants or others.
- (C)** Those which have parts thereof which are so attached that they may suddenly fall and injure persons or damage property.
- (D)** Those which are in a state of dilapidation, deterioration or decay; have faulty construction; lack ventilation; are overcrowded; are open, vacant or abandoned; or are in danger of collapse or failure; ~~and are dangerous to anyone on or near the premises.~~
- (E)** Those which have sewerage or plumbing facilities which are backed up or otherwise unsanitary.
- (F)** Those which have been designated by the City as unsafe for human habitation.
- (G)** Those which are fire hazards, which lack Code compliant means of ingress and egress, or which lack required operational smoke detectors.

- (H) Those which are manifestly unsafe or unsecured as to endanger life, limb or property.
- (I) Those from which the electrical, plumbing, heating or other facilities required by this Code have been removed, disconnected, destroyed or which cannot safely perform their intended use.
- (J) Those to which the utility services have been removed, disconnected, tampered with, destroyed or interrupted, of which a reasonable owner is presumed to have knowledge and for which a reasonable owner shall be liable.
- (K) Those which have become unsanitary, which are vermin infested or insect infested, or which are littered with refuse.
- (L) Those that endanger life or property by the presence of toxic or flammable fumes, gases, vapors or materials.

**4-15 12-2: NUISANCES DECLARED; ABATEMENT:**

- (A) All dangerous or unsafe buildings or structures as ~~hereinabove~~ defined in this Chapter, are hereby declared to be public nuisances and shall be closed, secured, repaired, vacated or demolished ~~as hereinafter provided.~~
- (B) It shall be unlawful for any person to maintain a building or structure in violation of this Chapter.

**4-15 12-3: CLOSING BUILDING OR PREMISES:**

The City Manager, ~~the Director of Community & Economic Development, the public health Director and the Fire Chief, or any one of them,~~ or his/her designee shall have the power ~~and it shall be their joint and several duty~~ to order any building or premises closed, secured or any structure or equipment therein or thereof removed or its operation stopped when the condition of said building imperils life, safety or health, and to keep same closed, secured, removed or shut down until ~~remedies as required by the building and housing Codes~~ it is made safe, or until the building is demolished, ~~pursuant to section 4-15-5 of this Chapter.~~

**4-15 12-4: POSTED OR PUBLISHED NOTICE OF DANGEROUS, UNSAFE BUILDINGS:**

- (A) Whenever a court or administrative hearing officer has determined that a building is in violation of the Building Code or Property Maintenance Code as adopted by the City, the Director of Community & Economic Development shall have authority to place a sign which is visible to the public on or near the building to provide public notice of the violation(s). The sign may state the address of the building, the owner or owners of record of the building, other information identifying the owner, the nature of the violation(s), the name, address and phone number of the management company, and any relevant information pertaining to

a pending administrative hearing or court proceedings.

- (B)** Whenever the Director of Community & Economic Development has cause to file a court complaint or administrative complaint for an alleged violation of the Building Code and/or Property Maintenance Code, he/she shall be authorized to have a public notice published in one or more newspapers which includes any information relating to the filing of said case in a court of law or administrative tribunal, or any other action taken by the City seeking enforcement of the said Codes. The public notice may include all the information listed in Subsection (A) of this section.
- (C)** Any rental property which has more than fifty (50) violations of the Building Code and/or Property Maintenance Code at the time the court complaint is filed, or administrative proceeding is requested, which violations are either unresolved more than one hundred eighty (180) days after written notice thereof to the owner or which are unresolved after the case has been on the court call or administrative proceeding call more than six (6) times after the court has jurisdiction over the defendant, whichever is less, is eligible for posting pursuant to this section.
- (D)** Prior to posting pursuant to this Section, the Director of Community & Economic Development shall meet with neighbors within five hundred feet (500') of the subject property and the ward Alderman to advise them of a property eligible for posting, and the date after which the sign will be posted. Thereafter, if, in conjunction with the ward Alderman, the Director determines to proceed with the posting, he/she shall send written notice to the owner(s) of record, informing him/her/them of the posting provisions of this Section, and that the owner(s) may stay the posting by appealing to the Planning and Development Committee of the City Council as provided for in Subsection (E) of this Section.
- (E)** An owner desiring to appeal a posting pursuant to this Section shall proceed as follows:

  1. The appeal must: a) be filed with the Director of Community & Economic Development within ten (10) calendar days from the date of the Director's written notice of posting; b) be in writing; and c) specify with particularity the grounds for objection.
  2. After receiving the appeal, the Director of Community & Economic Development shall set the appeal for the next available regular Planning and Development Committee meeting and notify the appellant and owner(s) of record within five hundred feet (500') of the subject property in writing of the meeting. The notice shall advise that the said owners of record that any comments they wish to make must be submitted to the Director of Community & Economic Development, in writing, within ten (10) calendar days from the date of the Director's notice.

3. The Planning and Development Committee shall decide whether or not to hear the appeal, and if granted, set a hearing date for said appeal. A decision to not hear the appeal shall be in writing and shall be issued no later than the Committee's next regular meeting.
4. The hearing shall be confined to a review of the Director of Community & Economic Development's decision, and, if applicable, of the written objections submitted by the appellant and the record owners. No oral presentations shall be heard except upon invitation by the Committee and any such presentation(s) shall be confined to facts and matters contained in the written materials on file in the appeal.
5. The Planning and Development Committee shall either approve, approve with conditions, deny, or refer the matter back to the Director of Community & Economic Development for further investigation. The Committee's decision shall be in writing and shall be issued no later than the next regular meeting after the decision is made.
6. It shall be unlawful for any person to remove, cover, or obliterate any sign, notice or notices lawfully posted by the ~~Director of Community & Economic Development~~ pursuant to this Section, as amended, without the ~~said Director's~~ City's prior written permission.
7. Any person who removes, covers, or obliterates any sign posted pursuant to this section without the prior written permission of the Director of Community & Economic Development shall be subject to a fine up to five hundred dollars (\$500.00) and/or incarceration for a period up to six (6) months. The penalty provision of this Chapter is inapplicable to this section.

#### **4-15 12-5: DEMOLITION OR REPAIR OF BUILDINGS:**

If any building shall be found in a dangerous or unsafe condition or uncompleted or abandoned, the City Manager or his/her designee shall post a prominent warning thereon and shall notify in writing the owner or owners thereof, directing said owner or owners to put such building in a safe condition or to demolish it. Where, upon diligent search, the identity or whereabouts of the owner or owners of any such building shall not be ascertainable, such notice shall be sufficient if mailed to the person or persons in whose name such real estate was last assessed, and to all lien holders of record. If, after fifteen (15) days subsequent to delivery of such notice said owner or owners and lien holders of record have failed to put such building in a safe condition or to demolish it, the City Manager or his/her designee may initiate proceedings in accordance with this Chapter, as amended, and apply to the Circuit Court of Cook County for an order authorizing the City to demolish, repair or enclose or to cause the demolition, repair or enclosure of said building. It shall not be a defense to an action for demolition brought under this Section that the building is boarded up or enclosed.

#### **4-15 12-6: SUMMARY ACTION; LIFE HEALTH SAFETY EMERGENCIES:**

When a building's condition poses an immediate threat to the health, life or safety of the occupants or of the public because of the extremity of conditions, as set forth in Section ~~4-15-1~~ of this Chapter, as amended, the City Manager or his/her designee shall take or cause to be taken whatever measures are reasonably necessary to render the property safe and abate the nuisance, including, but not limited to, the immediate displacement of resident and/or board-up of the property. The City shall have recourse for the costs incurred as provided in Section ~~4-15-7~~ of this Chapter, as amended.

#### **4-15 12-7: LIEN FOR COSTS:**

~~The cost of such demolition, repair or enclosure shall be recoverable~~ The City may recover costs it incurs pursuant to this Chapter, as amended, from the owner or owners of such real estate either by order of a court of competent jurisdiction or an administrative hearing officer pursuant to Subsection 11-1-9-(F)-1 of this Code. ~~and shall~~ Said costs may be a lien thereon as provided by law, provided that within sixty (60) days after said cost and expense is incurred, the City, or the person performing the service by authority of the City, shall file notice of lien as required by law.

#### **4-15 12-8: PENALTY:**

- (A) Any person found to have violated the provisions of this Chapter shall be punished by a fine of seven hundred fifty dollars (\$750.00) per violation. Subsequent offenses may be prosecuted in Circuit Court and punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six (6) months and/or a fine not to exceed one thousand five hundred dollars (\$1,500.00).
- (B) A separate and distinct offense shall be regarded as committed each day on which such person or persons shall violate the provisions of this Chapter.

#### **4-15 12-9: MUNICIPAL LIABILITY:**

No officer, agent or employee of the City shall be held to be personally liable for any damage which may occur to persons or property as a result of any act required or permitted in the discharge of his/her duties under this Chapter. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his/her duties under this Chapter shall be defended by the Corporation Counsel until the final determination of the proceedings therein.

### **CHAPTER 16 13 - FLOODPLAIN REGULATIONS**

#### **4-16 13-1: GENERAL PROVISIONS:**

- (A) Purpose: This Chapter is enacted pursuant to the police powers granted to the City of Evanston by 65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, 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 meet the requirements of 615 ILCS 5/18, rivers, lakes and streams act and accomplish the following specific purposes:

1. To assure that new development does not increase the flood or drainage hazards to others, or create unstable conditions susceptible to erosion;
  2. To protect new buildings and major improvements to buildings from flood damage;
  3. To protect human life and health from the hazards of flooding;
  4. To lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities, and flood rescue and relief operations; and
  5. To make federally subsidized flood insurance available for property in the City of Evanston by fulfilling the requirements of the national flood insurance program;
  6. To comply with the rules and regulations of the National Flood Insurance Program, codified as 44 CFR 59-79, as amended;
  7. To protect, conserve, and promote the orderly development of land and water resources; and
  8. To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
- (B)** Scope: This Chapter is intended to supplement the City of Evanston zoning ordinance, development ordinance, building Code and stormwater management ordinance and further regulate and restrict the development, layout and improvement of land, including drainage, underground utilities and service facilities; excavating, filling and grading lots and other parcels and special flood hazard areas (SFHA), and storing of certain materials thereon, stream and other floodwater runoff channels, and detention ponds and basins; and the location, construction and elevation of buildings and other structures and parts and appurtenances thereof, and the drainage of parking and other paved lots and



areas. In the event there is any conflict between the provisions of this Chapter and any other City ordinance, the more restrictive provision or provisions shall be applicable.

- (C) Compliance With Other Applicable Regulations Required:** Before starting any of the works or uses regulated by this Chapter, an applicant shall comply with requirements set forth in all other applicable ordinances and regulations with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, inspections, appeals and similar matters, along with those set forth in this Chapter as required by federal and state statutes and regulations of any departments of the state.

**4-16 13-2: DEFINITIONS:**

For the purposes of this Chapter, the following definitions are adopted:

ACCESSORY STRUCTURE:	A nonhabitable structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
ACT:	An act in relation to the regulation of the rivers, lakes and streams of the State of Illinois, 615 ILCS 5/5 et seq.
APPLICANT:	Any person, firm, corporation or agency which submits an application.
APPROPRIATE USE:	Only uses of the designated floodway that are permissible and will be considered for permit issuance. The only uses that will be allowed are as specified in Subsection <del>4-16-7</del> (C) of this Chapter.
BASE FLOOD:	The flood having a one percent (1%) chance 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 Section <del>4-16-5</del> of this Chapter.
BASE FLOOD ELEVATION (BFE):	The elevation in relation to mean sea level of the crest of the base flood.
BASEMENT:	That portion of the building having its floor subgrade (below ground level) on all sides.
BUILDING:	A walled and roofed structure, including gas or liquid storage tank, that is principally aboveground, including manufactured homes, prefabricated buildings, and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year.
CHANNEL:	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 or ground water flows, either perennially or intermittently.
CHANNEL MODIFICATION:	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 native vegetation from the bottom or banks. 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	An artificially excavated, hydraulically equivalent volume of storage within

STORAGE:	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 floodplain storage can increase off site floodwater elevations and flows.
CONDITIONAL APPROVAL OF A DESIGNATED FLOODWAY MAP CHANGE:	Preconstruction approval by IDNR/OWR and FEMA 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):	A letter which indicates that FEMA will revise base flood elevations, flood insurance rate zones, flood boundaries or floodway 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:	A structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.
CRITICAL FACILITY:	Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk. Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers), and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances). Examples of critical facilities where flood protection is recommended include: sewage treatment plants, water treatment plants, and pumping stations.
DAM:	All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Dams may also include weirs, restrictive culverts or impoundment structures. Underground water storage tanks are not included.
DESIGNATED FLOODWAY:	<p>The channel, including on stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, generally depicted on the FEMA FIRM map, which is needed to store and convey the existing 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 (10%) increase in velocities.</p> <p>(A) The floodways are designated for the City of Evanston on the countywide flood insurance rate map of Cook County prepared by FEMA and dated August 19, 2008. When two (2) floodway maps exist for a waterway, the more restrictive floodway limit shall prevail.</p> <p>(B) The floodways for those parts of unincorporated Cook County that are within the extraterritorial jurisdiction of the City of Evanston that may be annexed into the City of Evanston are designated for North Shore Channel and Lake Michigan on the countywide flood insurance rate map prepared by FEMA and dated August 19, 2008.</p> <p>(C) To locate the designated floodway boundary on any site, the designated floodway boundary should be scaled off the designated 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 designated floodway boundary, IDNR/OWR should be contacted for the interpretation.</p>

DEVELOPMENT:	<p>Any manmade change to real estate, including:</p> <p>(A) Construction, reconstruction, repair, or placement of a building or any addition to a building.</p> <p>(B) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days. If the travel trailer or recreational vehicle is on site for less than one hundred eighty (180) days, it must be fully licensed and ready for highway use.</p> <p>(C) Drilling, mining, installing utilities, construction of roads, bridges, or similar projects.</p> <p>(D) Demolition of a structure or redevelopment of a site.</p> <p>(E) Clearing of land as an adjunct of construction.</p> <p>(F) 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.</p> <p>(G) Any other activity of man that might change the direction, height, or velocity of flood or surface water, including extensive vegetation removal.</p> <p>(H) Substantial improvement of an existing building.</p> <p>Development does not include routine maintenance of existing buildings and facilities such as reroofing or resurfacing of roads when there is no increase in elevation, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.</p>
ELEVATION CERTIFICATES: EROSION:	<p>A form published by FEMA that is used to certify the elevation to which a building has been elevated.</p> <p>The general process whereby soils are moved by flowing water or wave action.</p>
EXEMPT ORGANIZATIONS: EXISTING MANUFACTURED HOME PARK SUBDIVISION:	<p>Organizations which are exempt from this Chapter per <del>Illinois Compiled Statute</del> (ILCS) including state, federal or local units of government.</p> <p>A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed before April 1, 1990.</p>
EXPANSION TO AN EXISTING MANUFAC- TURED HOME PARK OR SUBDIVISION: FEMA:	<p>The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).</p> <p>Federal emergency management agency and its regulations at 44 CFR 59-79, as amended.</p>
FLOOD:	<p>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.</p>
FLOOD FREQUENCY:	<p>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.</p>
FLOOD FRINGE:	<p>That portion of the floodplain outside of the designated floodway. See definition of Designated Floodway.</p>
FLOOD INSURANCE RATE MAPS (FIRM):	<p>A map prepared by FEMA 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.</p>
FLOOD INSURANCE STUDY:	<p>An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.</p>
FLOOD PROTECTION ELEVATION (FPE):	<p>The elevation of the base flood or 100-year frequency floods plus one foot (1') of freeboard at any given location in the SFHA.</p>
FLOODPLAIN:	<p>That land typically adjacent to a body of water with ground surface</p>

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).

(A) The floodplains are those lands within the jurisdiction of the City of Evanston that are subject to inundation by the base flood or 100-year frequency flood. The SFHAs of the City of Evanston are generally identified as such on panel numbers 0253, 0255, 0260, 0265 and 0270 of the countywide flood insurance rate map of the City of Evanston prepared by the federal emergency management agency and dated August 19, 2008.

(B) The SFHAs of those parts of unincorporated Cook County that are within the extraterritorial jurisdiction of the City of Evanston or that may be annexed into the City of Evanston are generally identified as such on panel numbers 0253, 0255, 0260, 0265 and 0270 of the countywide flood insurance rate map prepared for Cook County by the federal emergency management agency and dated August 19, 2008.

FLOODPROOFING:

Any combination of 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:

A form published by FEMA that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOODWAY:  
HISTORIC  
STRUCTURE:

See definition of Designated Floodway.

Any structure that is:

(A) Listed individually in the National Register of Historic Places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

(B) Certified or preliminarily determined by the secretary of the interior as contributing to the historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(C) Individually listed on the state inventory of historic places by the Illinois historic preservation agency;

(D) Individually listed on a local inventory of historic places that has been certified by the Illinois historic preservation agency.

HYDROLOGIC AND  
HYDRAULIC  
CALCULATIONS:

Engineering analyses which determine expected flood flows and flood elevations based on land characteristics and rainfall events.

IDNR/OWR:

Illinois department of natural resources, office of water resources.

LETTER OF MAP  
AMENDMENT (LOMA):

Official determination by FEMA that a specific structure is not in a 100-year floodplain; amends the FIRM.

LETTER OF MAP  
REVISION (LOMR):

Letter that revises base flood or 100-year frequency flood elevations, floodplains or floodways as shown on an effective FIRM.

LOWEST FLOOR:

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter.

MANUFACTURED  
HOME:

A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on site for more than one hundred eighty (180)

<p>MANUFACTURED HOME PARK OR SUBDIVISION:</p> <p>MITIGATION:</p>	<p>consecutive days. The term "manufactured home" does not include a "recreational vehicle".</p> <p>A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.</p>
<p>NAVD 88 (NATIONAL AMERICAN VERTICAL DATA OF 1988):</p> <p>NATURAL:</p>	<p>Includes 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: excavation of compensatory storage, soil erosion and sedimentation control, and channel restoration. Mitigation may also include those activities taken to reduce a structure's susceptibility to flooding.</p> <p>NAVD 88 supersedes the national geodetic vertical datum of 1929 (NGVD).</p> <p>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 regarding and revegetation.</p>
<p>NEW CONSTRUCTION:</p>	<p>Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.</p>
<p>NEW MANUFACTURED HOME PARK OR SUBDIVISION:</p>	<p>Manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed on or after April 1, 1990.</p>
<p>ORDINARY HIGH WATER MARK (OHWM):</p>	<p>The point on the bank or shore up to which the presence and action of surface water is so continuous so 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.</p>
<p>PUBLIC BODIES OF WATERS:</p>	<p>All open public streams and lakes capable of being navigated by watercraft, in whole or in part, for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon the borders of the state of Illinois, together with all bayous, sloughs, backwaters, and submerged lands that are open to the main channel or body of water directly accessible thereto.</p>
<p>PUBLIC FLOOD CONTROL PROJECT:</p>	<p>A flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures, including 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.</p>
<p>RECREATIONAL VEHICLE OR TRAVEL TRAILER:</p>	<p>A vehicle which is:</p> <p>(A) Built on a single chassis;</p>

	(B) Four hundred (400) square feet or less when measured at the largest horizontal projection;
	(C) Designed to be self-propelled or permanently towable by a light duty truck; and
	(D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
REGIONAL PERMITS:	Regional permits are offered for preapproved projects which are considered minor projects that are permissible per IDNR/OWR part 3708 rules for northeastern Illinois regulatory floodways. A complete listing of the terms and conditions for specific project types can be obtained from the IDNR/OWR website.
REGISTERED LAND SURVEYOR:	A land surveyor registered in the State of Illinois, under the Illinois Land Surveyors Act, <u>225 ILCS 330/1 et seq., as amended.</u>
REGISTERED OR LICENSED PROFESSIONAL ENGINEER:	An engineer registered in the State of Illinois, under the Illinois Professional Engineering Practice Act, <u>225 ILCS 325/1 et seq., as amended.</u>
REPAIR, REMODELING OR MAINTENANCE:	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.
REPETITIVE LOSS:	Flood related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred.
RETENTION/DETENTION FACILITY:	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:	Any SFHA subject to flooding from a river, creek, intermittent stream, ditch, on 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:	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:	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):	See definition of Floodplain.
START OF CONSTRUCTION:	Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or placement of a manufactured home on a foundation.
STATEWIDE PERMITS:	Statewide permits are offered for preapproved projects that are considered minor projects which are permissible per the IDNR/OWR part 3700 rules. A complete listing of the statewide permits and permit requirements can be obtained from the IDNR/OWR website.
STRUCTURE:	See definition of Building.
SUBSTANTIAL DAMAGE:	Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption date hereof equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed.

SUBSTANTIAL  
IMPROVEMENT:

Volunteer labor and materials must be included in this determination. The term includes repetitive loss buildings. See definition of Repetitive Loss. Any reconstruction, rehabilitation, addition, or improvement of a structure taking place subsequent to the adoption date hereof in which the cumulative percentage of improvements equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started.

(A) "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual work done.

(B) The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety Code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a "historic structure" listed on the National Register of Historic Places or the Illinois Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a historic structure.

TRANSITION  
SECTION:  
VIOLATION:

Reaches of the stream or floodway where water flows from a narrow cross section to a wide cross section or vice versa.

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

**4-16 13-3: HOW TO USE THIS CHAPTER:**

(A) The City Engineer and the Community & Economic Development Director shall be responsible for fulfilling all of the duties listed in Section ~~4-16-4~~ of this Chapter. To fulfill those duties, the City Engineer should first use the criteria listed in Section ~~4-16-5~~, "Base Flood Elevation", of this Chapter, 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 Engineer must determine whether the development site is within a flood fringe, a regulatory floodway, or within an SFHA or floodplain for which no floodway has been identified.

1. If the site is within a flood fringe, the City Engineer shall require that the minimum requirements of Section ~~4-16-6~~ of this Chapter be met.
2. If the site is within a floodway, the City Engineer shall require that the minimum requirements of Section ~~4-16-7~~ of this Chapter be met.
3. If the site is located within an SFHA or floodplain for which no detailed study has been completed and approved, the City Engineer shall require that the minimum requirements of Section ~~4-16-8~~ of this Chapter be met.

(B) In addition, the general requirements of Section ~~4-16-9~~ of this Chapter shall be

met for all developments meeting the requirements of Section ~~4-16-6~~, ~~4-16-7~~ or ~~4-16-8~~ of this Chapter.

- (C) The City Engineer and the Community & Economic Development Director shall ~~assure~~ ensure that all subdivision proposals shall meet the requirements of Section ~~4-16-10~~ of this Chapter.
- (D) If a variance is to be granted for a proposal, the Community & Economic Development Director and the City Engineer shall review the requirements of Section ~~4-16-11~~ of this Chapter to make sure they are met. In addition, the Community & Economic Development Director shall complete all notification requirements.
- (E) In order to assure that property owners obtain permits as required in this Chapter, the Community & Economic Development Director may take any and all actions as outlined in Section ~~4-16-13~~ of this Chapter.

#### **4-16 ~~13~~-4: DUTIES OF THE ENFORCEMENT OFFICIALS:**

##### **(A) Duties of the City Engineer:**

1. **Determining The Floodplain Designation:** Check all new development sites to determine whether they are in a special flood hazard area (SFHA). If they are in an SFHA, determine whether they are in a floodway, flood fringe or in a floodplain for which a detailed study has not been conducted and which drains more than one square mile. Check whether the development is potentially within an extended SFHA (with a drainage area less than 1 square mile), indicating that the development would have adverse impacts regarding storage, conveyance, or inundation which would be the basis for the applicant being required to delineate the floodplain and floodway and be subject to the remaining Sections of this Chapter.
2. **Professional Engineer Review:** If the development site is within a floodway or in a floodplain for which a detailed study has not been conducted and which drains more than one square mile, the permit and any required engineering reports shall be referred to the City Engineer for review to ensure that the development meets the requirements of Section ~~4-16-7~~ or ~~4-16-8~~ of this Chapter. In the case of an appropriate use, a licensed engineer in the state of Illinois shall state in writing to the satisfaction of the City Engineer that the development meets the requirements of Section ~~4-16-7~~ of this Chapter.
3. **Dam Safety Requirements:** Dams are classified as to their size and their hazard/damage potential in the event of failure. The construction or major modification of all class I (high hazard) and class II (moderate hazard) dams require an IDNR/OWR dam safety permit. Some class III (low hazard) dams require an IDNR/OWR dam safety permit, depending on the



drainage area to the dam, the height of the dam and the impounding capacity behind the dam. Most off channel detention basins that have an embankment are nonjurisdictional class III dams. It is not required that IDNR/OWR "sign off" on all nonjurisdictional class III dams. A consulting engineer with dam safety knowledge can estimate a hazard classification and determine if an IDNR/OWR dam safety permit is required. A permit application submittal must be made to IDNR/OWR for the construction or major modification of jurisdictional dams. Regulated dams may include weirs, restrictive culverts or impoundment structures.

4. Other Permit Requirements: Ensure 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: Ensure that all development activities within the SFHAs of the jurisdiction of the City of Evanston meet the requirements of this Chapter, and issue 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: Provide engineering assistance to the Community & Economic Development Director in their inspection of all development projects before, during and after construction to assure proper elevation of the structure and to ensure compliance with the provisions of this Chapter.
7. Records For Public Inspection: Maintain for public inspection and furnish upon request base flood data, SFHA and designated floodway maps, copies of federal or state permit documents, variance documentation, conditional letter of map revision, letter of map revision and letter of map amendments.
8. State Permits: Ensure that construction authorization has been granted by IDNR/OWR, for all development projects subject to Sections ~~4-16-7~~ and ~~4-16-8~~ of this Chapter, unless enforcement responsibility has been delegated to the City of Evanston. However, the following review approvals are not delegated to the City of Evanston and shall require review or permits from IDNR/OWR:
  - a. Organizations which are exempt from this Chapter, as per the Illinois Compiled statutes;
  - b. IDNR/OWR projects, dams or impoundment structures as defined in Section ~~4-16-2~~ of this Chapter and all other state, federal or local unit of government projects, including projects of the City of Evanston and county, except for those projects meeting the requirements of Subsection ~~4-16-7(C)~~ of this Chapter;

- 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 Subsection ~~4-16-7~~(E) of this Chapter;
  - d. An engineer's analysis of the flood profile due to Subsection ~~4-16-7~~(E) of this Chapter;
  - e. Alternative transition sections and hydraulically equivalent compensatory storage as indicated in Subsection ~~4-16-7~~(E) of this Chapter;
  - f. Permit issuance of structures within, under, or over publicly navigable rivers, lakes and streams;
  - g. Any changes in the mapped floodway or published flood profiles.
9. Cooperation With Other Agencies: Cooperate 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. Submit data to IDNR/OWR and FEMA for proposed revisions of a regulatory map within six (6) months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map. Submit reports as required for the national flood insurance program and notify FEMA of any proposed amendments to this Chapter.
10. Promulgate Regulations: Promulgate rules and regulations as necessary to administer and enforce the provisions of this Chapter, subject however to the review and approval of IDNR/OWR and FEMA for any ordinance changes.

**(B) Duties of the Community & Economic Development Director:**

- 1. Elevation And Floodproofing Certificates: Maintain permit files including: An elevation certificate certifying the elevation of the lowest floor (including basement) of a residential or nonresidential building subject to Section ~~4-16-9~~ of this Chapter, and/or the elevation to which a nonresidential building has been floodproofed, using a floodproofing certificate, for all buildings subject to Section ~~4-16-9~~ of this Chapter.
- 2. Records For Public Inspection: Maintain for public inspection and furnish upon request "as built" elevation and floodproofing or elevation and floodproofing certificates for all buildings constructed subject to this Chapter.
- 3. Inspection Review: Inspect all development projects before, during and after construction to assure proper elevation of the structure and to ensure compliance with the provisions of this Chapter; and, schedule on an

annual basis an inspection of the floodplain and document the results of the inspection.

4. Damage Determinations: Make damage determinations of all damaged buildings in the SFHA after a flood to determine substantially damaged structures which must comply with Subsection ~~4-16-9~~(D) of this Chapter.
5. Issue Violations and Penalties: Working with the ~~City attorney's Corporation Counsel's~~ and City Engineer's offices, issue violations and penalties as required under the provisions of Section ~~4-16-13~~ of this Chapter.
6. Promulgate Regulations: Promulgate rules and regulations as necessary to administer and enforce the provisions of this Chapter, subject however to the review and approval of IDNR/OWR and FEMA for any ordinance changes.
7. Variances: Administer requests for variances per requirements of Section ~~4-16-11~~ of this Chapter.

#### **4-16 ~~13~~-5: BASE FLOOD ELEVATION:**

- (A) General: This Chapter's protection standard is based on the flood insurance study for the City of Evanston. If a 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 from federal, state or other sources. When a party disagrees with the best available data, they shall submit a detailed engineering study needed to replace existing data with better data and submit it to IDNR/OWR and FEMA for review and consideration prior to any development of the site.
- (B) Base Flood: The base flood or 100-year frequency flood elevation for the SFHAs of the North Shore Channel and Lake Michigan shall be as delineated on the 100-year flood profiles in the flood insurance study of Cook County prepared by FEMA, and dated August 19, 2008, and such amendments to such study and maps as may be prepared from time to time.
- (C) Delineation (AH/AO): 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 Cook County.
- (D) Delineation (Other): 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 Cook County shall be according to the best existing data available from federal, state or other sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations. 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, HEC-RAS, 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-HMS, HEC-1, TR-20, or HIP, or by techniques presented in various publications prepared by the United States geological survey for estimating peak flood discharges. For a nonriverine SFHA, the base flood elevation shall be the historic flood of record plus three feet (3'), unless calculated by a detailed engineering study. For an unmapped extended SFHA (with a drainage area less than 1 square mile) which has been identified by the City Engineer pursuant to Subsection ~~4-16-4~~(A) of this Chapter, the base flood elevation shall be determined by the applicant utilizing a method as approved in this Section.

#### **4-16 13-6: OCCUPATION AND USE OF FLOOD FRINGE AREAS:**

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 applicable provisions of this Chapter. 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 Section ~~4-16-9~~ of this Chapter.

**(A)** Development Permit: No person, firm, corporation, or governmental body not exempted by law shall commence any development in the SFHA without first obtaining a development permit from the City Engineer.

1. Application: Application for a development permit shall be made on a form provided by the City Engineer. The application shall be accompanied by drawings of the site, drawn to scale, showing property line dimensions and legal description for the property and sealed by a licensed engineer, architect or land surveyor; existing grade elevations, using the North American vertical datum of 1988, and all changes in grade resulting from excavation or filling; the location and dimensions of all buildings and additions to buildings. For all proposed buildings, the elevation of the lowest floor (including basement) and lowest adjacent grade shall be shown on the submitted plans and the development will be subject to the requirements of Section ~~4-16-9~~ of this Chapter.

**(B)** SFHA Determination: Upon receipt of a development permit application, the City Engineer 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 be higher than the base flood elevation of the current flood insurance rate map and which has not been filled after the date of the site's first flood insurance rate map without a permit as required by this Chapter is not in the SFHA and, therefore, not subject to the requirements of this Chapter. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but shown on the current flood insurance rate map is subject to the provisions of this Chapter. The City Engineer 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.

- (C)** Soil Erosion and Sediment Control: A soil erosion and sediment 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 also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure postconstruction maintenance.
- (D)** Other Agency Permits: The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or waivers that may be required for this type of activity. The City Engineer shall not issue a permit unless all other federal, state, and local permits have been obtained.
- (E)** Preventing Increased Damages: No development in the flood fringe shall create a threat to public health and safety.
- (F)** LOMR: 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.
- (G)** 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 1.5 times 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.
- (H)** Construction of the Lowest Floor Below the Base Flood Elevation (BFE): A person who has obtained a letter of map revision (LOMR) based on fill that removes a site in the flood fringe from the floodplain due to the use of fill to elevate the site above the BFE, may apply for a permit from the City to construct the lowest floor of a residential building below the BFE in the flood fringe. Such a permit shall not be issued unless the applicant has complied with all the criteria set forth in the following Subsections:

1. Compensatory storage shall be provided per Subsection (G) of this Section.
2. The elevation of the lowest opening in the basement wall (i.e., window wells, accessways) shall be at or above the flood protection elevation (FPE).
3. The lowest adjacent grade to the foundation shall be at or above the FPE, for a minimum distance of ten feet (10') beyond the outside face of the structure. However, if site conditions are such that this requirement cannot be met, the City Engineer may waive the ten foot (10') minimum setback if an Illinois licensed professional engineer certifies that an alternative method to protect the building from damage due to hydrostatic pressures has been met. The certifications shall be in the form of a detailed soils and structural design analysis, which shall be submitted to the City Engineer for review. The City Engineer may require such additional documentation as necessary to prove that the proposed shorter setback distance will keep the structure reasonably safe. In no case shall the setback distance be less than four feet (4').
4. The grade around the perimeter of the structure, measured at a distance of twenty feet (20') from the structure, shall be above the BFE. However, if site conditions are such that this requirement cannot be obtained, the City Engineer may waive the twenty foot (20') minimum setback distance if an Illinois licensed professional engineer certifies that an alternative method to protect the building from damages due to hydrostatic pressures have been met. A detailed soils analysis and structural design proving that a shorter setback distance will keep the structure reasonably safe from flooding, shall be submitted to the City of Evanston for review. In no case shall the setback distance be less than four feet (4').
5. The ground around the building shall be compacted fill that meets all requirements of this Subsection and is at least five feet (5') thick under the basement floor slab. Nothing in this Subsection shall be interpreted to require the removal or replacement of fill that was placed as part of an LOMR-F, if such fill consists of material, including soils of similar classification and degree permeability, such as those classified as CH, CL, SC or ML according to ASTM standard D-2487, classification of soils for engineering purposes.
6. The fill material must be homogeneous and isotropic; that is, the soil must be all of one material, and the engineering priorities must be in the same direction.
7. All fill material and compaction shall be designed, certified and inspected by an Illinois licensed professional engineer, as warranted by the site conditions.

8. The basement floor shall be at an elevation that is no more than five feet (5') below the BFE.
9. There shall be a granular drainage layer beneath the floor slab, and minimum of one-fourth (1/4) horsepower sump pump with a backup power supply shall be provided to remove seepage flow. The pump shall be rated at four (4) times the estimated seepage rate and shall discharge above the BFE and away from the building in order to prevent flooding of the basement or uplift of the floor under the effect of the seepage pressure.
10. The drainage system shall be equipped with a positive means of preventing backflow.
11. All foundation elements shall be designed to withstand hydrostatic pressure in accordance with accepted engineering practices.
12. If the applicant is unable to meet all of the requirements set forth in the preceding paragraphs of this Subsection, the City Engineer may allow the construction of a basement below the BFE only if the applicant demonstrates that the proposed fill and structure meet the guidelines and requirements set forth in FEMA technical bulletin 10-01 and are reasonably safe from flooding. In order to demonstrate that the proposed structure is reasonably safe from flooding, the applicant shall submit a detailed engineering analysis of the proposed fill and foundation wall. The engineered basement study shall be completed in accordance with the latest edition of FEMA technical bulletin 10-01, with the analysis of the fill being prepared by an Illinois licensed professional engineer.
13. In order to provide the required compensatory storage on site, in no case shall the depth of excavation in the front and side yards of the lot exceed eighteen inches (18"), as measured from the previously existing natural grade. The rear yard shall be permitted to have a greater depth of excavation, if necessary. All such excavation shall be constructed to drain freely and openly to the watercourse or storm sewer system. The use of mechanical means to drain the compensatory storage area will not be permitted.

#### **4-16 13-7: OCCUPATION AND USE OF DESIGNATED FLOODWAYS:**

This Section applies to proposed development, redevelopment, site modification or building modification within a designated floodway. The designated floodway for North Shore Channel and Lake Michigan shall be as delineated on the countywide flood insurance rate map of Cook County and referenced in Section ~~4-16-2~~ of this Chapter. Only those uses and structures will be permitted which meet the criteria in this Section. All floodway modifications shall be the minimum necessary to accomplish the purpose of the project. The development shall also meet the requirements of Section ~~4-16-9~~ of this Chapter.

**(A)** Development Permit: No person, firm, corporation or governmental body not exempted by state law shall commence any development in a floodway without first obtaining a development permit from the City Engineer and IDNR/OWR.

1. Application: Application for a development permit shall be made on a form provided by the City Engineer. The application shall include the following information:
  - a. Name and address of applicant;
  - b. Site location (including legal description) of the property, drawn to scale, on the designated floodway map, indicating whether it is proposed to be in an incorporated or unincorporated area;
  - c. Name of stream or body of water affected;
  - d. Description of proposed activity;
  - e. Statement of purpose of proposed activity;
  - f. Anticipated dates of initiation and completion of activity;
  - g. Name and mailing address of the owner of the subject property if different from the applicant;
  - h. Signature of the applicant or the applicant's agent;
  - i. If the applicant is a corporation, the president or other authorized officer shall sign the application form;
  - j. If the applicant is a partnership, each partner shall sign the application form; and
  - k. If the applicant is a land trust, the trust officer shall sign the name of the trustee by him(her) 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 interests therein.
  - l. Plans of the proposed activity shall be provided which include as a minimum:
    - (1) 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;
    - (2) A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations, using the



North American vertical datum of 1988, 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), designated 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;

- (3)** 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);
  - (4)** A soil erosion and sediment 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 postconstruction maintenance;
  - (5)** A copy of the designated floodway map, marked to reflect any proposed change in the designated floodway location.
- m.** Any and all other federal, state, and local permits or approval letters that may be required for this type of development.
  - n.** Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the permit criteria of Subsection (C) of this Section.
  - o.** If the designated 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 IDNR/OWR has indicated conditional approval of the designated floodway map change. No structures may be built until a letter of map revision has been approved by FEMA.
  - p.** The application for a structure shall be accompanied by drawings 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 licensed professional engineer, licensed architect or licensed land surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section ~~4-16~~-9 of this Chapter.

**q.** If the proposed project involves a channel modification, the applicant shall submit the following information:

- (1)** A discussion of the purpose of and need for the proposed work;
- (2)** A discussion of the feasibility of using alternative locations or methods (see Subsection (E)9 of this Section) to accomplish the purpose of the proposed work;
- (3)** An analysis of the extent and permanence of the impacts each feasible alternative identified in Subsection (E)9 of this Section would have on the physical and biological conditions of the body of water affected; and
- (4)** An analysis of the impacts of the proposed project, considering cumulative effects on the physical and biological conditions of the body of water affected.

**(B)** Other Agency Permits: The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits and approvals that may be required for this type of activity. The City Engineer shall not issue the development permit unless all required federal and state permits have been obtained. The City Engineer or a licensed professional engineer, under the employ or contract of the City of Evanston shall review and approve applications reviewed under this Section.

**(C)** Preventing Increased Damages and a List of Appropriate Uses: 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 17 Illinois Administrative Code Part 3708 will be allowed. 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 facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses;
3. Storm and sanitary sewer relief 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 and toilet facilities (4 stall maximum) that will not block flood flows nor reduce floodway storage;
6. Detached garages, storage sheds, or other nonhabitable accessory structures 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 built at or below existing grade where either the depth of flooding at the 100-year frequency flood event will not exceed 1.0 foot; or the applicant of a short term recreational use facility parking lot formally agrees to restrict access during overbank flooding events and accepts liability for all damage caused by vehicular access during all overbank flooding events;
9. Designated floodway regarding, 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 toe of the floodwall shall be no more than ten feet (10') away from the exterior wall of the existing structure, and, which are not considered substantial improvements to the structure;
11. The replacement, reconstruction, or repair of a damaged building, provided that the outside dimensions are not increased, and if the building was damaged to fifty percent (50%) or more of the market value before the damage occurred, the building will be protected from flooding to the flood protection elevation; and
12. Modifications to an existing building that would not increase the enclosed floor area of the building below the 100-year frequency flood elevation, and which will not block flood flows including, but not limited to, fireplaces, bay windows, decks, patios, and second story additions. If the building is

improved to fifty percent (50%) or more of the market value before the modification occurred (i.e., a substantial improvement), the building will be protected from flooding to the flood protection elevation.

- (D)** Nonappropriate Uses in the Floodway: Appropriate uses do not include the construction or placement of any new structures, fill, building additions, buildings 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.
- (E)** Floodway Characteristics: Within the designated floodway, 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 licensed professional engineer and provided that any structure meets the protection requirements of Section ~~4-16-9~~ 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 designated 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 designated floodway conveyance, the following factors shall be taken into consideration.
    - a.** Designated floodway conveyance, "K" =  $(1.486/n) (AR^{2/3})$  where "n" is Manning's roughness factor, "A" is the effective flow area of the cross section, and "R" is the ratio of the area to the wetted perimeter. (See Ven Te Chow, "Open Channel Hydraulics", McGraw-Hill, New York 1959.)
    - 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 assure the proposed conditions will be maintained or the land cover is changing from a vegetative to a nonvegetative land cover.
    - c.** Transition sections shall be provided and used in calculations of effective designated floodway conveyance. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to IDNR/OWR 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 (1') horizontal for every four feet (4') 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 (1') horizontal for every one foot (1') of the flooded stream's length.
  - (3) When expanding or contracting flows in a vertical direction, a minimum of one foot (1') vertical transition for every ten feet (10') of stream length shall be used.
  - (4) Transition sections shall be provided between cross sections with rapid expansions and contractions and when meeting the designated 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 designated 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 1.5 times 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 designated floodway storage shall be placed between the proposed normal water elevation and the proposed 100-year flood elevation. All designated floodway storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All designated 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 through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent. There shall be no reduction in floodway surface area as a result of a floodway modification, unless such modification is necessary to reduce flooding at existing structure.
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 designated floodway velocities or stage for all flood events up to and including the 100-year frequency event. 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 structure 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 floodwalls or within recorded flood easements. If the proposed construction will increase upstream flood stages greater than 0.1 foot, the developer must contact IDNR/OWR to obtain a permit for a dam or waiver.
  - a.** The engineering analysis of upstream flood stages must be calculated using the flood study flows, and corresponding flood elevations for tail water conditions for the flood study specified in Section ~~4-16~~-5 of this Chapter. Bridges and culverts must be analyzed using any commonly accepted FEMA approved hydraulic models.
  - b.** Lost floodway storage must be compensated for per Subsection (E)2 of this Section.
  - c.** Velocity increases must be mitigated per Subsection (E)3 of this Section.
  - d.** If the crossing is proposed over public water that is used for recreational or commercial navigation, an IDNR/OWR 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 IDNR/OWR for concurrence that a CLOMR is not required by Subsection (C) of this Section.
  - f.** All excavations for the construction of the crossing shall be designed per the requirements of this Section.
- 5. Reconstruction or Modification of Existing Bridges, Culverts, and Approach Roads:**
  - 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



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 Section.
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 farther than ten feet (10') 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 openings, including the modifications to and replacement of existing bridge and culvert structures, or to compensate for lost conveyance or 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 IDNR/OWR through engineering calculations or model tests 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 a rate of one foot (1') horizontal for every four feet (4') of the flooded stream's length; and
  - 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 (1') horizontal for every one foot (1') of the flooded stream's length; and
  - c. When expanding or contracting flows in a vertical direction, a minimum of one foot (1') vertical transition for every ten feet (10') of stream length shall be used; and
  - d. Erosion/scour protection shall be provided inland upstream and downstream of the transition sections.
9. **Channel Modifications:** If the proposed activity involves a channel modification, it shall be demonstrated that 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 from the floodplain, clearing the channel, high flow channel, or the establishment of a stream side buffer strip or



greenbelt. Channel modification is acceptable if the purpose is to restore natural conditions and improve water quality and fish and wildlife habitat. 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. 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:

- a.** 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.
- b.** Hydraulically effective transitions shall be provided at both the upstream and downstream ends of the project, designed such that they will prevent erosion.
- c.** 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.
- d.** Clearing of stabilizing vegetation shall be limited to that which is essential for construction of the channel.
- e.** Channel banks shall be constructed with a side slope no steeper than three to one (3:1) horizontal to vertical, wherever practicable. Native vegetation and gradual side slopes are the preferred methods for bank stabilization. Where high velocities or sharp bends necessitate the use of alternative stabilization measures, soil bioengineering techniques, natural rock or riprap are preferred approaches. Artificial materials such as concrete, gabions, or construction rubble should be avoided unless there are no practicable alternatives.
- f.** 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.
- g.** 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.

- h.** A sediment basin shall be installed at the downstream end of the modification to reduce sedimentation and degradation of downstream water quality.
  - i.** 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.
  - j.** 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.
  - k.** 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; and
  - l.** The project otherwise complies with the requirements of this Section.
- 10.** Seeding and Stabilization Plan: For all activities located in a floodway, a seeding and stabilization plan shall be submitted by the applicant.
- 11.** Soil Erosion and Sedimentation 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 fifteen (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 fifteen (15) days after final grade is reached on any portion of the site, and within fifteen (15) days to denuded areas which may not be at final grade but will remain undisturbed for longer than sixty (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 traps and basins.

- d. A vegetated buffer strip of at least twenty five feet (25') in width shall be preserved and/or reestablished, where possible, along existing channels (see Subsection (E)15 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 the "Illinois Urban Manual" (NRCS, 1995).
- 12. Public Flood Control Projects: For public flood control projects, the permitting requirements of this Section will be considered met if the applicant can demonstrate to IDNR/OWR 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 designated floodway study, referenced in Section ~~4-16~~ 4-16-5 of this Chapter, must be used for analysis of the base conditions. If the study data appears to be in error or conditions have changed, IDNR/OWR shall be contacted for approval and concurrence on the appropriate base conditions data to use.
  - b. If the 100-year designated floodway elevation at the site of the proposed construction is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed construction shall be shown to meet the requirements of this Section for the 100-year frequency flood elevations of the designated floodway conditions and conditions with the receiving stream at normal water elevations.
  - c. if the applicant learns from IDNR/OWR, local governments, or a private owner that a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a regional

flood control project is scheduled to be built, removed, constructed or modified within the next five (5) years, the proposed construction shall be analyzed and shown to meet the requirements of this Section 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 designated floodway location or the 100-year frequency flood elevation, the applicant shall submit to IDNR/OWR and FEMA all information, calculations and documents necessary to be issued a conditional designated floodway map revision and receive from IDNR/OWR a conditional concurrence of the designated floodway change before a permit is issued. The final designated floodway map will not be changed by FEMA until as built plans or record drawings of initial filling, grading, dredging, or excavating activities are submitted and accepted by FEMA and IDNR/OWR. In the case of nongovernment projects, the municipality in incorporated areas and the county in unincorporated areas shall concur with the proposed conditional designated floodway map revision before IDNR/OWR approval can be given. No filling, grading, dredging or excavating shall take place until a conditional approval is issued. After initial filling, grading, dredging or excavating, no activities shall take place until a final letter of map revision (LOMR) is issued by FEMA with concurrence from IDNR/OWR.
  - 15.** Professional Engineer's Supervision: All engineering analyses shall be performed by or under the supervision of a licensed professional engineer. For all activities in the floodway involving construction within twenty five feet (25') of the channel, a natural vegetation buffer strip shall be preserved within at least twenty five feet (25') of the ordinary high water mark of the channel. 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.
  - 16.** Floodway Designation Change May Proceed: After receipt of conditional approval of the designated floodway change and issuance of a permit and a conditional letter of map revision, construction as necessary to change the floodway designation may proceed but no buildings or structures or other construction that is not an appropriate use may be placed in that area until the designated floodway map is changed and a final letter of map revision is received. The designated floodway map will be revised upon acceptance and concurrence by IDNR/OWR and FEMA of the "as built" plans.
- (F)** Development Activities in Delegated Communities Requiring State Review: For those projects listed below located in a designated floodway, the following criteria shall be submitted to IDNR/OWR for their review and concurrence and/or permit

prior to the issuance of a permit by a community or county delegated state permitting authority in the floodway:

1. An engineer's analysis of the flood profile due to a proposed bridge pursuant to Subsection (E)4 of this Section.
  2. 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 this Section.
  3. Alternative transition sections and hydraulically equivalent storage pursuant to this Section.
  4. Project type 1: The construction of any IDNR/OWR projects, dams and all other federal, state, or local units of government projects, including projects of the municipality or county.
  5. Project type 2: An engineer's determination that a proposed bridge affected by backwater from a downstream receiving stream may be built with a smaller opening.
  6. Project type 3: Projects which revise or establish the floodway and/or flood profiles.
  7. Project type 4: Projects in public bodies of water.
- (G)** 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 IDNR/OWR, issued pursuant to 615 ILCS 5/5, et seq. No correspondence from IDNR/OWR shall be required if the project meets the requirements of regional permit 3. No permit from IDNR/OWR shall be required if IDNR/OWR has delegated this responsibility to the City of Evanston.
- (H)** Permits For Dams: Any work involving the construction, modification or removal of a dam as previously defined and per 17 Illinois Administrative Code part 3702 (rules for construction of dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam. If the City Engineer finds a dam that does not have an IDNR/OWR permit, the City Engineer shall immediately notify IDNR/OWR. If the City Engineer finds a dam which is believed to be in unsafe condition, the City Engineer shall immediately notify the owner of the dam, the IDNR/OWR Bartlett office, and the Illinois emergency management agency (IEMA).
- (I)** Activities That Do Not Require a Licensed Professional Engineer's Review: The following activities may be permitted without a licensed professional engineer's review. Such activities shall still meet the other requirements of this Chapter, including the mitigation requirements. IDNR Regional permit 3 which authorizes, for example, underground and overhead utilities, storm and sanitary sewer

outfalls, sidewalks, patios, athletic fields, playground equipment and stream bank protection activities.

**4-16 ~~13~~-8: OCCUPATION AND USE OF SPECIAL FLOOD HAZARD AREAS WHERE FLOODWAYS ARE NOT IDENTIFIED:**

In SFHA or floodplains (including AE, AH, AO and unnumbered A zones) 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 elevation.

**(A)** Development Permit: No person, firm, corporation, or governmental body, not exempted by state law, shall commence any development in an SFHA or floodplain without first obtaining a development permit from the City Engineer.

1. Application: Application for a development permit shall be made on a form provided by the City Engineer. 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 elevations of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section ~~4-16-9~~ of this Chapter. The application for a development permit shall also include the following information:

- a. A detailed description of the proposed activity, its purpose, and intended use;
- b. Site location (including legal description) of the property, drawn to scale, on the designated floodway maps, indicating whether it is proposed to be in an incorporated or unincorporated area;
- c. Anticipated dates of initiation and completion of activity;
- d. Plans of the proposed activity shall be provided which include as a minimum:
  - (1) 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;
  - (2) A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations, using the

North American vertical datum of 1988, adjacent property lines and ownership, drainage and flood control easements, distance between proposed activity and navigation channel (when the proposed construction is in or near a commercially navigable body of water), floodplain limit, location and orientation of cross sections, north arrow, and a graphical or numerical scale;

(3) Cross section views of the project perpendicular to the flow of floodwater 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 graphical or numerical scales (horizontal and vertical); and

(4) 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 postconstruction maintenance;

e. Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the criteria of Subsection (C) of this Section;

f. Any and all other federal, state, and local permits or approvals that may be required for this type of development.

(B) Base Flood Elevation: Based on the best available existing data according to federal, state or other sources, the City Engineer 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 Subsection ~~4-16-5~~5(D) of this Chapter. Any development located on land that can be shown to have been higher than the base flood elevation of the current flood insurance rate map identification is not in the SFHA and, therefore, not subject to the requirements of this Chapter. The City Engineer 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. The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or waivers that may be required for this type of activity. The City Engineer shall not issue the development permit unless all required federal, state, and local permits have been obtained.

- (C)** Preventing Increased Damages: 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 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.
- (D)** Determination Of Floodway: Within all riverine SFHAs where the floodway has not been determined, the following standards shall apply:
1. The developer shall have a licensed professional engineer state in writing and show through supporting plans, calculations, and data that the project meets the engineering requirements of Subsection ~~4-16-7~~(E) of this Chapter for the entire floodplain as calculated under the provisions of Subsection ~~4-16-5~~(D) of this Chapter. As an alternative, the developer should have an engineering study performed to determine a floodway and submit that engineering study to IDNR/OWR and FEMA for acceptance as a designated floodway. Upon acceptance of the floodway by IDNR/OWR and FEMA, the developer shall then demonstrate that the project meets the requirements of Section ~~4-16-7~~ of this Chapter for the designated floodway. The "floodway" shall be defined according to the definition in Subsection ~~4-16-2~~ of this Chapter.
  2. A development permit shall not be issued unless the applicant first obtains an IDNR/OWR permit or a determination has been made that an IDNR/OWR permit is not required.
  3. Any work involving the construction, modification or removal of a "dam" as defined in Section ~~4-16-2~~ of this Chapter per 17 Illinois Administrative Code part 3702 (rules for construction of dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam. If the City Engineer finds a dam that does not have an IDNR/OWR permit, the City Engineer shall immediately notify the IDNR/OWR office. If the City Engineer finds a dam which is believed to be in unsafe condition, the City Engineer shall immediately notify the owner of the dam, the IDNR/OWR office, and the Illinois emergency management agency (IEMA).
  4. The following activities may be permitted without a licensed professional engineer's review or calculation of base flood elevation and designated floodway. Such activities shall still meet the other requirements of this Chapter.
    - a. Bridge and culvert crossings of streams in rural areas meeting conditions of IDNR/OWR statewide permit number 2;
    - b. Barge fleeting facilities meeting conditions of IDNR/OWR statewide



permit no. 3;

- c. Aerial utility crossings meeting conditions of IDNR/OWR statewide permit no. 4;
  - d. Minor boat docks meeting conditions of IDNR/OWR statewide permit no. 5;
  - e. Minor, nonobstructive activities meeting conditions of IDNR/OWR statewide permit no. 6; activities (not involving fill or positive change in grade) are covered by this permit;
  - f. Outfall structures and drainage ditch outlets meeting conditions of IDNR/OWR statewide permit no. 7;
  - g. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR statewide permit no. 8;
  - h. Bank stabilization projects meeting the conditions of IDNR/OWR statewide permit no. 9;
  - i. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR statewide permit no. 10;
  - j. Minor maintenance dredging activities meeting conditions of IDNR/OWR statewide permit no. 11;
  - k. Bridge and culvert replacement structures and bridge widening meeting conditions of IDNR/OWR statewide permit no. 12;
  - l. Temporary construction activities meeting conditions of IDNR/OWR statewide permit no. 13;
  - m. Special uses of public waters meeting conditions of IDNR/OWR statewide permit no. 14; and
  - n. Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from state floodway permit requirements.
5. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

**(E)** 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 1.5 times 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.

**4-16 13-9: PERMITTING REQUIREMENTS APPLICABLE TO ALL FLOODPLAIN AREAS:**

- (A) General: In addition to the requirements found in Sections ~~4-16-6~~, ~~4-16-7~~ and ~~4-16-8~~ of this Chapter for development in flood fringes, designated floodways, and SFHA or floodplains where no floodways have been identified, the following requirements shall be met:
1. Public health standards.
  2. 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 flood protection elevation (FPE) unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of Subsection (C) of this Section.
  3. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
  4. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  5. 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.
  6. All other activities defined as "development" shall be designed so as not to alter flood flows or increase potential flood damages.
- (B) 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 of Evanston shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

**(C)** Protecting Buildings: All buildings located within a 100-year floodplain, also known as an SFHA, shall be protected from flood damage below the flood protection elevation. This building protection criteria ~~applies~~ apply to the following situations:

1. Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars (\$1,000.00) or seventy (70) square feet.
2. Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequent to the adoption date hereof. If substantially improved, the existing structure and the addition must meet the flood protection standards of this Section.
3. Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption date hereof. If substantially damaged the entire structure must meet the flood protection standards of this Section.
4. Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
5. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year; and
6. "Repetitive loss" to an existing "building" (see definitions). This building protection requirement may be met by one of the methods described in Subsection (D) of this Section.

**(D)** Methods of Building Protection: The building protection requirement may be met by one of the following methods:

1. A residential or nonresidential building, when allowed, may be constructed on permanent landfill in accordance with the following:
  - a. The lowest floor (including basement) shall be at or above the flood protection elevation; and
  - b. The fill shall be placed in layers no greater than six inches (6") deep before compaction and should extend at least twenty five feet (25') beyond the foundation of the building before sloping below the flood protection elevation. The top of the fill shall be above the flood protection elevation. However, the twenty five foot (25') 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 during flooding by vegetative cover, riprap or other structural measure. The fill shall be composed of rock or soil and not incorporate debris or refuse materials. The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties, and when necessary, stormwater management techniques such as swales or basins shall be incorporated.

- 2.** A residential or nonresidential building may be elevated in accordance with the following:
  - a.** 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. Designs must either be certified by a licensed professional engineer or architect or the permanent openings, one on each wall, shall be no more than one foot (1') above existing grade, and consist of a minimum of two (2) 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; and
  - b.** 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; and
  - c.** All areas below the flood protection elevation shall be constructed of materials resistant to flood damage. The lowest floor (including 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 provided they are waterproofed; and
  - d.** 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 and not later modified or occupied as habitable space; and
  - e.** In lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect; and
  - f.** Manufactured homes, and travel trailers to be installed on a site for

more than one hundred eighty (180) days, shall be elevated to or above the flood protection elevation; and, 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 issued pursuant to 77 Illinois administrative Code part 870. In addition, all manufactured homes shall meet the following elevation requirements:

- (1)** In the case of manufactured homes placed or substantially improved: a) outside of a manufactured home park or subdivision, b) in a new manufactured home park or subdivision, c) in an expansion to an existing manufactured home park or subdivision, or d) 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.
  - (2)** 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 thirty six inches (36") in height above grade and supported by reinforced piers or other foundations of equivalent strength, whichever is less.
- g.** Recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements of the Subsection above unless:
- (1)** They are on site for fewer than one hundred eighty (180) consecutive days; and
  - (2)** They are fully licensed, ready for highway use, and used only for recreation, camping, travel or seasonal use rather than as a permanent dwelling. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.
- 3.** Only a nonresidential building may be structurally dry floodproofed (in lieu of elevation) provided that a licensed professional engineer or architect 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, berms, floodwalls and similar works are not considered floodproofing for the purpose of this Subsection).

- 4.** A building may be constructed with a crawl space located below the flood protection elevation provided that the building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch per one square foot of enclosed area. The openings shall be no more than one foot (1') above grade. The interior grade of the crawl space below the flood protection elevation must not be more than two feet (2') below the lowest adjacent exterior grade. The interior height of the crawl space measured from the interior grade of the crawl space to the top of the foundation wall must not exceed four feet (4') at any point. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage. Utility systems within the crawl space must be elevated above the flood protection elevation.
- 5.** Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet (3') above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.
- 6.** Toolsheds, detached garages, and other minor accessory structures on an existing single-family platted lot, may be constructed with the lowest floor below the flood protection elevation in accordance with the following:

  - a.** The building is not used for human habitation; and
  - b.** All areas below the base flood or 100-year frequency flood elevation shall be constructed with waterproof material. Structures located in a designated floodway shall be constructed and placed

on a building site so as not to block the flow of floodwaters and shall also meet the appropriate use criteria of Section ~~4-16-7~~ of this Chapter. In addition, all other requirements of Sections ~~4-16-6~~, ~~4-16-7~~ and ~~4-16-8~~ of this Chapter must be met; and

- c. The structure shall be anchored to prevent flotation; and
  - d. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the flood protection elevation; and
  - e. The building shall be valued at less than ten thousand dollars (\$10,000.00) and be less than five hundred (500) square feet in floor size; and
  - f. The building shall be used only for the storage of vehicles or tools and may not contain other rooms, workshops, greenhouses or similar uses and cannot be modified later into another use; and
  - g. The building shall meet the permanent opening criteria of this Section;
  - h. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
  - i. The lowest floor elevation should be documented and the owner advised of the flood insurance implications.
7. Existing buildings located within a designated floodway shall also meet the more restrictive appropriate use standards included in Section ~~4-16-7~~ of this Chapter. Nonconforming structures located in a designated floodway may remain in use and may only be enlarged, replaced or structurally altered in accordance with Subsection ~~4-16-7(C)~~ of this Chapter. A nonconforming structure damaged by flood, fire, wind or other natural or manmade disaster may be restored unless the damage exceeds fifty percent (50%) of its market value before it was damaged, in which case it shall conform to this Chapter.

#### **4-16 ~~13~~-10: OTHER DEVELOPMENT REQUIREMENTS:**

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.

- (A) New subdivisions, manufactured home parks, annexation agreements, and planned unit developments (PUDs) within the SFHA shall be reviewed to assure that the proposed developments are consistent with Sections ~~4-16-6~~, ~~4-16-7~~, ~~4-16-8~~ and ~~4-16-9~~ of this Chapter and the need to minimize flood damage. Plats or plans for new subdivisions, mobile home parks and planned unit developments

(PUDs) shall include a signed statement by a licensed professional engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act, 765 ILCS 205/2, as amended.

- (B)** 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 adopted study, the applicant's engineer shall be responsible for calculating the base flood or 100-year frequency flood elevation per Subsection ~~4-16-5~~(D) of this Chapter and the floodway delineation per the definition of "designated floodway".
- (C)** 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.
- (D)** The City Council shall not approve any planned unit development (PUD) or plat of subdivision located outside the corporate limits unless such agreement or plat is in accordance with the provisions of this Chapter.
- (E)** All development shall be set back from the centerline of any stream or channel or at least the distance required to prevent encroachment of the floodway widths. Floodway easements shall be provided which will permit necessary channel maintenance and improvement work.
- (F)** All other activities defined as "development" shall be designed so as not to alter flood flows or increase potential flood damages.
- (G)** The elevation of the crown of any new street or the low point of any new exterior parking areas constructed within or adjacent to the SFHA shall be not less than one foot (1') above the base flood elevation for the area. The design of such facilities shall be such that the normal direction of course of drainage or runoff throughout the area is not altered.
- (H)** All new developments shall have:

  1. The proposed site of the structure filled so that the elevation of the top of the foundation or lowest point of water entry for the structure is at the FPE.
  2. Basements, cellars or crawl spaces made of concrete, structurally adequate, poured in place with no openings below FPE except for openings for utilities which shall be sealed, floodproofed and made watertight in a manner acceptable to the Community & Economic Development Director.
  3. A door sill, window sill or the base of any other opening in the outer walls



of a structure or any gravity connected sewer opening constructed at an elevation not lower than the FPE, except at the point of access for an interior truck dock which must be at least one and one-half feet (1 1/2') above the base flood elevation.

4. All structures floodproofed, watertight and designed to prevent sewer backup and ground water seepage according to standards approved by the Community & Economic Development Director.
5. The elevation of the ground for a minimum distance of twenty five feet (25') immediately surrounding any building or structure erected or moved within or adjacent to an SFHA at an elevation which is not less than one foot (1') above the base flood elevation and no portion of the lot or parcel below the base flood elevation.

#### **4-16 13-11: VARIANCES:**

**(A)** General: No variances shall be granted to any development located in a "designated floodway" as defined in Section ~~4-16-2~~ of this Chapter. However, when a development proposal is located outside of a designated floodway, and when the standards of this Chapter place undue hardship on a specific development proposal, the applicant may apply for a variance. Upon proper application and after fifteen (15) days' notice of public hearing, the Community & Economic Development Director and City Engineer shall review the applicant's request for a variance and shall submit the staff recommendation to the City Council. The City Council may attach such conditions to granting of a variance, as it deems necessary to further the intent of this Chapter.

**(B)** Requirements: No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

1. The development activity cannot be located outside the SFHA; and
2. An exceptional hardship would result if the variance were not granted; and
3. The relief requested is the minimum necessary; and
4. There will be no additional threat to public health, safety, beneficial stream uses and functions, especially aquatic habitat, or creation of a nuisance; and
5. There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to streambeds and banks, roads, utilities, or other public facilities; and
6. The provisions of Sections ~~4-16-6~~ and ~~4-16-8~~ of this Chapter shall still be met; and

7. The activity is not in a designated floodway; and
8. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
9. The granting of the variance will not alter the essential character of the area involved including existing stream uses; and
10. All other required state and federal permits or waivers have been obtained.

**(C)** Notice: The Community & Economic Development Director shall notify an applicant in writing that a variance from the requirements of Section ~~4-16-9~~ 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 twenty five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage; and
2. Increase the risks to life and property; and
3. Require that the applicant proceed with knowledge of these risks and that the applicant will acknowledge in writing the assumption of the risk and liability.

**(D)** Historic Sites: Variances requested in connection with restoration of a historic site or "historic structure" as defined in Section ~~4-16-2~~ of this Chapter, may be granted using criteria more permissive than the requirements of Subsection (B) of this Section, subject to the conditions that the repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure and the repair or rehabilitation will not result in the structure being removed as a certified historic structure.

**4-16 ~~13~~-12: DISCLAIMER OF LIABILITY:**

- (A)** 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.
- (B)** Larger floods may occur or flood heights may be increased by manmade or natural causes.
- (C)** This Chapter does not imply that development, either inside or outside of the SFHA, will be free from flooding or damage.
- (D)** This Chapter does not create liability on the part of the City of Evanston or any officer or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision made lawfully thereunder.

**4-16 13-13: PENALTY:**

- (A) Failure to obtain a permit for development in the SFHA or failure to comply with the requirements of a permit or conditions of variance resolution shall be deemed to be a violation of this Chapter. Upon due investigation, the Community & Economic Development Director in consultation with the ~~City attorney~~ Corporation Counsel and City Engineer may determine that a violation of the minimum standards of this Chapter exists. The Community & Economic Development Director shall notify the owner in writing of such violation. If such owner fails after ten (10) days' notice to correct the violation then:
1. The City of Evanston 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 thereof, be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for each offense.
  3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
  4. The City of Evanston shall record a notice of violation on the title to the property.
- (B) The Community & Economic Development Director shall inform the owner that any such violation is considered a wilful act to increase flood damages and, therefore, may cause coverage by a standard flood insurance policy to be suspended.
- (C) The Community & Economic Development Director is authorized to issue an order requiring the suspension of the subject development. The stop work order shall be in writing, shall indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop work order. The stop work order constitutes a suspension of the permit.
- (D) No site development permit shall be permanently suspended or revoked until a hearing is held. Written notice of such hearing shall be served on the permittee and shall state: 1) the grounds for complaint or reasons for suspension or revocation; and 2) the time and place of the hearing. At such hearing, the permittee shall be given an opportunity to present evidence on his/her behalf. At the conclusion of the hearing, the Community & Economic Development Director shall determine whether the permit shall be suspended or revoked.
- (E) Nothing herein shall prevent the City of Evanston from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

#### **4-16 13-14: ABROGATION AND GREATER RESTRICTIONS:**

- (A)** This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions.
- (B)** Where this Chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (C)** This Chapter is intended to repeal the original ordinance or resolution which was adopted to meet the national flood insurance program regulations, but is not intended to repeal the resolution which the City of Evanston passed in order to establish initial eligibility for the program.

#### **CHAPTER 17 14 - SITE PLAN AND APPEARANCE REVIEW**

##### **4-17 14 -1: STATEMENT OF PURPOSE:**

- (A)** Objective: Site plan and appearance review is a procedure for the review of proposed developments or redevelopments to ensure they are compatible with adjacent development by taking into account the relationship of the new development to its surroundings.
- (B)** Address Details Not Covered: The purpose of site plan and appearance review is to go beyond the basic zoning requirements and to deal with the site details on which zoning and other Codes are silent. Site plan and appearance review is not a substitute for zoning.
- (C)** Elements Examined: In carrying out the purpose of site plan and appearance review, the following are examples of elements which are examined:
  - 1. Parking arrangement.
  - 2. Circulation.
  - 3. Traffic access.
  - 4. Building location on the site.
  - 5. Landscaping.
  - 6. Signage.
  - 7. Drainage.
  - 8. Exterior building design and materials.
- (D)** Authority Limited: Site plan and appearance review does not have any authority to determine land use.

- (E) Result Of Review Process: In addition to upgrading site development planning, the City hopes to create a process which will expedite the review of development proposals through providing a coordinated staff review.

**4-17 ~~14~~-1-1: SITE PLAN AND APPEARANCE REVIEW COMMITTEE:**

- (A) Membership: The membership of the site plan and appearance review committee is the following, or, in the case of City staff, the named member may designate a department member to attend in his/her stead:

1. City Manager.
2. Director of Community & Economic Development.
3. Director of Public Works.
4. Superintendent of Parks, Recreation and ~~forestry~~ Community Services.
5. Traffic Engineer.
6. City Engineer.
7. Director of the Arts Council.
8. Representative from the Fire Prevention Bureau.
9. Representative from the Crime Prevention Bureau.
10. Assistant Director of Zoning and Planning.
11. Zoning ~~Planner~~ Officer.
12. ~~Assistant Director for~~ Manager of Building and Inspection Services.
13. ~~Assistant Director for Planning~~.
14. One or more design professionals who are employed in or are a resident of Evanston as appointed by the Mayor with the advice and consent of the City Council. Said Mayoral appointment shall be for terms no longer than three (3) years.

- (B) Voting: Voting privileges are extended to the above. The advice of the Preservation Commission may be requested by the Site Plan and Appearance Review Committee.

- (C) Quorum: A quorum shall consist of the Assistant Director for Zoning, one other representative from the Department of Community & Economic Development, and a representative from the Department of Public Works, and from the Department of Parks, Recreation and ~~Forestry~~ Community Services, and shall be

required in order to conduct any official Committee business.

- (D) Objective: Such a review will bring together staff from various departments to meet with developers to help resolve any site or appearance problems and more directly communicate the City's requirements. By identifying the applicable Codes and ordinances through this process, costly delays from oversights or incomplete applications may be avoided. In such joint meetings, there is opportunity for exchange between all affected parties which should improve communications and also provide the developer with professional expertise in site and building design. The resultant design should also promote efficiency and economy in providing any necessary City services. Beyond the specific improvements to the site itself, site plan and appearance review should help reduce adverse impact, promote harmony of development with its surroundings and maintain property values.

**4-17 14-2: DEVELOPMENTS REQUIRING SITE PLAN AND APPEARANCE REVIEW APPROVAL PRIOR TO ISSUANCE OF BUILDING PERMIT:**

- (A) The following are developments requiring site plan and appearance review approval prior to issuance of building permits for the development or in the case of Type II Restaurant sidewalk cafés, prior to City Council consideration of an application for a permit to conduct such a sidewalk café permit:
1. Construction of a new building or structure, or modifications to the exterior of an existing structure (including additions) for any use except single-family homes, located in the business, commercial, downtown, university, office, industrial or transitional manufacturing districts.
  2. Construction of a new building or structure or modifications to the exterior of an existing building or structure (including additions) for all nonresidential uses in residential districts.
  3. Construction of a new building or structure, or modifications to the exterior of an existing building or structure (including additions) for all multi-family uses in any zoning district.
  4. Developments requiring special use approval.
  5. Developments requiring a zoning variation.
  6. Developments requiring a zoning ordinance text or Map amendment.
  7. All planned developments.
  8. All Municipal or other public developments.
  9. Any proposed developments for which parking is to be located off-site.

10. All development proposals for which public and/or quasi-public financial assistance has been requested.
  11. All subdivisions and plats of consolidation.
  12. Sidewalk cafés for Type II Restaurants.
- (B) Exceptions: No site plan and appearance review shall be required for the following uses:
1. Permitted single-family residential uses.
  2. Permitted temporary uses.
  3. Any use in a U3 University District that is greater than one hundred feet (100') from any publicly dedicated right of way that abuts the U3 District.

**4-17 14-3: PRELIMINARY AND FINAL SITE PLAN AND APPEARANCE REVIEW REQUIRED:**

For the types of developments defined in Subsection ~~4-17-2~~(A) of this Chapter, a site plan, prepared in accordance with the provisions of this Section, shall be required for a preliminary site plan and appearance review conference and for final approval by the Site Plan and Appearance Review Committee.

(A) Preliminary Site Plan and Appearance Review:

1. A preliminary site plan and appearance review conference is required. The purpose of the preliminary site plan and appearance review is to acquaint all pertinent City staff with the proposal and the views and concerns of those participating. The preliminary site plan and appearance review conference occurs at the conceptual stage of a development when designs are flexible and adjustments are possible.
2. The preliminary site plan and appearance review conference is also intended to assist the applicant in bringing the site and building plan into conformity with the requirements of these and other applicable regulations.
3. Specific submission requirements for final site and appearance review as set forth in Section ~~4-17-4~~ of this Chapter will be reviewed as part of the preliminary site plan and appearance review conference.

- (B) Final Site Plan and Appearance Review: A final site plan and appearance review conference shall also be required. The purpose of the final site plan and appearance review conference is to verify that the final site plan complies with all the requirements of this Chapter. The final site plan and appearance review approval shall be granted or denied in accordance with Section ~~4-17-5~~ of this

Chapter, following the completion of a zoning analysis on the proposed development, following the final site plan and appearance review conference and shall precede the granting of a building permit, provided, however, that no zoning analysis shall be required for Type II Restaurant sidewalk cafes.

- (C) Committee Action Recorded and Transmitted: Official actions of the Site Plan and Appearance Review Committee shall be recorded and transmitted to the City Council.

**4-17 14-4: SUBMISSION REQUIREMENTS AND PROCEDURES:**

- (A) Submission Requirements and Procedures: Applications for site plan and appearance review approval for uses other than sidewalk cafes in connection with Type II Restaurants shall be submitted to the City Manager, or his/her designee, as follows:

1. Preliminary Site Plan and Appearance Review Application: Three (3) copies of a preliminary site plan, current plat of survey and preliminary elevation drawings.
2. Final Site Plan and Appearance Review Application: A zoning analysis of the proposed development is required prior to final site plan and appearance review. Four (4) copies of the following exhibits shall be prepared by design professionals such as architects or engineers. The final site and building plan shall contain the following:
  - a. Existing and proposed development on the site and adjacent sites.
  - b. Elevation drawings of all proposed buildings.
  - c. Actual building material samples and manufacturer's product information representing accurate color, texture, pattern, finish and range of variations of all exterior building materials proposed.
  - d. Parking plans and access drives including dimensions, stall markings, required screening, landscaping and surfacing.
  - e. Lighting plan identifying the location, height and type of all site, sign and exterior building illumination proposed.
  - f. Landscape development plan including plant names, quantities, locations and sizes of major plant masses, and locations of all existing trees with a trunk diameter in excess of four inches (4").
  - g. Signage plan identifying the location, height, type, size, color and proposed message of all exterior signage proposed, consistent with all other signage regulations.



- h. Sidewalks and any other elements of pedestrian circulation.
- i. Major accessory elements including, but not limited to, signage, outdoor furniture, bike racks, outdoor art, etc.
- j. Any proposed improvements on the public right of way which the developer may be required to make as part of the site improvements, such as parkway trees, public sidewalks, adjacent alley surfacing, driveway removal and curb and gutter replacement.
- k. A current plat of survey.
- l. A completed zoning analysis on the proposed project.
- m. Other materials and data which may be required for an adequate plan review (such as, but not limited to: traffic studies, preliminary engineering and drainage plans, preliminary utility locations, floor plans, etc.).
- n. All site plans submitted for final approval shall be accompanied by a plat of survey showing that the property for the proposed development consists of, and is coterminous with, a single lot described in a recorded plat of subdivision, or a preliminary proposed resubdivision or consolidation to create such a single lot.

**(B)** Type II Restaurant Sidewalk Café Submission Requirements: In the case of Type II Restaurant sidewalk cafés, the applicant shall submit the information set forth in Subsection 7-2-6(D)3 of this Code.

**(C)** Review Conference: The developer or his/her representative shall be present at the final site plan and appearance review conference to explain the project and to answer any questions thereon.

**4-17 14-5: PRELIMINARY AND FINAL SITE PLAN AND APPEARANCE REVIEW APPROVAL:**

**(A)** Within fifteen (15) working days following the receipt of the completed application for preliminary or final site plan and appearance approval, the City Manager, or his/her designee, shall then schedule and conduct the preliminary or final site plan and appearance review conference. At the preliminary or final site plan and appearance review conference the City Manager, or his/her designee, will either: 1) approve the site and building plan; 2) on the basis of written findings as to how the proposed development does not meet the evaluation standards set forth below, approve the site and building plan subject to specific modifications; or (3) on the basis of such written findings as to how the proposed development does not meet the evaluation standards, decline to approve the site plan.

**(B)** The City Manager, or his/her designee, shall determine if analysis or review of

the building plans by appropriate staff is necessary prior to granting of final approval.

- (C) At the conclusion of the review, the City Manager or his/her designee shall return to the applicant one copy of the submitted plans permanently marked to show either approval, approval subject to further specified approvals, lack of approval, or approval subject to modifications. Upon approval of a final site and building plan, the applicant may seek and the City may issue building permits.

#### **4-17 14-6: EVALUATION CRITERIA:**

The goals and objectives of the Comprehensive General Plan or other applicable Evanston planning and design documents shall be utilized in the review of proposed site and building plans. In addition, the following criteria shall also be used to determine whether a proposed site and building plan fulfills the objectives of this Chapter.

- (A) **Building and Structure Location:** The arrangement of the structures on the site shall allow for the effective use of the proposed development. Furthermore, such arrangement shall be compatible with development on adjacent property. Also, the arrangement of structures on the site shall be evaluated for their potential impact on the provision of the Municipal services, such as access for emergency equipment.
- (B) **Building Design and Appearance:** The appearance of buildings shall be designed to respect the attributes of adjacent and surrounding development (and any existing on site buildings proposed to remain), and to reduce any adverse impacts caused by differing architectural styles, while maintaining and promoting the City's diverse architectural fabric. Architectural style, massing, scale, proportion, window fenestration, rhythm of design elements, color palette and building materials shall be considered in determining compliance with this objective. Fulfillment of this objective shall be nonbinding on the applicant.
- (C) **Landscaping:** Landscape design shall create a logical transition to adjoining development, screen incompatible uses, and minimize the visual impact of parking lots on adjacent sites and roadways. Plant materials shall be selected so as to withstand Evanston's climate and the microclimate on the property. Plant materials shall be selected with the advice of City staff.
- (D) **Graphics and Signage:** Signs shall be minimized in number and size, and integrated with architectural and site landscape features. Placement of signs shall not unduly obscure or interfere with sight lines to other properties.
- (E) **Circulation:** All circulation systems shall provide adequate and safe access to the site and be compatible with the public circulation systems to minimize dangerous traffic movements. Pedestrian and auto circulation shall be separated, insofar as is practicable. Curb cuts on the site shall be minimized.
- (F) **Parking Areas and Lots:** Proposed parking areas or lots shall be designed,

located, and screened to minimize adverse visual impact on adjacent properties. Perimeter parking lot screening shall be provided. Interior parking lot landscaping is also required where practicable to break up large areas of parking with plant material. Parking lot drainage shall not adversely affect surrounding properties.

- (G) Open Space: Where practicable, open space on the site shall create a desirable and functional environment for patrons, pedestrians and occupants.
- (H) Site Illumination: Site illumination shall be designed, located and installed so as to minimize adverse impact on adjacent properties.
- (I) Preservation: Preservation of unique architectural resources is encouraged. Development designs that respect desirable architectural resources on surrounding sites are also encouraged.
- (J) Completeness: The application for site plan and appearance review must contain all the information required in Section ~~4-17-4~~ of this Chapter.
- (K) Compliance With All Other Applicable Codes: These may include, but are not limited to, the following:
  1. The Evanston zoning ordinance.
  2. The adopted building Codes.
  3. This Code.

**4-17 ~~14-7~~: EVALUATION CRITERIA FOR TYPE 2 RESTAURANT SIDEWALK CAFÉS:**

- (A) In the case of a type 2 restaurant sidewalk café, the following criteria, and not those in Section ~~4-17-6~~ of this Chapter, shall be used to evaluate the proposed use:
  1. The proposed sidewalk café will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of other sidewalk cafés in the immediate neighborhood.
  2. The proposed sidewalk café will not cause undue pedestrian or vehicular traffic congestion.
  3. The sidewalk café will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
  4. The proposed sidewalk café will comply with all the rules and regulations contained herein except that the City Council may modify or waive the requirements in Subsection 7-2-6(D) of this Code.

5. The proposed sidewalk café is not likely to have an adverse effect upon the public health, welfare, or safety.
  6. The proposed sidewalk café meets the requirements of Subsections 7-2-6(D)4 and (D)5 of this Code.
- (B) The site plan and appearance review committee will make written findings as to whether the proposed use meets the criteria set forth in Subsection (A) of this Section, and shall, within fifteen (15) working days after receipt of the completed permit application, report its findings to the City Manager or his/her designee with a recommendation to the City Council as to whether the permit should or should not be granted.

**4-17 14-8: AMENDMENTS:**

Amendments to an approved site and building plan shall require approval in the same manner required for the original site plan.

**4-17 14-9: TIME LIMIT ON APPROVAL:**

- (A) No site and building plan approval shall be valid for a period longer than one year from the date of approval unless a building permit is issued and construction is actually begun within that period.
- (B) Time extensions may be authorized by the City Manager or his/her designee provided the applicant demonstrates that there are circumstances, difficulties or practical hardships which make compliance with the original one year approval period unreasonable.

**4-17 14-10: APPEALS:**

Any final site plan and appearance review decision by the City Manager, or his/her designee, may be returned to the site plan and appearance review committee for additional consideration, modified, reversed or affirmed by the committee of the whole upon appeal by the applicant. Such appeal shall be filed with the committee of the whole within fifteen (15) business days of the decision by the City Manager, or his/her designee, and the committee shall consider and decide said appeal within fifteen (15) business days thereafter.

**~~CHAPTER 18 – PROPERTY SERVICES BOARD~~**

**CHAPTER 19 15 - TYPE 1 STREETS**

**4-19 15-1: PURPOSE:**

The purpose of this Chapter is to establish an expeditious process whereby an applicant may petition the City Council to designate a street or portion thereof as one along which front yard fences are permitted. In general, front yard fences are prohibited (see Section

6-4-6-7 of the zoning ordinance). However, circumstances, including, but not limited to, increased traffic and exceptionally short distances between the front of houses and front lot lines, may warrant permitting front yard fences.

**4-19 15-2: DEFINITION:**

A "type 1 street" is a street or portion thereof for which the City Council has found that certain types of fences are permitted in the required front and required street side yards of the residentially zoned properties abutting both sides of said street or portion thereof. A type 1 street must have two (2) end points; examples of end points include, but are not limited to, the centerline of an intersecting street, a public park, a cemetery, a railroad right of way, bulkhead lines or shorelines of waterways, or municipal boundary lines.

**4-19 15-3: PROCEDURE:**

The following establishes the procedure for designation of a type 1 street:

- (A) An applicant shall submit an application to the zoning division requesting designation of a street or segment thereof as a type 1 street. The application shall contain:
  - 1. The names and addresses of all owners of property along both sides of the street or portion thereof.
  - 2. A petition containing the signatures, printed names, and printed addresses of two-thirds ( $\frac{2}{3}$ ) of the owners of property along the street or portion thereof. Each page of the petition shall, at a minimum, contain the following petition statement: "Petition Statement: Signing this petition indicates your support for permitting fences within the front yards and street side yards along \_\_\_\_\_ (street name) from \_\_\_\_\_ (end point) to \_\_\_\_\_ (end point). Such fences shall be no higher than 4 feet; shall be constructed of wood, wood-polymer lumber, wrought iron, masonry, stucco, chain link, or PVC, each in accordance with the provisions of Section 6-4-6-7(F)1 of the Zoning Ordinance; and shall have an opacity that does not exceed 70 percent." The applicant may, but is not required to, request that the permitted fences be limited to a height less than four feet (4'), to a specific fence material(s) among those listed, and to an opaCity of less than seventy percent (70%). Persons may seek relief from the height, material, and opacity standards contained within a petition statement through the fence variation process (Section 6-3-8-6 of the zoning ordinance).
- (B) After determining that the application is complete, the zoning division shall forward the application to the planning and development committee of the City Council for consideration.
- (C) The zoning division shall mail notice to those persons indicated on the names

and addresses list submitted by the applicant. The notice shall include the date, place, and time that the planning and development committee of the City Council will consider the application.

- (D) In considering an application for a type 1 street designation, the planning and development committee of the City Council may, among other factors, consider the following general standards:
1. The amount of traffic along the street or portion thereof, and
  2. The distance between the front of houses and front lot lines along the street or portion thereof.
- (E) The planning and development committee of the City Council shall forward its recommendation regarding the application for a type 1 street designation to the City Council.
- (F) Should the City Council grant the application for a type 1 street designation, it shall do so by an ordinance amending Section ~~4-19-5~~ of this Chapter. All amendments to this Chapter require a vote of a majority of the City Council.

**4-19 15-4: FENCES PERMITTED:**

In accordance with the provisions of Section 6-4-6-7 of the zoning ordinance, fences shall be permitted within the required front and required street side yards only along type 1 streets. Notwithstanding a type 1 street designation, no fence shall be permitted within the required front and required street side yard of a nonresidentially zoned property.

**4-19 15-5: TYPE 1 STREETS DESIGNATED:**

The following streets or segments thereof are classified as type 1 streets. Limitations to fence height, material, opacity are indicated in parenthesis.

Asbury Avenue, from Green Bay Road to Davis Street (chainlink not permitted);

Dempster Street, from Oak Street to McCormick Boulevard (chainlink not permitted);

Dewey Avenue, from Simpson Street to Twiggs park (wrought iron only);

Elgin Road, from McDaniel Avenue to Lincolnwood Drive (chainlink not permitted); and

Emerson Street, from Green Bay Road to McCormick Boulevard (chainlink not permitted).

**CHAPTER ~~20~~ 16 - VACANT BUILDINGS**

**4-~~20~~ 16-1: DECLARATION OF POLICY:**

The purpose of this Chapter is to protect the public health, safety, and welfare by enactment of this Chapter which:

- (A) Establishes a program for identification, registration, and regulation of buildings which are or become vacant on and after the effective date of this Chapter.
- (B) Determines the responsibilities of owners of vacant buildings.
- (C) Provides for administration, enforcement, including abatement of public nuisances, and imposition of penalties.

This Chapter shall be construed liberally to affect its purposes.

**4-20 16-2: OTHER ORDINANCES:**

This Chapter shall not be construed to prevent the enforcement of other applicable ordinances, Codes, legislation, and regulations which prescribe standards other than are provided herein, and in the event of conflict, the most restrictive shall apply.

**4-20 16-3: DEFINITIONS:**

Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this Chapter, have the meanings indicated in this Section:

<u>ABANDONED RESIDENTIAL BUILDING:</u>	<u>As defined in 65 ILCS 5/11-20-15.1, as amended, a residential dwelling unit that has been unoccupied by any lawful occupant or occupants for at least ninety (90) days, and for which after such ninety (90)-day period the City has made good faith efforts to contact the legal owner or owners of the property or, if known, the agent of the owner, and no contact has been made.</u>
BOARDED BUILDING:	A building which has had, in a manner intended to be temporary or permanent, any or all openings, which openings are windows or doors which were present for the purpose of light, ventilation or egress, some material whether opaque, solid or transparent, affixed to such openings, from the interior or exterior of the building, for the purpose of securing or preventing access or damage to the building or its components.
BUILDING:	Any structure occupied or intended for supporting or sheltering any occupancy.
DANGEROUS BUILDING:	A building defined as a "dangerous, unsafe building" in Section 4-45 <u>12</u> -1 of the City Code, as it may be amended. Such buildings are public nuisances.
DIRECTOR:	The <del>City Manager</del> <u>Community &amp; Economic Development Director</u> or his/her designee.
OWNER:	Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
PERSON:	Includes a corporation, a partnership, or other entity as well as an individual.
PREMISES:	A lot, plot or parcel of land including any structure thereon.
PUBLIC NUISANCE:	Includes the following: (A) The physical condition, or uses of any building regarded as a public nuisance at common law, under the Illinois Compiled Statutes, or under the Evanston City Code; or

(B) Any physical condition, use or occupancy or any building or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or

(C) Any building which has unsanitary sewerage or plumbing facilities; or

(D) Any building designated by the Director as unsafe for human habitation or use; or

(E) Any building which is manifestly capable of being a fire hazard, or manifestly unsafe or insecure as to endanger life, limb or property; or

(F) Any building which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds; or

(G) Any building that is dangerous, in a state of dilapidation, deterioration or decay; faulty construction; open or vacant and the doors, windows, or other openings are boarded up or secured, by any means other than conventional methods used in the design of the building or permitted for new construction of similar type; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises; or

(H) Any building defined as a "dangerous, unsafe building" by Section 4-45 ~~12-~~ 1 of the City Code, as it may be amended.

**UNOCCUPIED BUILDING:**

A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the Director pursuant to authority granted to him/her by the Code.

In determining whether a building is "unoccupied", the Director may consider these factors, among others:

(A) A building at which substantially all lawful residential or business activity has ceased.

(B) The percentage of the overall square footage of occupied to unoccupied space or the overall number of occupied and unoccupied units shall be considered.

(C) The building is substantially devoid of contents. The condition and value of fixtures or personal property in the building are relevant to this determination.

(D) The building lacks utility services, i.e., water, sewer, electric or natural gas.

(E) The building is the subject of a foreclosure action.

(F) The building is not actively for sale as part of a contractual agreement to sell the building, the building lacks "for sale", "for rent" or similar signage.

(G) The presence or recurrence of uncorrected Code violations.

**VACANT BUILDING:**

A building or portion of a building which is:

(A) Unoccupied and unsecured; or

(B) Unoccupied and secured by boarding or other similar means; or

(C) Unoccupied and a dangerous structure; or

(D) Unoccupied and condemned by the Director pursuant to applicable provisions of the City Code; or

(E) Unoccupied and has multiple City Code violations; or

(F) Unoccupied and the building or its premises has been the site of unlawful activity within the previous six (6) months; or

(G) Condemned by the Director and unlawfully occupied; or

(H) Unoccupied for over one hundred eighty (180) days and during which time the Director has issued an order to correct public nuisance conditions and same have not been corrected in a Code compliant manner; or

(I) Unoccupied for over two (2) years.

But not including:

Unoccupied buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, Codes, legislation, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.



#### **4-20 16-4: DETERMINATION:**

~~Within sixty (60) days after the effective date of this Chapter, Pursuant to 65 ILCS 5/11-20 et seq. and the City's powers as a home rule entity, the Director shall~~ may evaluate all buildings in the City he/she believes to be unoccupied ~~on the effective date of this Chapter~~ and make a determination for each as to whether the building is a "vacant building" within the meaning of Section ~~4-20-3~~ of this Chapter. The Director may determine that a building which meets any of the criteria set forth in Section ~~4-20-3~~ of this Chapter is not to be regulated under this Chapter for a stated period, if upon consideration of reliable, substantiated and sufficient evidence, he/she determines that regulation of the building under this Chapter would not serve the public health, welfare, and safety and makes written findings in support of his/her decision. ~~The~~ Any such determination shall be in writing and shall state the factual basis for the determination. For buildings the Director determines to be "vacant buildings", he/she shall, within seven (7) days of making that determination, send notice of his/her written determination, with the factual findings, to the last owner of record listed by the Cook County Recorder of Deeds. Said notice of determination shall be sent first class United States mail, with proper postage prepaid. Failure of delivery shall not excuse a person from complying with this Chapter. The Director may personally serve or cause personal service of the notice of determination. Any person making such service shall execute an affidavit attesting to the facts of service. The Director shall maintain an affidavit of such mailing for each notice of determination sent.

The notice shall specify a date and time on which the owner shall allow for a Code compliance inspection of the interior of the vacant building to determine the extent of compliance with City property, building codes, health, fire, water and sewer codes. The owner shall pay the five hundred dollar (\$500.00) inspection fee to the City within thirty (30) days of the inspection. An unpaid fee shall be a lien upon the premises.

The notice shall contain a statement of the obligations of the owner of a building determined to be a vacant building, a copy of the registration form the owner is required to file pursuant to Section ~~4-20-6~~ of this Chapter, and a notice of the owner's right to appeal the Director's determination.

#### **4-20 16-5: APPEAL OF DETERMINATION:**

- (A)** An owner of a building determined by the Director to be a vacant building as provided for in this Chapter may appeal that determination to the City Manager. Such appeal shall be in writing and shall be filed with the City Manager or his/her designee within fifteen (15) days of the date of mailing of the notice of determination. The filing of an appeal stays the owner's obligation to register his/her building as required by Section ~~4-20-6~~ of this Chapter. The appeal shall contain a complete statement of the reasons the owner disputes the Director's determination, shall set forth specific facts in support thereof, and shall include all evidence the owner relies upon to support the appeal. The City Manager or his/her designee shall decide the appeal on the basis of facts presented by the

owner in his/her written appeal and the Director's written determination.

- (B) The burden is upon the owner to present sufficient evidence to persuade the City Manager or his/her designee that had the evidence been known to the Director at the time the Director made the determination, the Director would more likely than not have determined that the subject building was not a "vacant building" within the meaning of this Chapter.
- (C) The City Manager shall send written notice of his/her decision to the owner within ~~ten (10)~~ twenty (20) days of his/her receipt of the appeal. The City Manager may, but is not required to, seek additional information from the owner. ~~The City Manager or his/her designee may, upon written notice thereof to the owner, take no more than ten (10) additional days, to decide the appeal if he/she determines that such additional time is required for consideration of the appeal.~~
- (D) An owner who wishes to challenge applicability of this Chapter to his/her building without the Director's determination having been made, shall set forth specific facts to support non-applicability in a writing to the Director. In the event the Director determines that the subject building is a "vacant building", the owner shall have the right to appeal the Director's determination to the City Manager as provided for herein.

#### **4-20 16-6: OBLIGATION TO REGISTER:**

The owner of a building who knows, or from all the facts and circumstances should know, that his/her building is or has become a "vacant building" within the meaning of this Chapter after the effective date of this Chapter or the owner of a building, which the Director determines at any time to be a "vacant building", or the owner of a building whose appeal from the Director's determination has been denied by the City Manager shall take the actions provided for in this Section 4-20-6 within fifteen (15) days after either the date of the Director's notice of determination or occurrence of the facts which would cause a reasonable person to believe that the building was a "vacant building", or denial of the appeal, whichever is applicable. Registration does not exonerate the owner from compliance with all applicable Codes and ordinances, including this Chapter, nor does it preclude any of the actions the City is authorized to take pursuant to this Chapter or elsewhere in the City Code.

- (A) Registration Requirements:
  - 1. a. Register the building with the Director of Community & Economic Development, on a form provided by the Director and pay the four hundred dollar (\$400.00) annual nonprorated vacant building registration fee. The form shall include, as a minimum, the name, street address, and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including bankruptcy cases; and the name, street address, and telephone number of all persons with any legal interest in the



Director may determine the plan. The plan shall contain the following as a minimum:

1. A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction or similar type. The proposed repair shall result in openings being secured by conventional methods used in the design of the building or by methods permitted for new construction of similar type with board removed. Boarding shall be accomplished with materials and methods described by the Director and available from the Director or on the City website, [www.cityofevanston.org](http://www.cityofevanston.org). The owner shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy. If the owner demonstrates that securing of the building will provide adequate protection to the public, the ~~Director of Community & Economic Development~~ may waive the requirement of an enclosure.
2. For buildings and premises thereof which are determined by the Director as being or containing public nuisances, as defined in Section 4-20-3 of this Chapter, as amended, then the vacant building plan shall contain a plan of action to remedy such public nuisance(s).
3. A time schedule identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and nuisance identified by the Director.
4. When the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition.
5. A plan of action to maintain the building and premises thereof in conformance with this Chapter.
6. A plan of action, with a time schedule, identifying the date the building will be habitable and occupied or offered for occupancy or sale. The time schedule shall include date(s) of commencement and completion of all actions required to achieve habitability. No plan which provides for compliance with this Chapter or, which will not, as determined by the Director, achieve such compliance, within six (6) months, in the case of a vacant boarded building, and two (2) years, in the case of a vacant, unboarded, and Code compliant building will be approved.
7. All premises upon which unoccupied or vacant buildings, are located and the exteriors shall at all times be maintained in compliance with the City Code.

8. Exterior lighting according to standards established by the Director and available from the Director or on the City website: [www.cityofevanston.org](http://www.cityofevanston.org).
- (E) On written notice of the Director, provide bonded, licensed, and insured security guard service at the building between the hours of 3:00 p.m. and 8:00 a.m. Such service to remain in place until the Director gives written notice that the service is no longer required. Such service shall be required when the Director makes a written determination that the vacant building constitutes a fire hazard, is otherwise dangerous to human life or the public welfare, involves illegal or improper use, occupancy, or maintenance, under such conditions that boarding and securing the building are insufficient to prevent the actual or threatened harm.
- (F) Affixed to any building which is boarded, no smaller than 2' x 2' and compliant with the City's Sign Regulations Ordinance, Title 4, Chapter 12 of the City Code, as amended, and providing the following information: the name, address, and telephone number of the owner, and in addition, for buildings which are the subject of a foreclosure action, the name, address, and telephone number of the plaintiff and the plaintiff's attorney, if any, in the foreclosure action. The sign must be placed so that its message is legible from the public way.

#### **4-20 16-7: APPROVAL OF PLAN:**

- (A) The Director shall review the proposed vacant building plan in accordance with the standards below. The Director shall send notice to the owner of the vacant building of his/her determination.
- (B) Standards for Plan Approval: In considering the appropriateness of a vacant building plan, the Director shall include the following in his/her consideration and shall make written findings as to each:
1. The purposes of this Chapter and intent of the City Council to minimize the time a building is boarded or otherwise vacant.
  2. The effect of the building and the proposed plan on adjoining property.
  3. The length of time the building has been vacant.
  4. The presence of any public nuisances on the property.
  5. The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address.

#### **4-20 16-8: AUTHORITY TO MODIFY PLAN, RIGHT OF APPEAL:**

The Director shall, upon notice to the vacant building owner, have the right to modify the vacant building plan by modifying the dates of performance, the proposed methods of

action, or by imposing additional requirements consistent with this Chapter he/she deems necessary to protect the public health, safety, or welfare.

**4-20 16-9: FAILURE TO COMPLY WITH PLAN:**

Failure to have an approved plan within thirty (30) days of filing the registration form or failure to comply with the approved plan shall constitute a violation of this Chapter subjecting the owner of the building to penalties as provided in this Chapter and to any remedies the City may avail itself of as provided for herein and elsewhere in the City Code, including, but limited to, an action to compel correction of property maintenance violations.

**4-20 16-10: OTHER ENFORCEMENT:**

The registration of a vacant building shall not preclude action by the City to demolish or to take other action against the building pursuant to other provisions of this Chapter, the City Code, or other applicable legislation, including the following:

- (A)** Cutting and removal of neglected weeds, grass, trees, and bushes as authorized by this Code, as amended, and 65 ILCS 5/11-20-7;
- (B)** Pest control activities, as authorized by this Code, as amended, and 65 ILCS 5/11-20-8;
- (C)** Removal of infected trees as authorized by this Code, as amended, and 65 ILCS 5/11-20-12;
- (D)** Removal of garbage, debris, and graffiti and related activities as authorized by this Code, as amended, and 65 ILCS 5/11-20-13; and
- (E)** Removal, securing, and enclosing of abandoned residential properties as authorized by this Code, as amended, and 65 ILCS 5/11-31-1.01.

**4-20 16-11: REAL ESTATE TRANSFER STAMPS:**

A premises upon which is situated a vacant building for which inspection fees or registration fees imposed pursuant to this Chapter have not been paid in full is not eligible for City real estate transfer tax stamps. Unpaid fees shall be a lien upon the property.

**4-20 16-12: CERTIFICATION:**

A certificate of Code compliance for vacant buildings issued by the Community & Economic Development Department and payment in full of all fees imposed pursuant to this Chapter are required prior to any occupancy of a vacant building.

**4-20 16-13: BOARDING OF BUILDINGS:**

It is the policy of the City of Evanston that boarding is a temporary solution to prevent unauthorized entry into a vacant building and that boarded buildings are a public nuisance. A vacant building may not remain boarded longer than six (6) months unless an extension of that time is part of a plan approved by the Director.

A vacant building which is unboarded and Code-compliant and for which boarding is determined by the Director on the basis of police reports, citizen complaints, and other information of other type considered reliable by reasonable persons, to not require boarding to prevent unauthorized entry may not remain vacant for more than two (2) years without an approved plan for occupancy, sale, demolition, or other disposition of the building.

#### **4-20 16-14: ENFORCEMENT AND PENALTIES:**

- (A)** Any person found to have violated any provision of this Chapter shall be subject to a minimum fine of two hundred fifty dollars (\$250.00) per day per violation to a maximum of one thousand dollars (\$1,000.00) per day per violation, in addition to any other legal or equitable remedies available to the City. Such other remedies include, but are not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the City may have thereon.
- (B)** A separate and distinct offense shall be committed each day on which such person or persons shall violate the provisions of this Chapter.
- (C)** The City may enforce this Chapter ~~20~~ in its Administrative Adjudication System or through the court system. Administrative Adjudication shall be conducted in accordance with the provisions of Title 11, Chapter 1 of the City Code, as it may be amended.
- (D)** Nothing herein contained shall prohibit the City from immediately condemning as provided for in the City Code a building or taking other immediate action upon a determination that the building is a public nuisance or poses an imminent danger to the occupants of the building, or the public, health, safety and welfare.
- (E)** Priority Liens: The priority lien procedure described in this Subsection (E) shall apply only to costs incurred for those property maintenance activities, described in Section 4-20-10 of this Code, as amended, performed on abandoned residential properties and is an alternative to traditional liens. If a bill sent pursuant to this Chapter is not paid in full within sixty (60) days of the date of the bill, the City shall have the authority to file and record a priority lien against the abandoned residential property, pursuant to 65 ILCS 5/11-20-15.1, as amended, in the following manner:
  - 1.** Notice of Lien. The City or the person performing the service by authority of the City, in its, his/her own name, may file a notice of a priority lien in the Office of the Cook County Recorder of Deeds. The notice of lien shall

be filed within one (1) year after the cost and expense is incurred. If, for any one property, the City engaged in any nuisance abatement activity described in Section 10 of this Chapter, as amended, on more than one occasion during the course of one (1) year, then the City may combine any or all of the costs of those activities into a single notice of lien.

The notice of lien shall consist of a sworn statement setting forth:

- a. A description of the abandoned residential property that sufficiently describes the parcel;
- b. The amount of the cost incurred or payable for the activities;
- c. The date or dates when such cost was incurred by the City or someone working on behalf of the City; and
- d. A statement that the lien has been filed pursuant to one or more of the property maintenance activities described in Section 8.40.030 and authorized by 65 ILCS 5/11-20-7(d), 65 ILCS 5/11-20-8(d), 65 ILCS 5/11-20-12(d), 65 ILCS 5/11-20-13(e), 65 ILCS 5/11-31-1.01, as applicable.

After recording, the notice of lien shall be sent by certified mail to the owner, his/her agent or legal representative or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year.

The City may not file a lien if a lender has provided notice to the City that said owner has performed, or will perform, remedial actions; provided, however, that the remedial actions must be performed or initiated in good faith within thirty (30) days of the lender's notice to the City.

- 2. Recordkeeping. To enforce a priority lien pursuant hereto, the City must maintain contemporaneous records that include, at a minimum:
  - a. A dated statement of a finding by the City that the property has become abandoned residential property;
  - b. The date when the property was first observed to be unoccupied by any lawful occupant;
  - c. A description of the actions taken by the City to contact the legal owner of the property, or if known, any agent of the owner;
  - d. A statement that no contacts were made with the legal owner or, if known, any agent of the owner;



- e. A dated certification by the Director of the necessity and specific nature of the work performed;
  - f. A copy of the agreement with the person or company performing the work and the rates and estimated cost of the work, if applicable;
  - g. Detailed invoices and payment vouchers for the work;
  - h. A statement whether the work was competitively bid, and if so, a copy of all proposals submitted by the bidders.
3. Release of Lien. Upon payment of the cost after the notice of lien has been filed as provided herein, the lien shall be released by the City or person in whose name the lien has been filed, and the release shall be recorded of record in the same manner as recording the notice of lien.
  4. Enforcement of Lien. A priority lien pursuant to this Section is enforceable by the City, or entity or person who performs work on behalf of the City, only at the hearing for confirmation of the foreclosure sale of the abandoned residential property and is limited to a claim of interest in the proceeds of the sale. The priority lien is superior to all other liens and encumbrances, except tax liens.

**4-20 16-15: SEVERABILITY:**

In the event any Section of this Chapter or any part of any Section of this Chapter is declared to be unconstitutional, such decision shall in no way affect the operation of any other Section or part thereof; the remainder of this Chapter shall remain in full force and effect.

**CHAPTER 24 17- FUEL GAS CODE**

**4-21 17-1: ADOPTION:**

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the 2003 International Fuel Gas Code, which Code shall be used together with the below stated additions and amendments to govern the issuance of permits and the standards of performance and materials for the construction, alteration, and installation of fuel gas equipment work in the City of Evanston.
- (B) Any reference in the 2003 International Fuel Gas Code to "administrative authority" or "Code Official" shall mean the ~~assistant Director of Community & Economic Development for the building division~~ Manager of Building and Inspection Services of the City of Evanston. Any reference to "municipality" shall mean the City of Evanston.

**4-21 17-2: AMENDMENTS:**

The following amendments and additions to the 2003 International Fuel Gas Code are made, to read as follows:

**106.5.2 Fee Schedule:** The permit fee for inspection, construction, reconstruction, alteration, and installation shall be those established from time to time by the City Council.

**108.4 Violation Penalties:** Deleted.

**109: Appeals:** Deleted in its entirety.

~~**109.1: Application For Appeal:** Any person ("the petitioner") affected by a decision of the Code Official or a notice, or order issued under this Code shall have the right to appeal to the City's property services board, title 4, Chapter 18 of the City Code, provided that a written application for appeal is filed within fifteen (15) days after the day of the decision, notice, or order was served. For purposes of this Section, a decision, notice, or order is "served" upon delivery, in the case of personal delivery, and, in the case of mailing, five (5) days after deposit in the U.S. mail with first-class postage prepaid. The Code Official shall transmit the appeal to the property services board within three (3) business days of its filing. A person is "affected" for the purposes of an appeal pursuant to this Section 109 when the person has a material or definitive interest in the decision, notice, or order of the Code Official. An application for appeal shall be based on a claim that the true intent of this Code, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means.~~

~~The application for appeal must be in writing and include a statement of the proposal, together with any and all documentation which would aid the board in its deliberations.~~

~~**109.2:** The appeal shall be filed at the permit desk of the Community & Economic Development department on a form ("the appeal form") provided for that purpose by the Code Official and made available to the public. The petitioner shall provide a concise statement of the grounds for the appeal and shall attach thereto legible copies of all documents he/she deems relevant.~~

~~**109.3:** The property services board shall convene upon notice of the chair, within fifteen (15) days of the filing of an appeal. The Building Official shall give written notice of the meeting date, time, and location to the petitioner.~~

~~**109.4:** Hearings shall be conducted in accordance with written procedures on file with the permit desk in the Community & Economic Development department.~~

~~**109.5:** The board shall send its decision to the petitioner and the City within two (2) business days of its rendering. The decision shall state that the decision is a final administrative decision which may be appealed to circuit court under the administrative review law, 735 ILCS 5/3-101, et seq., within thirty-five (35) days of delivery of the decision.~~

~~**109.6: Hearing Notice:** Notice shall be given of the time, place, and purpose of the public hearing by posting on the premises which is the subject of the hearing a notification sign which meets the requirements set forth in the hearing procedures. The sign shall be posted not less than three (3) days before the hearing to which it refers.~~

~~**109.7: Effect Of Appeal:** The appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the property services board after the appeal has been filed that, by reason of the facts stated in the application, a stay would in the Code Official's opinion cause imminent peril to life or property. In such case, the proceeding shall not be stayed unless a restraining order is issued by a court of competent jurisdiction, and then only if due cause can be conclusively shown.~~

#### **4-21 17-3: HEATING, VENTILATION AND AIR CONDITIONING CONTRACTORS:**

- (A)** License Required: No person shall engage in the business of heating, ventilating, and air conditioning contractor within the City without having first secured a license in the manner provided herein.
- (B)** Application for License: Application for license shall be made to the Community & Economic Development Department. All licenses shall be subject to the provisions of this Code, other ordinances of the City and the statutes of the State of Illinois.
- (C)** License Fee: The amount of the annual license fee for persons engaged in the business of building contractor shall be established from time to time by action of the City Council.
- (D)** Examination Required: No person shall receive such a license until he/she has passed a standardized examination administered and designed by the ~~building division~~ of the Department of Community & Economic Development. Said examination shall be for the purpose of determining that all licensees are knowledgeable in the business of building, contracting, and life safety components of the Building Code.
- (E)** Suspension or Revocation of License:
  - 1. If any person shall violate any of the provisions of this Chapter or the Code adopted hereby, he/she shall be liable to be prosecuted against for any fine or penalty imposed thereto and his/her license may be suspended or revoked by the City Manager or his/her designee.
  - 2. No such license shall be so revoked or suspended except after a hearing by the City Manager or his/her designee with a three (3) business day notice to the licensee affording the licensee an opportunity to appear and defend. The notice shall specify the reason for the contemplated suspension or revocation and shall give the date, time, and ~~room number~~ location in the civic center of the hearing. Notice shall be sufficient if sent to the address stated on the licensee's application.

3. If the Building Official certifies to the City Manager that he/she has reason to believe that immediate suspension of the license is necessary to prevent the threat of immediate harm to the community, the City Manager may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the license suspended for not more than seven (7) days. The City Manager may extend the suspension during the pendency of a hearing upon a written determination that doing so is necessary to prevent the aforesaid harm to the community.
4. Hearings shall be conducted in accordance with procedures ~~on file with the City clerk~~ drafted by the Corporation Counsel.
5. The City Manager shall issue his/her decision within ~~three~~ ten (3 10) business days after the close of the hearing. In reaching a decision, the City Manager may consider any of the following:
  - a. The nature of the violation.
  - b. The nature and extent of the harm caused by the licensee's action or failure to act.
  - c. The factual situation and circumstances surrounding the violation.
  - d. Whether or not the action or failure to act was wilful.
  - e. The record of the licensee with respect to violations.
6. The City Manager may suspend a license for a period of up to ninety (90) days. A licensee whose license has been revoked shall not be eligible to reapply for a license ~~until the expiration of one year after the effective date of the revocation.~~

#### **4-21 17-4: PENALTY:**

Persons who shall violate a provision of this Chapter, fail to comply with any of the requirements thereof or erect, install, alter, or repair work in violation of the approved construction documents or directive of the Code Official, or of a permit or certificate issued under the provisions of this Chapter, shall be fined as set forth in this Section. A separate offense shall be deemed to have been committed for each day that an offense continues.

- (A) 1. The fine for a first violation is seventy five dollars (\$75.00.)
2. The fine for a second violation is two hundred dollars (\$200.00).
3. The fine for a third or subsequent violation is three hundred seventy five dollars (\$375.00).

- ~~(B)~~ Each day a provision of this Chapter is found to have been violated constitutes a separate violation for which a fine may be imposed in accordance with the fine schedule set forth in Subsection (A) of this Section.
- ~~(C)~~ The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

**4-21 17-5: SEVERABILITY:**

It is the intention of the City Council that this Chapter and the provisions of the Code adopted hereby are intended to be severable and that the invalidity of any Section or part of any Section or portion of this Chapter or Code hereby adopted shall not affect any other Section or portion of this Chapter or Code.

**CHAPTER ~~22~~ 18 - AFFORDABLE HOUSING DEMOLITION TAX AND AFFORDABLE HOUSING FUND**

**4-22 18-1: PURPOSE:**

The purpose of this Chapter is to provide a source of funding for the creation, maintenance, and improvement of safe and decent affordable housing in the City of Evanston in order to enhance preservation and maintenance of the City's cultural and economic diversity.

**4-22 18-2: DEFINITIONS:**

For the purposes of administering this Chapter:

AFFORDABLE  
HOUSING  
FUND:

The fund established by City Council which can only receive and expend monies dedicated to the creation, preservation, maintenance, and improvement of affordable housing for house-holds whose income is one hundred percent (100%) or less of area median income, with no less than sixty percent (60%) of all monies reserved for households that earn less than eighty percent (80%) of area median income. The City Manager or his/her designee may implement programs including, but not limited to: down payment and/or rental assistance; building rehabilitation and/or construction loans; property acquisition and disposition; and grants to nonprofit organizations that serve households that earn less than one hundred percent (100%) of area median income. Said programs shall be administered in accord with guidelines generated by the Evanston housing commission, reviewed by the planning and development committee of the City Council, and approved by the City Council.

AFFORDABLE HOUSING,  
OWNER OCCUPIED:

Decent, safe, sanitary housing that is affordable to "relevant households" as defined herein. The cost of the mortgage payment and relevant expenses (a calculation of property taxes, homeowner's insurance, and, when applicable, condominium or homeowner association fees) of owner occupied dwelling units shall not exceed thirty three percent (33%) of the relevant household's gross annual household income (the total income of all adults over 18 years of age in

AFFORDABLE HOUSING, RENTAL:	the household). Decent, safe, sanitary housing that is affordable to "relevant households" as defined herein. The cost (including a utility allotment and adjustment for household size) of rental dwelling units shall not exceed thirty percent (30%) of the relevant household's gross annual household income (the total income of all adults over 18 years of age in said household).
APPLICANT:	Any individual who applies for a building demolition permit under this Code.
AREA MEDIAN INCOME:	The median income level for the Chicago primary metropolitan statistical area, as established and defined in the annual schedule published by the secretary of the United States department of housing and urban development and adjusted for household size.
DEMOLITION:	The removal or destruction of a structure or building in whole or in part to the extent of fifty percent (50%) or more of such structure or building as it existed prior to the commencement of such act or process.
DEMOLITION STRUCTURE:	The building or structure to be demolished.
DIRECTOR:	The Director of the Evanston Community & Economic Development department.
DWELLING UNIT:	A room or group of contiguous rooms that include facilities used or intended to be used for living, sleeping, cooking and eating, and that are arranged, designed, or intended for use exclusively as living quarters.
RELEVANT HOUSEHOLD:	A low or moderate income household whose total income does not exceed the relevant percent of median income for the Chicago primary metropolitan statistical area Chicago area, as established and defined in the annual schedule published by the secretary of housing and urban development, and adjusted for household size. A low income household has income that does not exceed eighty percent (80%) of HUD area median income. A moderate income household has income that does not exceed one hundred percent (100%) of the HUD area median income.
REPLACEMENT STRUCTURE:	Any building or structure replacing the demolition structure.
RESIDENTIAL STRUCTURE:	Any building or structure containing dwelling units.
RESIDENTIAL STRUCTURE, MULTI-FAMILY:	A detached residential building containing three (3) or more dwelling units, including what is commonly known as an apartment building, but not including group, row, or townhouses, excluding a hotel, motel, boarding house, rooming house, dormitory, nursing home, mobile home, institution, or retirement home or community.
RESIDENTIAL STRUCTURE, SINGLE-FAMILY ATTACHED (Group, Row, Or Townhouses):	Three (3) or more dwelling units joined side by side.
RESIDENTIAL STRUCTURE, SINGLE-FAMILY ATTACHED, TWO-FAMILY:	A residential building containing not more than two (2) dwelling units entirely surrounded by open space on the same lot.
RESIDENTIAL STRUCTURE, SINGLE-FAMILY DETACHED:	A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

**4-22 18-3: TAX IMPOSED:**

- (A)** Amount Of Tax: Any person granted a permit under this Code for demolition of a residential structure shall pay an affordable housing demolition tax of: 1) ten

thousand dollars (\$10,000.00) for the demolition of any single-family detached residential structure, or 2) for the demolition of any multi-family, single-family attached, or two-family residential structure, either ten thousand dollars (\$10,000.00) or three thousand dollars (\$3,000.00) for each unit in the structure, whichever amount is more. The tax imposed pursuant to this Subsection shall be in addition to the demolition permit fee established from time to time by the City Council and all other applicable fees and charges. Payment of the tax, unless deferred as provided in Section ~~4-22-4~~ of this Chapter, shall be due upon issuance of a demolition permit by the department, and is a condition to the validity of the permit. The City shall have a lien against the property which was the subject of the demolition permit until applicable tax obligations imposed by this Chapter are satisfied. The funds received by the City for the amount imposed pursuant to this Subsection shall be dedicated to achievement of the affordable housing goals and objectives as set forth in Section ~~4-22-1~~ of this Chapter. The demolition tax funds received pursuant to the tax imposed by this Chapter shall be deposited directly into the affordable housing fund.

- (B)** Specific Applicability Rules: Notwithstanding the general requirement set forth in Subsection (A) of this Section, the tax shall not apply under the following circumstances. This Subsection, however, shall not affect an applicant's obligation to pay the demolition permit fee.
1. If the applicant and the City enter into an agreement for the provision of "affordable housing" as defined in Section ~~4-22-2~~ of this Chapter in conjunction with the demolition that would otherwise be the subject of Subsection (A) of this Section. Any such agreement shall require prior City Council approval and shall specifically set forth the applicability of this Subsection.
  2. If the Director determines, pursuant to regulations enacted by the City Council, that the building or structure replacing the building or structure that is the subject of the demolition permit constitutes "affordable housing" as defined in Section ~~4-22-2~~ of this Chapter.
  3. If the Director or any other City department head, or their respective designees, orders a demolition for any reason, including, but not limited to, nuisance, public safety, or fire hazard, this tax shall not apply, regardless of whether the demolition work is performed by a public or private entity.
- (C)** General Applicability: Imposition of the tax provided for by Subsection (A) of this Section shall not apply to any demolition for which a perfected application for the demolition permit was on file with the City on or before the effective date hereof.

#### **4-22 ~~18~~-4: TAX DEFERRAL OPTION:**

- (A)** Application for Deferral: A person who has been the record title-holder or beneficiary of a land trust (collectively, "record titleholder") and occupant of a

residential structure for three (3) consecutive years, and who files or causes to be filed an application for a demolition permit for that structure, may opt for deferral of the tax, as provided in this Subsection. In the event the demolition permit is for a multi-unit structure, the person may only defer that portion of the demolition tax attributable to his/her own dwelling unit. The demolition permit fee must be paid at the time of application. The person shall make application for deferral of the tax to the Director on a form provided for that purpose and available from the building permit desk. To qualify for the deferral, the person shall provide documentation to establish that all real estate taxes on the subject property have been paid in full as of the date of application for the permit; that any and all City liens and judgments recorded on the subject property have been satisfied; and that the person has been the record titleholder and occupant of the subject structure for three (3) consecutive years prior to the date of application for the permit. Documentation the Director may require to establish the person's qualification for the tax deferral option may include, but shall not be limited to, income tax records and proof of voter registration. If the Director determines that the person qualifies for the deferral option, he/she shall cause a lien to be recorded against the property with the Cook County recorder in the amount of the tax to be deferred, to which shall be added the applicable recordation fee. Except as provided in Subsection (B) of this Section, the lien shall not bear interest. The Director may, upon written request of the person, subordinate the lien to any mortgage the person may have or seek on the property. Among the factors the Director may consider in determining whether or not to grant the subordination request is whether the value of the property is adequate to assure payment of the City's lien, and that all real estate taxes have been paid.

**(B) Release of Lien:**

1. A person who exercised the tax deferral option provided for in Subsection (A) of this Section and who has been the record titleholder and occupant for three (3) consecutive years after issuance of a final certificate of occupancy for the replacement structure may apply for release of the lien by making application therefor to the Director on a form provided for that purpose and available from the building permit desk. Documentation the Director may require to establish the person's qualification for the release of lien may include, but shall not be limited to, income tax records and proof of voter registration for the years in question. If the Director determines that the person qualifies for the release, he/she shall provide the person with a recordable release of lien no later than thirty (30) days after he/she determines that the person qualifies for the release.
2. A person who exercised the tax deferral option provided for in Subsection (A) of this Section who sells the subject property prior to the expiration of the three (3) consecutive year period after issuance of the final certificate of occupancy shall, as a condition to the City's release of the lien, pay the tax due, to which shall be added interest at the annualized money market index rate published by the Government Finance Officers Association.



#### **4-22 18-5: STABILITY INCENTIVE:**

When the tax was paid at the time of permit issuance as provided for in Subsection ~~4-22~~3(A) of this Chapter, a person who has been the record title owner and occupant of a residential property demolished subsequent to the effective date of this Chapter ("preexisting structure") for all of the three (3) years immediately preceding the date of the application for demolition ("prepermit period"), and remains the record titleholder and occupant of the property for three (3) consecutive years beginning immediately after the date on which the certificate of occupancy for the new residential structure is issued, may qualify for a monetary stability incentive in an amount equal to the demolition tax paid on the issuance of the permit for demolition of the preexisting structure, provided, however, that only persons whose real estate taxes on the property are paid in full at the time of application for stability incentive may apply for the incentive.

Application for the stability incentive payment shall be made to the Director on a form provided for that purpose and available from the building permit desk. The person must provide the Director of Community & Economic Development with such documentation as he/she may require to establish that the owner qualifies for the payment under the requirements of this Section. Such documentation may include, but is not limited to, income tax returns and proof of voter registration for the years in question. The City shall pay qualifying persons an amount equal to the demolition tax, if any, imposed pursuant to this Chapter on the issuance of the permit for the preexisting structure, less the amount of any liens recorded by the City against the subject property, including, but not limited to, liens for judgments entered in cases adjudicated in the City's division of administrative hearings, no later than thirty (30) days after the Director of Community & Economic Development determines that an owner qualifies for the stability incentive.

#### **4-22 18-6: SEVERABILITY:**

The provisions, Sections, and Subsections of this Chapter shall be deemed separable, and the invalidity of any portion of this Chapter shall not affect the validity of the remainder.

### **CHAPTER ~~23~~ 19 - ENERGY CODE**

#### **4-~~23~~ 19-1: ADOPTION:**

The City of Evanston hereby adopts by reference the 2009 International Energy Conservation Code.

### **CHAPTER ~~24~~ 20 STORM WATER CONTROL**

#### **4-~~24~~ 20-1: DEFINITIONS:**

The following terms are defined for the use of this Chapter as follows:

ALLOWABLE                      The rate of storm water runoff that is allowed to be discharged from a

RELEASE RATE:	development site into the City sewer system by means of the control system.
APPLICANT:	Person(s) or agent(s) representing a property owner who desires to develop property in the City.
BULLETIN 70:	A publication entitled "Frequency Distributions And Hydroclimatic Characteristics Of Heavy Rainstorms In Illinois", by Floyd A. Huff and James R. Angel, as published by the Illinois State Water Survey, Champaign, Illinois, 1989. The magnitudes of rainfall events having storm durations of twenty four (24) hours and frequencies from two (2) to one hundred (100) years are found in table 13 of said publication and are adopted by the City to be used by applicants for calculations necessary for compliance with this Chapter.
CITY SEWER SYSTEM:	The networks of closed pipes, conduits, and drainage structures within the City which consists of three (3) operational parts: the storm sewer system, which conveys storm water only; the combined sewer system, which conveys a combination of storm water and wastewater; and the relief combined sewer system, which conveys storm water during most ordinary rainfall events, until the combined sewer system capacity is reached, at which point the combined sewer system discharges into the relief combined sewer system.
CONTROL SYSTEM:	Structures that contain restriction, backflow prevention, storage and conveyance features that are necessary for the safe, efficient control and discharge of detained storm water runoff from the development into the City sewer system at a rate no greater than the allowable release rate, up to the occurrence of the 100-year frequency rainfall (24 hour duration) event. This system should be located on the development property, must meet the City's current construction standards, and must be fully accessible to the City for inspection purposes and to the applicant for maintenance purposes.
DETAINED STORM WATER VOLUME:	The volume of storm water that is tributary to the development site that exceeds the volume that is allowed to be discharged into the City sewer system at the allowable release rate. This volume is calculated by the applicant and submitted to the Director for his/her review and approval. This volume accounts for rainfall that is infiltrated into the soil by virtue of the permeability of the surface and subsurface materials. Also called the "storm water detention volume".
DETENTION:	The temporary storage of storm water runoff, typically in a closed or open detention basin or retention basin, or in oversized storm sewer pipes, followed by releasing the runoff gradually into an outlet waterway or the City sewer system. The discharge flow rate of storm water exiting the detention area is typically controlled by a control structure. Also called "storm water detention". For purposes of this Chapter, the terminology "detention" shall mean either detention or retention, as appropriate.
DETENTION BASIN:	A facility located within the development site that is designed to store storm water runoff temporarily on, below, or above the ground surface, accompanied by the controlled release of the stored storm water runoff. The limits of the detention basin are to be depicted on the final development plans and designated thereon as the "detention basin" (or "retention basin", whichever is appropriate). Detention basins may be closed type (concrete vaults or oversized storm sewer pipes) or open type (having grassed, landscaped, bioengineered, or, when necessary to drain, paved bottoms). All detained storm water must be drained from the detention basin by gravity, by pumping, or by infiltration into the ground water, effectively draining the storage facility completely between rainfall events. For purposes of this Chapter, the terminology "detention basin" shall mean either detention basin or retention basin or a combination of these, as appropriate.
DEVELOPMENT:	Any activity, excavation or fill, alteration, subdivision or resubdivision, change in land use, or practice including, without limitation, redevelopment

or rehabilitation. Development may be undertaken by private or public entities or a combination thereof. Development does not include maintenance of storm water control facilities; the maintenance of existing buildings; gardening or plowing that does not involve filling, grading, or the construction of levees; or the resurfacing of existing paved roads, drives, or parking lots.

DIRECTOR:	Refers to the Director of the <del>Public Works</del> <u>Utilities</u> Department or his/her designee.
DISCHARGE:	The rate at which storm water moves through an open channel or closed pipe, usually measured in cubic feet per second.
DRAINAGE AREA:	The surface area from which storm water runoff originates at a given point or location on a stream, waterway, or within pipes or channels, usually measured in acres. Also called, "tributary drainage area" or "tributary area".
FLOOD FRINGE:	That portion of the regulatory floodplain that is outside of the regulatory floodway.
IMPERVIOUS SURFACE:	Natural or manmade materials through which water, roots, or air cannot penetrate. This type of material prevents the movement of surface water down to the water table.
INFILTRATION:	The movement or passage of water into the soil from a surface that is permeable. Infiltration may be used as an alternative to the detention or retention of storm water runoff as a means to provide all or part of the required detained storm water volume. This is possible under natural or manmade conditions in which deep, permeable layers of sandy soils or other materials with voids are present.
100-YEAR FREQUENCY RAINFALL:	A rainfall event that has a one percent (1%) probability of being equaled or exceeded in any given year. On average, an event of this size or larger will occur once every one hundred (100) years. It is also called the "design storm". The magnitude of this rainfall amount for a variety of frequencies and storm durations is found in table 13 of bulletin 70.
OUTFALL/OUTLET:	The point, location, or structure where storm water runoff discharges from a storm water facility to a receiving body of water or into the City sewer system.
PERMEABLE:	Having voids, pores, or openings through which liquids may pass.
PUBLIC WORKS STORM WATER CONTROL REGULATIONS:	A document published by the Evanston public works department which outlines the methodology for calculating the detained storm water volume.
RECHARGE:	Replenishment of ground water reservoirs by infiltration through permeable soils or other granular materials.
REGULATORY FLOODPLAIN:	Lands that are adjacent to bodies of water (Lake Michigan or the North Shore Channel in the City) and that may be inundated by water up to the base flood elevation, as regulated by the federal emergency management agency ("FEMA"). The floodplain is mapped by FEMA as part of the national flood insurance program. The floodplains within the City are identified as special flood hazard areas ("SFHAs") on map numbers 17031C0253F, 17031C0255F, 17031C0260F, 17031C0265F, and 17031C0270, which are part of the series of flood insurance rate maps ("FIRMs") for Cook County, Illinois, having an effective date of November 6, 2000. Floodplains consist of two (2) parts: the floodway and the flood fringe.
REGULATORY FLOODWAY:	That portion of the regulatory floodplain that is necessary for the conveyance of the base flood. The regulatory floodway is depicted on the FEMA FIRM maps (see definition of Regulatory Floodplain herein).
RELEASE RATE:	A rate of storm water runoff that is being discharged from a development site into the City sewer system by means of the control structure, measured in cubic feet per second.
RUNOFF/STORM WATER RUNOFF:	Water which moves through the landscape either as surface or subsurface flows. It originates from atmospheric precipitation in the form of rain or snow

and does not recharge the ground water reservoirs.

**WETLAND:**

An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The determination that an area is a wetland follows a procedure that is outlined by the U.S. army corps of engineers ("USACE"). No activity or development that will adversely impact a wetland is allowed by the USACE unless a permit from that agency is granted.

**4-24 20-2: PURPOSES:**

The purposes for this Chapter are to: a) reduce the damaging effects caused by the uncontrolled release of storm water runoff from developments that include impervious areas, b) preserve the capacity and useful life of the City sewer system, c) enhance the separation of storm water runoff from wastewater, d) reduce the frequency and severity of the discharge of pollutant laden combined storm water runoff and wastewater into waterways, e) recharge ground water, f) enhance and help protect the public health and safety, and g) be consistent with the Cook County storm water management plan, as approved and the latest revision thereof.

**4-24 20-3: OTHER AGENCY REQUIREMENTS:**

All work related to this Chapter shall be done in accordance with all other federal, state, county, or regional agencies having jurisdiction, including, but not limited to, the U.S. army corps of engineers ("USACE"), U.S. environmental protection agency ("USEPA"), Illinois department of natural resources ("IDNR"), Illinois environmental protection agency ("IEPA"), and metropolitan water reclamation district of greater Chicago ("MWRD").

**4-24 20-4: STORM WATER CONTROL REQUIREMENTS:**

**4-24 20-4-1: DEVELOPMENTS REQUIRING STORM WATER CONTROL:**

All new developments shall provide storm water control for the entire property. Additionally, any development: a) where the final building footprint is greater than five thousand (5,000) square feet, and b) having construction costs greater than one hundred percent (100%) of the latest property value as published by the Cook County assessor's office for the existing tax parcel(s) affected by the development as of the effective date hereof shall provide storm water control for the entire property. This provision shall also apply to staged developments or multiple independent developments for which the aggregate construction costs exceed one hundred percent (100%) of the property value for the tax parcel(s) existing at the time of the initial development after the effective date hereof. Storm water control includes both: a) the need to detain a certain storm water volume, and b) the need to control the release rate of storm water as it is discharged from the development site and enters the City sewer system.

**4-24 20-4-2: EXEMPT DEVELOPMENTS:**

The following developments are exempt from the provisions of Sections 3, 4, and 5 of this Chapter:

- ~~(A)~~ ~~Developments Prior to Ordinance: All developments that have been submitted to the City's plan commission or planning & development committee, approved and permitted for construction, or are under construction as of the effective date hereof. Such exempt developments must be in compliance with the City's department of public works "Administrative Policy 201, January 2000, Private and Public Development, Detention Requirements".~~
- ~~(B)~~ Residential Structures: Development of one-, two-, or three-family residential structures on one or two (2) adjacent parcels, provided that neither parcel is larger than one acre in area.
- ~~(C)~~ B Paved Parking Lots: Existing paved parking lots that are resurfaced, or milled and resurfaced, where there is no change to existing drainage that increases runoff to the City sewer system. A paved parking lot is not exempt whenever parts or all of the lot is redeveloped for a different use or a parking structure is constructed, at which point storm water control is required for the entire development, including the parking lot.
- ~~(D)~~ C New Development: Any new development for which the storm water control requirements under this Chapter have been fully satisfied for the existing and proposed development conditions based on installation of all required storm water control during a prior development, and the storm water control facilities have been maintained and are fully functional and operating. The applicant shall demonstrate compliance with this Chapter by submitting to the City's department of public works all calculations and documents in support of a finding that no additional storm water control facilities are required.

#### **4-24 20-4-2: EXEMPT DEVELOPMENTS:**

The following developments are exempt from the provisions of this Chapter:

- ~~(A)~~ ~~Developments Prior To Ordinance: All developments that have been submitted to the City's plan commission or planning & development committee, approved and permitted for construction, or are under construction as of the effective date hereof. Such exempt developments must be in compliance with the City's department of public works "Administrative Policy 201, January 2000, Private and Public Development, Detention Requirements".~~
- ~~(B)~~ Residential Structures: Development of one-, two-, or three-family residential structures on one or two (2) adjacent parcels, provided that neither parcel is larger than one acre in area.
- ~~(C)~~ B Paved Parking Lots: Existing paved parking lots that are resurfaced, or milled and resurfaced, where there is no change to existing drainage that increases runoff to the City sewer system. A paved parking lot is not exempt whenever

parts or all of the lot is redeveloped for a different use or a parking structure is constructed, at which point storm water control is required for the entire development, including the parking lot.

- (D C)** New Development: Any new development for which the storm water control requirements under this Chapter have been fully satisfied for the existing and proposed development conditions based on installation of all required storm water control during a prior development, and the storm water control facilities have been maintained and are fully functional and operating. The applicant shall demonstrate compliance with this Chapter by submitting to the City's department of public works all calculations and documents in support of a finding that no additional storm water control facilities are required.

#### **4-24 20-5: STORM WATER CONTROL FACILITIES:**

##### **4-24 20-5-1: GENERAL:**

Control of the detained storm water volume must be provided by facilities that are entirely within the development property and are fully accessible for inspection by the City. These facilities shall be designed to store the required detained storm water volume temporarily on, below, or above the ground surface in a detention or retention basin, and to subsequently release the stored detained storm water volume at a rate no greater than the allowable release rate by means of a restrictor within the control structure for final discharge into the City sewer system. The storm water control system shall be located such that: a) adjacent properties are not impacted by storm water from the development and b) facilities are accessible to the City for inspection and accessible to the applicant for maintenance.

The storm water control system must meet the City's current construction standards for storm water control structures having restriction, overflow, backflow prevention, and inspection/maintenance capabilities.

##### **4-24 20-5-2: CALCULATIONS:**

The storm water detention volume and the allowable release rate shall be calculated using the methodology described in the Public Works Utilities Storm Water Control Regulations available from the Public Works Utilities Department.

##### **4-24 20-5-3: MEANS FOR STORING RUNOFF:**

The storage of detained storm water volume must be accomplished by any of the following means:

- (A)** Open detention basin. The basin may be of any shape. The active storage depth of the detention basin is a maximum of two feet (2'), with an additional one foot (1') freeboard. The basin must be landscaped, or have a bioengineered surface. Side slopes must be no steeper than a four to one ratio (4:1) (4 horizontal to 1 vertical), and the bottom slope must be one percent (1%) to two percent (2%) to

facilitate the complete drainage of all storm water runoff into the control structure by gravity, or by the use of pumps if a retention basin is proposed. Inflow pipes to the open detention basin must carry only storm water runoff, and a backflow preventing device, such as a flap gate, must be installed within a structure and must be provided on each inflow pipe to prevent basin storm water from flooding any development structures.

- (B) Reinforced concrete pipe or ductile iron pipe storage, constructed to the City's current construction standards.
- (C) Reinforced concrete vaults, constructed in accordance with the design by an Illinois licensed structural engineer.
- (D) Parking lot surface storage, with the depth of storm water storage limited to six inches (6") or less.
- (E) Rooftop storage, with the depth of storm water limited to six inches (6") or less, based on a determination by an Illinois licensed structural engineer that the roof is structurally adequate to resist all loading, including the additional water load (considered to be live load).
- (F) Infiltration of the detained storm water volume, provided that the applicant submits an engineered infiltration field design by an Illinois licensed professional engineer. The design must include the calculations and supporting documents necessary to demonstrate that the proposed infiltrated detained storm water volume meets the storage requirement.
- (G) Other means or combination of means which the applicant may use, subject to the approval by the Director prior to the issuance of all necessary construction permits.

#### **4-24 20-5-4: CONTROL SYSTEM:**

- (A) The control system must contain those restriction, backflow prevention, storage and conveyance features that are necessary for the safe, efficient control and discharge of detained storm water volume from the development into the City sewer system at a rate no greater than the allowable release rate, up to the occurrence of the 100-year frequency rainfall (24 hour) event. This system must be located on the development property unless waived by the Director, must meet the City's current construction standards, and must be fully accessible to the City for inspection purposes and to the applicant for maintenance purposes. The system shall contain adequate provisions for the emergency release of storm water in excess of the required storage volume or runoff rate that may be associated with more extreme rainfall events or unforeseen debris or ice buildup within the structure. The emergency release shall commence only after the required detained storm water volume has been stored on the development site. The emergency release must discharge onto the development property. A backflow preventing feature, such as a flap gate, shall also be provided such that

no storm water or wastewater from the City sewer system can flow back onto the development site. The backflow preventing device shall be installed in a structure located immediately outside of the structure containing the restrictor.

- (B) Storm water control systems shall not be located within any part of a regulated floodplain, either the floodway or flood fringe, within the City, as depicted on the FEMA FIRM map panels for Cook County, Illinois. Any work in the floodplain or in wetlands requires the applicant to obtain all permits that may be required from the USACE, USEPA, IDNR, IEPA, MWRD, and any other federal, state, or regional agency as may be required. The applicant shall not begin construction until the applicant has applied for and obtained these permits. In the event that any of these permits include conditions that are more or less stringent than the provisions of this Chapter, the more stringent of the permit conditions or ordinance provisions shall apply.

#### **4-24 20-5-5: CONNECTION TO CITY SEWER SYSTEM:**

The applicant is responsible for all construction and restoration work that is needed within the public right of way to achieve the connection to the City sewer system. This work shall be performed in accordance with the City's current construction standards.

Whenever more than one of the City's sewer system components is adjacent to, or in close proximity to the development, the applicant's storm water control system shall discharge detained storm water into that component which is both feasible and most advantageous to the City. Generally, but not always, the storm sewer system is the most advantageous outlet, followed by the relief combined sewer system, followed by the least advantageous combined sewer system. The use of a particular outlet City sewer system component may not be possible due to circumstances such as the presence of other conflicting utilities or if the component is buried deep below the surface. Applicants shall work with the City's Department of ~~Public Works~~ Utilities to ascertain which one of the City sewer system components shall be used as the outlet from the development.

#### **4-24 20-6: FEE IN LIEU OF STORM WATER CONTROL:**

In the event that an applicant cannot physically provide all the necessary control of the required detained storm water volume on the development property, the applicant shall:

- (A) Provide proof that is satisfactory to the Director that the development site conditions limit his/her capacity to fully meet the detained storm water volume, and
- (B) Provide storm water control for that volume of detained storm water which the applicant is able to provide in accordance with the requirements of this Chapter, and
- (C) Pay a fee in lieu of providing the balance of the excess storm water control volume that the applicant cannot provide on site. The fee in lieu of providing



storm water volume shall be initially set at twelve dollars (\$12.00) per cubic foot of required detained storm water volume; however the total fee shall not exceed five percent (5%) of the construction costs of the development. The fee in lieu shall increase each January thereafter by the percent increase indicated for the year ending in January by the United States department of labor bureau of labor statistics consumer price index ("CPI") for the Chicago metropolitan area (Chicago-Gary-Kenosha). The City will use this fee for any of the purposes served by this Chapter that the Director deems suitable in furthering the City's interest in providing for storm water control.

#### **4-24 ~~20~~-7: CITY REVIEW AND INSPECTION:**

##### **4-24 ~~20~~-7-1: REVIEWS:**

The Director shall review all elements of the storm water control facilities, drawing plans, sketches, details, calculations and any other evidence and supporting documents that are submitted by the applicant for the proposed development. The Director must review all developments, regardless of whether physical storm water control facilities or fees in lieu of storm water control facilities are being requested by the applicant. The Director may meet with the applicant to discuss the proposed storm water facilities and/or prepare written review comments regarding the applicant's submittal when the submittal has not satisfied all appropriate provisions of this Chapter. The applicant shall respond to the Director's review comments and perform the necessary design changes, then submit the revised submittal documents for further review by the Director. This process of submittals, review, and revisions shall continue until all provisions of this Chapter are met to the satisfaction of the Director. The applicant shall not receive a building permit for the proposed development until all provisions of this Chapter are met.

##### **4-24 ~~20~~-7-2: INSPECTION DURING CONSTRUCTION:**

The Director may inspect the applicant's storm water control system during the construction to ascertain whether the applicant is constructing or has constructed the system in accordance with the approved plan. Any deficiencies in the construction shall be corrected by the applicant at his/her expense, regardless of when the Director determines that such deficiencies exist.

##### **4-24 ~~20~~-7-3: CERTIFICATE OF OCCUPANCY:**

The storm water control system must be installed and functioning before the certificate of occupancy for the development will be issued.

##### **~~4-24-7-4~~ 4-20-8: MAINTENANCE:**

The Any storm water control system installed within the City and connected to the City sewer system shall be maintained by the applicant or current owner in a fully functioning and operating condition.

##### **~~4-24-8~~ 4-20-9: INSPECTION FEES:**

All developments that are required to provide storm water control in accordance with this Chapter shall pay to the City an initial inspection fee of one hundred fifty dollars (\$150.00). ~~and thereafter, an~~ An annual inspection fee of one hundred fifty dollars (\$150.00) shall be paid to the City for any development that has a storm water control system connected to the City sewer system.

**~~4-24-9~~ 4-20-10: PENALTY:**

If the Director determines that any storm water control system ~~required by this Chapter~~ connected to the City sewer system does not comply with the provisions of this Chapter, the Director shall notify the applicant or current owner in writing of such noncompliance. The applicant or current owner shall have thirty (30) calendar days from the date of receipt of such notice to comply with the provisions of this Chapter. If at the end of the thirty (30) calendar days the applicant or current owner is not in compliance with the provisions of this Chapter, a two hundred fifty dollar (\$250.00) fine shall be imposed and the applicant or current owner shall have an additional thirty (30) calendar days to comply. If at the end of the thirty (30) additional days for compliance, the applicant or current owner is not in compliance with the provisions of this Chapter, a fine of not less than two hundred fifty dollars (\$250.00) shall be imposed for each day thereafter in which the applicant or current owner is not in compliance.

## TITLE 5 – HOUSING REGULATIONS

### CHAPTER 1 - PROPERTY MAINTENANCE CODE

#### 5-1-1: ADOPTION:

- (A) Pursuant to the authority granted by 65 ILCS 5/1-2-4, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference as its standard for the maintenance of existing buildings, the International Code Council, International Property Maintenance Code 2003 (ICC International Property Maintenance Code), with the amendments below stated. All advisory or text notes, other than the rules and regulations contained in the ICC, International Property Maintenance Code, be and the same are hereby expressly excluded from this Chapter.
- (B) Any reference in the ICC, International Property Maintenance Code 2003, to "code official" shall refer to the ~~assistant Director of housing rehabilitation and property standards~~ Manager of Building and Inspection Services or his/her designee. Any reference to "municipality" shall mean the City of Evanston.

#### 5-1-2: APPLICATION:

The ICC, International Property Maintenance Code 2003, shall apply to all matters concerning the protection of public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing premises in the City as provided in the Code.

#### 5-1-3: AMENDMENTS:

The following sections of the ICC International Property Maintenance Code 2003, are deleted, amended or added to read as follows:

#### (A) Chapter 1 Administration

##### Section 101 General

**101.1 Title.** These regulations shall be known as the Property Maintenance Code of the City of Evanston, hereinafter referred to as "this code".

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the, International Building Code, International Residential Code, International Fire Code, National Fire Prevention Association 101 Life Safety Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, NEC Electrical Code, State

of Illinois Plumbing Code, all as adopted and amended by the City of Evanston, any other applicable code or ordinance adopted by the city of Evanston, and any other applicable legislation or regulation.

## **Section 102 Applicability**

**102.3 Application of Other Codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Residential Code, International Fire Code, National Fire Prevention Association 101 Life Safety Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, NEC Electrical Code, State of Illinois Plumbing Code any other applicable code or ordinance adopted by the City of Evanston and any other applicable legislation or regulation. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Evanston zoning ordinance, Title 6 of the Evanston City Code, as amended.

**102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner, straight, true, level, plumb, clean and installed in accordance with the manufacturer's installation instructions. Work not meeting the definition of "workmanlike" may be rejected by the code official.

## **Section 103 Division of ~~Property Standards~~ Building, Inspections, and Permits**

**103.1 General.** The Department Division of ~~property standards~~ Building, Inspections, and Permits is hereby ~~created~~ assigned to enforce this code and the executive official in charge thereof, the ~~assistant Director, housing rehabilitation and property standards Manager of Building and Inspection Services,~~ shall be known as the Code Official.

**103.5 Fees.** Delete.

## **Section 104 Duties and Powers of the Code Official**

**104.4 Right of Entry.** The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law. If the premises owner does not grant the code official entry to the entire premises during an initial inspection, cure code violations discovered and cited during an initial inspection before the compliance re-inspection, or grant the code official access to the entire premises to re-inspect for every such cited violation, thereby requiring the code official to perform multiple re-inspections, the premises owner shall owe the city a fee of one hundred fifty dollars (\$150.00) for the second and any subsequent re-inspection. If the premises owner does not grant the code official entry for a scheduled inspection without canceling said inspection on a city business day and at least twenty-four (24) hours in advance of the appointed inspection time, or fails to give his or her tenants forty-eight (48) hours notice of the inspection date, the premises owner shall owe the city a fee of: one hundred fifty dollars (\$150.00) for the first such failure; two hundred fifty dollars (\$250.00) for the second such failure;

and five hundred dollars (\$500.00) for the third and any subsequent such failure. Any fees assessed pursuant to this section shall be debts due and owing to the city that the city may collect by any means allowed by law, including, but not limited to: refusing to issue any permit, license, or zoning relief related to the structure or premises; employing a collection agency; and filing a lien against the premises.

**104.7 Department Records.** Delete.

**104.9 Documentation.** The code official may require written submittal of estimates, executed contracts, invoices, receipts, proof of payment or other documentation regarding the completion or proposed completion of work for which a notice of violation has been issued. Submittal of leases may be required to establish the occupancy of any leased or rented space.

**104.10 Engineering Reports.** The code official may require submittal of written reports by a licensed design professional regarding violations for which a notice of violation has been issued.

**104.11 Permits Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the International Building Code, International Residential Code, National Fire Prevention Association 101, Life Safety Code, International Fire Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, NEC Electrical Code or the State Of Illinois Plumbing Code or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**104.12 Stop Work Order Authority.** Whenever the code official finds any work regulated by any of the following codes being performed in a manner contrary to the provisions of the International building code, International residential code, International fire code, national fire prevention association 101, life safety code, International mechanical code, International plumbing code, International fuel gas code, NEC electrical code, State of Illinois plumbing, or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

**104.12.1 Issuance.** The stop work order shall be in writing and ~~shall be posted in a conspicuous place in or about the structure affected by such notice, and given~~ served to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon ~~issuance~~ service of a stop work order by any method listed in section 107.3 of this code, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume, if any.

**104.12.2 Unlawful Continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or remove or prevent an unsafe condition, shall be subject

to penalties as prescribed by law.

**104.12.3 Compliance With Code Official's Orders.** Any person required by the code official to perform an act or cease performing an act pursuant to this Section 104 is guilty of a violation of the code adopted hereby and shall be subject to the penalties provided for in Section 106.4.

## **Section 106 Violations**

**106.3 Prosecution of Violations.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a violation of this Code, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order of direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**106.4 Violation Penalties.** Any person found to have violated any provision of this code, the International Property Maintenance Code 2003, adopted hereby, shall be guilty of an offense punishable as follows:

- (1) The fine for a first violation is ~~\$75.00~~ \$150.00
- (2) The fine for a second violation is ~~\$200.00~~ \$400.00
- (3) The fine for a third and any subsequent violation is ~~\$375.00~~ \$750.00

A separate offense shall be deemed to have been committed upon each such day such violation shall occur or continue.

**106.6 Criminal Housing Management.** A person commits the offense of criminal housing management when, having personal management or control of residential or commercial real estate, whether as a legal or equitable owner or as a managing agent or otherwise, he recklessly permits the physical condition or facilities of the residential or commercial real estate to become or remain in any condition which endangers the health or safety of any person. A person acts "recklessly" within the meaning of this section if he recklessly performs the acts which cause bodily harm or which endanger bodily safety of a person, or if he recklessly fails to perform and said failure causes the harm or endangers the safety of a person.

**106.6.1 Criminal Housing Management Penalty.** A person who commits the offense of criminal housing management as prohibited by 106.6 shall be guilty of a misdemeanor and shall be subject to a term of incarceration not to exceed six (6) months and a fine not to exceed one thousand five hundred dollars (\$1,500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. The court, may as part of any sentence, require the defendant to

remedy the violation(s).

**106.7 Fines.** The fines and penalties provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation.

#### Section 107 Notices And Orders

**107.1 Notice to person responsible.** Whenever the code official determines that there has been a violation of this code, or has grounds to believe that such a violation has occurred, notice, in the form prescribed in Section 107.2, unless otherwise specified in this code, shall be served in any manner prescribed in Section 107.3, to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3

**107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, structure or premises into compliance with the provision of this code.
- ~~5. Inform the property owner of the right to appeal.~~
- ~~6~~ **5.** Include a statement that the City may file a lien in accordance with Section 106.3.
- ~~7~~ **6.** Include a statement that the City may initiate immediate legal action upon certain violations of this Code subsequent to a first notice of violation issued by property standards.
- ~~8~~ **7.** Notwithstanding the foregoing, any violation found subsequent to issuance of a violation notice or legal action within the previous 365 days relating to litter, garbage, rubbish, inoperable motor vehicles, weeds and other similar exterior violations, a violation notice may be posted on or about the structure or premises affected by the violation. Such violation notice shall not identify a date for correction but shall state that legal action may be initiated without any further notice.

**107.3 Method of Service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally which shall include service upon an employee; or
2. Sent by first-class mail, express mail, overnight carrier or certified mail addressed to the last known address; or
3. Posted in a conspicuous place in or about the structure affected by such notice; or
4. Sent by facsimile machine (fax) to a party who has agreed in writing to accept notice by such means; or
5. Sent by electronic mail (e-mail) to a party who has agreed in writing to accept notice by such means.

### 109.6 Delete.

### **Section PM 111 Means Of Appeal. Delete.**

~~Section 111 Means of appeal is hereby deleted in its entirety.~~

## **(B) Chapter 2 Definitions**

### **Section 201 General**

**201.3 Terms Defined In Other Codes.** Where terms are not defined in this code and are defined in the International building code, International residential code, International fire code, national fire prevention association 101, life safety code, International mechanical code, International plumbing code, International fuel gas code, national electrical code, state of Illinois plumbing code, such terms shall have the meanings ascribed to them as in those codes.

### **Section 202 General Definitions**

**Accessible.** Refers to any opening in the exterior of a building larger than eight inches by twelve inches (8" x 12") (e.g., door, window, transom, vent duct, skylight, etc.) that is within eighteen feet (18') from the ground or bottom of the opening.

**Burglary-Resistant Glazing Material.** Glazing materials shall meet or exceed Underwriters Laboratories standard #UL 972 for burglary-resistant glazing material.

**Combination Dead Latch And Dead Bolt.** A device combining a dead latch operable by knob from inside and outside by a key, both of which can be retracted from the inside by turning the knob and from the outside by a key.

**Cylinder Guard.** A hardened steel ring or plate surrounding the otherwise exposed portion of a cylinder lock to protect the cylinder from cutting, prying, pulling or wrenching with common tools.

**Dead Bolt.** A lock bolt which has no automatic spring action and which is operated by a



key, thumb-turn, lever or knob and is positively held fast in the protected position against return, by end pressure.

**Dead Latch.** A latch which is positively held in latched position with a strike, by an added integral bolt-type mechanism and is again released by a key from the outside and a knob or similar actuator from the inside.

**Door Scope.** A system of lenses encased for convenient installation in entrance doors permitting an inside viewer to observe a one hundred eighty degree (180°) area of the outside with the door closed.

**Double-Cylinder Dead Bolt.** A dead bolt lock actuated by a key from the inside and outside.

**Dwelling Unit.** As defined in Section 6-18-3 of the Evanston City Code, as amended.

**Escutcheon Plate.** A protective shield or enclosure that encompasses the circumference of a pipe that typically penetrates a floor, and covers the open area surrounding the pipe or penetration.

**Graffiti.** Any and every name, identification, description, announcement, declaration, demonstration, display, illustration or insignia, other than advertising which is otherwise provided for in this code or other ordinances of the City, which, without authorization, is marked, written, drawn, painted, scratched, inscribed, or affixed directly to or upon any of the following objects or structures: public or private curbstone, flagstone, or any portion or part of any sidewalk or street or upon any tree, lamppost, utility pole, postal mail receptacle, sign, hydrant, gate, fence, door, wall, window, garage, enclosure, vehicle, bridge, pier or upon or within any other public or private structure, building or premises.

**Inoperable Motor Vehicle.** A vehicle, including any auto, bus, truck, van, motorcycle, trailer or boat, which cannot be lawfully driven or used upon the public streets for reasons including but not limited to being unlicensed, unregistered, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power for motor vehicles, or in the case of a boat, if incapable of being used as a means of transportation on water and/or if not currently registered in accordance with the boat registration and safety act, 625 ILCS 45/1, et seq., as amended.

**Insert.** A hardened steel roller inside unhardened bolts to prevent bolt cutting or sawing with common tools.

**Latch.** A spring-loaded device which automatically holds a swinging door shut upon closing by engaging a strike and which is released by turning a knob, lever, or similar actuator from inside or outside.

**Litter.** Any papers, newspapers, packaging, bags, plastics, cups, containers, cans and other similar materials lying scattered about that are subject to movement by any wind or breeze.

**Mortise-Type Lock.** A lock placed into an opening, groove or slot, cut in the edge of a door.

**Multi-Family Rental Dwelling.** A building or portion thereof, operating under a rental agreement, including renter-occupied cooperatives and condominium units.

**Multiple Point Locks.** A system of lever-operated bolts that engages a door opening, at the head and sill as a minimum, operated by a single knob or handle from the inside, and, optionally, a cylinder-locked handle from the outside.

**Owner-Occupied Unit.** A dwelling unit occupied by an owner of the building and or unit titleholder of the property including "those who have any undivided, joint, or survivorship interest by specific devise or by any recorded document whether that interest is an entire ownership interest or less than an entire ownership interest".

**Rabbeted Jamb.** The wooden sides and head of a door cut in such a way so that a notch is created against which the door may be closed.

**Rim-Type Cylinder Lock.** A lock made for mounting on the face of a door.

**Rooming House.** As defined in Title 5, Chapter 2 of the Evanston City Code, as amended.

**Sash Fasteners.** Locking devices which prevent a window from being moved.

**Sign.** A name, identification, description, display, message or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land so as to be principally seen from out-of-doors and which directs attention to an object, product, place, activity, concept, thought, person, institution, organization, or business.

**Sign, Abandoned.** Any sign advertising a business, commodity, service, entertainment or activity which has been discontinued.

**Single Cylinder Dead Bolt.** A dead bolt lock activated from the outside by a key and from the inside by a knob, thumb-turn, lever, or similar actuator.

**Single-Family Dwelling.** A building containing one owner-occupied dwelling unit; an owner-occupied condominium unit or cooperative.

**Single-Family Rental.** A unit operating under a rental agreement.

**Strike.** A metal plate designed to receive and hold a projected bolt or latch.

**Window Area.** Any transparent area on a facade through which the interior of a premises may be viewed from outside.

## **Chapter 3 General Requirements**

### **Section 301 General**

**301.3.1 Vacant Structures.** All vacant structures shall be regulated further according to Title 4, Chapter 20 of the City Code as amended, "Vacant Buildings".

**301.4 Emergency Phone Contact.** The owner shall provide each tenant with the name and telephone number of a responsible person who, in emergency situations, will be available on a 24-hour basis and who has the authority to make repairs to the building and premises as needed. The owner shall also cause said information to be posted with alphabet letters and Arabic numerals at least 1 1/2 inches (37 mm) high and 1/4-inch (6 mm) stroke and maintained within the main entryway at least five feet (5) above the floor, of every rental residential structure, except that two unit buildings where the owner resides in at least one unit shall be exempt from posting.

#### Section 302 Exterior Property Areas

**302.2 Grading And Drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structures located thereon, or on any surrounding premises or structures. The grade of premises shall not be altered by the storage of any type of soil, stone, chips or any other type of fill or material. Water shall not be allowed to accumulate and remain stagnant in any equipment, storage, debris or containers that may be present on the property.

**302.3 Sidewalks and Walkways.** All ~~public and~~ private sidewalks, walkways, stairs, driveways, parking spaces, parking lots and similar areas on private property shall be kept in a proper state of repair, and maintained free from hazardous conditions including, but not limited to, snow and/or ice.

Whenever the code official determines that there has been a violation of this section, or has grounds to believe that such a violation has occurred, notice, in the form prescribed below, shall be served in any manner prescribed in Section 107.3, to the person responsible for the violation as specified in this Code. Such notice shall:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a statement that the City may file a lien in accordance with Section 106.3.
5. Include a statement that the City may initiate immediate legal action without any further notice.

**302.4 Weeds and Grass.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches (8"). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual, biennial and perennial plants and vegetation which are propagated by seed or vegetative parts, which are of little

value and compete with cultivated plants or may affect the health of humans or animals, other than trees and shrubs. However, this term shall not include cultivated flowers and gardens.

The owner or agent having charge of a property who fails to cut weeds ~~after~~ within seven (7) days of service of a notice of violation, shall be subject to prosecution in accordance with section 106 of this code.

Upon failure by the owner or agent to comply with the notice of violation, any duly authorized agent of the City or contractor hired by the City shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon and the costs for such removal shall be paid by the owner or agent responsible for the property.

~~At least once per week for two (2) consecutive weeks and no less than fourteen (14) days prior to any City action to cut weeds on any vacant lot or premises with a vacant structure, the City shall cause to be published, in a newspaper of general circulation within the City limits, a notice in the form of a display advertisement that informs all property owners that: (i) the growth of weeds, as defined in this section, on any premises, in excess of eight inches (8"), is a violation of City Code; (ii) that the owner or agent having charge of the property shall be subject to prosecution and fines in accordance with section 106 of this code; (iii) that the City may cut the weeds, as defined in this section, on any vacant lot or any premises with a vacant structure located in the City, no less than four (4) days after the issuance of a notice of violation and posting of such a notice on any vacant structure; and (iv) that the owner of any such vacant lot or premises with a vacant structure shall be liable to the City for the costs of cutting the weeds and associated costs, in addition to any fine assessed by a court of competent jurisdiction or administrative hearing officer.~~

If the City cuts any weeds on any vacant lot or premises with a vacant structure as provided in this section, the City may impose a lien on the property in violation. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure, as amended, or by the Uniform Commercial Code, as amended, the lien shall be imposed on said property as a debt due and owing the City in an amount including, but not limited to: any City costs or contractor's fees for cutting the weeds; inspections; correspondence; title searches; preparation of lien; and recording fees.

**302.5 Rodent Harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, property precautions shall be taken to eliminate rodent harborage and prevent reinfestation. There shall be no accumulation of rubbish, boxes, firewood, lumber, scrap metal or any other materials so that rodent harborage exists. Stored materials shall be stacked neatly in piles elevated at least twelve (12) inches above the ground or grade.

**302.7 Accessory Structures.** All accessory structures, including detached garages, sheds, fences, gates and walls, shall be maintained structurally sound and in good

repair.

**302.7.1 Doors.** All accessory structures shall be provided with doors which are maintained and operational. For carports and similar structures which by intent, design and construction do not have doors, doors shall not be required.

**302.8 Motor Vehicles, Boats and Trailers.** No inoperative, unlicensed, and or unregistered, motor vehicle, boat or trailer, shall be parked, kept or stored, on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled.

**Exception:** Delete.

**302.10 Graffiti Removal.** All exterior and interior structure surfaces must be kept clean and free of graffiti, as graffiti is defined in section 202.0. Surfaces which have been exposed to graffiti must be cleaned, painted or in some manner covered, so as to effect the complete removal of the graffiti from that surface and to return the surface to a clean condition.

**302.11 Landscape.** All premises shall be maintained in the following manner regarding grass, shrubs, trees and other plant growth.

**302.11.1 Grass.** All premises, including vacant land and parkways, shall have grass, or other forms of approved ground cover provided and maintained. Any requirement for grass installation either sod or seed, shall be completed in accordance with City specifications.

A property owner who fails to establish seed or sod in conformance with a violation notice shall provide the code official with an executed contract for the sodding or seeding of the site with a landscape contractor who possesses a valid business license issued by the municipality in which the landscape business is based. In the instance a municipality does not issue such a license, the contractor must provide evidence satisfactory to the code official that it is in the business of landscape contracting. Installation of sod or seed shall be completed when the soil temperature is at least 55 degrees Fahrenheit.

**302.11.2 Trees.** All premises and exterior property shall be maintained free of fallen trees, limbs and branches. Trees with dead limbs or branches which are or may become hazardous to persons or property in the vicinity, shall have such limbs or branches removed. Trees which are dead and tree stumps shall be removed. Tree boughs or limbs that project over any private means of egress from a structure shall not project over such means of egress at a height of less than eight feet (8') above such means of egress.

**302.11.3 Encroachment.** Any plant growth which shall encroach on the public way or affect movement or vision of pedestrians or vehicles on the public way, shall be trimmed to allow for unobstructed vision and passage of persons, pedestrians and vehicles.

**302.12 Furniture.** Any furniture placed exterior of a building shall have been constructed for such exterior use and shall be constructed of materials that are water and weather-proof and resistant to rot, mildew, mold, decay and insect infestation. Exterior type furniture shall not be required in spaces which are completely enclosed and protected from the exterior elements.

**302.13. Parking of Motor Vehicles.** No vehicle, regardless of status of licensing, registration or operability, shall be parked within any public sidewalk area, parkway area, private sidewalk, or upon any unimproved surface including any vegetation, grass, soil, rock, stone or surface other than concrete, asphalt, pavers or similar surface.

## **Section 304 Exterior Structure**

**304.3.1 Alley Frontage Identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the alley when a premises abuts an alley. Premises shall have the address placed on garages when present or on the principal structure. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.6 mm).

**304.7 Roof, ~~Sump Pump Or Other Discharge.~~** The roof and flashing shall be sound, tight, and not have defects that admit rain. ~~Roof drainage~~ All roof components, including, but not limited to, roofs over stairs, soffits, fascia, and flashing, shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. The roof shall not have any animal entry points due to deterioration or damage. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions, vegetation, rust, peeling paint, cracks and holes. ~~Painted gutters and downspouts with exposed surfaces or peeling paint shall be painted. Where gutters are provided, downspouts shall be required and shall terminate water discharge a minimum of three (3) feet away from any portion of the structure. Gutter/downspouts, sump pumps and discharge from other sources, shall not discharge upon a public way nor be directed towards adjacent properties, and shall be drained upon the premises without causing retention of stagnant water thereon. Gutters and downspouts shall not retain stagnant water.~~

**304.7.1 Gutters, Sump Pump or Other Discharge.** Where gutters are provided, downspouts shall be required and shall terminate water discharge a minimum of three feet (3') away from any portion of the structure and not within ten feet (10') of any property line. Sump pumps and discharge from other sources including downspouts shall not discharge upon a public way nor be directed towards adjacent properties and shall be drained upon the premises without causing retention of stagnant water thereon. Gutters and downspouts shall not retain stagnant water.

**304.13.1 Glazing.** All glazing materials shall be maintained free from cracks and holes. Open cracks and/or unstable glazing shall be corrected by replacement of the window pane.

**304.14 Insect Screens.** During the period from April 1st to November 1st, every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

**Exception:** Screen doors shall not be required where other approved means, such as air curtains or insect-repellent fans, are employed.

**304.18 Building Security.** Delete.

**304.18.1 Doors.** Delete.

**304.18.2 Windows.** Delete.

**304.18.3 Basement Hatchways.** Delete.

**304.20 Burglar Bars, Grilles, Grates, Shutters.** Any type of burglar bars, including but not limited to bars, grilles, grates or shutters shall be prohibited from placement on the exterior of any building, structure or premises, which fronts or is visible from a street or thoroughfare, except that such security measures are allowed when used on openings that are adjacent to an alley or similar area. Any such security measures shall only be permitted to be placed on the interior of a building when fronting or visible from a street or thoroughfare, shall remain in the open position, thereby not visible and not impeding egress during any hours of operation for non residential occupancies and in compliance with egress requirements for all occupancies and use groups. This section shall not prohibit the placement of fencing on a premises, or security doors that are installed on the exterior stairways of buildings where approved by permit. Property shall be in compliance with this section within one year of the adoption of this code.

**304.21 Masking of Windows.** Any building space located at grade where the interior of such space is visible from the public way or private property intended for public use and is vacant or undergoing construction, renovation, alterations or a change of use, and such space is not in conformance with this code, such space shall have the window area masked so that the interior of the space is not visible from the public way. Masking materials shall be uniform in appearance and may include liquid or film. Installation of newspaper or similar print materials shall be prohibited. All installations shall be installed in a clean and workmanlike manner. This section shall not prohibit placement of signage which conforms with the Evanston sign regulations.

**PM 304.22 Sign Maintenance and Repair.** Every sign including but not limited to those signs for which permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, cleaning and other acts required to maintain the sign, advertising structure, marquee, canopy or awning in its originally permitted and installed condition in accordance with Title 4, Chapter 42 10 of the City Code, sign regulations. Required repair or

maintenance of any sign shall in no manner be constituted as approval of any sign whether such sign is permitted, prohibited or unlawful.

**PM 304.23 Obsolete or Abandoned Signs.** Any sign or advertising structure now or hereafter existing, which advertises a business, commodity, service, entertainment, activity, or event which has been discontinued, or is located on property which has been vacant and unoccupied, shall have such sign removed. Any portion of the building or surface that is uncovered due to removal of a sign shall be restored to a condition free from holes, breaks and loose or rotting materials and maintained weatherproof and properly surface-coated where required to prevent deterioration.

**PM 304.24 Window Glass Maintained.** All windows and window areas shall be maintained in a clean and sanitary condition, free and clear of all dirt, filth, grease, adhesive, paint and any other similar materials or substances that mar the window surface.

### **Section 305 Interior Structure**

**305.4 Stairs and Walking Surfaces.** Every stair, ramp and landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair. Any components, including but not limited to treads and risers, that evidence excessive wear, rot, deterioration or are broken, warped or loose shall be replaced. Treads and risers shall be uniform. Building Permits shall be required for the following: Porch/Deck replacement, Stringer/Stair replacement, and/or replacement of any structural member including posts and posts that support roof overhangs.

**305.7 Bathrooms, Toilet Rooms, and Kitchen Floors.** Every bathroom, toilet room, kitchen and similar rooms equipped with running water, shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

**305.8 Walls.** Every room containing a shower shall have walls surrounding the shower covered by a smooth, hard, nonabsorbent surface and easily cleanable, to a height of at least sixty inches (60") above the surrounding floor. Such walls shall form a watertight joint with each other and with the bathtub, shower, and or floor.

**305.9 Unit Identification.** Each dormitory, dwelling, hotel and rooming unit, except for buildings containing two or fewer units, shall have each unit-number or designation, displayed in a position easily observed and readable from outside of the unit. The unit-number shall be posted on or adjacent to the front or main egress door of the unit. Units which are located in hallways, stairways or similar areas, where such units have differing street addresses, such units shall have the street address posted in addition to the unit number on the front and rear unit doors. Identification shall be in Arabic numerals and alphabet letters at least 1 1/2 inches (37 mm) high and 1/4-inch (6 mm) stroke.

**Section PM 37.0 Rubbish and Garbage** is hereby deleted in its entirety and this Section 307 substituted therefor.



**307.1 Accumulation of Rubbish or Garbage.** All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

**307.2 Disposal of Rubbish or Garbage.** Every occupant of a structure shall dispose of all rubbish and/or garbage in a clean and sanitary manner by placing such rubbish or garbage in approved leakproof containers with tightfitting covers and closing such covers.

**307.2.1 Rubbish and Garbage Containers.** The owner of every occupied premises and the operator or occupant of every establishment or building producing garbage and or rubbish, shall be responsible for supplying and utilizing approved covered leakproof containers with tight fitting covers for the temporary storage of rubbish and garbage until such materials are permanently removed from the premises. The owner, operator, and building occupant shall be responsible for the removal of rubbish and garbage.

**307.2.2 Container Labeling.** All containers servicing business, commercial, or multi-residential premises shall 1) display the name and address of the premises they serve in conspicuous lettering. Said lettering is to be maintained in a clean and legible condition. Containers shall be situated so that the required lettering is visible from the public way.

**307.2.3 Container Locks.** If located in the downtown zoning districts, as defined in Section 6-18-3 of the Evanston zoning ordinance as amended, containers shall be maintained with their lids shut and locked, except when depositing or removing waste.

**307.3 Garbage and Rubbish Services for Multi-Unit Residential Buildings.** The owner of every occupied building with more than four (4) dwelling and/or rooming units shall provide each week, minimum proper container or dumpster capacity capable of holding not less than the volume indicated by the following:

0.25 cubic yard (uncompacted) per dwelling unit.

0.10 cubic yard (uncompacted) per rooming unit.

**307.3.1 Container Capacity.** Each container or dumpster shall be considered to contribute the volume of garbage and rubbish that can be enclosed with the lid or cover completely closed. Calculations of volume by the scavenger service providing the container may be accepted in determining service capacity.

**307.3.2 Minimum Service Schedule.** All containers or dumpsters shall be emptied and maintained at least once per week, or more often, as needed to maintain the property and premises in a safe, clean and sanitary manner.

**307.3.3 Pickup Calculations.** A container shall be considered to provide its capacity in volume each time it is regularly scheduled for pickup, and is picked up. Upon a written request from the city code official, the owner and/or operator of any building or establishment shall promptly provide a written contract or documentation from the utilized scavenger service indicating the address of the property serviced; the party

contracting the service; the number of containers provided, and the capacity of each; the days of the week the containers are emptied by the scavenger service.

**307.3.4 Additional Capacity Requirements.** Any container or dumpster in which the volume of contents prevents full closure of the cover shall be deemed overloaded. Rubbish or garbage stacked or piled near, on the exterior, or above the sidewalls of the dumpster or container shall evidence an overloaded condition. Overloaded containers or dumpsters shall be remedied immediately by the owner and/or operator, and immediately thereafter supplemented by additional pickups and/or containers of a sufficient amount so as to prevent any recurrence of the overloaded condition.

The owner and/or operator of the building or establishment shall promptly provide to the City upon request of the code official an executed written contract or documentation from the utilized scavenger service indicating the address of the property serviced; the party contracting for the service; itemization of the number of existing and added number of containers and the capacity of each; itemization of the number existing and the added number of pick-up days of the week, and itemization of each day of the week that service is provided.

**307.5 Additional Capacity Requirements for Commercial (Non-Residential) Property.** Any container or dumpster in which the volume of contents prevents full closure of the cover shall be considered to be overloaded. Rubbish or garbage stacked or piled near, on the exterior, or above the sidewalls of the dumpster or container shall evidence an overloaded condition. Overloaded containers or dumpsters shall be remedied promptly, and immediately thereafter supplemented by additional pickups and/or containers of a sufficient amount so as to prevent any recurrence of the overloaded condition.

In addition, the owner and/or operator of the building or establishment shall promptly provide to the City upon request by the code official: a written contract or documentation from the utilized scavenger service indicating the address of the property serviced; the party contracting the service; itemization of the existing and the increase of the total number of containers and the capacity of each; itemization of the existing and the increase of the total number of pick-up days of the week, and itemization of each day of the week that service is provided.

**307.6 Additional Capacity Requirements for Condominiums and Residential Buildings of One (1) Through Four (4) Dwelling and/or Rooming Units.** Any container or dumpster in which the volume of contents prevents full closure of the cover shall be considered to be overloaded. Rubbish or garbage stacked or piled near, on the exterior, or above the sidewalls of the container or dumpster shall evidence an overload condition. Overloaded containers or dumpsters shall be remedied immediately, by the owner, and thereafter supplemented by additional containers to prevent any recurrence of the overload condition. Additional containers shall not exceed thirty-five (35) gallons in size and the total weight of the container and the material placed within shall not exceed fifty (50) pounds. Special additional pickups may be employed for occasional overload conditions.

**307.7 Refrigerators, Discarded.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned, kept or stored on any premises without first removing the doors.

**307.8 Tires, Discarded.** Tires for use on any type of vehicle or equipment shall not be discarded, abandoned, kept or stored on the exterior of any premises.

## **Chapter 4 Light, Ventilation and Occupancy Requirements**

### **Section 403 Ventilation**

**PM 403.3 Cooking Facilities.** Unless approved through the certificate of occupancy, cooking or the preparation of food or beverages shall not be permitted in any rooming unit or lodging unit or dormitory unit, and a cooking facility or appliance including but not limited to stoves, ovens, microwave ovens, hot plates, coffee pots, crock pots, blenders, shall not be permitted to be present in a rooming unit or lodging unit or dormitory unit. ~~Except for personal care appliances, such as hair dryers, any product, device or appliance producing a flame or heat, including but not limited to candles, sterna, or space heaters, are prohibited from being utilized or being present.~~

**404.1 Privacy.** Dwelling units, hotel units, rooming units, and dormitory units shall be arranged to provide privacy, and be separate from other adjoining spaces. Egress doors shall have approved operating locks to provide privacy.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.

**404.7 Food Preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. ~~In rooming and dormitory units, refrigerators shall not exceed three (3) cubic feet in capacity as rated by the manufacturer. Not more than one refrigerator of such size shall be allowed per occupant of a rooming unit or dormitory unit.~~

**404.7.1 Food Storage.** In rooming and dormitory units, refrigerators shall not exceed three (3) cubic feet in capacity as rated by the manufacturer. Not more than one (1) refrigerator of such size shall be allowed per occupant of any rooming unit, including dormitory rooming units.

## **Chapter 5 Plumbing Facilities and Fixture Requirements**

### **Section 501 General**

**501.2.1 Disconnection Notice.** It shall be a violation of this Code for any owner of a non-owner occupied residential property who is issued or who is in receipt of a notice of disconnection or termination for the utility service provided by the City or the utility involved, to fail to promptly remedy the circumstance or situation upon which the

disconnection notice is based.

## **Section 505 Water System**

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressure adequate to enable the fixtures to function properly, safely, and free from defects and leaks. Water pressure shall be no lower at the fixture outlet than ~~eight (8) psi as required by the plumbing code as adopted by the city of Evanston from time to time~~ as follows: lavatory basins, two (2) gallons/minute; bathtub faucets, four (4) gallons/minute; toilet pressure, as required by Title 4, Chapter 6 of the Evanston City Code, as amended.

**505.4 Water Heating Facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 115 degrees F (46 degrees C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## **Chapter 6 Mechanical and Electrical Requirements**

### **Section 601 General**

**601.2.1 Disconnection Notice.** It shall be a violation of this Code for any owner of a non-owner occupied residential property who is issued or who is in receipt of a notice of disconnection or termination for the utility service provided by the City or the utility involved, to fail to promptly remedy the circumstance or situation upon which the disconnection notice is based.

### **Section 602 Heating Facilities**

**602.2 Residential Occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68 degrees F. (20 degrees C.) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in appendix D of the International plumbing code. Neither cooking appliances nor space heaters shall be used to provide space heating to meet the requirements of this section.

**Exception:** Delete.

**602.3 Heat Supply.** Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, lodging unit, rooming unit, dormitory or guest room on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15th to June 1st to maintain a temperature of not less than 68F (20C) in all habitable rooms, bathrooms and toilet rooms. Space heaters,

whether portable or permanently installed, shall not be utilized as the primary source of heat for any such unit or room. Buildings or individual units shall employ central heating systems except where a designed system is approved by the building official. as follows:

~~(1) 68 degrees F. (20 degrees C.) during the hours from 8:00 A.M. to 10:00 P.M.~~

~~(2) 63 degrees F. (16 degrees C.) during the hours from 10:00 P.M. to 6:00 A.M.~~

~~(3) 65 degrees F. (18 degrees C.) during the hours from 6:00 A.M. to 8:00 A.M.~~

Exceptions:

~~1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the city of Evanston shall be as indicated in appendix D of the International plumbing code.~~

~~2. Delete~~

**602.4 Occupiable Work Spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to June 1st to maintain a temperature of not less than 65 degrees F (18 degrees C) during the period the spaces are occupied.

**602.5 Room Temperature Measurement.** The required room temperatures shall be measured approximately 3 feet (914 mm) above the floor near the center of the room, approximately 3 feet (914mm) above the floor near the center of interior walls of the room that are perpendicular to the exterior wall of the room. Temperatures may be measured utilizing thermometers that measure air temperature or thermometers that measure surface temperature.

## **Section 603 Mechanical Equipment**

**603.1 Mechanical Equipment.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function. ~~Space heaters whether portable or permanently installed shall not be utilized as the primary source of heat for a dwelling. Buildings or individual units shall employ central heating systems except where a designed system is approved by the building official.~~

**603.1.1 Forced-Air Systems.** Forced-air heating and/or cooling systems shall not serve more than one dwelling unit after the existing mechanical equipment is replaced due to age or failure. A Building Permit is required for equipment replacement including for the addition of duct work to separate the systems.

**603.7 Mechanical Appliance Connections.** Every gas outlet for appliances, including

but not limited to heaters, stoves and clothes dryers, shall have an individual shutoff valve. The shutoff valve shall be adjacent to the appliance with access provided to the shutoff valve. In conjunction with the installation of a shutoff valve any existing flexible gas connector shall be replaced with a new approved flexible gas connector. All existing uncoated brass flexible gas connectors shall also be replaced with approved gas connectors.

## **Section 604 Electrical Facilities**

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the NEC national electrical code as adopted by the City of Evanston. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes. Each dwelling unit shall be served by not less than four (4) branch circuits with a minimum of two (2) twenty-amp circuits.

**604.5 Fuse Panels.** In all electrical panels and boxes where plug-type fuses with Edison base are utilized, such fuses shall be replaced with non-tampering type "S" fuse adaptors which are properly sized for the gauge of wire that the fuse is protecting.

**604.6 Panel Identification.** All electrical panels regardless of type of disconnecting means shall be legibly marked to designate the address, space, tier or unit that such panel is servicing. The marking shall be of sufficient durability to withstand the environment involved.

**604.7 Disconnecting Means Identification.** All electrical disconnecting means including circuit breakers and fuses, shall be legibly marked to designate the address, unit, space or rooms it is servicing. The marking shall be of sufficient durability to withstand the environment involved.

## **Section 605 Electrical Equipment**

**605.2 Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom or laundry room receptacle outlet shall have ground fault circuit interrupter protection. When an ungrounded-type receptacle exists in a bathroom or laundry area, a ground fault interrupter receptacle shall be provided. Any existing worn, damaged, painted and/or defective receptacles shall be replaced.

## **Section 608 Meters**

**608.1 Meter Identification.** All meters, including but not limited to gas and electric serving a building, structure or any portion thereof, shall be legibly marked to designate the address, space, tier or unit that such meter is servicing. The marking shall be of sufficient durability to withstand the environment involved.

## Chapter 7 Fire Safety Requirements

### (F) Section 704 Fire Protection Systems

**703.2 Opening Protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition, be rated as required and provided with approved self-closing devices which shall force the door to close and latch. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

**704.2 Smoke Alarms.** Single or multiple-station smoke alarms shall be installed and maintained in groups R-2, R-3, R-4 and in dwellings not regulated in group R occupancies, regardless of occupant load, at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. On the ceiling above the top landing in each interior stairway that serves dwelling, rooming or dormitory units.
5. On the basement ceiling of a building in the immediate vicinity of the bottom step.

~~Section 2: That Title 5, Chapter 7, of the City Code titled "burglary prevention" is hereby deleted in its entirety and is substituted therefor, by this new chapter 8 added to the International Property Maintenance Code titled "building security."~~

**801.1 Scope.** The provisions of this chapter shall apply to:

1. All multi-unit non-owner occupied units in residential buildings, regardless of relationship of occupants to the owner.
2. All non-owner occupied single-family homes, detached or attached, regardless of relationship of occupants to the owner.

#### **Exclusions:**

1. Residence at a public or private medical, geriatric, educational, or religious institution.
2. Occupancy in a structure operated for the benefit of a social or fraternal

organization.

3. Transient occupancy in a hotel or motel.
4. Owner-occupied units in multi-family buildings including condominiums, cooperatives, townhouse, rowhouse and single-family homes.

## **802 Building Security Application**

**802.1 Building Security.** Doors, windows and hatchways shall be provided with devices designed to provide security for the occupants and property within.

**802.1.1 Intercoms.** Multi-family units shall have an intercom system that is maintained in good working condition. The removal of an intercom system is prohibited and does not constitute repair or maintenance.

**802.2 Locks.** Doors providing access to individual units shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than 1-inch and hardened steel inserts or a surface/rim mounted vertical drop, dead bolt lock. Cylinder guards shall be installed on all rim-type vertical dead bolt locks whenever the cylinder projects beyond the face of the door or is otherwise accessible to gripping tools. Strike plates shall be secured with hardened steel screws four inches (4") long. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the unit without the use of a key, tool, combination thereof or any other special knowledge or effort.

**802.3 Window Locks.** Accessible openable windows shall be equipped with window locking devices.

**802.4 Basement Hatchways.** Basement hatchways shall be equipped with devices that secure the hatchway from unauthorized entry.

**802.5 Doors.** Exterior doors, doors leading from garage areas into multiple-dwelling buildings, and doors leading into stairwells, shall be equipped with self-closing devices. All doors leading to apartment doors shall also be equipped with self-locking devices and pry guards.

**802.6 Vision Panels.** Accessible vision panels in individual entrance doors to individual units or within forty inches (40") of the inside activating device shall be of rated burglary-resistant glazing material. Burglary bars may be used as an alternative to burglary-resistant glazing material on the interior of transoms only.

**802.7 Door Scope.** An interviewer or door scope, providing a 180-degree field of view, shall be provided in each individual unit entrance door which does not contain a vision



panel.

**802.8 Sliding Door Panels.** All accessible single sliding patio doors shall have the movable section of the door sliding on the inside of the fixed portion of the door.

**802.9 Sliding Door Locks.** Accessible sliding glass doors shall be equipped with locking devices and shall be so installed that the doors cannot be moved in any direction or lifted from the track when the doors are in the locked position, and doors shall have an approved auxiliary locking device added to their primary locking system to provide additional security when in the closed position.

**802.10 Window Panels.** Accessible windows shall be so constructed and/or maintained so that when the window is locked it cannot be lifted from the frame.

**802.11 Lighting.** All exterior common entrances of multiple family buildings shall be illuminated with a minimum sixty (60) watt incandescent light bulb, or its equivalent in other light sources, enclosed in a tamper-proof cover, located within ten feet (10') of the doorway.

**802.12 Window Sash Fasteners.** All wooden double-hung windows which are at ground level or otherwise accessible from the exterior via porches, fire escapes, trees, or other existing means shall be equipped with approved window-ventilating sash fasteners to allow each window to be locked at no more than four inches (4") open. Such fasteners shall be movable to permit the window to be fully opened from the inside of the dwelling unit.

#### **5-1-4: SEVERABILITY:**

It is the intention of the City Council that the provisions of this chapter and the International Code Council, ICC, International Property Maintenance Code 2003, are severable and the invalidity of any section or part of any section of this Chapter and the Code hereby adopted shall not affect any other section or portion of this Chapter or Code.

## **CHAPTER 2 - LODGING ESTABLISHMENTS**

#### **5-2-1: APPLICABILITY OF PROVISIONS:**

This Chapter shall apply to any building, structure or portion thereof which is equipped to provide for compensation lodging rooms or rooming units to three (3) or more persons unrelated to the owner or operator of the building or structure. This shall include, but not be limited to, the following: apartment hotel, boarding house, dormitory, fraternity, furnished rooming house, hotel, lodging house, private club, retirement hotel, rooming house or sorority.

For the purpose of this Chapter, rooming units and lodging rooms are defined in Section 6-18-3 of the Evanston Zoning Code.

**5-2-2: ~~CONFORMITY WITH APPLICABLE PROVISIONS~~ LICENSE REQUIRED:**

No house, building or accessory structure hereafter constructed or erected in the City shall be used as set forth in Section ~~5-2-1~~ of this Chapter, and no house, building or accessory structure heretofore erected and not now used for such purpose, or any building, house, structure or portion thereof which is now used or intended to be used or occupied for such purposes shall be converted into, used as or leased as set forth in Section ~~5-2-1~~ of this Chapter, unless such building and every part thereof ~~shall conform~~ is licensed pursuant to the requirements of this Chapter and conforms to such other requirements of the building, zoning, housing, fire prevention and health ordinances of the City (Title 4, Chapter 2; Title 6; Title 5, Chapter 1; Title 9 ~~4~~, Chapter 4; and Title 8, respectively, of this Code) as may apply.

**5-2-3: LICENSE REQUIRED; QUALIFICATIONS LICENSE TERM:**

~~Inspections by the Community & Economic Development and the Health Departments shall be on an annual basis and inspection by the Evanston Fire Department shall be at least once every three (3) years. Such~~ Any license issued pursuant to the terms of this Chapter shall expire on December 31 of each year and such license shall not be transferable (see Title 3, Chapter 1 of this Code).

**5-2-4: APPLICATION PROCEDURE:**

(A) Contents Of Application: A written application for the license required upon forms furnished by the ~~City Collector~~ City Manager or his/her designee shall be filed with said ~~Collector~~ person on or before ~~January~~ November 1 of each year and shall accurately state:

1. The full name and address of the applicant and the person in whose name such license is to be issued;
2. The full name and address of the owner of the building and premises where such use is proposed to be carried on;
3. The number of rooms in such building and which of such rooms in the building are to be occupied as sleeping rooms; and
4. The number of persons proposed to be accommodated or allowed in each room.

(B) Floor Plan Required: Such applicant shall file with the application four (4) copies of a plan of each floor of the building, which plan shall be drawn to a scale of not less than one-quarter inch to a foot (1/4" = 1') showing all fire escapes, stairs and halls, the location and size of all windows, the location and size of habitable rooms and the exits on each floor; a statement in writing showing the maximum number of persons proposed to be accommodated or allowed on each floor, and the intended use of every room in the building must be written in the submitted plan. This floor plan requirement is applicable only to new construction, to

buildings newly converted to rooming houses, and to existing rooming houses, the floor plan of which has changed.

- (C) Approval of Officers: Upon receipt of the application and plans required by this Chapter, it shall be the duty of the ~~City Collector~~ City Manager or his/her designee to submit a copy of the application and plans to each of the following:

Director of Community and Economic Development  
Fire Chief  
Public Health Director

#### **5-2-5: LICENSE FEES:**

The license required by this Chapter shall be issued by the Department of Community and Economic Development and the annual fee for such license, which the applicant shall submit with the license application, shall be as follows:

- (A) For each and every building containing a use as set forth in Section ~~5-2-1~~ of this Chapter, ~~eighty three dollars (\$83.00) for such building. On and after June 1, 2000, said license fee shall be one hundred sixty six dollars (\$166.00).~~
- (B) Buildings containing a use as set forth in Section ~~5-2-1~~ of this Chapter, ~~thirteen dollars (\$13.00)~~ twenty-six dollars (\$26.00) per roomer, guest or transient occupant. ~~On and after June 1, 2000, said license fee shall be twenty-six dollars (\$26.00).~~

~~Such fee shall accompany the application therefor.~~

- (C) Late Payment Penalty: Failure to pay the annual fee for any such license within six (6) weeks of license expiration shall result in an additional late charge of thirty percent (30%).

#### **5-2-6: ROOMING HOUSES; REQUIREMENTS AND STANDARDS:**

Every provision of this Chapter which applies to rooming houses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of the State.

- (A) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Director of Community & Economic Development or his/her designee and in good working condition, shall be supplied for each six (6) persons or fraction thereof residing within a rooming house including members of the operator's family whenever they share the use of such facilities, provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) of the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible to all persons sharing such facilities from a common hall or passageway. Every lavatory basin and bathtub or shower

shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the Director of Community & Economic Development or his/her designee.

- (B) The operator of every rooming house shall change supplied bed linens and towels therein at least once each week, and prior to the letting of any room to any new occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- (C) Every room occupied for sleeping purposes shall contain the following floor space:
  - One person ..... 70 square feet
  - More than one person ..... 50 square feet per occupant
- (D) Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level as required by the laws of the State and the City.
- (E) The operator of every rooming house shall be responsible for the safe and sanitary maintenance of all walls, floors and ceilings and for the maintenance of a sanitary condition in every other part of the rooming house. The operator shall be further responsible for the safe and sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

**5-2-7: DUTIES OF CITY OFFICERS:**

The Director of Community & Economic Development and the Public Health Director shall inspect or cause to be inspected, annually, all premises requesting a license, and the Fire Chief shall inspect or cause to be inspected such premises at least once every three (3) years. A license shall not be issued unless the premises meets the minimum safety standards of all applicable codes.

The Fire Chief, Director of Community & Economic Development and the Public Health Director shall sign the license and so indicate that the said premises comply with minimum safety standards.

**5-2-8: INSPECTIONS REQUIRED:**

Inspections by the Community and Economic Development and the Health Departments shall be on an annual basis and inspection by the Evanston Fire Department shall be at least once every three (3) years. ~~At least once every three (3) years after the original license has been issued as provided in this Chapter or more often if deemed necessary to conduct, keep or operate any use as set forth in Section 5-2-1 of this Chapter,.~~ It shall be the duty of the ~~Director of Community & Economic Development~~ City Manager or

his/her designee to authorize the inspections of such premises and to determine that all ordinances of the City are complied with.

**5-2-9: CONDITIONS AND REQUIREMENTS:**

- (A) Number of Rooms Limited by Zoning Regulations: No use as set forth in Section ~~5-2-1~~ of this Chapter shall provide for more than the number of persons permitted by the zoning regulations of the City, set forth in Title 6 of this Code.
- (B) Register Kept: The landlord, proprietor, keeper, manager or clerk of every use regulated herein, shall keep a register in which shall be entered the name of every person who becomes a lodger, boarder, or paying guest therein. Such register shall also show the number and location of the room or bed occupied by such person, the date of his arrival, and the period for which the guest engaged board or lodging. The register shall also be accessible, without charge, to any police officer or duly authorized agent of any of the health, fire or Community & Economic Development Departments of the City. The licensee's failure to make the register accessible as provided for herein shall be a violation of this Chapter.

**5-2-10: NUISANCE DECLARED:**

The provisions of this Chapter shall be held to be the minimum requirements with respect to the uses set forth in Section ~~5-2-1~~ of this Chapter for the promotion of the public health, safety, comfort, convenience and general welfare; and the maintenance or use of any such use in violation of the provisions of this Chapter is hereby declared to be and shall constitute a public nuisance.

**5-2-11: PENALTY:**

Any owner, tenant or other person who shall be found to have violated any of the provisions of this Chapter shall be guilty of an offense punishable as follows:

- (A)
  - 1. The fine for a first violation is one hundred fifty dollars (\$150.00).
  - 2. The fine for a second violation is ~~one hundred fifty dollars (\$150.00)~~ four hundred dollars (\$400.00).
  - 3. The fine for a third or subsequent violation is ~~three hundred dollars (\$300.00)~~ seven hundred fifty (\$750.00).
- (B) Each day a provision of this Chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this section.
- (C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation. In addition, a licensee found to have violated any provision of this chapter may be subject to license revocation, suspension, or nonrenewal.

## 5-2-12: ADMINISTRATION AND ENFORCEMENT:

- (A) Administration: The Director of Community & Economic Development ("Director") or his/her designee is charged with the administration of this Chapter.
- (B) Suspension or Revocation of License: The Director may suspend or revoke a license, or deny renewal of a license issued under the provisions of this Chapter if he/she determines that the licensee has violated any of the provisions hereof.
1. No such license shall be so revoked or suspended except after a hearing by the City Manager or his/her designee with a three (3) business day notice to the licensee affording the licensee an opportunity to appear and defend. The notice shall specify the reason for the contemplated suspension or revocation and shall give the date, time, and room number in the civic center of the hearing. Notice shall be sufficient if sent to the address stated on the licensee's application.
  2. If the Director certifies to the City Manager that he/she has reason to believe that immediate suspension of the license is necessary to prevent the threat of immediate harm to the community, the City Manager may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the license suspended for not more than seven (7) days. The City Manager may extend the suspension during the pendency of a hearing upon a written determination that doing so is necessary to prevent the aforesaid harm to the community.
  3. Hearings shall be conducted in accordance with procedures drafted by the Corporation Counsel.
  4. The City Manager shall issue his/her decision within ten (10) business days after the close of the hearing. In reaching a decision, the City Manager may consider any of the following:
    - a. The nature of the violation.
    - b. The nature and extent of the harm caused by the licensee's action or failure to act.
    - c. The factual situation and circumstances surrounding the violation.
    - d. Whether or not the action or failure to act was willful.
    - e. The record of the licensee with respect to violations.
  5. The City Manager may suspend a license for a period of up to ninety (90) days. A licensee whose license has been revoked shall not be eligible to reapply for a new license for a period of one year from the date that the revocation or nonrenewal took effect.

~~(C) Decision; Appeal; Hearing Costs:~~

- ~~1. Director's Authority: In the event that a licensee commits a violation of this Chapter or of such other requirements of the property maintenance, building, zoning, fire prevention, health or other ordinances or regulations of the City as may apply, the Director may suspend, revoke, or deny renewal of the license. In the event of a license suspension, the Director may impose conditions upon the continued operation of the licensed establishment.~~
- ~~2. Notice: The Director shall send written notice of his/her action to the licensee. The notice shall be personally delivered or sent by return receipt mail to the licensee's address listed on the application for lodging establishment license. The notice shall be in writing and shall contain a statement of the action and reasons therefor, and the effective date of the action and any other relevant information.~~
- ~~3. Appeal; Hearing:
  - ~~a. The licensee may appeal the decision of the Director rendered in a particular case. The appeal shall be made in writing to the Director within ten (10) days of notification by the Director of the decision to be appealed.~~
  - ~~b. The hearing shall commence no less than seven (7) days, nor more than twenty-one (21) days, after the Director receives the request for hearing.~~
  - ~~c. The notice of hearing stays the action of the Director in suspending, revoking, or denying renewal of a license until the City Manager makes a final decision, unless the Director determines that continued operation of the licensed establishment constitutes an imminent and serious threat to the public health and safety, in which case, the Director shall take or cause to be taken, such action as is necessary to immediately enforce the suspension, revocation, or other order.~~
  - ~~d. The City Manager shall designate a person to serve as hearing officer.~~
  - ~~e. The hearing officer may compel by subpoena, or subpoena duces tecum, the attendance and testimony of witnesses and the production of books and papers, and may administer oaths to witnesses.~~
  - ~~f. The licensee shall have the opportunity at the hearing to present all relevant matter in support of his/her position. All testimony taken at the hearing shall be recorded and shall be a part of the record of~~~~

the hearing.

- ~~g. The hearing officer shall make written findings of fact in such hearing and shall make a written recommendation for a decision to the City Manager. The hearing officer shall render his/her findings and recommendations no later than thirty (30) days after declaring the hearing closed. The hearing officer may declare the hearing closed after the transcript has been made. The City Manager shall render his/her decision within seven (7) days after receipt of the hearing officer's recommendation, unless additional time, not to exceed ten (10) days, is required by him/her for a proper disposition of the matter. The City Manager may revoke the license, suspend the license with or without the imposition of conditions following resumption of operation, order nonrenewal of the license, or enter other order(s) appropriate to the facts.~~
- ~~h. If the license is revoked, the fee already paid for the license shall be forfeited. A licensee whose license has been revoked or not renewed may not apply for a new license for a period of one year from the date that the revocation or nonrenewal took effect.~~
- ~~i. Any licensee determined by the City Manager to have violated any of the provisions of this Chapter shall pay to the City the costs of the hearing on such violation. The City Manager shall determine the costs incurred by the City for said hearing, including, but not limited to, court reporter fees, the cost of transcript preparation, attorney fees, the costs of preparing and mailing notices and orders, and all other expenses incurred by the City or such lesser sum as the City Manager may allow.~~

~~The licensee shall pay said costs to the City within thirty (30) days of written notification of the costs. Failure to pay said costs shall be a violation of this Chapter. Payment of said costs within thirty (30) days of notification thereof shall be a condition to resumption of operation of licensed establishment 1) after a suspension, and 2) application of renewal of the license.~~

## **CHAPTER 3 - LANDLORD AND TENANT REGULATIONS**

### **5-3-1: TITLE, PURPOSE AND SCOPE:**

- (A)** Short Title: This chapter shall be known and may be cited as the *RESIDENTIAL LANDLORD AND TENANT ORDINANCE*.
- (B)** Purpose and Declaration of Policy: It is the purpose of this Chapter and the policy of the City, in order to protect and promote the public health, safety and welfare of the citizens, to establish rights and obligations of the landlord and the tenant in the rental of dwelling units and to encourage the landlord and the tenant to



maintain and improve the quality of housing.

**(C)** Construction of Chapter: This Chapter shall be liberally construed and applied to promote its purposes and policies.

**(D)** Scope:

1. Territorial Application: This Chapter applies to, regulates and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within the City.
2. Exclusions: Unless created to avoid the application of this Chapter, the following arrangements are not governed by this Chapter:
  - a. Residence at a public or private medical, geriatric, educational or religious institution;
  - b. Occupancy under a contract of sale of a dwelling unit if the occupant is the purchaser;
  - c. Occupancy in a structure operated for the benefit of a social or fraternal organization; or
  - d. Transient occupancy in a hotel or motel.
  - e. Occupancy in a cooperative apartment by a shareholder of the cooperative.

### **5-3-2: GENERAL DEFINITIONS; PRINCIPLES OF INTERPRETATION:**

**(A)** Defined: Subject to additional definitions contained in subsequent Sections of this Chapter:

**ACTION:** Includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined, including an action for possession.

**CODE:** Includes any ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

**COMMON AREA:** Includes a part or area of the premises not within any dwelling unit.

**DWELLING UNIT:** A structure or the part of a structure that is used as a home, residence or sleeping place by one or more persons who maintain a household.

**FAIR RENTAL VALUE:** The prevailing value of comparable rental units in the City.

**LANDLORD:** The owner, lessor or sublessor of the dwelling unit or the building of which it is a part. An owner is one or more persons, jointly or severally, in whom is vested all or part of

the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

**MATERIAL NON-COMPLIANCE:** A failure to comply with laws or regulations, including the City of Evanston residential landlord-tenant ordinance, and the International Property Maintenance Code adopted under Section ~~5-4-1~~ of this Title, or the requirements or determinations of a reviewing inspector from the Community & Economic Development Department and/or health Department and/or fire Department when that failure increases risk to landlord or tenant(s), or adversely affects the rights and welfare of the landlord or tenant(s). A failure to comply may result in termination of the lease. This may include only a single instance of noncompliance if it is substantial or repeated minor violations.

**PERSON:** An individual or a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal or commercial entity.

**PREMISES:** A dwelling unit and the structure of which it is a part, and facilities and appurtenances therein, and grounds, areas and facilities held out for the use of tenants.

**RENT:** All payments to be made to the landlord under the rental agreement.

**RENTAL AGREEMENT:** A written agreement and valid rules and regulations adopted under Section ~~5-3-4-2~~ of this chapter embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

**TENANT:** A person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

**(B) Unconscionability:** If the court finds the rental agreement, or a settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement, to have been unconscionable when made, the court may grant the following relief:

1. Nonenforcement; or
2. Nonenforcement of the unconscionable provision only; or
3. Limit the application of any provision to avoid an unconscionable result.

**(C) Notice:** A person has notice of a fact if:

1. He/she has actual knowledge of it;
2. He/she has received notice of it; or
3. From all the facts and circumstances known to him/her at the time in question, he/she has reason to know that it exists. A person gives notice to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it.

### **5-3-3: RENTAL AGREEMENTS:**

#### **5-3-3-1: TERMS AND CONDITIONS OF RENTAL AGREEMENT:**

- (A) A rental agreement complying with the requirements of this Chapter shall be executed for the rental of all dwelling units within the jurisdiction regardless of the duration of the tenancy herein. The landlord and tenant may include in a rental agreement terms and conditions not prohibited by this Chapter and other rules of law including rent, term of the agreement and other provisions governing the rights and obligations of the parties.
- (B) All rental agreements for leases of dwelling units subject to this Chapter ~~which are newly executed and/or renewed on or after August 1, 1994,~~ shall contain the full names and birth dates of all occupants of the dwelling unit leased or to be leased under the rental agreement. The individual occupancy of the dwelling unit may not be changed without an amendment to the existing rental agreement reflecting the change in occupancy and shall in no case exceed the maximum occupancy permitted elsewhere in this Code for that size unit.
- (C) Rent is to be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent shall be uniformly apportionable from day to day.
- (D) Unless the rental agreement fixes a definite term, the tenancy shall be week to week in the case of a tenant who pays weekly rent, and in all other cases month to month.

#### **5-3-3-2: EFFECT OF UNSIGNED OR UNDELIVERED RENTAL AGREEMENT:**

- (A) If the landlord does not sign and deliver a written rental agreement, signed and delivered to him/her by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord, for the term set forth in the rental agreement.
- (B) If the tenant does not sign and deliver a written rental agreement, signed and delivered to him/her by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.
- (C) If a rental agreement given effect by the operation of this Section provides for a term longer than one year, it is effective for only one year.

#### **5-3-3-3: PROHIBITED PROVISIONS IN RENTAL AGREEMENTS:**

- (A) Except as otherwise provided by this Chapter, no rental agreement may provide that the tenant or the landlord:

1. Agrees to waive or to forego rights or remedies under this Chapter.
2. Authorizes any person to confess judgment on a claim arising out of the rental agreement.
3. Agrees to the limitation of any liability of the landlord or tenant arising under law or to indemnify the landlord or tenant for that liability or the costs connected therewith.

**(B)** A provision prohibited by Subsection (A) of this Section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing any provision known by him/her to be prohibited, the tenant may recover actual damages sustained by him/her and not more than two (2) months' rent and reasonable attorney fees.

#### **5-3-4: TENANT OBLIGATIONS:**

##### **5-3-4-1: MAINTAIN DWELLING UNIT:**

The tenant shall:

- (A)** Comply with all obligations imposed upon tenants by provisions of the codes applicable to the dwelling unit;
- (B)** Keep that part of the premises that he/she occupies and uses as safe as the condition of the premises permits;
- (C)** Dispose from his/her dwelling unit all ashes, rubbish, garbage and other waste in a clean and safe manner;
- (D)** Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (E)** Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in the premises;
- (F)** Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so;
- (G)** Conduct himself/herself and require other persons on the premises with his/her consent to conduct themselves in a manner that will not disturb his/her neighbor's peaceful enjoyment of the premises; and
- (H)** Not engage in or permit the unlawful selling, possession, serving, storage, deliverance, manufacture, cultivation, giving away or use of any controlled substance; prostitution; or gambling on the leased premises.

#### **5-3-4-2: RULES AND REGULATIONS:**

- (A) The landlord, from time to time, may adopt general rules or regulations concerning the tenant's use and occupancy of the premises. They are enforceable only if in writing and:
1. Their purpose is to promote the convenience, safety and welfare of the tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities among tenants;
  2. They are reasonably related to the purpose for which they are adopted;
  3. They apply to all tenants in the premises in a fair manner;
  4. They are sufficiently explicit to fairly inform the tenant of what he/she must or must not do to comply;
  5. They are not for the purpose of evading the obligations of the landlord; and
  6. The tenant has notice of them at the time he/she enters into the rental agreement.
- (B) A rule or regulation adopted after the tenant enters into the rental agreement that substantially modifies his/her bargain is not enforceable unless the tenant consents to it in writing.

#### **5-3-4-3: ACCESS:**

- (A) The tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or show the dwelling unit to prospective or actual purchasers, mortgagees, tenants or workmen.
- (B) The landlord may enter the dwelling unit without consent of the tenant in case of emergency.
- (C) The landlord shall not abuse the right of access or use it to harass the tenant. Except in cases of emergency, or unless it is impracticable to do so, the landlord shall give the tenant at least two (2) days' notice of his/her intent to enter and may enter only at reasonable times.

#### **5-3-4-4: TENANT'S USE AND OCCUPANCY OF DWELLING UNIT:**

Unless otherwise agreed, the tenant shall occupy his/her dwelling unit only as a dwelling unit.

## **5-3-5: LANDLORD OBLIGATIONS:**

### **5-3-5-1: SECURITY DEPOSITS AND PREPAID RENT:**

- (A) A landlord may not demand or receive security or prepaid rent or any combination thereof in an amount in excess of one and one-half (1 1/2) months' rent; provided, however, that rent paid on the first day of the month or upon any other day mutually agreed upon by the parties, due and payable in advance for that month, shall not be construed herein as either security or prepaid rent and therefore shall not be included in the computation of the aforesaid one and one-half (1 1/2) months' rent. The tenant shall pay the landlord, at the time the tenant moves into the premises or at any other time mutually agreed upon by the parties, the amount of the security or prepaid rent required by the landlord. However, if the landlord requires a security deposit or prepaid rent in excess of one month's rent, but not exceeding one and one-half (1 1/2) months' rent, that portion in excess of one month's rent at the election of the tenant, shall be paid either at the time the tenant pays the initial security deposit, or shall be paid in no more than six (6) equal installments no later than six (6) months after the effective date of the lease. Interest on that portion of a security deposit or prepaid rent exceeding one month's rent, if paid in installments, shall not be computed until all installments are paid to the landlord.
- (B) ~~Effective October 1, 2002, A~~ landlord who receives security or prepaid rent from a tenant shall pay interest to the tenant at the rate equal to the interest rate paid on such security deposits in the City of Chicago. ~~Interest on security deposits on leases commencing prior to October 1, 2002, shall be paid at a rate of four percent (4%) per year through December 31, 1975, and five percent (5%) per year from January 1, 1976, through September 30, 2002.~~ A landlord shall pay to the tenant interest on all deposits within thirty (30) days after the end of each twelve (12) month rental period, by cash or credit to be applied to the rent due, except when the tenant is in default under the terms of the rental agreement. Interest on that portion of a security deposit or prepaid rent exceeding one month's rent, if paid in installments, shall not be computed until all installments are paid to the landlord.
- (C) Upon termination of the tenancy, property or money held by the landlord as security or prepaid rent may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with Subsection 5-3-4-1 of this Chapter, all as itemized by the landlord in a written notice delivered to the tenant together with the amount due twenty one (21) days after tenant has vacated his/her unit. Any security or prepaid rent not so applied, and any interest on such security due to the tenant, shall be paid to the tenant within twenty one (21) days after tenant has vacated his/her unit. In the event the rental agreement terminates pursuant to Subsection ~~5-3-7-4(A)1~~ of this Chapter regarding landlord's wrongful failure to supply essential services, the obligations imposed on the landlord pursuant to this Subsection (C) shall be performed within forty eight (48) hours after the

expiration of the seven (7) day written notice to the landlord to restore service.

- (D) A landlord shall hold all security deposits received by him/her in a federally insured interest bearing account in a bank, savings and loan association or other financial institution located in the State of Illinois. A security deposit and interest due thereon shall continue to be the property of the tenant making such deposit, shall not be commingled with the assets of the landlord, and shall not be subject to the claims of any creditor of the landlord or of the landlord's successors in interest, including a foreclosing mortgagee or trustee in bankruptcy.
- (E) The City shall cause the new rate of security deposit interest to be published once a week for two (2) consecutive weeks in two (2) or more newspapers of general circulation in the City. The City Manager shall direct the human relations Community & Economic Development Department to prepare and publish for free public distribution at government offices and libraries, a pamphlet or brochure describing the respective rights, obligations and remedies of landlords and tenants with respect to security deposits, including the new interest rate as well as the interest rate for each of the prior two (2) years. Said pamphlet shall also be available on the City's website.
- (F) If the landlord fails to comply with Subsection (C) of this Section, the tenant may recover the property and money due him/her together with damages in an amount equal to twice the amount wrongfully withheld and reasonable attorney fees.
- (G) This Section does not preclude the landlord or tenant from recovering other damages to which he/she may be entitled under this Chapter.

**5-3-5-2: DISCLOSURE:**

- (A) The landlord or any person authorized to enter into a rental agreement on his/her behalf shall disclose to the tenant in writing, on or before the commencement of the tenancy:
  - 1. The name, address and twenty-four (24) hour telephone number of the person authorized to manage the premises; and
  - 2. The name and address of the owner of the premises or the person authorized to act on behalf of the owner for the purpose of service of process and for the purpose of receiving notices and demands.
- (B) A person who fails to comply with Subsection (A) of this Section becomes an agent of each person who is a landlord for:
  - 1. Service of process and receiving of notices and demands; and
  - 2. Performing the obligations of the landlord under this Chapter and under the rental agreement and expending or making available for that purpose

all rent collected from the premises.

- (C) The information required to be furnished by Subsection (A) of this Section shall be kept current. Subsections (A) and (B) of this Section extend to and are enforceable against any successor landlord or manager.
- (D) Before a tenant initially enters into or renews a rental agreement for a dwelling unit, the landlord or any person authorized to enter into a rental agreement on his/her behalf shall disclose to the tenant in writing any code violations which have been cited by the City for the dwelling unit and common area.

If the landlord fails to comply with this subsection, the tenant may pursue the remedies provided in Subsection 5-3-7-1 or 5-3-7-3 of this Chapter.

#### **5-3-5-3: MAINTAIN FIT PREMISES:**

- (A) The landlord shall maintain the premises in substantial compliance with the applicable codes of the City and shall promptly make any and all repairs necessary to fulfill this obligation.
- (B) The landlord and tenant of any dwelling unit may agree that the tenant is to perform specified repairs, maintenance tasks, alterations or remodeling only if:
  1. The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration; and
  2. The agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

#### **5-3-5-4: LIMITATION OF LIABILITY:**

- (A) Unless otherwise agreed, a landlord who sells the premises is relieved of liability under the rental agreement and this Chapter for events occurring subsequent to written notice to the tenant of the sale. However, he/she remains liable to the tenant for any property and money to which the tenant is entitled under Subsection 5-3-5-1 of this Chapter and all prepaid rent, unless the tenant receives written notice that such property, money and prepaid rent have been transferred to the buyer, and that the buyer has accepted liability for such property, money and prepaid rent.
- (B) Unless otherwise agreed, the manager of the premises is relieved of liability under the rental agreement and this Chapter for events occurring after written notice to the tenant of the termination of his/her management.

#### **5-3-5-5: LEAD DISCLOSURE REQUIREMENTS:**

Landlords subject to this Section must follow all applicable state and federal regulations



regarding lead poisoning and must specifically:

- (A) Provide all prospective and current lessees with a copy of the current, approved U.S. Environmental Protection Agency federal pamphlet on lead based paint disclosure.
- (B) Disclose any known lead hazards.

**5-3-6: LANDLORD REMEDIES:**

**5-3-6-1: NONCOMPLIANCE WITH RENTAL AGREEMENT; FAILURE TO PAY RENT:**

- (A)
  - 1. If there is a material noncompliance by the tenant with the rental agreement or with Subsections ~~5-3-4-1~~(A) through (G) of this Chapter, the landlord may deliver written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice, unless the breach is remedied by the tenant prior to the expiration of the notice. If the breach is not remedied prior to the expiration of the notice, the rental agreement shall terminate as provided in the notice.
  - 2. If there is a material noncompliance by the tenant with any of the provisions of Subsections ~~5-3-4-1~~(A) through (G) of this Chapter after expiration of the landlord's written notice to tenant to remedy the acts and omissions specified in the notice delivered pursuant to Subsection (A)1 of this Section, throughout the remainder of the term of the rental agreement, the landlord may deliver written notice to the tenant that the rental agreement shall terminate not less than thirty (30) days after delivery of the written notice to terminate.
  - 3. If there is noncompliance by the tenant with Subsection ~~5-3-4-1~~(G) or (H) of this Chapter, the landlord may deliver written notice to the tenant specifying the acts constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice, or, in the case of owner occupied dwelling units containing two (2) or fewer rooming units, upon a date not less than forty eight (48) hours after receipt of the notice.
- (B) If the rent is unpaid when due, and the tenant fails to pay the unpaid rent within ten (10) days, or, in the case of owner occupied dwelling units containing two (2) or fewer rooming units, within forty eight (48) hours after receipt of written notice by the landlord of his/her intention to terminate the rental agreement if the rent is not so paid, the landlord may terminate the rental agreement.
- (C) Except as provided herein, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or with Section 5-3-4-1 of this Chapter. If the tenant's noncompliance is wilful, the landlord may recover reasonable attorney fees.

**5-3-6-2: FAILURE TO MAINTAIN:**

**5-3-6-3: ABANDONMENT; SUBLEASES:**

If the tenant abandons the dwelling unit, the landlord shall make a good faith effort to rent it at a fair rental. This shall include the acceptance of reasonable subleases. If the landlord succeeds in renting the dwelling unit at a fair rental, the tenant shall be liable for the amount by which the rent due from the date of abandonment to the termination of the initial rental agreement exceeds the fair rental subsequently received by the landlord from the date of abandonment to the termination of the initial rental agreement. If the landlord makes a good faith effort to rent the dwelling unit at a fair rental and is unsuccessful, the tenant shall be liable for the rent due for the period of the rental agreement. In either event, the tenant shall be liable for the advertising expenses and reasonable redecoration costs incurred by the landlord in re-renting the dwelling unit.

**5-3-6-4 3: WAIVER OF LANDLORD'S RIGHT TO TERMINATE:**

Acceptance of rent with knowledge of a default by the tenant, or acceptance of performance by him/her that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord, constitutes a waiver of his/her right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

**5-3-6-5 4: REMEDY AFTER TERMINATION:**

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for damages for breach of the rental agreement and reasonable attorney fees, as provided in Subsection ~~5-3-5-1~~(C) of this Chapter.

**5-3-6-6 5: DISPOSITION OF ABANDONED PROPERTY:**

(A) Except as otherwise agreed, if, upon termination of a tenancy (other than by an order of a court of competent jurisdiction) including, but not limited to, a termination after expiration of a lease or by surrender or abandonment of the premises, a tenant has left personal property on the premises, and the landlord reasonably believes that the tenant has abandoned such personal property, the landlord may:

1. Notify the tenant in writing of his demand that such property be removed within the dates set forth in such notice (but not less than 15 days after delivery or mailing of such notice); and that if such property is not removed within the time specified, the property may be sold. If the property is not removed within the time specified in such notice, the landlord may sell the property at a public sale or at a commercially reasonable private sale. The proceeds, less reasonable costs incurred by such sale or storage of property, shall be held by the landlord for the tenant for one year. If the tenant does not claim the proceeds within one year, the proceeds shall be the property of the landlord.

2. If the tenant has left personal property which is reasonably determined by the landlord to be valueless or of such little value that the cost of storing and conducting a sale would probably exceed the amount that would be realized from such sale, the landlord may notify the tenant in writing that such property be removed by the date specified in such notice (but not less than 15 days after delivery or mailing of such notice), and that if such property is not removed within the time specified, the landlord intends to destroy or otherwise dispose of the property. If the property is not removed within the time specified in the notice, the landlord may destroy or otherwise dispose of the property.
  3. The notice shall indicate his election to sell specific items of the tenant's personal property and to destroy or otherwise dispose of the remainder of said property.
- (B) For purposes of this Section, "abandonment" shall mean that the tenant has vacated the premises, and that his/her rent is in default and that notice by the landlord to terminate the rental agreement as provided in Subsection ~~5-3-6-1~~(B) of this Chapter has expired.
- (C) After sending written notice, as provided in Subsection (A) of this Section, the landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property, but shall not be responsible to the tenant for any loss not caused by the landlord's deliberate or negligent act or omission. The landlord may elect to store the property in or about the previously vacated premises. In such case, the storage shall not exceed commercially reasonable storage rates. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for such storage and removal from the premises to the place of storage.
- (D) After the landlord's notice under Subsection (A) of this Section, if the tenant makes timely response in writing of his intention to remove the personal property from the premises and does not do so within the time specified in the landlord's notice or within thirty (30) days of the delivery or mailing of the tenant's written response or a mutually agreeable date (whichever is later), it shall be conclusively presumed that he has abandoned such property. In the event the tenant removes the property after notice, the landlord shall be entitled to the cost of storage for the period the property has remained in his safekeeping.
- (E) Any public sale, authorized under the provisions of this section, shall be conducted pursuant to law in such instances made and provided.

### **5-3-7: TENANT REMEDIES:**

#### **5-3-7-1: NONCOMPLIANCE BY LANDLORD:**

- (A) If there is a material noncompliance by the landlord with the rental agreement or with Subsection ~~5-3-5-1~~(F) or Subsection 5-3-5-3 of this Chapter, the tenant may

deliver a written notice to the landlord specifying the breach and that the rental agreement will terminate on a date not less than thirty (30) days after receipt of the notice, or in the case of owner occupied dwelling units containing two (2) or fewer rooming units, upon a date not less than forty eight (48) hours after receipt of the notice, unless the breach is remedied by the landlord prior to the expiration of the notice. If the breach is not remedied prior to the expiration of the notice, the rental agreement shall terminate as provided in the notice. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his/her family, or other person on the premises with his/her consent.

- (B) Except as provided in this Chapter, the tenant may recover damages and obtain injunctive relief for any material noncompliance by the landlord with the rental agreement or with Subsection ~~5-3-5-3~~ of this Chapter. If the landlord's noncompliance is wilful, the tenant may recover reasonable attorney fees.
- (C) If the rental agreement is terminated, the landlord shall return all security and interest recoverable by the tenant under Subsection ~~5-3-5-1~~ of this Chapter and all prepaid rent.

#### **5-3-7-2: FAILURE TO DELIVER POSSESSION:**

- (A) If the landlord fails to deliver possession of the dwelling unit to the tenant in compliance with the rental agreement and Subsection ~~5-3-5-3~~ of this Chapter, rent abates until possession is delivered and the tenant may:
  1. Upon at least five (5) days' written notice to the landlord, terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security; or
  2. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him/her.
- (B) If a person's failure to deliver possession is wilful, an aggrieved person may recover from that person wrongfully in possession, an amount not more than two (2) months' rent or twice the actual damages sustained by him/her, whichever is greater, and reasonable attorney fees.

#### **5-3-7-3: SELF-HELP FOR MINOR DEFECTS AND RENT WITH-HOLDINGS:**

- (A) With respect to any single violation, the tenant may choose either the remedy in Subsection (A)1 or (A)2 of this Section.
  1. If the landlord fails to comply with the rental agreement or with Subsection ~~5-3-5-3~~(A) of this Chapter, and the reasonable cost of compliance is less than two hundred dollars (\$200.00) or an amount equal to one-half (1/2) of

the monthly rent, whichever amount is greater, the tenant may recover damages for the breach under Subsection ~~5-3-7-1~~(B) of this Chapter or may notify the landlord in writing of his intention to correct the condition at the landlord's expense. If the landlord fails to comply within fourteen (14) days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may have the work done in a workmanlike manner and, after submitting to the landlord a receipted bill from an appropriate tradesman, deduct from his/her rent the amount thereof, not exceeding the limits specified in this Subsection; provided, that the tenant has fulfilled his/her affirmative obligations under Subsection ~~5-3-4-1~~ of this Chapter.

2. If the landlord fails to comply with the rental agreement or with Subsection ~~5-3-5-3~~(A) of this Chapter, the tenant may, where the condition has been cited as a code violation by the City, notify the landlord in writing of the tenant's intention to withhold from the monthly rent an amount which reasonably reflects the reduced value of the premises. If the landlord fails to correct the condition within fourteen (14) days after being notified by the tenant in writing, the tenant may, during the time such failure continues, deduct from the rent the stated amount.

- (B) A tenant may not repair at the landlord's expense or withhold rent under this Section if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his/her family or other person on the premises with his/her consent.
- (C) Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants.

#### **5-3-7-4: WRONGFUL FAILURE TO SUPPLY ESSENTIAL SERVICES:**

- (A) If, contrary to the rental agreement, the landlord fails to supply heat, running water, hot water, electricity, gas or plumbing, the tenant may:
1. Deliver a written notice to the landlord specifying the service to be restored, that the service must be restored within seven (7) days of delivery of the notice, and that the rental agreement will terminate automatically at the expiration of the seven (7) days if the specified service is not restored.
  2. Pay for the provision of these services and deduct the cost from their next rental payment, or payments, in the event the cost of services procured exceeds the amount of the next rental payment.
  3. Recover damages based upon the diminution in the fair rental value of the dwelling unit and reasonable attorney fees;

4. Procure substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance. The tenant may recover the cost of reasonable value of the substitute housing up to an amount equal to the monthly rent and reasonable attorney fees.
- (B) If the tenant proceeds under this Section, he/she may not proceed under Subsection ~~5-3-7-1~~ or ~~5-3-7-3~~ of this Chapter for that breach.
- (C) The tenant may not exercise his/her rights under this Section if the condition was caused by the inability of a utility supplier to provide service or by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his/her consent.

**5-3-7-5: LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION FOR POSSESSION OR RENT:**

- (A) In an action for possession based upon nonpayment of rent or in an action for rent where the tenant is in possession, the tenant may counterclaim for any amount which he/she may recover under the rental agreement or this Chapter. In that event, the court may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this Section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit, the landlord may recover reasonable attorney fees.
- (B) In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in Subsection (A) of this Section, but the tenant is not required to pay any rent into court.

**5-3-7-6: FIRE OR CASUALTY DAMAGE:**

- (A) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:
1. Immediately vacate the premises and notify the landlord in writing within fourteen (14) days thereafter of his/her intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or
  2. If continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

- (B) If the rental agreement is terminated, the landlord shall return all security recoverable under Section 5-3-5-1 of this Chapter and all prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.
- (C) A tenant may not exercise remedies in this Section if the fire or casualty damage was caused by the deliberate or negligent act or omission of the tenant, a member of his/her family, or person on the premises with his/her consent.

### **5-3-8: HOLDOVER; ABUSE OF ACCESS:**

#### **5-3-8-1: HOLDOVER REMEDIES:**

If the tenant remains in possession without the landlord's consent, after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful, the landlord in addition may recover an amount not more than two (2) months' periodic rent or twice the damages sustained by him/her, whichever is greater, and reasonable attorney fees. If the landlord consents to the tenant's continued occupancy, Subsection ~~5-3-3-1~~(C) of this Chapter applies.

#### **5-3-8-2: LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS:**

- (A) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case, the landlord may recover damages and reasonable attorney fees.
- (B) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful, but which have the effect of harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In each case, the tenant may recover an amount equal to not more than two (2) months' rent or twice the damages sustained by him/her, whichever is greater, and reasonable attorney fees.

#### **5-3-8-3: NOTICE OF REFUSAL TO RENEW RENTAL AGREEMENT:**

- (A) If the rental agreement will not be renewed or if a month to month tenancy will be terminated, the landlord shall notify the tenant in writing thirty (30) days prior to the termination date.
- (B) If the landlord fails to give the required written notice, the tenant may remain in his/her dwelling for two (2) months, commencing on the date that the written notice is received by the tenant. During such period, the terms and conditions of the tenancy shall be the same as the terms and conditions during the month of tenancy immediately preceding the notice.

### **5-3-9: RETALIATORY CONDUCT; CIVIL ACTIONS BY CITY:**

### **5-3-9-1: RETALIATORY CONDUCT:**

- (A) Except as provided in this Section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring action for possession or by refusing to renew a rental agreement because the tenant has:
1. Complained in good faith of a code violation to a government agency charged with the responsibility for the enforcement of such Code;
  2. Complained to the landlord of a violation under Subsection ~~5-3-5-2~~(D) or Subsection ~~5-3-5-3~~ of this Chapter;
  3. Organized or become a member of a tenant union or similar organization; or
  4. Exercised or attempted to exercise any right or enforce any remedy granted to him/her under this Chapter.
- (B) If the landlord acts in violation of Subsection (A) of this Section, the tenant has a defense in any retaliatory action against him/her for possession and is entitled to the following remedies: He/She shall recover possession or terminate the rental agreement and, in either case, recover an amount equal to not more than two (2) months' rent or twice the damages sustained by him/her, whichever is greater, and reasonable attorney fees. If the rental agreement is terminated, the landlord shall return all security and interest recoverable under Section ~~5-3-5-1~~ of this Chapter and all prepaid rent. In an action by or against the tenant, if there is evidence of a complaint within one year prior to the alleged act of retaliation, it may be presumed that the landlord's conduct was retaliatory. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase.
- (C) Notwithstanding Subsections (A) and (B) of this Section, a landlord may bring an action for possession if:
1. The violation of a Code was caused primarily by lack of care by the tenant, a member of his/her family or other person on the premises with his consent; or
  2. The tenant is in default in rent, other than a purported default under Subsection ~~5-3-7-3~~ of this Chapter.

### **5-3-9-2: CIVIL ACTIONS BY CITY:**

Whenever the City Manager or his/her designee has reasonable cause to believe that any landlord or tenant is engaged in a pattern of practice of violating the provisions of this Chapter, the City may bring a civil action by filing a complaint signed by the City Manager, setting forth the facts pertaining to such pattern of practice and requesting such relief, including an application for a permanent or temporary injunction, restraining



order and damages as hereinbefore provided against the landlord or tenant responsible for such pattern of practice, as may be necessary to ensure compliance with the provisions of this Chapter and the full enjoyment of the rights herein established. The foregoing does not limit the City's authority to institute actions pursuant to Subsection ~~5-3-12-3~~ 12-3 of this Chapter to enforce Section 5-3-12 of this Chapter.

#### **5-3-10: ATTACHMENT OF CHAPTER TO RENTAL AGREEMENT:**

- (A) A current copy of the ordinance codified herein shall be attached to each written rental agreement whether it be a City of Evanston model apartment lease agreement or a landlord drafted written lease agreement, when any such agreement is initially offered to any tenant or prospective tenant by or on behalf of a landlord and whether such agreement is for a new rental or a renewal thereof. The lessee shall acknowledge receipt of the ordinance codified herein on the executed lease.
- (B) If a tenant in a civil legal proceeding against his/her landlord establishes that a violation of Subsection (A) of this Section has occurred, he/she shall be entitled to recover two hundred dollars (\$200.00) in damages and reasonable attorney fees.
- (C) The model apartment lease agreement ("agreement"), as amended from time to time, shall be on file with the City Clerk. Each amended agreement form shall be effective for a minimum of one year. Leases entered into during the effective period of a particular agreement form shall remain valid notwithstanding amendments made in the agreement form during the lease term.

#### **5-3-11: CONDOMINIUM CONVERSIONS:**

Provisions of this Chapter that contradict, modify, expand or limit the right of landlords or tenants established under this Chapter shall prevail over the provisions of this Chapter for leases entered into or renewed subsequent to the effective date of the residential condominium ordinance.

#### **5-3-12: INTERRUPTION OF TENANT OCCUPANCY:**

##### **5-3-12-1: - UNLAWFUL INTERRUPTION:**

It is unlawful for any landlord or any person acting at his/her direction to knowingly oust or dispossess or attempt to oust or dispossess any tenant from a dwelling unit without authority of law, by plugging, changing, adding or removing any lock or latching device; or by blocking any entrance into said unit; or by removing any door or window from said unit; or by interfering with the services to said unit, including, but not limited to, electricity, gas, hot or cold water, plumbing, heat or telephone service; or by removing a tenant's personal property from said unit; or by the use of force or threat of violence, injury or force to a tenant's person or property; or by any other act rendering a dwelling unit or any part thereof or any personal property located therein inaccessible or uninhabitable.

### **5-3-12-2: EXCLUSIONS:**

The provisions of Subsection ~~5-3-12-1~~ of this Chapter shall not apply where:

- (A) A landlord acts in compliance with the laws of Illinois pertaining to forcible entry and detainer and engages the Sheriff of Cook County to forcibly evict a tenant and his/her personal property; or
- (B) A landlord acts in compliance with the laws of Illinois pertaining to distress for rent; or
- (C) A landlord acts pursuant to court order; or
- (D) A landlord interferes temporarily with possession only as necessary to make needed repairs or inspection and only as provided by law; or
- (E) The tenants with a right to possession of the dwelling unit have been absent therefrom for thirty (30) consecutive days without advising the landlord of such absence or their intent to return, current rent is thirty (30) or more days overdue, and after diligent inquiry the landlord has reason to believe that tenants have abandoned the premises and do not intend to return.

### **5-3-12-3: FINES:**

- (A) Each member of the Police Department, while on duty, is hereby authorized to arrest any person who is found to have violated any of the provisions of Subsection ~~5-3-12-1~~ of this Chapter.
- (B) Any person found guilty of violating Subsection ~~5-3-12-1~~ of this Chapter shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), and each day that such violation shall occur or continue shall constitute a separate and distinct offense for which a fine as herein provided shall be imposed.

### **5-3-12-4: CIVIL REMEDY:**

If a tenant in a civil legal proceeding against his/her landlord establishes that a violation of Subsection ~~5-3-12-1~~ of this Chapter has occurred, he/she shall be entitled to recover possession of his/her dwelling unit and personal property and shall recover an amount equal to not more than two (2) months' rent or twice the actual damages sustained by him/her, whichever is greater, and reasonable attorney fees. A tenant may pursue any civil remedy for violation of this Section 5-3-12 regardless of whether a fine has been entered against the landlord pursuant to Subsection ~~5-3-12-3~~ of this Chapter.

### **5-3-12-5: TENANT'S RIGHT TO TERMINATE:**

If a landlord or any person acting at his/her direction violates Subsection ~~5-3-12-1~~ of this Chapter, the tenant shall have the right to terminate the rental agreement by sending

the landlord written notice of his/her intention to terminate within three (3) days of the violation. If the rental agreement is terminated, the landlord shall return all security deposits, prepaid rent and interest to the tenant in accord with this Chapter.

## **CHAPTER 4 - RESIDENTIAL CONDOMINIUM REGULATIONS**

### **5-4-1: GENERAL PROVISIONS AND DEFINITIONS:**

#### **5-4-1-1: SHORT TITLE:**

This Chapter shall be known and may be cited as the *EVANSTON RESIDENTIAL CONDOMINIUM ORDINANCE*.

#### **5-4-1-2: - PURPOSE, DECLARATION OF POLICY:**

It is the purpose of this Chapter and the policy of the City to establish standards for all multiple-family dwelling condominiums within the City in order to protect the purchasers of condominium units and the residents of rental units designated for conversion and to encourage the maintenance and improvement of the quality of housing.

#### **5-4-1-3: CONSTRUCTION OF CHAPTER:**

This Chapter shall be liberally construed and applied to promote its purposes and policies.

#### **5-4-1-4: SEVERABILITY:**

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provision or application.

#### **5-4-1-5: APPLICABILITY OF PROVISIONS:**

This Chapter applies to all multiple-family dwellings located within the City which are to be developed as new or conversion condominiums except for group, row or town houses not electing to convert to condominiums and not specifically covered by the State of Illinois Condominium Property Act (765 ILCS 605/1 et seq.). Subsections ~~5-4-1-6, 5-4-3-5, 5-4-3-6 and 5-4-6-1~~, Subsection ~~5-4-6-2(B)~~ and Subsection ~~5-4-6-3~~ of this Chapter alone shall apply to resale of their units by individual unit owners even if such units were created prior to adoption of these provisions. ~~Declarants who issued a notice of intent prior to August 19, 1978, and who cannot reasonably comply with the notice provisions of Sections 5-4-2-1, 5-4-4-1 and 5-4-4-2 of this Chapter may apply to the City Council for consideration of a hardship waiver of these provisions.~~

#### **5-4-1-6: - ADMINISTRATION:**

**(A)** The City Manager, or his/her designee, shall administer this Chapter and may promulgate regulations to carry out its enforcement with the review of the City

Council. An application fee of one hundred fifty dollars (\$150.00) per unit shall be charged for new or conversion condominiums. This is in addition to other applicable fees. Said fee does not apply to the resale of individual units by any owners.

- (B) The City Manager, or his/her designee, shall submit an annual report to the City Council which provides comprehensive data and other documentation on the development of new and conversion condominiums.

**5-4-1-7: DEFINITIONS:**

BOARD OF MANAGERS:	The body designated to act on behalf of the unit owners' association.
COMMON ELEMENTS:	All portions of the property except the units.
COMMON EXPENSES:	The proposed or actual expenses affecting the property, including reserves, if any, lawfully assessed by the board of managers of the unit owners' association.
CONDOMINIUM:	Property which is subject to the Illinois Condominium Property Act <sup>[115]</sup> and to this Chapter, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.
CONDOMINIUM CONVERSION:	A condominium containing units which were wholly or partially occupied before the recording of the declaration.
CONDOMINIUM INSTRUMENTS:	All documents and authorized amendments, including, but not limited to, the declaration, bylaws, plats and condominium disclosure statements which are required to be filed pursuant to the provisions of this Chapter.
DECLARANT:	Any person who plans to execute or has executed the declaration or on whose behalf the declaration is executed.
DECLARATION:	The instrument by which property is submitted to the provisions of the Illinois Condominium Property Act and this Chapter, as hereinafter provided, and such declaration as from time to time is amended.
FILING:	The complete submission of all documents required by Subsection <del>5-4-2-3</del> of this Chapter with a stamped date of filing contained thereon.
MULTIPLE-FAMILY DWELLING:	A building containing three (3) or more dwelling units, except for group, row or townhouses.
OFFERING:	Any advertisement, publication, announcement, solicitation or inducement, either written or verbal, by a declarant to promote the purchase of a condominium unit or prospective condominium unit.
PERSON:	A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.
PROPERTY:	All the land, property and space comprising the parcel, all improvements and structures erected, constructed or contained therein or thereon, including the building and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the unit owners, submitted to the provisions of this Chapter.
UNIT:	A part of the property including one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for any type of independent use, and having lawful access to a public way.
UNIT OWNERS' ASSOCIATION:	The association of all of the unit owners, acting pursuant to by-laws through its duly elected Board of Managers.
REGULATIONS:	Those regulations promulgated by the City Manager, with review of the City Council.

Where not otherwise defined, terms used in this Chapter shall follow the definitions of the State Condominium Property Act.

## **5-4-2: CREATION OF A CONDOMINIUM:**

### **5-4-2-1: NOTICE OF INTENT TO TENANTS:**

Prior to formal filing and concurrently with its delivery to tenants, the declarant shall deliver to the City a copy of the notice of intent to convert and an affidavit providing a list of the tenants to whom said notice was supplied and the date or dates of delivery or attempted delivery. A copy of this Chapter shall be attached to all such notices. Said notices shall contain the information required by the City as set forth in regulations promulgated hereunder.

### **5-4-2-2: CONDOMINIUM CODE ASSESSMENT REPORT:**

Within sixty (60) days after the notice of intent has been sent to tenants and to the City, pursuant to Subsection ~~5-4-2-1~~ of this Chapter, and upon payment of the application fee set forth in Subsection ~~5-4-1-6~~ of this Chapter, a Condominium Code Assessment Report shall be prepared by the City listing violations of all applicable codes existing as of that date.

### **5-4-2-3: FILING AND RECEIPT OF CONDOMINIUM INSTRUMENTS:**

(A) Prior to recording a declaration with the Cook County Recorder of Deeds or ~~Registrar of Torrens Titles~~, the declarant must file with the City:

1. The condominium instruments, including the declaration, by-laws, plats and condominium disclosure statement.
2. A report prepared by an independent, licensed architect or engineer describing the items specified in Section ~~5-4-3-1(B)7~~ of this Chapter.
3. A copy of the affidavit referred to in Section ~~5-4-2-1~~ of this Chapter.

(B) The City shall inform the declarant in writing as to whether all documents required for filing by this Chapter have been submitted, said information to be provided no later than twenty one (21) days after offering of said documents by the declarant. The filing date shall be that date, as stamped on the documents submitted, when all required documents are in the possession of the City. Documents required to be filed under this Section shall be filed with the City Manager or his/her designee.

(C) Upon receipt of the documents specified in Subsection (A) for filing, the City Manager, or his/her designee, shall add the following signed statement to the first page of the declaration:

"The City of Evanston has received all the condominium instruments and other required documents for filing as of this date. Such receipt does not constitute approval by the City of the content, nor verification of the facts and statements contained therein."

A condominium can be created in the City only if that statement with the required signature is on the declaration at the time that the declaration is recorded with the Cook County Recorder of Deeds ~~or Registrar of Torrens Titles~~.

- (D) Where a declarant has filed with the City a notice of intent or other condominium instrument for a building that the City has determined or subsequently determines in its Condominium Code Assessment Report not to be in compliance with all applicable building, zoning and housing codes, the declarant shall also file:
1. A verified statement showing the estimated cost and time of completion of the work necessary to correct each code violation on said report and source of said estimate.
  2. Satisfactory evidence of sufficient funds to cover all of the costs in Subsection ~~5-4-2-3(D)~~1 above without the use of any purchasers' funds.
- (E) In addition to the requirements of this Section, the declarant must file with the City an exact copy of all condominium instruments recorded with the Cook County Recorder of Deeds ~~or Registrar of Torrens Titles~~ within ten (10) days after recording.

#### **5-4-2-4: CONTENTS OF DECLARATION:**

The declaration for a condominium must contain:

- (A) The name of the condominium, which must include the word "condominium" or be followed by the words "condominium".
- (B) The provisions required by the Illinois Condominium Property Act.
- (C) An allocation to each unit of a portion of the votes in the Association and a percentage of the common expenses of the Association, both of which shall be in the same ratio as the percentage of ownership in the common elements of the condominium.

#### **5-4-2-5: CONVEYANCE WITH UNCOMPLETE ITEMS; SECURITY:**

- (A) Title to any sold unit shall not be conveyed before correction of all code violations within that unit except that non-life safety items that could not, because of weather conditions, be completed or corrected at the time conveyance is scheduled may be covered by a unit escrow to be set up at or prior to closing for the benefit of the individual unit purchaser and covering the estimated cost of correction of those items. There shall also be an escrow set up at or prior to closing for contracted for but not completed non-code improvements within the unit. This may, but need not be, the same "unit escrows" as that covering code violations.

- (B) An escrow account or other satisfactory security shall be established prior to conveyance of title to the first unit, which escrow or other security shall be for the benefit of the Unit Owners' Association, shall be utilized for and be in an amount necessary to correct the code violations in the common areas and the contracted-for but uncompleted non-code improvements of the common areas. Said "common area escrow" or other security shall have been established prior to conveyance of the first unit.
- (C) When the declarant has demonstrated, pursuant to regulations, that the above sections have been satisfied, the City Manager or his/her designee shall cause to be issued a certificate of approval to convey title to purchasers. The City shall, within fifteen (15) days of a request for this certificate, provide either the certificate or a list of outstanding violations.

**5-4-3: PROTECTION OF PURCHASERS:**

**5-4-3-1: CONDOMINIUM DISCLOSURE STATEMENT:**

- (A) The declarant must provide the condominium disclosure statement filed with the City to all existing tenants in a conversion condominium. A copy of the condominium disclosure statement must be available for public inspection in the sales office of the declarant.
- (B) The condominium disclosure statement shall disclose fully and accurately the characteristics of the condominium and the units therein and all unusual and material circumstances and features affecting the condominium.

It shall include the following:

1. The name and principal address of the declarant and the condominium.
2. A general description of the condominium, including the number and types of units, the asking price of each type of unit, any restrictions on use and occupancy of the units, floor plans, the arrangements for off-street parking, and the proportion of units that the declarant intends to rent or to market to investors.
3. Copies of the declaration, the by-laws, the rules and regulations, and any contracts and leases to be signed by purchasers at closing, with a brief narrative description of each document.
4. A projected budget for the Association for one year after the date of the first conveyance to a purchaser and two (2) additional one year projected budgets, a statement of who prepared each of the budgets, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:
  - a. Operating Costs:

- Utilities
- Heating fuels
- Janitorial services
- Trash and garbage disposal
- Ground and building maintenance
- Security
- Maintenance and operation of recreational and other facilities
- Building insurance
- Elevator maintenance
- Sidewalks and street maintenance
- Other operating costs

- b.** Management Costs:
  - Accounting and bookkeeping services
  - Legal services
  - Management fees
- c.** Reserve Costs:
  - Reserve for improvements
  - Reserve for unexpected repair work
  - Reserve for replacement and upkeep of common area and facilities
  - Reserve for taxes and special assessments

- 5.** A description of the proposed improvements to the units or the common elements, in addition to those required under Subsection ~~5-4-2-5~~ of this Chapter, which have not been completed by the date on which the condominium instruments are filed with the City. The description of each improvement shall specify the type and quality of materials to be used, the estimated cost, and the time by which the improvement shall be completed.
- 6.** For a conversion condominium, information available on the actual expenditures made for all repairs, maintenance, operation or upkeep of the subject property within the last three (3) years set forth in a table format with the proposed budget of the condominium. If the property has not been in existence for a period of three (3) years, the information shall be provided for the maximum period the property has been occupied.
- 7.** A statement of the declarant, based on a report prepared by an independent, licensed architect or engineer, providing notification that the report is on file with the City and describing the present condition of all structural components and major mechanical systems, and also including the approximate dates of construction, installation, and major repairs, the expected useful life of each such item, and, for major mechanical systems, the estimated cost (in current dollars) of replacing each of the same.
- 8.** A list of any uncured violations of the applicable building and housing



codes or any other applicable codes, which are specified in the Condominium Code Assessment Report prepared by the City.

9. A copy of any management contract, recreational lease or other contract or lease affecting the condominium with a brief narrative description of each document and an indication of the relationship, if any, between the declarant and the managing agent or firm.
  10. The terms of any warranties provided by the declarant, including the warranties required by Subsection ~~5-4-3-4~~ of this Chapter.
  11. Any initial or special fee due from the purchaser at closing with a description of the purpose and method of calculating the fee.
  12. Any current or expected fee to be paid by unit owners for the use of the common elements and other facilities related to the condominium.
  13. A description of any liens, title defects or encumbrances affecting the title to the condominium as of the date of preparation of the condominium disclosure statement.
  14. A description of any financing offered by the declarant.
  15. A description of the insurance coverage to be provided for the benefit of the unit owners.
  16. A statement that within thirty (30) days after receipt of a condominium disclosure statement and all amendments thereto, a purchaser may cancel a contract for purchase of a unit in accordance with the conditions specified in Subsection ~~5-4-3-2~~ of this Chapter.
  17. A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the contract is cancelled pursuant to Subsection ~~5-4-3-2~~ of this Chapter.
  18. The status of any pending litigation which would directly affect the subject condominium and/or the declarant's ability to convey clear title.
- (C) The condominium disclosure statement will not be distributed or used for any promotional purposes before filing of the condominium instruments with the City and afterwards shall be used only in its entirety.
- (D) The City may require the declarant to amend the proposed condominium disclosure statement in order to assure full compliance with the provisions of this Chapter. No material change in the development of the condominium instruments may be made after filing without notifying the City and making appropriate amendments to the condominium disclosure statement.

- (E) Prior to distribution, the following paragraph must be conspicuously displayed on the first page of each copy of the condominium disclosure statement:

*"THE CITY OF EVANSTON HAS RECEIVED THE CONDOMINIUM INSTRUMENTS, INCLUDING THIS CONDOMINIUM DISCLOSURE STATEMENT, FOR FILING ON. THE CITY HAS REVIEWED THE CONDOMINIUM DISCLOSURE STATEMENT ONLY FOR COMPLIANCE WITH THE RESIDENTIAL CONDOMINIUM ORDINANCE AND ASSUMES NO LIABILITY FOR THE PROJECT OR THE DECLARANT'S ACTIONS FOR FAILURES TO ACT."*

**5-4-3-2: PURCHASER'S RIGHT TO CANCEL:**

- (A) Unless delivery of a condominium disclosure statement is not required under Subsection ~~5-4-3-5~~ of this Chapter, a declarant shall provide a purchaser of a unit with a copy of the condominium disclosure statement and all amendments thereto before entering into a contract of sale. Unless a purchaser is given the condominium disclosures statement more than thirty (30) days before executing a contract for the purchase of a unit, the purchaser may cancel the contract within thirty (30) days after first receiving the condominium disclosure statement. The notice of cancellation by the purchaser must be in writing.
- (B) Cancellation pursuant to Subsection (A) is without penalty. All payments which were made by the purchaser before cancellation, including interest where applicable, shall be refunded by the declarant within ten (10) days after receiving notice of cancellation.

**5-4-3-3: ESCROW OF DEPOSITS:**

- (A) Any deposit made in connection with the purchase or reservation of a unit shall be placed in escrow and held in an account designed solely for that purpose by an institution whose accounts are insured by a government agency until 1) delivered to the declarant at closing; 2) delivered to the declarant because of purchaser's default under a contract to purchase the unit; or 3) refunded to the purchaser.
- (B) If the deposit is placed in an interest-bearing account, the interest shall be paid to the purchaser.
- (C) Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the declarant.

**5-4-3-4: WARRANTIES:**

- (A) All sales contracts for the first-time sale of any condominium unit covered under this Chapter shall contain the following express warranties by the declarant:
1. Common Elements and Systems: "Common elements and systems" shall

refer to the roof, foundation, external and supporting walls and other structural elements, the electrical, plumbing, heating, air conditioning and other mechanical systems, and all other common facilities, including but not limited to private sidewalks, recreational areas and common open space (but excluding decorating and carpeting). The declarant shall warrant the materials, workmanship, operation, construction or condition of all such items or elements for either four (4) years from the date of transfer of title of the first unit so transferred, or two (2) years from the date of transfer of the unit, which brings the total number of units transferred to sixty percent (60%) or more of the total units, whichever occurs first. The declarant shall provide his/her own warranty, whether or not any manufacturer's warranty currently exists.

2. Individual Unit Mechanical Equipment: "Individual unit mechanical equipment" shall refer to all appliances, and other mechanical equipment including heating, electrical and plumbing systems physically located within the individual owned units. The declarant shall warrant the materials, workmanship, operation, construction or condition of said items for one year from the date of title transfer of that individual unit.
  3. Warrant Exclusions: The following are exempted from all of the above warranties provided the work was done in accordance with existing applicable codes:
    - a. Damage caused by acts of unauthorized third parties, including vandalism, negligence, improper maintenance or improper operation by anyone other than the declarant or his/her employees, agents or subcontractors.
    - b. Acts of God and accidents, including but not limited to fire, explosion, smoke, water escape, windstorm, hail, lightning, flood and earthquake.
    - c. Normal wear and tear and normal deterioration.
    - d. Ordinary maintenance and repairs.
- (B) The declarant shall have the option to repair or replace warranted systems or elements, or to pay the cash value of such repair or replacement, except that where he/she fails upon notice and reasonable time as set forth below to repair, replace or pay for said item or system, or to state in writing why they do not fall within the warranty, the Unit Owners' Association, or the unit owners, may decide whether to repair or replace the items. The declarant shall not be required to honor his/her own warranty unless or until the unit owner or Association, as the case may be, shall have first sought to enforce existing manufacturer's warranties.
- (C) Following the timely notification by a unit owner or the Unit Owner's Association,

the declarant shall, during the period of the warranty, make any required repairs or replacements. If the declarant fails to comply with the warranty provisions, the Unit Owners' Association in the case of common elements and the unit owner in the case of unit items may notify the declarant in writing of their intention to correct or repair the condition at the declarant's expense. If the declarant fails to comply within fourteen (14) days after being so notified or as promptly as conditions require in case of emergency, the Unit Owners' Association or the unit owner, as the case requires, may have the work done and the Association for itself or jointly with and on behalf of the unit owner shall have recourse to the escrow or other security provided pursuant to Subsection ~~5-4-3-4~~(E) of this Chapter.

- (D) In order to cause said warranty to be honored, the Unit Owners' Association or the unit owner, as the case may be, shall give timely notice of any defect or failure of operation to the declarant or his/her successor, all such notices to be during the period of warranty.
- (E) To assure compliance with the warranties set forth in this Section, the declarant shall set up escrows or other appropriate security acceptable to the City pursuant to the regulations promulgated under this Section, which shall provide for said escrows or other security to revert to sole control of the declarant at the expiration of the different warranty periods unless outstanding claims exist against them. Escrows or other appropriate security shall be in an amount constituting the total of one percent (1%) of the sales price of each unit sold and shall be a combined joint fund available for both common element warranty work or unit warranty work and shall be irrevocable until the expiration of the common element warranty period or unit warranty period, whichever occurs later.

#### **5-4-3-5: RESALE OF UNITS:**

- (A) A unit owner other than a declarant offering for sale his/her own unit, shall provide to the purchaser concurrently with execution of any contract for sale, a copy of the declaration, bylaws and rules and regulations of the Association, and the items as described below:
  - 1. A statement setting forth:
    - a. The amount of the monthly common expense assessment;
    - b. Any unpaid common expense or special assessment currently due and payable from the selling unit owner;
    - c. The information on the total actual expenditures, by category, made for all repairs, maintenance, operation or upkeep of the common areas of the building in which the unit is located within the last three (3) years as found in the regular books of the Association. If the property has not been occupied as a condominium for a period of three (3) years, the information, if available, shall be provided for

such lesser time as the property has been so occupied.

2. A statement of any other fees payable by the unit owners.
  3. A statement of any future capital expenditures approved by the Association or the Board of Directors.
  4. A statement of the amount of the reserves for capital expenditures and of any portions of those reserves designated by the Association for specified projects.
  5. The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association.
  6. The current operating budget of the Association.
  7. A statement of any judgments against the Association, and the status of any pending suits to which the Association is a party, of which it has knowledge.
  8. A statement describing any insurance coverage provided for the benefit of unit owners.
  9. A statement of whether the board of managers has received written notice from any Federal, State or local government of any violations of any applicable codes with respect to the unit or of the condominium common elements.
- (B)** The Association, within ten (10) days after a written request by a unit owner, shall make a good faith effort to furnish accurate information necessary to enable the unit owner to comply with this Section. A unit owner delivering a statement of such information is not liable to the purchaser for any erroneous information from the Association, provided that the errors are unknown to the owner.
- (C)** A unit owner is not liable to a purchaser for the failure or delay of the Association to provide such information in a timely manner. Inability to obtain any of the information shall be set forth in the sworn statement of the unit owner. The purchaser shall have five (5) days from receipt of such affidavit to void said contract for said failure to provide data.
- (D)** Immediately upon execution by both parties of a sales contract, the seller shall provide to his/her condominium board the name and address of the purchaser and the board shall from that time on send duplicates of all notices sent to seller to the purchaser.
- (E)** If any special assessment is voted for a capital improvement between the provision of the statement of information described in Subsection 5-4-3-5(A) of this Section and the closing of the sale of the unit, and this assessment exceeds

five percent (5%) of the contract sale price, said assessment shall be grounds for rescission of the contract by the purchaser. Said rescission shall be by a writing delivered to seller not more than five (5) calendar days following receipt by the purchaser of the notice of the special assessment. Where, however, the seller notifies purchaser that seller shall assume the special assessment obligation, the purchaser may not utilize this rescission provision.

- (F) This Section shall be attached to, incorporated into, and made part of the bylaws of all condominiums hereinafter created and shall apply to all resale contracts entered into subsequent to the effective date hereof.

**5-4-3-6: EQUAL OPPORTUNITY:**

No person shall be denied the right to purchase or lease a condominium unit because of race, color, religion, sex, age, marital status, presence or age of children, national origin, or "sexual orientation" (as defined in Section 5-5-6 of this Code).

**5-4-4: PROTECTION OF TENANTS:**

**5-4-4-1: NOTICE REQUIREMENTS:**

- (A) A declarant of a conversion condominium shall give each of the tenants in possession of units subject to this Chapter notice of intent to convert no less than two hundred ten (210) days prior to requiring the tenants to vacate, at least one hundred twenty (120) days of which must elapse before the recording of the condominium instruments with the Cook County Recorder of Deeds or Registrar of Torrens Titles. The notice shall be concurrently filed with the City as provided in Subsection ~~5-4-2-1~~ of this Chapter.
- (B) The notice of intent must set forth the rights of tenants under this Chapter and must include Section ~~5-4-4~~ of this Chapter as an attachment. Such notice shall be hand delivered or sent by certified mail.
- (C) No tenant may be required by the declarant to vacate upon less than two hundred ten (210) days' notice, except by reason of nonpayment of rent, conduct that disturbs other tenants' peaceful enjoyment of the premises or other substantial violations of the terms of the rental agreement. The terms of tenancy may not be altered during that period.
- (D) Nothing in this Section permits termination of a lease by a declarant in violation of its terms.
- (E) Any tenant under a lease entered into subsequent to the effective date of this Chapter, who receives a notice of intent to convert shall at any time after receipt of the notice have the right to terminate the lease with sixty (60) days' written notice to the landlord, which sixty (60) days shall start to run from the date that the next rental payment is due. Such termination shall be without penalty or other termination charge to the tenant. By delivering the notice of termination to the

landlord, the tenant waives the right to purchase the unit under Section ~~5-4-4-2~~ of this Chapter.

- (F) Where an existing tenant's lease has expired and not been renewed, at the landlord's behest, and within ninety (90) days of the last effective day of said lease, a notice of intent to convert has been served on any tenant in that building, the most recent tenant whose lease had expired shall have the rights of purchase and of relocation as if he/she were still a tenant of that unit. This Section does not apply to termination of leases for violations of their terms or default by the tenant.
- (G) Those tenants under a lease entered into subsequent to the effective date of this Chapter who, within thirty (30) days of signing of a lease whether or not they have moved into the unit, receive notice of intent to convert, shall have fifteen (15) days from receipt of that notice to serve an immediate fifteen (15) day notice of their intent to vacate or not to honor said lease. There shall be no penalties assessed against tenants who void their lease pursuant to this Section. Failure of said tenant to utilize this fifteen (15) day notice right is not a waiver of his/her rights to give a sixty (60) day notice as set forth in Subsection ~~5-4-4-1(E)~~ above of this Chapter.
- (H) Failure of a declarant to give notice as required by the above Subsection, is a defense to an action for possession, unless the tenant knowingly avoids receiving or delivery of said notice of intent.
- (I) The provisions of this Section shall prevail over any conflicting provisions of the Landlord-Tenant Ordinance (Chapter 3 of this Title) except that for leases entered into or renewed prior to the effective date of this Chapter, Subsections ~~5-4-4-1(E)~~ and ~~5-4-4-1(F)~~ of this Chapter shall not apply.

#### **5-4-4-2: TENANT'S RIGHT TO PURCHASE:**

- (A) During the one hundred twenty (120) day period following the delivery to tenants of the notice of intent, or until thirty (30) days after the condominium instruments have been filed with the City, whichever is longer, the declarant shall offer the tenant his/her unit. This offer shall be held open until tenant acceptance or refusal, but in no event longer than the expiration of either the one hundred twenty (120) day period or the thirty (30) days after filing of the condominium instruments, whichever is longer. Inaction by the tenant after the expiration of the one hundred twenty (120) days or thirty (30) days shall constitute a waiver of his/her right of first purchase. Said offer shall be either a first-time offer to the tenant at a set price or the right of first refusal to that tenant when a bona fide offer has been submitted for that unit by a third party. Under either procedure, the tenant shall have thirty (30) days to execute his/her own contract for the unit from the date of receipt of the offer or right of first refusal. If a tenant fails to execute a contract during that period, the declarant may not offer to sell that unit during the following one hundred eighty (180) days at a price or on terms more favorable to the prospective purchaser than the price or terms offered to the tenant without

first making the same offer to the tenant, who shall have no less than fifteen (15) days within which to accept the offer.

- (B) Subsection (A) does not apply to any unit in a conversion condominium if the boundaries of the converted unit do not substantially conform to the dimensions of the unit before conversion; however, where it is available, another unit similar to the preconversion dwelling must be offered to the affected tenant.

#### **5-4-4-3: RELOCATION ASSISTANCE:**

Within fourteen (14) days after receiving a receipted bill for the costs of relocation, the declarant must pay actual moving expenses to a maximum amount of three hundred dollars (\$300.00) or one month's rent, whichever is higher, for any tenant of record and said tenant's family whose total income for the previous year was eighty percent (80%) or less of the appropriate Primary Metropolitan Statistical Area (PMSA) median income limit for the Cook County area for an individual or family. (PMSA data are available from the Department of Housing and Urban Development and are revised on an approximately annual basis). Failure of the tenant to tender the Federal or State tax return for the immediately preceding year upon demand shall constitute a waiver of the right to receive funds.

#### **5-4-4-4: ACCESS:**

- (A) The tenant in a conversion condominium shall not unreasonably withhold consent to the declarant to enter the unit in order to inspect the premises, make necessary or agreed repairs, including correction of Housing Code violations cited by the Director of Inspections and Permits, supply necessary or agreed services or show the unit to prospective or actual workmen or purchasers in accordance with Subsection (B). The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency, or unless it is impracticable to do so, the landlord shall give the tenant at least two (2) days' notice of his/her intent and may enter only at reasonable times.
- (B) An occupied unit which is offered for initial sale can be shown to a prospective purchaser only during the last ninety (90) days of the notice period or tenancy, whichever terminates at a later date. However, if a tenant has provided notice of an intent to terminate the lease pursuant to Subsection ~~5-4-4-1(E)~~ of this Chapter, the declarant may show the unit subsequent to the receipt of such notice.
- (C) The declarant shall not undertake remodeling for conversion of a unit while it is occupied by a tenant, nor create any unreasonable disruption of the common areas, including but not limited to restricting access thereto, nor interfere with the quiet use and enjoyment of the premises, nor abuse the right of access or use it to harass the tenant.

#### **5-4-5: MANAGEMENT OF THE CONDOMINIUM:**



**5-4-5-1: TRANSFER OF CONTROL:**

- (A) Control of the condominium project shall be transferred from the declarant to the board of managers within thirty (30) days after sixty percent (60%) of the units have been conveyed.
- (B) No later than the termination of any period of declarant control, the unit owners shall elect a board of managers, all of whom must be unit owners. A majority of the board must also be residents in the condominium if in fact such a majority resides in the condominium and is willing to serve on the board.

**5-4-5-2: - PAYMENT OF ASSESSMENTS:**

The declarant shall be required to pay all assessments on condominium units which he/she owns pursuant to the Illinois Condominium Property Act.

**5-4-5-3: TERMINATION OF CONTRACTS AND LEASES OF DECLARANT:**

All contracts entered into by declarant before the board of managers elected by the unit owners takes office for (1) any management, employment or other service contract; (2) any lease of recreational or parking facilities; or (3) any other contract or lease to which a declarant or an affiliate of a declarant is a party, shall contain a clause allowing termination of said contract without penalty by the Association at any time after the elected board of managers takes office, upon not less than ninety (90) days' notice to the other party.

**5-4-5-4: REPAIR AND REPLACEMENT RESERVE:**

The board of managers shall determine the formula for the funding of any reserve they choose to establish for repair and replacement, initially and subsequent to any expenditures.

**5-4-5-5: CONDOMINIUM CONVERSIONS:**

Provisions of this Chapter that contradict, modify, expand or limit rights of landlords or tenants established under this Chapter shall prevail over the provisions of this Chapter for leases entered into or renewed subsequent to the effective date of the Residential Condominium Ordinance.

**5-4-6: VIOLATIONS AND PENALTIES:**

**5-4-6-1: INVESTIGATION AND CONCILIATION:**

- (A) The City Manager, or his/her designee, is hereby authorized and directed to receive complaints and conduct such investigations as he/she deems necessary pursuant to the authority vested in that office.
- (B) Whenever it is determined by the City Manager, or his/her designee, that there

has been a violation of this Chapter or any duly adopted rule or regulation of the City, that office is authorized to seek all or a portion of the following relief, or any other relief that may be granted by law:

1. Attempt to conciliate the matter by conference or otherwise and secure a written conciliation agreement.
2. Seek a written assurance of discontinuance which shall be signed by the declarant and the City Manager or his/her designee.
3. Institute injunctive or other appropriate action or proceeding in any court of competent jurisdiction to obtain a restraining order, permanent or temporary injunction or any other appropriate form of relief.

**5-4-6-2: - PENALTIES:**

- (A) The Corporation Counsel may apply to any court of competent jurisdiction to enjoin a violation which has been found to exist by the City as a result of an inspection. The penalty for such violation shall be not more than five hundred dollars (\$500.00) for each unit with respect to which the violation has occurred. Each day during which any unit has been advertised or offered and such advertisement or offer has not been withdrawn shall constitute a separate offense.
- (B) Any person who wilfully makes an untrue or misleading statement of material facts, or wilfully omits to provide required data, in any document prepared pursuant to this Chapter shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00) for each day of continuing violations; in the event such person is a unit owner or a member of the board of managers, such fine, to the extent it relates to a violation of Section 5-4-3-5, shall not exceed one hundred dollars (\$100.00) for each day of continuing violation to a maximum of one thousand five hundred dollars (\$1,500.00).

**5-4-6-3: - CIVIL REMEDY:**

Any unit owner or tenant may file a suit in any court of competent jurisdiction for injuries sustained by him/her as a result of a violation by declarant of any provisions of this Chapter. In the event that such violation is found to occur, the court may assess compensatory damages, and in addition punitive damages equal to three (3) times the amount of compensatory damages, but not more than one thousand five hundred dollars (\$1,500.00). The court shall also award the unit owner's or tenant's attorney reasonable fees for his services in the event that such a violation has occurred. If the court finds that no violation has occurred, the court shall assess reasonable attorneys' fees against the unit owner and tenant. Contractual promises shall not be held to have merged with the deed and shall survive conveyance of the unit. This Section shall not constitute a limitation on any other private right of action.

## CHAPTER 5 - FAIR HOUSING ORDINANCE

### 5-5-1: SHORT TITLE:

This Chapter shall be known and may be cited as the *FAIR HOUSING ORDINANCE OF THE CITY OF EVANSTON*.

### 5-5-2: - PURPOSE AND DECLARATION OF POLICY:

It is hereby declared to be the policy of the City and the purpose of this Chapter, in the exercise of its police and regulatory powers for the protection of the public safety for the health, morals, safety and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in the City, and to promote and protect fair housing opportunities throughout the City and to acknowledge the value of diversity within our community, to secure to all persons living and/or working, or desiring to live and/or work in the City of Evanston, an equal opportunity to view, purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin of any individual.

### 5-5-3: CONSTRUCTION:

This Chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in Section ~~5-5-2~~ of this Chapter and the special purpose of the particular provision involved.

### 5-5-4: SEVERABILITY:

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of this Chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

### 5-5-5: DEFINITIONS:

For the purpose of this Chapter:

ADMINISTRATOR:	<del>The Executive Director of the Commission or any employee of the City or the Commission designated by the City Manager, with the approval of the Commission.</del>
AGE	Includes any person eighteen (18) years of age or older, or an emancipated
CLASSIFICATION:	mature minor as determined under 750 Illinois Compiled Statutes 30/1 et seq., "The Emancipation of Mature Minors Act".
CHILD:	Any person under the age of eighteen (18) who is a member of a family as that term is defined in Section <del>6-2-4</del> <u>6-18-3</u> of this Code.
COMMISSION:	<del>The Evanston Human Relations Commission established by Section 2-5-1 of the Code of the City of Evanston, 1979 as amended, and "Executive Director of the Commission" means the person from time to time selected by the Commission to act in such capacity.</del>
CONCILIATION:	<del>Resolution of issues raised by a complaint, or the investigation of a complaint,</del>

	<del>through informal negotiations involving the complainant, the respondent and the Administrator.</del>
COVERED MULTI-FAMILY DWELLING:	For the purposes of this Chapter, the term "covered multi-family dwelling" applies only to newly constructed dwellings as defined in Subsection <del>5-5-6(W V)</del> 2(c), and shall consist of: (A) Any dwelling containing four (4) or more living units if such building has an elevator, and (B) Ground floor units of other buildings consisting of four (4) or more units that do not contain an elevator.
DISABILITY:	With respect to a person: (A) A physical or mental impairment which substantially limits one or more of such person's major life activities; (B) A record of having such an impairment; or (C) Being regarded as having such an impairment, but such term does not include current, illegal use of or addition to a controlled substance (as defined in Section 102 of the Controlled Substances Act 21 U.S.C. 802).
DISCRIMINATION:	To make distinction in treatment of any person because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of an individual.
DWELLING UNIT:	A room or group of rooms designed for occupancy by one family with eating, sleeping and living facilities or lodging rooms as defined in the Evanston Zoning Ordinance, Title 6 of this Code. Dwelling unit shall include any vacant land which is offered for sale or lease, for the construction or location thereon of any structure or building for occupancy as a residence for one or more persons. The term "existing dwelling unit" as used in Subsection <del>5-5-6(W V)</del> 2(a) of the Evanston Fair Housing Ordinance shall include the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of the building.
FAMILIAL STATUS:	Refers to whether a household includes one or more individuals (who have not attained the age of 18 years) domiciled with: (A) A parent or another person having legal custody of such individual or individuals; or (B) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
LEASE or LEASING: LENDING INSTITUTION	Includes and means rent, renting, assignment, sublease and subletting. Any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.
MANAGER:	A person who as owner or agent of the owner or owners has the principal responsibility for the management of five (5) or more dwelling units for rent within the City and performs or employs others to perform the services associated with the letting and maintenance of said rental units.
OWNER:	Any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property or any person who is acting as the agent, manager or employee of the owner.
PERSON:	Includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, joint stock companies, labor organizations, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.

PURCHASE:	Includes any contract to purchase.
REAL ESTATE BROKER:	Any person licensed as a real estate broker in accordance with the provisions of 225 ILCS 455/1, or required thereby to be so licensed.
REAL ESTATE TRANSACTION:	The purchase, sale, exchange or lease of any real property and an option to do any of the foregoing.
REAL PROPERTY:	Any real estate, improved or unimproved, within the City limits, including rooming units.
SALE:	Includes any contract to sell, exchange or to convey, transfer or assign legal or equitable title to or a beneficial interest in real property.
SEXUAL ORIENTATION:	<del>State of heterosexuality, homosexuality, or bi-sexuality by or between persons of age.</del>
STEERING:	To encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the individual and/or persons in the neighborhood in which the property is located. This shall include, but is not limited to, directing persons into or away from areas because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the individual and/or persons in the area or purported to be moving into the area.

**5-5-6: DISCRIMINATION PROHIBITED:**

No person, including, but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the friends or associates of such person) in regard to the sale or rental of or dealings concerning real property. "Sexual orientation" is defined as: having or perceived as having emotional, physical, or sexual attachment to another without regard to the sex of that person or having or being perceived as having an orientation for such an attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

- (A) Policies And Publicity: Advertise, publish, display or circulate or cause to be published, displayed, advertised or circulated, either in writing or orally, any notice, statement, communication, sign or advertisement, or to announce a policy, or to use any form of application for the purchase, lease, rental, or financing of real property, or to make any record or inquiry in connection with the prospective purchase, rental or lease of real property, which expresses directly or indirectly any discrimination, or any intent to discriminate.
- (B) Deceive Or Overcharge: Discriminate by deceiving or overcharging any person for real property in the City, or to making any distinction or restriction against any person as to the conditions or privileges of any kind relating to the sale, rental, lease or occupancy of real property.

- (C)** Discriminate In Lending (See Section 8 of this Chapter): Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, the making or purchasing of loans or the provision of other financial assistance secured by residential real estate, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.
- (D)** Change In Neighborhood: Solicit or to enter into any agreement for the sale, lease or listing for sale or lease of any real property within the City (on the ground of loss of value) due to the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.
- (E)** Inducing Sales: Distribute or cause to be distributed written material or statements designed to induce any person to sell or lease real property because of the alleged or actual or because of any present or prospective change in the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of persons in the City or neighborhood.
- (F)** Misrepresentation: Make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin in the area will or may result in the lowering of real property values in the block, neighborhood or area in which the property is located.
- (G)** Refusal to Sell: Refuse to sell or rent real property because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.
- (H)** Refusal to Show Records of Available Housing: Refuse to show to any person who has specified his needs, the list or other records identifying all real properties reasonably meeting such specifications.
- (I)** Withholding Housing: Represent to any person that any real property is not available, or otherwise to withhold real property from any person because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.
- (J)** Refusal to Show Real Estate: Refuse to show real estate because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of any prospective purchaser, lessee or tenant, or because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the residents in the area in which the

property is located.

- (K)** Steering: Encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the individual and/or persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the individual and/or persons in the area or purported to be moving into the area.
- (L)** Differential Treatment: Make any differential treatment toward any prospective seller, purchaser, or tenant because of that person's race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin, or toward any prospective seller, purchaser, or tenant because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the persons in the area in which that property is located.
- (M)** Evasion: Employ any person as a salesman or agent as a means of evading provisions of this Chapter.
- (N)** Providing Information: Volunteer oral or written information about the racial composition of a neighborhood unless such information is a factual, accurate and actual response to an unsolicited direct question.
- ~~**(O)** Information Regarding Complaints: Fail, within a reasonable time, to provide information requested by the person charged with enforcement of this Chapter as a result of a complaint alleging a violation of this Chapter.~~
- (P O)** Posting and Distributing: Fail to post in a prominent place available for observation by the public in each business establishment of a person in the business of purchasing, selling, exchanging or leasing real property, a copy of this Chapter, or a poster provided by the Commission summarizing this Chapter; and/or fail to distribute to any prospective seller, purchaser or tenant a summary of the ordinance provided by the Commission.
- (O P)** Rental Application: Discriminate by denying, or unreasonably delaying the processing of, a lease or rental application of a person, discriminate in the fixing of the fee or length of processing time, or other terms and conditions of such application process.
- (R Q)** Insurance: Discriminate in the sale of insurance in connection with real estate.
- (S R)** Redlining: To discriminate by differential treatment of a geographic area in the setting of insurance rates or appraised valuations or the availability of financing of property, based on the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of persons in the area or purported to be moving into the area.

**(~~T~~ S)** Listing Agreement and Multiple Listing Service:

1. Entering into a listing agreement which discriminates against any person due to their race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin.
2. Deny a person access to, or membership or participation in any multiple listing service, real estate broker's organization or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.

**(~~U~~ T)** Aid or Abet: Discriminating by aiding or abetting acts performed in violation of this Chapter.

**(~~V~~ U)** Coercion: Coercion, intimidation, threatening or interference with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Chapter.

**(~~W~~ V)** Discrimination Due to a Disability:

1. To discriminate because of a disability of:
  - a. That person;
  - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
  - c. Any person associated with that disability.
2. For purposes of this subsection, discrimination includes:
  - a. A refusal to permit, at the expense of the disabled person, reasonable modifications of an existing dwelling unit occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; a person with disabilities may make reasonable modification as provided in this Section of the Fair Housing Ordinance to the interior or exterior public and common use areas of a building as well as to his and her individual dwelling unit.
  - b. A refusal to make reasonable accommodations in rules, policies,



practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

- c. In connection with the design and construction of covered multi-family dwellings for first occupancy after ~~March 12, 1991~~, a failure to design and construct those dwellings in such a manner that:
  - (1) The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
  - (2) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
  - (3) All premises within such dwellings contain the following features of adaptive design:
    - A. An accessible route into and through the dwelling;
    - B. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
    - C. Reinforcements in bathroom walls to allow later installation of grab bars; and
    - D. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- 3. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as ANSI A117.1) suffice to satisfy the requirements of this paragraph.
- ~~4. Nothing in this Chapter shall be construed to require the Human Relations Commission to review or approve plans, designs or construction of multi-family dwellings, to determine if the design and construction comply with the provisions of this Chapter.~~

#### **5-5-7: EXEMPTIONS:**

This Chapter shall not:

- (A) Bar any religious or denominational institution or organization, or any charitable or educational organization operated, supervised or controlled by or in connection with a religious organization, from limiting the sale, rental or occupancy of dwellings, which it owns or operates for other than commercial

purposes or giving preference with respect thereto, to persons of the same religion or denomination, unless membership in such religion is restricted on account of race, color or national origin.

**(B)** Except for Subsection ~~5-5-6~~(A) of this Chapter, apply to the leasing of rooms to roomers in a dwelling unit occupied by the owner as a family household having not more than two (2) roomers, living independently, exclusive of salaried household employees living on premises.

**(C)** Prohibit (due to the familial status provision of this Chapter) the operation of housing for older persons. If the following provisions are satisfied:

1. As used in this Section "housing for older persons" means housing:

a. Provided under any State or Federal program that the U.S. Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

c. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this Section, the Administrator shall require at least the following factors to be met:

(1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(2) That at least eighty percent (80%) of the units are occupied by at least one person fifty-five (55) years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

2. Housing shall not fail to meet the requirements for housing for older persons by reason of:

~~a. Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of Subsections (C)1(b) or (c)~~

~~herein; provided, that new occupants of such housing meet the age requirements of Subsections (C)1(b) or (c) herein; or~~

- ~~b.~~ unoccupied units, provided that such units are reserved for occupancy for persons who meet the age requirements of Subsections (C)1(b) or (c) herein.

- ~~3. The Administrator shall determine, based on the factors listed in this Section, the applicability of any claimed exemption under this Chapter.~~

**(D)** Bar any educational organization from limiting to persons of the same sex the rental of living accommodations.

**5-5-8: DISCRIMINATION IN LENDING:**

It shall be unlawful and a violation of this Chapter for any lending institution to discriminate in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property, or to offer, seek or agree to terms, conditions or privileges that discriminate on account of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin. (See Subsection ~~5-5-6~~(C) of this Chapter.)

**5-5-9: REFUSALS TO DEAL IN LENDING:**

It shall be unlawful and a violation of this Chapter for any lending institution to refuse to negotiate for, enter into, or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property because of discrimination on account of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.

**5-5-10: COVERAGE:**

This Chapter shall apply, respectively, to every person, including, but not limited to, every owner, lending institution, real estate broker and manager who, within the City, performs any function relating to or in connection with a real estate transaction, whether or not such person maintains an office or place of doing business within the City; provided, however, that the provisions of this Chapter shall not be so construed as to prohibit a person on behalf of the owner from inquiring into and reporting upon the qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin.

~~**5-5-11: POWERS AND DUTIES OF ADMINISTRATOR AND COMMISSION:**~~

~~It shall be the duty of the Commission, acting through the Administrator, to receive and investigate complaints charging violations of this Chapter, including, but not limited to,~~

~~complaints charging discrimination, seek conciliation of such complaints, seek compliance by violators, hold hearings, and make findings of fact, determine awards, fines and penalties, and make recommendations in accordance with the provisions of this Chapter.~~

~~The Administrator shall have the power to initiate complaints and/or file charges alleging discrimination under this Chapter. In all complaints filed by the Administrator, the name of the complainant and respondent and a brief summary of the allegations filed shall be a matter of public record at the time of the filing of charges.~~

~~The Commission shall semi-annually report in writing to the City Council the actions undertaken with respect to this Chapter in a form to be established by the Human Services Committee.~~

~~The Commission shall have the power:~~

~~(A) To administer and take sworn testimony.~~

~~(B) To adopt, promulgate, amend and rescind rules and regulations of procedure consistent with the provisions of this Chapter.~~

~~(C) To subpoena witnesses and pertinent documents at both the investigation, conciliation and hearing stages, which power may be enforced by the Commission by proper petition to any court of competent jurisdiction.~~

~~(D) To hold meetings which are closed to the public for the purpose of conciliating complaints.~~

~~(E) To appoint attorneys with expertise in fair housing law, from a list approved by the Corporation Counsel and with the approval of the City Manager, or his/her designee empowered to prosecute violations and represent complainants under this Chapter or to otherwise act as would the Corporation Counsel.~~

~~(F) Nothing in this Chapter shall be construed to prohibit any person from referring a prospective tenant or purchaser to the Human Relations Commission for advice and information. Said advice or information may consist of but is not limited to furnishing:~~

~~1. Information regarding the policy of the City to promote equal opportunity in housing.~~

~~2. Information on local, State and Federal equal opportunity programs and regulations.~~

#### **5-5-12: PROCEEDINGS BEFORE COMMISSION:**

~~(A) Proceedings under this Chapter shall be commenced by the filing with the Commission of a complaint, under oath or affirmation, within one year of the~~

~~alleged violation. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place and facts surrounding the alleged violation. A complaint may be amended by right until an answer is filed, thereafter by leave of the Commission. The complaint may be filed by an aggrieved party or the Administrator.~~

~~(B) After the complaint is filed, the Administrator shall, within ten (10) working days, serve a copy of the complaint personally or by certified mail on the respondent.~~

~~1. Complainant shall be notified of the filing of the complaint.~~

~~2. Each respondent may file a response within ten (10) working days of receipt of the complaint with the Administrator.~~

~~(C) If the Administrator determines that the allegations as stated in the complaint, if true, would constitute a violation of this Chapter, he/she shall investigate the complaint. The Administrator shall conclude his/her investigation within one hundred (100) days of the filing of the complaint. If the Administrator is unable to conclude his/her investigation of the complaint within the one hundred (100) days he/she shall notify the chairman and the parties of the need to continue the investigation. Such notice shall not reveal any facts related to that investigation. Upon such notice the period for completion of the investigation shall be extended by the Commission chairman an additional thirty (30) days.~~

~~1. Conciliation: The Administrator shall, to the extent feasible, engage in conciliation with respect to such complaint immediately after the filing of the complaint. Conciliation shall cease upon the issuance of a charge of discrimination or the dismissal of the complaint by the Administrator.~~

~~2. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Administrator.~~

~~3. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Administrator determines that disclosure is not required to further the purposes of this Chapter.~~

~~4. Prohibitions and Requirements With Respect to Disclosure of Conciliation Conference Proceedings: Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this Chapter without the written consent of the person(s) concerned.~~

~~(D) If the Administrator finds in his investigation that the allegations appear to be supported by the facts found by him/her, he/she shall issue a charge of discrimination which shall be served on the complainant, respondent and the Commission chairman.~~

- ~~(E) Upon the issuance of a charge of discrimination, the Commission, not later than thirty five (35) days after the issuance of the charge of discrimination, shall set a date for a hearing on the charge. The respondent shall file, within ten (10) days of such charge, its written response. The hearing shall commence within sixty (60) days of the issuance of the charge of discrimination. No hearing shall be scheduled if any party elects to have the claims asserted in the charge decided by a civil action under Section 5-5-13 of this Chapter in lieu of a hearing before the Commission; the election must be made not later than twenty (20) days after receipt of the charge by the electing person.~~
- ~~(F) If the Administrator determines that a complaint is without merit, he/she shall dismiss the complaint. The Administrator shall, within five (5) days of such determination, serve a copy of the notice of dismissal, and reasons therefor, personally or by certified mail on all parties and the Commission. The complainant may, within fourteen (14) days of the receipt of notice of dismissal, petition in writing the Commission and request a hearing on the complaint. The Commission, by majority vote(s), may withdraw the dismissal and refer the complaint to the Administrator to issue a charge of discrimination and to schedule a hearing as necessary.~~
- ~~(G) If, in the judgment of the Administrator after consultation with the Commission, immediate court action is necessary, he/she may at any time direct the Corporation Counsel or outside counsel to file a complaint in any court of competent jurisdiction for a fine, injunction, or other appropriate relief. Such action may be taken at any time after a complaint has been filed with the Commission.~~
- ~~(H) Hearings by the Commission shall be conducted by any three (3) or more members thereof, but at least three (3) of whom shall thereafter attend all hearings on the charge of discrimination. At the conclusion of the hearings, a written report with findings of fact and a recommended decision shall be prepared for submission to the entire Commission. No report shall be delayed more than sixty (60) days after the date of the first hearing unless by agreement of the parties upon good cause shown. A majority of the hearing members must concur in the findings and recommendation. All members of the hearing panel may vote on the finding and recommendations. The findings of fact and recommended decision shall in all cases be advisory to the Human Relations Commission. The Commission may review the complete record including, but not limited to, the transcripts, exhibits, briefs, the recommended findings and decision and then make a final decision on the charge of discrimination. However, to reach a decision, a majority of the Commission then in office must concur. The Commission shall reach its decision within three hundred (300) days of the filing of the complaint. Nothing shall preclude a complainant from withdrawing a complaint at any time after the filing.~~
- ~~(I) All parties shall have the right to counsel. After a charge is issued, the complainants shall be appointed legal representation at the expense of the~~

~~Commission, from a list approved by the Corporation Counsel and with the approval of the City Manager, (or the Corporation Counsel shall be appointed) and will be empowered to prosecute violations and represent complainants under this Chapter or to otherwise act as would the Corporation Counsel. All rules of procedure and regulations adopted by the Commission shall preserve the right of due process under the Illinois and United States Constitutions. The burden of proof shall be on the complainant. A determination sustaining the charge of discrimination shall be by a preponderance of the evidence.~~

~~(J) The Commission shall be empowered at the conclusion of such proceedings, and as part of its final order, to direct that any person who shall have been found, as a result of such proceedings, to have violated this Chapter, to forthwith take any one or more of the following actions:~~

- ~~1. Comply with this Chapter in respect to each violation found.~~
- ~~2. Perform any contract or agreement previously made with or offered by or to the complainant for sale, lease, exchange, transfer, conveyance or assignment of the particular real property with respect to which a violation shall have been found.~~
- ~~3. Reimburse the complainant for his actual and reasonable out-of-pocket expenses and costs necessarily incurred and to be incurred as a direct result of each violation found, the amount of which shall be specified by the Commission in its report and may include, but need not be limited to, reimbursement for expenses and costs for temporary living, moving and storage of household furnishings, additional expenditures relating to the lease or rental of real property necessarily obtained to provide alternative housing accommodations, additional expenditures resulting from failure or refusal to sublease or assign leased real property, and reasonable attorney's fees and disbursements.~~
- ~~4. Award compensatory damages to the complainant and against the respondent. Compensatory damages may include damages caused by humiliation and embarrassment.~~
- ~~5. Pay a penal sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation found. Every day a violation continues may be deemed a separate offense by appropriate finding.~~
- ~~6. Such order may, to vindicate the public interest, assess a civil penalty against the respondent (in favor of the City of Evanston):
  - ~~a. In an amount not to exceed ten thousand dollars (\$10,000.00) if the respondent has not been adjudged to have committed any prior discriminatory housing practice;~~~~

- ~~b. In an amount not to exceed twenty five thousand dollars (\$25,000.00) if the respondent has been adjudged to have committed one other discriminatory housing practice during the five (5) year period ending on the date of the filing of such charge; and~~
- ~~c. In an amount not to exceed fifty thousand dollars (\$50,000.00) if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of such charge.~~
- ~~7. Comply with such other and further relief as may be deemed appropriate by the Commission for the enforcement of this Chapter and the elimination of violations thereof.~~
- ~~(K) The Commission may, by written order served upon the respondent at any time pending final order, order that the particular real property, with respect to which a violation of this Chapter has been filed, shall not be sold, leased, exchanged, transferred, conveyed or assigned to any person other than the complainant.~~
- ~~(L) Any complainant or respondent may apply for and obtain judicial review of a final order of the Commission entered under this Chapter in accordance with the provisions of the Illinois Administrative Review Act.~~
- ~~(M) The Commission may direct the Corporation Counsel to file with the Department of Professional Regulation of the State or any other regulatory or advisory agency a complaint against any real estate broker found guilty of violating any provision of this Chapter.~~
- ~~(N) The Commission may direct the Corporation Counsel to commence action in any court of competent jurisdiction to recover the penalty provided therein, to seek such equitable relief as the Commission may deem proper or to enforce any order of the Commission.~~
- ~~(O) If a respondent has been found guilty of a violation of this Chapter, in accordance with the procedures specified herein, the determination of the nature and extent of the penalty shall be vested in a majority of the entire Commission then holding office. Nothing shall preclude the parties from consenting with approval of the Commission to extension of any time period hereinafter set.~~

**5-5-13: - ELECTION OF JUDICIAL DETERMINATION:**

- ~~(A) When a charge is issued under Subsection 5-5-12(D) of this Chapter, the complainant, respondent, the Commission or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action, under Subsection (B) of this Section, in lieu of a hearing under Subsection 5-5-12(H) of this Chapter. The election must be made not later than twenty (20) days after the receipt by the electing person of the charge issued under Subsection 5-5-12(D) of this Chapter or, in the case of the~~



~~Administrator, not later than twenty (20) days after such service. The person making such election shall give notice of same to the Administrator and to all other complainants and respondents to whom the charge relates.~~

~~(B) Civil Action for Enforcement When Election is Made for Such Civil Action:~~

- ~~1. If an election is made under Subsection (A) of this Section, the Commission shall authorize, and not later than thirty (30) days after the election is made the Corporate Counsel or his designee as specified in Subsection 5-5-12(l) of this Chapter shall commence and maintain a civil action on behalf of the aggrieved person in a court of competent jurisdiction seeking relief under this subsection, at the expense of the Commission.~~
- ~~2. Any aggrieved person, with respect to the issues to be determined in a civil action under this Subsection, may intervene as of right in that civil action.~~
- ~~3. In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Section 5-5-14 of this Chapter. Any relief, so granted, that would accrue to an aggrieved person under Section 5-5-14 of this Chapter shall also accrue to that aggrieved person in civil action under this Subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.~~
- ~~4. In a civil action under this Section, the court may, to vindicate the public interest, assess a civil penalty against the respondent (in favor of the City of Evanston) in an amount that does not exceed any of the following:
  - ~~a. Fifty thousand dollars (\$50,000.00) for a first violation;~~
  - ~~b. One hundred thousand dollars (\$100,000.00) for any subsequent violation.~~~~

**5-5-14 11: PRIVATE REMEDIES:**

Any person aggrieved in any manner by the violation of this Chapter, may commence a civil action in any court of competent jurisdiction ~~not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this Chapter, whichever occurs last,~~ to obtain appropriate relief with respect to such discriminatory housing practice or breach. If the court finds that a discriminatory housing practice has occurred, the court may grant the following relief:

- (A) An order compelling compliance with this Chapter.
- (B) An order to prohibit any person found by the court to have violated any provision of this Chapter from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this Chapter refuses or fails to perform such contract.
- (C) Compensatory damages and punitive damages, including damages caused by humiliation and embarrassment.
- (D) Such other and further relief as may seem appropriate to the court for the enforcement of this Chapter and the elimination of violations thereof.
- (E) In a civil action under this Chapter, the court may allow the prevailing party a reasonable attorney's fee and costs.

These remedies shall be available notwithstanding the imposition of other penalties provided by this Chapter.

**5-5-15 12: PENALTY:**

Any person violating the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

**5-5-16: GENDER:**

~~The masculine gender, whenever used in this Chapter, includes the female gender unless manifestly inconsistent with the context.~~

**CHAPTER 6 - EVANSTON HOUSING COMMISSION**

**5-6-1: RATIONALE:**

It is hereby found and declared by the City Council that in order to protect and promote the public health, safety, and welfare of the citizens, it is necessary to provide for the planning, expansion, maintenance, conservation and rehabilitation of Evanston's housing stock and to be responsive to needs for change in housing related matters to the end of maintaining a diverse residential environment and to conserve property values within the community. It is further found that to achieve these goals, there should be an Advisory Commission so that citizens and housing groups can bring housing related concerns before a single group knowledgeable in the housing interests of the citizens of Evanston.

**5-6-2: ESTABLISHMENT OF BOARD:**

There is hereby created the Evanston Housing Commission ("Commission"), said

Commission to consist of ten (10) members appointed by the Mayor with the advice and consent of the City Council. In making such appointments, the Mayor shall consider knowledge and familiarity with local housing needs and problems, the different housing populations in Evanston, practical experience in Evanston and elsewhere in the area of housing, and practical experience in dealing with the sources of assistance for housing related matters. At least one (1) member of the Commission shall reside in a rental unit in Evanston. At least one (1) member of the Commission shall be a landlord who owns at least one (1) multifamily building in Evanston and resides in Evanston. One (1) member of the Commission shall be an Alderman. For purposes of this Section, "landlord" shall be defined as set forth in Subsection 5-3-2(A) of this Title, as it may be amended. Members of the Commission shall be residents of the City and may serve for not more than two (2) full terms.

### **5-6-3: - ORGANIZATION:**

The Commission shall select from its membership a Chairman and Vice Chairman on an annual basis. Such selection shall occur at the first meeting of the calendar year. Persons so selected shall serve for terms of one (1) year and may be reelected. The Commission shall adopt rules for the conduct of its meetings and keep written minutes. All meetings, minutes and other procedures shall be open to the public as required by the State. The Commission shall meet at the call of the Chairman and at such other times as may be provided by its rules. Five (5) members shall constitute a quorum. No meetings shall be conducted and no actions shall be taken without a quorum present, except as provided in Section ~~5-6-4~~ of this Chapter. The Commission shall have the right to establish Subcommittees and provide for their operation. The members of the Commission shall serve without compensation.

### **5-6-4: SUBCOMMITTEES:**

The Commission may establish such Subcommittees as are necessary for the effective operation, to meet in accordance with the adopted rules and regulations.

### **5-6-5: POWERS AND DUTIES:**

In carrying out its responsibilities and in meeting the purposes of this Chapter, the Commission shall set the following priorities: Rehabilitation and property maintenance, rental housing issues, codes related to housing and the inspection programs and policies, people problems related to natural and legislated housing changes.

The Commission shall have the following specific powers and duties:

- (A)** To be concerned with all housing related matters in the City.
- (B)** To monitor and recommend coordination of existing City programs and services concerning housing, to recommend changes in these programs and to recommend new programs, as appropriate.
- (C)** To comment through the Planning and Development Committee on housing

related matters before the City Council.

- (D) To act as the City's liaison to County, State and Federal housing programs.
- (E) To act as a resource to other communities or agencies in housing matters.
- (F) To review all pertinent private and public data with housing implications, and to work with the Plan Commission on an assessment of Evanston's present needs and future plans in the housing area, particularly as it relates to type and cost.
- (G) To receive citizen input on housing comments, complaints and suggestions.
- (H) To make appropriate recommendations to advance the housing policies of the City.
- (I) To receive periodically information on City services in housing and to make recommendations or suggestions for changes in direction.
- (J) To comment on all housing related expenditures of Community & Economic Development funds, revenue sharing funds and all other special and general funds relating to housing.
- (K) To act as the official rehabilitation agency for the City. As rehabilitation agency, the Commission shall provide the overall coordination and direction to the rehabilitation administrative staff in the performance of the accomplishment of this Chapter, as specifically set forth in Section ~~5-6-6~~ of this Chapter.

#### **5-6-6: REHABILITATION AUTHORITY/STAFF DELEGATION:**

Under the general guidance of and by delegation of the Housing Commission, the following rehabilitation activities shall be carried out by City staff:

- (A) Provision of assistance to qualified homeowners to obtain the means to maintain and improve their residences, including technical assistance to obtain private or Federal financing and, in cases of extreme financial difficulties, assistance in securing direct financial aid through interest subsidies, deferral of payments, and otherwise.
- (B) Provision of assistance to owners and managers of multifamily dwellings to obtain the means to conserve and maintain those dwellings without significantly increasing the rent, including the provision of technical assistance in financing, refinancing, management and maintenance.
- (C) Locating of funds and other housing program aids, and identifying sources of financial assistance, whether private or governmental, toward the goals of maintaining the supply of housing for low and moderate-income families and individuals.

- (D) Negotiation with all private and public sources, for the establishment and implementation of assistance programs consistent with this Chapter and adopted City policies.
- (E) Negotiation of agreements for purchasing, conserving and rehabilitating dwellings; provided, however, that any agreement which requires the expenditure of funds by or creates a present or contingent financial obligation of the City must be approved by the City Council.

In implementing the purposes of this Section, the Housing Commission shall provide policy direction, set guidelines, rules and regulations and the staff shall be responsible for implementation.

**5-6-7: STAFF:**

The Commission shall, on a regular basis, advise the City Manager of its needs for staff assistance, and it shall be the responsibility of the City Manager to provide such assistance to the Commission in accordance with budget approval.

**5-6-8: PERIODIC REVIEW OF ACCOMPLISHMENTS:**

The Commission shall prepare an action report and present said report to the City Council through the Planning and Development Committee at the time of the triennial review. These action reports shall contain:

- (A) Accomplishments of the Commission;
- (B) Future goals of the Commission including any change in functions or goals of the Commission;
- (C) Proposed programs of the Commission for the following twelve-month period;
- (D) Staff needs.

**5-6-9: POWERS OF CITY COUNCIL:**

Upon receipt of written housing recommendations from the Commission or the staff, the City Council may:

- (A) Guarantee up to twenty-five percent (25%) of a loan made to a property owner upon such terms, conditions and security, as the City Council may require.
- (B) Receive money, credits and other valuable consideration from whatever source, private or governmental.
- (C) Enter into financial and technical resource pooling arrangements, deposit and interest subsidy agreements, and other cooperative arrangements with financial institutions.

- (D) Purchase residential buildings for rehabilitation.
- (E) Enter into contract purchases.
- (F) Sell acquired properties upon rehabilitation.
- (G) Borrow and lend money secured by mortgages.
- (H) Participate in public and private rent supplement programs designed to assist low and moderate income families.
- (I) Initiate eminent domain proceedings upon termination of good faith negotiations to acquire by purchase.
- (J) Issue junior debt obligations for the purpose of conserving and rehabilitating properties.
- (K) Seek tax assessment classifications for housing rehabilitation consistent with the purposes of this chapter.
- (L) Exercise such other power and take such other actions as may be needed to effectuate the purposes of this chapter.

**5-6-10: REHABILITATION AIDS STANDARDS:**

For purposes of recommendations that financial assistance, whether by grant or loan, be made to any applicant, staff shall make the following specific findings in its report to the planning and development committee:

- (A) That the property is in need of maintenance, conservation or rehabilitation, or is dilapidated as defined in the United States census of housing, current edition, or is in danger of demolition or abandonment.
- (B) That the applicant is in need of financial or technical assistance to conserve the property.
- (C) That the project substantially conforms to City and neighborhood planning goals and helps stimulate further property improvements.

**CHAPTER 7 - INCLUSIONARY HOUSING**

**5-7-1: TITLE:**

This Chapter shall be titled and referred to as the *INCLUSIONARY HOUSING ORDINANCE*.

**5-7-2: PURPOSE AND INTENT:**

The purpose of this Chapter is to promote the public health, safety, and welfare of the

residents of Evanston by requiring residential developments or developments which contain a residential component to include a certain percentage of dwelling units in a proposed development to be priced affordably for low and moderate income households or to make a payment in accord with the terms of this Chapter. Based upon the review and consideration of reports and analyses of the housing situation in the City, it is apparent that the diversity of the City's housing stock has declined as a result of increasing property values and housing costs, and a reduction in the availability of affordable housing; and that, with the exception of housing subsidized by the City, the privately developed new residential housing that is being built in the City generally is not affordable to low and moderate income households. The city recognizes the need to provide affordable owner occupied housing to low and moderate income households in order to maintain a diverse population, and to provide owner occupied housing for those who live or work in the City. Without intervention, the trend toward increasing housing prices will result in an inadequate supply of owner occupied affordable housing for City residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force, and will otherwise be detrimental to the public health, safety, and welfare of the City and its residents. Since the remaining land appropriate for new residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into owner occupied dwelling units affordable to low and moderate income households and working families.

**5-7-3: DEFINITIONS:**

For the purposes of administering this Chapter, these definitions shall apply:

AFFORDABILITY PERIOD:	The time during which the affordability restrictions imposed by this Chapter shall apply. Affordable dwelling units covered by this Chapter shall remain affordable in perpetuity or as long as allowable by law. The affordability period begins at the time of first occupancy of the affected unit.
AFFORDABLE DWELLING UNIT:	Any unit of owner occupied housing, as defined herein, built to satisfy the requirements of this Chapter.
AFFORDABLE HOUSING AGREEMENT:	The document signed by the purchaser of an affordable dwelling unit at the time of sale, along with such other legal documents as may be required, detailing the affordability requirements of the affordable dwelling unit.
AFFORDABLE HOUSING, OWNER OCCUPIED:	Decent, safe, sanitary housing that is: a) affordable to "relevant households" as defined herein; and b) to be sold only to "qualified households" as defined herein. The cost of the mortgage payment and relevant expenses (a calculation of property taxes, homeowner's insurance, and, when applicable, condominium or homeowner association fees) of owner occupied dwelling units shall not exceed thirty three percent (33%) of the relevant household's gross annual household income (the total income of all adults over 18 years of age in the household).
APPLICANT:	Any developer who applies to the Department to receive approval of a covered development pursuant to this Chapter.
AREA MEDIAN INCOME (AMI):	The median income level for the Chicago primary metropolitan statistical area, as established and defined in the annual schedule published by the Secretary of the United States Department of Housing and Urban Development and adjusted for household size.
CERTIFICATE OF QUALIFICATION:	A certificate issued by the Department establishing a qualified household's eligibility to purchase an affordable dwelling unit. Certificates of qualification

		shall be valid for twelve (12) months.
COMMUNITY TRUST:	LAND	A private, not for profit corporation which the City may create or authorize organized exclusively for charitable, cultural, or other purposes to acquire and own land for the benefit of the City, including the creation and preservation of affordable housing.
CONSUMER PRICE INDEX:		Consumer price index for all urban consumers as published annually by the United States Department of labor, bureau of labor statistics.
COVERED DEVELOPMENT:		A development containing twenty five (25) or more owner occupied dwelling units, subject to the planned development requirements of Title 6, Chapter 3 of this Code, on contiguous land under common ownership or control by an applicant at one location within the City, when such dwelling units are to be sold to owner-occupants. The term "covered development" includes, without limitation, the following: (A) A development that is new residential construction or new mixed use construction with a residential component. (B) A development that is the renovation or reconstruction of an existing multiple-family residential structure that increases the number of residential units from the number of units in the original structure. (C) A development that will change the use of an existing building from nonresidential to residential. (D) A development built in phases.
DEPARTMENT:		The Evanston Community & Economic Development Department or any successor agency, unless otherwise indicated.
DEVELOPER:		Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops dwelling units, but does not include any governmental entity.
DIRECTOR:		The Director of the Evanston Community & Economic Development Department or his/her designee.
HOUSING PROVIDER:		A nonprofit entity designated by the City to own affordable dwelling units.
INCLUSIONARY HOUSING PLAN:		The plan submitted as part of a planned development application which details the development's compliance with the affordable housing requirements of this Chapter.
LOW INCOME HOUSEHOLD:		A household with a total income equal to or below eighty percent (80%) of the AMI.
MARKET RATE DWELLING UNITS:		All owner occupied dwelling units in a covered development that are not affordable dwelling units as defined herein.
MODERATE INCOME HOUSEHOLD:		A household with a total income between eighty percent (80%) and one hundred percent (100%) of the AMI.
QUALIFIED HOUSEHOLD:		A household that the Department has verified meets the definition of a "relevant household" as defined herein and has received a certificate of qualification from the Department per Section 5-7-6 of this Chapter.
RELEVANT HOUSEHOLD:		A household whose total income does not exceed one hundred percent (100%) of the AMI.

#### **5-7-4: REQUIREMENTS:**

- (A)** General Requirement: Ten percent (10%) of the total number of owner occupied dwelling units in a covered development shall be affordable dwelling units.
- (B)** Calculation: To calculate the number of affordable dwelling units required in a covered development, the total number of proposed owner occupied dwelling units shall be multiplied by ten percent (10%), with all fractions rounded up to the nearest whole number.



#### **5-7-5: COMPLIANCE PROCEDURES:**

- (A)** Application: The applicant for approval of a covered development shall file an application for approval of the affordable dwelling unit component of a planned development on a form provided by the Department and submit it with the application for approval of the planned development. The application for planned development shall not be considered complete without the information required by this Chapter for the affordable dwelling unit component. The application shall require, and the applicant shall provide, among other things, general information about the nature and scope of the covered development, as well as other documents and information as this Chapter and the Department may require. The application shall include the inclusionary housing plan referred to under Subsection (B) of this Section.
- (B)** Inclusionary Housing Plan: The applicant shall submit an inclusionary housing plan that outlines and specifies the covered development's compliance with each of the applicable requirements of this Chapter. The inclusionary housing plan shall specifically contain, as a minimum, the following information regarding the covered development:
1. A general description of the covered development.
  2. The total number of market rate dwelling units and affordable dwelling units in the covered development.
  3. The number of bedrooms in each market rate dwelling unit and each affordable dwelling unit.
  4. The square footage of each market rate dwelling unit and each affordable dwelling unit.
  5. The general location of each affordable dwelling unit within the covered development.
  6. The pricing schedule for each affordable dwelling unit and each market rate dwelling unit.
  7. The phasing and construction schedule for each market rate dwelling unit and each affordable dwelling unit.
  8. Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the covered development and each of its dwelling units.
  9. A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale of the affordable dwelling units within the covered development.

10. Any proposal to make a cash payment, per Section ~~5-7-8~~ of this Chapter, or alternative equivalent action, per Section ~~5-7-9~~ of this Chapter, in lieu of providing affordable dwelling units.

**5-7-6: ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS:**

- (A) Certificate Of Qualification: The Department shall issue a certificate of qualification to any household the Department has verified meets the definition of "relevant household" as defined in this Chapter.
- (B) Eligibility: The affordable dwelling units shall be sold only to owner-occupant qualified households whose primary residence shall be said affordable dwelling units and whose household income does not exceed one hundred percent (100%) of the AMI. At least twenty five percent (25%) of the affordable dwelling units shall be sold to qualified households whose income is eighty percent (80%) of the AMI or less.
- (C) Preference: Priority for affordable dwelling units will be given first to qualified households who currently live in Evanston, or who have lived in Evanston with a member of a household currently living in Evanston, and to households in which the head of the household or the spouse or domestic partner works in Evanston.

**5-7-7: DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS:**

- (A) Location of Affordable Dwelling Units: Affordable dwelling units shall be dispersed among the market rate dwelling units throughout the covered development.
- (B) Phasing of Construction: In a multiphased development, all phases shall include a proportion of affordable dwelling units throughout the covered development. The affordable dwelling units shall never be the last units to be built in any covered development.
- (C) Exterior Appearance: The exterior appearance of the affordable dwelling units in any covered development shall be visually compatible with the market rate dwelling units in the covered development. External building materials and finishes shall be substantially the same in type and quality for affordable dwelling units as for market rate dwelling units.
- (D) Interior Appearance and Finishes: Affordable dwelling units shall have the same interior appearance and finishes as basic market rate dwelling units and the bedroom mix of affordable dwelling units shall be in equal proportion to the bedroom mix of the market rate dwelling units. If the bedroom mix creates more options than the number of affordable dwelling units to be built, the affordable dwelling units shall be built with the greater number of bedrooms; e.g., if the bedroom mix provides for four (4) options: efficiency, one bedroom, two (2)

bedroom, or three (3) bedroom; but only three (3) affordable dwelling units are to be built, then a one bedroom, a two (2) bedroom, and a three (3) bedroom unit shall be built.

- (E) Unit Size: Affordable dwelling units shall have substantially the same square footage as market rate dwelling units with a comparable number of bedrooms.
- (F) Energy Efficiency: Standard components related to energy efficiency, including, but not limited to, mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, shall be the same in market rate dwelling units and affordable dwelling units.

**5-7-8: CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS:**

As of right, an applicant may pay a fee in lieu of building each affordable dwelling unit required by Section ~~5-7-4~~ of this Chapter for the covered development.

- (A) The fee in lieu per affordable dwelling unit shall be determined and approved by the City Council. The fee in lieu amount per affordable dwelling unit shall be forty thousand dollars (\$40,000.00) ~~from March 17, 2007 through April 1, 2008. Thereafter, The fee in lieu is subject to review and revision by the City Council at least annually by April 1.~~
- (B) All cash payments received pursuant to this Chapter shall be deposited directly into the affordable housing fund.
- (C) Unless otherwise preempted by law, any fee in lieu shall be paid prior to the issuance of a temporary certificate of occupancy for any dwelling unit in the covered development.

**5-7-9: ALTERNATIVE EQUIVALENT PROPOSAL:**

An applicant may propose to meet the requirements of Section 5-7-4 of this Chapter by an alternative equivalent action, subject to the review and approval by the planning and development committee. A proposal for an alternative equivalent action may include, but is not limited to, dedication of vacant land, the construction of affordable dwelling units on another site, or acquisition and enforcement of sales price restrictions on existing market rate dwelling units so as to render them affordable dwelling units. Any proposal shall show how the alternative proposed will increase affordable housing opportunities in the City to an equal or greater extent than compliance with the express requirements of this Chapter. Such proposals for alternatives shall be considered on a case by case basis by the planning and development committee and may be approved at the committee's sole discretion, if the committee determines that such alternative will increase affordable housing opportunities in the City to an equal or greater extent than compliance with the express requirements of this Chapter.

**5-7-10: REDUCTION OR WAIVER OF REQUIREMENTS:**

- (A) Reduction: If the applicant presents clear and convincing financial evidence to the planning and development committee that full compliance with Section 5-7-4 of this Chapter, payment in lieu as per Section ~~5-7-8~~ of this Chapter, or alternative equivalent action as per Section ~~5-7-9~~ of this Chapter, or any combination thereof would render the development financially infeasible, the applicant may seek a reduction in the required number of affordable dwelling units and/or payment in lieu as to render the project financially feasible. If such a reduction is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of full compliance with the requirements of this Chapter.
- (B) Waiver: If the applicant presents clear and convincing financial evidence to the planning and development committee that any compliance with Section ~~5-7-4~~ of this Chapter, payment in lieu as per Section ~~5-7-8~~ of this Chapter, or alternative equivalent action as per Section ~~5-7-9~~ of this Chapter, or any combination thereof would render the development financially infeasible, the applicant may seek a waiver of the required affordable dwelling units and/or payment in lieu as to render the project financially feasible. If such a waiver is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of any compliance with the requirements of this Chapter.

#### **5-7-11: AFFORDABILITY CONTROLS:**

- (A) Initial Sale Prices For Affordable Owner Occupied Dwelling Units:
1. Every affordable owner occupied dwelling unit required to be established under this Chapter shall be offered for sale to a good faith purchaser to be used for his or her own primary residence.
  2. The Director shall publish a pricing schedule of sales prices for affordable dwelling units in accordance with the provisions of Subsections (A)5 and (A)6 of this Section. The Director shall update the pricing schedule at least annually by December 1.
  3. At least twenty five percent (25%) of the affordable dwelling units shall be priced so as to be affordable to households earning seventy percent (70%) of AMI or less; however, households earning up to eighty percent (80%) of AMI shall be eligible to purchase such unit.

4. In calculating the sales prices of affordable dwelling units, the following relationship between unit size and household size shall be used to determine the income figure at which affordable housing payments are calculated:

<u>Unit Size</u>	<u>Income Level For Household Size</u>
Efficiency	1 person
1 bedroom	2 person
2 bedroom	3 person
3 bedroom	4 person
4 bedroom and larger	5 person

5. Prices for a minimum of twenty five percent (25%) of the units shall be calculated on the basis of:
- a. Housing payments at or below thirty three percent (33%) of the household income for a household at seventy percent (70%) of AMI at the household size corresponding to the size of the unit;
  - b. An available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac;
  - c. A down payment of no more than five percent (5%) of the purchase price;
  - d. A calculation of property taxes;
  - e. A calculation of homeowner's insurance; and
  - f. A calculation of condominium or homeowner association fees.
6. Prices for up to seventy five percent (75%) of the units shall be calculated on the basis of:
- a. Housing payments at or below thirty three percent (33%) of the household income for a household at ninety percent (90%) of AMI adjusted for household size;
  - b. An available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac;
  - c. A down payment of no more than five percent (5%) of the purchase

price;

- d. A calculation of property taxes;
- e. A calculation of homeowner's insurance; and
- f. A calculation of condominium or homeowner association fees.

**(B) Procedure for Initial Sale to the General Public:**

1. Sixty (60) days prior to offering any affordable dwelling unit for sale, the applicant shall notify the Department in writing of such offering. The notice shall set forth the number, size, price, and location of affordable dwelling units offered, and shall provide a description of each dwelling unit's finishes and availability. The notice shall also include a copy of the inclusionary housing plan, and any such additional information the Director may reasonably require to establish compliance with this Chapter.
2. Within ten (10) days after receipt of the notification from the applicant, the Director shall publish the contents of the notice on the City's website and in a prominently located posting at the Evanston Civic Center. Within that same ten (10) days of receiving such notice, the Director shall also make such notice available, via mail, facsimile, or electronic mail, to all housing providers who have expressed interest in receiving such notices.
3. The prospective purchaser shall make application for a "certificate of qualification" on a form provided by the Department and available on the City's website. If the Director determines an applicant is qualified pursuant to the requirements of this Chapter to purchase an affordable dwelling unit, he/she shall issue a "certificate of qualification" to that applicant. An applicant must provide documents to verify that he/she satisfies these requirements, including an affidavit that the affordable dwelling unit will be his/her primary residence and evidence of income, household size, and residency or employment in Evanston. The Director shall determine whether or not the prospective purchaser satisfies the requirements of this chapter within six (6) days after receiving the completed application.
4. An applicant shall not sell any affordable dwelling unit without first obtaining a valid certificate of qualification from the prospective purchaser.

**(C) Agreement to Ensure Compliance During the Affordability Period:** Prior to issuance of a building permit for any covered development or conveyance of title of any dwelling unit in any covered development, the applicant shall have entered into an agreement with the City regarding the specific requirements and restrictions imposed by the City Council upon the approved planned development. The applicant shall agree to execute any and all documents deemed necessary by the City, including, without limitation, deed restrictions, restrictive covenants, and other related instruments, to ensure the continued

affordability of the affordable dwelling units in accordance with this Chapter. The agreement shall set forth the commitments and obligations of the City and the applicant, and shall incorporate, among other documents, the inclusionary housing plan. If applicable, the agreement shall also detail the fee in lieu or alternative equivalent action of providing on site affordable dwelling units as set forth in Sections ~~5-7-8~~ and ~~5-7-9~~ of this Chapter respectively. The agreement may be modified by mutual consent of the applicant and the Director, provided that the agreement as modified remains in conformity with this Chapter, the ordinance approving the planned development, and the zoning ordinance.

**(D)** Control of Resale Prices: The maximum sales price, with the exception of foreclosure sales, permitted on resale of an affordable dwelling unit shall be based on the following formula:

1. The original purchase price plus:
  - a. An inflation adjustment of the original purchase price calculated in accordance with the CPI, using the year of the prior sale as the base year;
  - b. Allowances for closing costs and sales commissions paid by the seller; and
  - c. The fair market value of approved improvements made to the unit between the date of original sale and the date of resale, up to an average of five thousand dollars (\$5,000.00) per year. "Approved improvements" are capital improvements which add value to the home, prolong its useful life or adapt it to new uses. Repairs to maintain the home in good condition are not allowable capital improvements. A list of general allowable capital improvements shall be included in the affordability documents signed by the purchaser.

**(E)** First Sale After Affordability Period Ends:

1. This Subsection (E) shall apply in the event an affordability period in perpetuity is unlawful or becomes unlawful. Upon the first sale of an affordable dwelling unit after the affordability period ends, the seller shall pay to the City out of the sale proceeds a percentage of the difference between the actual sales price and the current affordable resale price as determined pursuant to Subsection (D) of this Section. Such sums shall be deposited into the affordable housing fund. The percentage is based upon the number of years the seller owned and occupied the unit, as follows:

<u>Years Of Ownership</u>	Share To Affordable <u>Housing Fund</u>
---------------------------	--

11 to 15 years	50 percent
6 to 10 years	60 percent
1 to 5 years	70 percent

2. The Director shall determine whether the price and terms of a resale covered by the preceding paragraph meet the requirements of this Chapter. Upon a finding of compliance, the Director shall terminate the affordable housing controls and execute a recordable release of all applicable mortgages and restrictions.
3. If an affordable dwelling unit is sold through a foreclosure or other court ordered sale, the affordable restrictions are extinguished, but any remaining net profit shall be returned to the Department and deposited into the affordable housing fund.

**5-7-12: COMMUNITY LAND TRUST:**

The City may create or authorize a community land trust to effectuate the purposes of this Chapter.

**5-7-13: INCENTIVES FOR APPLICANTS:**

For any covered development project that complies with the requirements of this Chapter, the City shall follow the procedures described below and provide the described incentives:

- (A) Expedited Application Process: All applications shall be processed by all City Departments before other residential land use applications regardless of the original submittal date.
- (B) Fee Deferral: All City required fees related to the covered development shall be deferred for payment until the issuance of the temporary certificate of occupancy.
- (C) Fee Waiver: All City required fees that are specifically related to affordable dwelling units built on the site of the covered development shall be waived.

**5-7-14: ENFORCEMENT:**

- (A) The provisions of this Chapter shall apply to all agents, successors and assignees of an applicant.
- (B) The City may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this Chapter. In addition, any person, firm, or entity, whether as principal, agent, employee or otherwise, 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



two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each offense. Each day such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense.

**5-7-15: ADMINISTRATION:**

In order to ensure compliance with the provisions of this Chapter, the City may utilize a maximum of fifteen percent (15%) each year of funds from the affordable housing fund for administration.

**5-7-16: SEVERABILITY:**

The provisions and sections of this Chapter shall be deemed separable, and the invalidity of any portion of this Chapter shall not affect the validity of the remainder.

**CHAPTER 8 - REGISTRATION OF RENTAL RESIDENTIAL BUILDINGS**

**5-8-1: PURPOSE:**

The purpose of this Chapter is to promote the public health, safety, and welfare by requiring the registration of all buildings within the City of Evanston that contain rental dwelling units to promote more comprehensive inspections thereof, and more efficient notice of such inspections to the owners thereof.

**5-8-2: DEFINITIONS:**

For the purpose of this Chapter, unless the context requires otherwise, the following terms shall have the following meanings:

- BUILDING: A structure, or part thereof, enclosing space designed or used for dwelling units offered for rent.
- DEPARTMENT: The City of Evanston Community & Economic Development Department.
- DIRECTOR: The Director of Community & Economic Development or his/her designee.
- DWELLING UNIT: A single unit of one or more contiguous rooms containing individual cooking, sleeping, and sanitary facilities for one or more persons.
- OWNER: Any person, agent, operator, firm or corporation having a legal or equitable interest in real property; or recorded in the official records of the state, county, or municipality as holding the title to the real property; or otherwise having control of the real property, including the guardian of any such person, or the executor or administrator of the estate of any such person. Throughout this Chapter, the singular shall include the plural.

**5-8-3: REGISTRATION REQUIRED:**

- (A) The owner of any building shall file a registration statement for each such building with the Department on forms provided by the Department for such purposes; provided, however, that the registration of a vacant building pursuant to Title 4, Chapter ~~20~~ 16 of this Code shall satisfy the registration requirement of this Chapter. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement

proceeding or court proceeding instituted by the City against the owner of the building. For purposes of this Chapter, a post office box does not suffice as a street address. The registration statement shall include the following information:

1. The name, street address, telephone number, and e-mail address of each owner of the building. If the owner is a partnership, corporation, or voluntary unincorporated association, the statement shall further include the name, street address, telephone number, and e-mail address, and position of a responsible partner or officer. If the owner is a corporation, the statement shall also include the name, street address, telephone number, and e-mail address of the registered agent thereof;
2. The name, street address, telephone number, and e-mail address of a natural person twenty-one (21) years of age or older, designated by the owner as the authorized agent for receiving notices of City code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner in connection with the enforcement of this Code. Notwithstanding the foregoing, this person may be between eighteen (18) and twenty-one (21) years of age provided that the registration statement includes proof that said person has a valid realtor's license issued pursuant to the Illinois Real Estate License Act, 225 ILCS 454/1-1 et seq., as amended. This person must maintain an office in Cook County, Illinois, or must actually reside within Cook County, Illinois. An owner who is a natural person and who meets the requirements of this Subsection as to location of residence or office may designate himself/herself as agent;
3. The name, street address, telephone number, and e-mail address of the owner's agent for the purpose of managing, controlling or collecting rents, and any other person who is not an owner but who controls such building, if any;
4. The name, street address, and telephone number of each company that provides an insurance policy for the building;
5. The street address(es) and property index number(s) of the building, and the number of dwelling units therein.

**(B)** Notwithstanding the foregoing, no registration shall be required for:

1. Lodging establishments governed by Chapter 2 of this Title;
2. Buildings licensed and inspected by the State of Illinois or the government, including, but not limited to, nursing homes, retirement centers, rest homes; or
3. Buildings owned by governmental agencies or public housing authorities.

**5-8-4: REGISTRATION; FEE; CERTIFICATE:**

- (A) The owner of a building shall register the building with the Department no later than ~~December 31st~~ November 1<sup>st</sup> of each year. The owner shall certify that the information provided on the registration statement is true and correct.
- (B) The owner of a building shall pay an annual registration fee for each building so registered at the time the owner files the annual registration statement, as per the table below. The registration fee shall not be prorated. If the owner of a building that contains no more than two (2) dwelling units is a person sixty five (65) years of age or older, resides in one of the two (2) dwelling units in the building, and furnishes proof with the application that he/she has qualified for the State of Illinois circuit breaker program, he/she shall be required to pay fifty percent (50%) of the registration fee.

<i>Building Type</i>	<i>Registration Fee</i>
Single-family	\$20.00
Condominiums	20.00 per owner of rental dwelling unit(s) per building
Apartments with:	
2 — 4 dwelling units	30.00
5 — 12 dwelling units	50.00
13 — 24 dwelling units	100.00
25 — 50 dwelling units	150.00
51 — 100 dwelling units	300.00
101 + dwelling units	500.00

- (C) Upon registration and payment of the applicable fee, the Director shall issue a certificate of registration to the owner that certifies that the owner has registered the building in compliance with the terms of this Chapter.
- (D) Late Payment Penalty: Failure to pay the annual registration fee for any such license within six (6) weeks of license expiration shall result in an additional late charge of thirty percent (30%).

**5-8-5: AMENDED REGISTRATIONS:**

The owner of a building required to register with the Department pursuant to the terms of this Chapter shall notify the Department, within twenty (20) business days, of any change in the registration information by filing an amended registration statement on a form provided by the Department for such purpose. There shall be no additional fee for filing an amended registration statement.

**5-8-6: ENFORCEMENT:**

- (A) The Director and the Department shall enforce the terms of this chapter by any lawful means, including, but not limited to, proceedings in the circuit court or the

City's Division of Administrative Hearings.

- (B) The Director may refuse to issue any permit(s) required by this Code for any construction, alteration, installation, razing or other work done in or on any "building" as defined in this Chapter, or any certificate of occupancy required by this Code for such a building, unless the owner(s) or other applicant for such permit(s) or certificate(s) presents a current certificate of registration for the building.
- (C) The City Clerk shall issue no real estate transfer tax stamps for a transfer involving a "building", as defined in this Chapter, unless the grantor or seller presents a current certificate of registration for the building.

**5-8-7: PENALTIES:**

**(A)**

Each day that any building is not registered in accordance with the provisions of this Chapter shall constitute a separate and distinct offense.

- (B) In addition to any of the penalties provided in this Chapter, any person violating the terms of this Chapter shall, upon conviction thereof, be fined seventy five dollars (\$75.00) for the first offense, two hundred dollars (\$200.00) for the second offense in any one hundred eighty (180) day period, and three hundred seventy five dollars (\$375.00) for the third and any subsequent offense in any one hundred eighty (180) day period.
- (C) The intentional submission of false information on a registration statement or an amended registration statement filed pursuant to this Chapter shall be an offense punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each day that such information remains uncorrected by the owner(s) shall constitute a separate and distinct offense.
- (D) Any fines shall be debts due and owing to the City that the City may collect by any means allowed by law, including, but not limited to, filing a lien against the building.

**5-8-8: NOTICE OF CITY CODE VIOLATIONS:**

- (A) By designating an authorized agent pursuant to the terms of Subsection ~~5-8-3(A)2~~ of this Chapter, the owner consents to receive any and all notices of City Code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce City Code provisions concerning the registered building by service of the notice or process on the authorized agent until the owner files an amended registration statement or new annual registration statement pursuant to the terms of this Chapter.

- (B) Any owner who fails to register a building pursuant to the provisions of this Chapter shall further be deemed to consent to receive, by posting at the building, any and all notices of City code violations and all process in an administrative proceeding brought to enforce City Code provisions concerning the building.
- (C) The terms of this Section shall supersede any conflicting or contradictory notice provisions contained within this Code.

**5-8-9: CONDOMINIUM AND TOWNHOME ASSOCIATIONS; MANAGEMENT COMPANIES:**

All condominium associations, townhome associations, and/or management companies that maintain records of condominium and/or townhome units offered for rent, shall, on an annual basis and no later than ~~December 31~~ November 1<sup>st</sup> of each year, provide to the Department the names and current mailing addresses of all owners of said units and, if available, the names of tenants occupying said units.