

OPTIONAL CITY GOVERNMENT LAW

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Part B of the 1970 Code). Amendments noted where applicable.]

ARTICLE I, Title; Definitions; Application; General Provisions

§ G-1. Short title.

This act may be known and cited as "The Optional City Government Law."

§ G-2. Definitions.

As used in this act, the following terms shall have the meanings indicated:

CHARTER -- Includes all provisions of local or special law applicable to the city. (Laws 1935, Ch. 407, § 2)

CITY -- Includes all cities in the State of New York.

COMMISSIONER OF ELECTIONS -- Includes those officers who have similar powers and duties in counties where no commissioners of election are appointed.

GENERAL CITY ELECTION -- An election at which the final selection is made of a City officer.

§ G-3. Applicability.

Any city which shall adopt, in the manner hereinafter prescribed, one of the methods of government provided in this chapter shall thereafter be governed by the provisions hereof.

§ G-4. Continuance of existing legislative powers of city.

None of the legislative powers of a city shall be abridged or impaired by the provisions of this act, but all such legislative powers are hereby devolved upon and shall be possessed and exercised by such body as shall be the legislative body of the city under the provisions hereof.

§ G-5. Effect of act upon other powers of city.

The existing corporate powers of a city shall not be construed to have been abridged or impaired by the provisions of this act, but the same shall be exercised as herein provided.

§ G-6. Effect of act upon duties and liabilities of city.

Nothing in this act shall be construed to in any way impair or affect any duty or liability now imposed by law upon a city.

§ G-7. Existing ordinances and other legislation continued.

All ordinances, resolutions, orders or other regulations of a city, or any authorized body or official thereof, existing at the time the provisions of this act shall become applicable to the city, and not inconsistent with the provisions hereof, shall continue in full force and effect until repealed, modified or otherwise superseded.

§ G-8. Existing laws continued.

Except insofar as any of its provisions shall be inconsistent with this act, the Charter of the city, and all special or general laws applicable thereto, shall continue in full force and effect, until and unless superseded by the passing of ordinances regulating the matters therein provided for; but to the extent that any provisions thereof shall be inconsistent with this act, the same are hereby superseded.

§ G-9. Effect of act upon powers, duties, election, appointment of supervisors.

Nothing in this act contained shall effect the powers, duties, manner of election or appointment of supervisors.

§ G-10. Effect of act upon determination of questions by popular vote.

Nothing in this act shall be construed as superseding or repealing any provision of law requiring any matter to be submitted to the vote of the electors or taxpayers, or permitting the City Council to so submit any matter or question.

§ G-11. Number of inhabitants of a city, how determined.

For the purposes of this act the number of inhabitants of a city shall be deemed to be the number as ascertained by the latest state census or United States census, whichever shall be later.

ARTICLE II, Adoption of Simplified Form of Government

§ G-12. Preparation and presentation of petition.

After June 30, 1917, a petition may be presented at any time to the Common Council of the city, in the form, and signed and certified as provided in the next section. The petition shall be presented by filing the same with the City Clerk. It shall be signed by qualified electors of the city to a number at least equal to 10% of the number of votes cast therein at the general election preceding the presentation of the petition in a city where less than 100,000 votes were so cast. In other cities it shall require a petition signed by qualified electors of the city to the number of 50% of the number of such votes. (Laws 1916, Ch. 156, § 1; Laws 1935, Ch. 407, § 3)

§ G-13. Form of petition.

The petition shall be in substantially the following form:

- A. To the Common Council of the city of _____: We, the undersigned, qualified electors of this city, respectfully petition your honorable body to cause to be submitted to a vote the following question: Shall the city of _____ adopt the simplified form of government defined as plan (insert A, B, C, D, E, F, or G, as desired by petitioners), and consisting of (describe particular plan briefly, as "government by limited council with division of administrative duties," or "government by limited council, with city manager," or "government by separate legislative and executive departments with five councilmen elected at large," et cetera) according to the provisions of chapter _____ of the laws of (insert chapter number and year of passage of this act), known as "The Optional City Government Law." (In a city of less than 25,000 inhabitants, if the plan specified in the foregoing question is plan A, plan B or plan D, such petition shall also contain the following additional questions:
- B. Shall the council under said plan be composed of five members, including the mayor? (The words "including the mayor" shall be omitted in the case of plan D.)
- C. Shall the council under said plan be composed of three members, including the mayor? (The words "including the mayor" shall be omitted in the case of plan D.)

(Signature of elector) (Residence, by street and number)

_____	_____
_____	_____
_____	_____

The execution of the petition by an elector shall be acknowledged by him, or it may be proved by the oath of a witness who shall swear that he knows the elector and that the petition was signed by the elector in the presence of the witness. The petition may be in the form of separate sheets, each sheet containing at the top thereof the petition as above set forth, and when bound together and offered for filing these shall be deemed to constitute one petition.

§ G-14. Summary proceeding to review sufficiency of petition.

Such a petition, which complies with the requirements of this article both as to form and number of signers and manner of execution, shall be accepted as prima facie sufficient. The supreme court, or any justice thereof within the judicial district, or the county judge of the county wherein the city is located, shall have summary jurisdiction upon complaint of an elector, to determine the sufficiency of the petition, and the genuineness of the signatures thereon and the qualifications of the electors signing the same, and may make such order in the premises as justice may require; but such summary proceeding shall be instituted within 10 days after presentation of the petition.

§ G-15. Submission of questions at general city election.

Within five days after the petition shall have been filed with him, the City Clerk shall transmit a certified copy thereof to the commissioner of elections (except that the signatures upon the petition, and the acknowledgment or proof thereof need not be copied, but in place thereof the City Clerk shall state the number of signatures of electors thereon). If the petition shall have been filed with the City Clerk (or, in case a summary proceeding has been instituted, a final order thereon has been made in favor of the sufficiency of the petition) not more than three months and not less than one month prior to a general city election the commissioner of elections shall cause the question or questions proposed by the petition to be duly submitted to a vote of the electors of the city at such general city election.

§ G-16. Submission of questions at special election.

If a petition is not filed (or a final order made) so as to permit the questions to be submitted at a general city election, within the provisions of the preceding section, the Common Council shall at its next regular meeting succeeding the presentation of the petition designate a day for the holding of a special election to ascertain the will of the electors regarding the questions, which day shall not be less than one month nor more than two months thereafter; except that no such special election shall be held in either the months of July or August, and the Common Council shall instead thereof name a day in September. The provisions of the election law, governing the registration of voters, equipment of polling places, furnishing of supplies, voting, and canvass of return of votes, at an election other than a general election, shall apply to such special election. The Common Council is hereby authorized to appropriate and expend from monies raised by taxation, the necessary expense of such special election; and if monies shall not be available for that purpose, to borrow on temporary loan, the amount necessary therefor; and to raise the amount of the principal and interest thereof by tax in the same manner as other city expenses.

§ G-17. Publication of notice and conduct of election.

The City Clerk shall give notice of the submission of the questions by forthwith posting in at least four public places in the city notice of the filing of the petition and the character of the questions to be submitted, and the commissioner of elections shall during the four weeks next preceding the election publish notice of the submission of the questions in the same manner as is required in the case of the submission of a special question to the electors of the city. Whenever the questions shall be submitted at a special election, the election officers who shall have been appointed to serve at the general city election next succeeding, or if none shall have been appointed then those election officers who were appointed to serve at the last election held in the city, shall serve within their districts at such special election, and shall receive the same compensation. The polling places shall be the same as were designated for the holding of the preceding general city election, and the commissioner of elections shall furnish for use therein the same equipment as at a general city election, so far as the same may be necessary.

§ G-18. Form of ballot; voting machines.

- A. The general form of ballot shall conform as nearly as may be to the requirements of Section 332 of the Election Law. In a city of less than 25,000 inhabitants, if the plan to be submitted is plan A, plan

B or plan D, there shall be printed at the left of questions two and three only one voting square for each of said questions, and at the left of each of said voting squares shall be printed the word "Yes" and there shall be printed on the stub at the top of the ballot above the directions to the voters prescribed in Section 332 of the Election Law, the following direction:

"Vote on question one, and on question two OR question three."

"Do NOT vote on BOTH question two AND question three."

- B. In case voting machines are in use in the city, they shall be used at the special election.

§ G-19. Submission of but one plan at an election.

The question of the adoption of not more than one plan may be submitted at an election. If pending the determination of the question or questions proposed by a petition already filed, another petition presenting the question of the adoption of a different plan shall be presented, no action whatever shall be taken upon the later petition until after the submission to a vote of the question or questions proposed by the earlier petition. Should the result of such vote be adverse thereto, proceedings shall then be had upon the later petition as though the same had been presented upon the day such vote was cast.

§ G-20. Effect of adoption of plan.

If a majority of the total number of votes cast for and against its adoption, at a special or general city election upon the adoption of one of the plans of government provided for in this act, shall be in favor of its adoption, the provisions of this act, so far as applicable to the form of government under the plan adopted by the city, shall supersede the provisions of the Charter and of the general and special laws relating thereto and inconsistent herewith, but not, however, until officers provided for under such plan shall have been duly elected and their terms of office shall have commenced. The officers provided for under the plan so adopted shall be elected in accordance with the provisions of this chapter relating to such plan, at the general city election next succeeding the adoption of such plan, and their terms of office shall commence on the first day of the second calendar month next succeeding their election, and thereupon the term of office of each elected officer of the city then in office, excepting the officers provided for in §§ G-34 and G-35 of this chapter, shall expire. In a city of less than 25,000 inhabitants, if the plan so adopted is plan A, plan B or plan D, if the number of voters voting "Yes" on question number two is greater than or equal to the number of voters voting "Yes" on question number three, the council shall be composed of five members. If the number of voters voting "Yes" on question number three is greater than the number of voters voting "Yes" on question number two, the council shall be composed of three members. If a voter shall vote "Yes" on both questions two and three, his ballot shall not thereby be invalidated, but his vote shall not be counted as a vote on either of said questions two and three.

§ G-21. Effect of rejection of plan.

Should a majority of the votes so cast be against the adoption of the plan proposed no petition proposing the same plan shall be presented within one year thereafter; but a petition proposing the adoption of one of the other plans provided for in this act may be presented at any time thereafter, and proceedings thereon shall be had as though no prior petition under this act had been presented.

§ G-22. Continuance of plan when adopted.

- A. Should any one of the plans of government provided for in this act be adopted, the same shall continue in force and effect for the period of at least four years after the commencement of the terms of office of the officials elected thereunder, and no petition proposing a different plan shall be presented during a period of three years and six months after such adoption.
- B. In a city of less than 25,000 inhabitants, which has adopted plan A, plan B or plan D, the question, whether the council of said city under said plan shall be changed from a council composed of five

members to a council composed of three members or vice versa, may, at any time after the expiration of the said period of four years, be presented and voted upon in like manner, as herein prescribed for presenting and voting upon the question of the adoption of a different plan.

§ G-23. Duty of City Clerk on adoption of plan.

It shall be the duty of the City Clerk of any city adopting any one of the plans herein provided for, within 30 days after the election at which such plan is adopted, to prepare a complete record of all the proceedings had in regard thereto, which shall include the original affidavits of the publication of the notice of the election, with copies of the notice as published, attached, a specimen of the ballots used at the election, and a certified copy of the canvass of the votes cast at such election, and to transmit such record to the office of the Secretary of State, where it shall be kept as a public record. It shall be the duty of the Secretary of State to cause to be published separately under an appropriate heading, in the appendix of the session laws of each year, the names of the cities which have accepted any of the plans of government provided for in this act, with a statement of the plan adopted and the date of adoption, and such statement so published shall be conclusive evidence of such adoption.

ARTICLE III, General Provisions Applicable to Each Method of Government

§ G-24. Application of sections of this article.

Unless otherwise especially provided, the sections contained in this article shall apply to the plans of government defined in this act as Plan A, B, C, D, E, F and G.

§ G-25. Exercise of legislative powers by council.

Except as in this section especially regulated, the legislative powers of the council of the city may be exercised as provided by ordinance or rule adopted by it.

- A. Each member of the council shall have the right to vote on any question coming before it; a majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.
- B. The time and place of regular meetings of the council shall be fixed by ordinance; special meetings may be called by any member on three days' notice, specifying the object of the meeting. All legislative sessions shall be open to the public, and every matter coming before the council for disposition shall be put to a vote whereon the ayes and nays shall be called and recorded. A full and accurate journal of the proceedings of the council shall be kept and shall be open to the inspection of any elector of the city.
- C. The council shall appoint a City Clerk, who shall have such powers and perform such duties as the council may from time to time prescribe, in addition to such duties as may be prescribed by law; the City Clerk shall keep the minutes of the meetings of the council. (Laws 1936, Ch. 270, § 1; L.L. No. 1-1950, § 1)

§ G-26. Effect upon provisions of existing law of adoption of ordinance regulating subject matter thereof.

Until superseded as herein provided, all provisions of law regulating the exercise of the powers and the performance of the duties of officers and employees of any city shall continue in full force and effect. The council under any one of the plans of government defined in this act as plan A, B, C, D, E, or F shall have power, subject to the provisions of this act, to confer by ordinance upon any officer or employee of the city any powers, or to impose upon any such officer or employee any duties, theretofore conferred or imposed upon any officer or employee by provision of law, and such powers or duties shall thereupon devolve upon or be discharged by such officer or employee upon whom the same shall have been so conferred or imposed; but the provisions of law regulating the exercise of such powers or the performance of such duties shall,

subject to being superseded as herein provided, continue in force and apply to the exercise or performance thereof by the officer or employee upon whom such powers or duties are conferred or imposed, and whenever by any such ordinance all the powers and duties of any appointive officer or employee of the city are conferred or imposed upon one or more other officers or employees, such ordinance may abolish the office or employment held by the officer or employee whose powers and duties shall have ceased, and thereupon the term of office or employment of such officer or employee shall expire. The council under any one of the plans of government defined in this act as plan A, B, C, D, E, or F shall, subject to the provisions of this act, have power to regulate by ordinance the exercise of any power and the performance of any duty by any officer or employee of the city; and upon the passing of any such ordinance every provision of the charter or of the Second Class Cities Law, applicable to such city, regulating the matters, or any of them, provided for in such ordinance, shall cease to have any force or effect in such city. But nothing herein contained shall be deemed to authorize the repeal or superseding of any provisions of law regulating the manner in which, or the conditions subject to which, franchises may be granted, or city real estate leased or sold, or municipal indebtedness incurred in any city, except to the extent of transferring powers or duties relating thereto to officers or employees of the city; and nothing herein contained shall be deemed to authorize the repeal or superseding of any provision of law requiring any matter to be submitted to the vote of the electors or taxpayers.

§ G-27. Terms of office of mayor and council.

- A. The terms of office of the mayor and members of the council under plan A, B, C, D, E, or F, shall be four years; provided, however, that the terms of the members, other than the mayor, composing the council first to be elected hereunder shall be as follows:
- B. If the number of the Council be a number equally divisible by two (excluding the Mayor where he is a member of the Council), the terms of the 1/2 receiving the highest number of votes shall be four years, and the terms of the remaining 1/2 shall be two years; should the number of the Councilmen be a number not equally divisible by two then the terms of the 1/2 receiving the lowest number of votes plus the Councilman receiving the next highest number of votes shall be two years, and the terms of the remaining Councilmen shall be four years. The salary of a Mayor or of a Councilman not be increased during his term of office.

§ G-28. Vacancies in office of mayor or council [Amended 01-16-2003 by LL02-4, State Law 03-2].

- A. If under Plan A, B, C, D, E, or F, a vacancy exists or occurs in the Office of Mayor, the Council shall appoint a qualified person to fill such vacancy until the first day of January following the next general city election, at which a successor shall be elected for the full unexpired term.
- B. Vacancy in the Office of Councilman.
 - 1) If under Plan A, B, C, D, E or F, a vacancy exists or occurs in the Office of Councilman, the Council shall appoint a qualified person to fill such a vacancy.
 - 2) The appointee selected by Council to fill a vacancy on City Council shall be a resident of the district represented by said vacant office and shall be a registered member of the same political party as that of the person who vacated said office.
 - 3) In the event a vacancy in the Office of Councilman, has been declared the President of City Council, or his/her designee, shall immediately contact the Chairman of the appropriate political party representing the City of Binghamton and request that person to provide City Council, within 3 weeks, the name[s] of nominee[s] ready, willing and able to fill said vacancy.

- 4) Council shall make the appointment provided for herein no later than the third regularly scheduled meeting of Council occurring after a declared vacancy.
- 5) New York State Public Officers Law Section 42 shall be controlling.

§ G-29. Penalties for misconduct of council members.

The members of the council shall be subject to all the penalties for nonperformance or malfeasance in office imposed upon common councils, aldermen or councilmen, under the charter or the general laws of the state.

§ G-30. Qualifications and disabilities of mayor and council.

No person shall be eligible to the office of mayor or councilman who shall not at the time of his nomination be a citizen of the United States and a resident of the city. The acceptance by the mayor or any member of the council of any other civil office shall operate to vacate his office as mayor or councilman. Neither the mayor, nor any councilman, shall be or become in any way directly or indirectly interested in any contract to which the city is a party; a violation hereof shall render any such contract absolutely void.

§ G-31. Power of investigation of mayor or council.

The council, or the mayor, shall have the power to inquire into any matter relating to the affairs of the city, to compel by subpoena the attendance of witnesses and the production of books and papers material to any such inquiry, to administer oaths to witnesses and to examine them and such books and papers.

§ G-32. Assessment of property for purposes of general taxation and local improvements. [Amended 1-22-08 by Ord. No. 3-2008]

§ G-33. Election, appointment of judicial officers.

The city judge or judges, and justices of the peace and other judicial officers if any within the city, shall continue to be elected as heretofore, but if by the Charter or by general law such judge or judges are appointive they shall continue to be appointed, by the council elected under plans A, B, and C, or by the mayor elected under plans D, E and F, and for such terms as are now fixed.

§ G-34. Effect of act upon Board of Education.

Nothing in this act shall be construed as affecting the provisions of the charter, or the general law, relating to boards of education, their powers and duties, and the control of the schools and the funds pertaining thereto. Boards of education shall continue to be elected or appointed within the city as provided by law.

§ G-35. Civil service.

All appointments, promotions removals and changes in status in the civil service of the city shall be made in accordance with the provisions of the Civil Service Law. The legislative employees of the city shall be the city clerk and sergeant-at-arms of the council.

§ G-36. Civil service commissioners; appointment, terms, filling of vacancies, restrictions, removal.

Subject to the provisions of the Civil Service Law, the Council under plans A, B and C, and the mayor under plans D, E and F, shall appoint three persons as civil service commissioners to serve for two, four and six years respectively. Each alternate year thereafter there shall be appointed one person as the successor of the commissioner whose term expires, to serve for six years. Any vacancy shall be filled for the unexpired term in the same manner as an original appointment. No more than two members of the commission shall be adherents of the same political party, and no member shall hold any other public office to which a salary is attached. A commissioner may be removed during his term of office by the unanimous vote of the council, and upon stating in writing the reasons for removal, and after allowing him opportunity of making an explanation.

§ G-37. Administration of pension and other special funds.

Where the administration of pension, or other special funds, not essential to the ordinary functions of city government, is entrusted by the charter to a definitely constituted body, such funds shall continue to be so administered. Where the administration is committed to city officers, they shall continue to be administered by officers performing like functions, if they exist, or if not by the council. The council shall have power to create special funds and to fix rules for their administration.

§ G-38. Temporary appointment in case of disability of city officer.

Whenever any councilman shall be temporarily unable for any cause to perform the duties of his office for two consecutive meetings, the council may, at the next regular meeting, by majority vote of the entire council, appoint one of its members of the same political party as the disabled councilman, to exercise his powers and perform his duties as a member of any committee or committees, during such disability. The appointed member shall not have the right, however, to vote for the absent member on any matters coming before the council, during such disability. Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the council or the mayor, having the power of original appointment, may make a temporary appointment of some person to act until such official shall resume his duties. (L.L. No. 3-1960, § 1)

§ G-39. Access to records of city offices.

The mayor, and any councilman, shall have access to all records, books, documents and other papers in any city department or office, at any time.

§ G-40. General powers of the mayor.

In addition to the powers conferred upon the mayor under either plan A, B, C, D, E, or F, the mayor shall have the custody of the seal of the city, and shall authenticate the acts of the council and all instruments and papers authorized so to be authenticated; in cases where the mayor is authorized by law to sit with the supervisors as a commissioner of charities, he shall continue so to act. In addition the mayor shall possess and exercise such other powers and perform such duties as are now conferred or imposed by law upon the mayor of the city, if not inconsistent with the provisions of this chapter. The mayor shall have charge of all civic functions, celebrations, receptions and courtesies, shall sign all contracts of every kind and nature to which the city is a party, and shall perform such other ministerial functions as the council may from time to time direct.

ARTICLE IV, Legislative Department Consisting of Five Councilmen

§ G-41. Definitions.

The method of city government provided for in this title is defined as plan D.

§ G-42. Application of title.

Upon the adoption by a city of plan D in the method prescribed by this act, such plan shall become operative as provided in § G-20 hereof, and its powers of government shall be exercised as in this title provided.

§ G-43. The mayor.

There shall be a mayor elected at large, who shall be the chief executive officer of the city; he shall maintain peace and good order, and enforce the laws and ordinances therein; he shall see that the duties of the various city officers are faithfully performed. He may appoint all officers of the city who are required by law or by the ordinances to be appointed.

§ G-44. Legislative powers of the city.

The legislative powers of the city shall be vested in a council which shall consist of five persons, elected at large except that in a city of less than 25,000 inhabitants it shall consist of five persons or of three persons as

determined by the vote thereon as prescribed in § G-20 hereof. One of its members shall be elected by the Council as its president, to preside over its meetings for one year.

§ G-45. Approval by mayor. [Amended 3-18-2012 by L.L. No. 12-1]

Every ordinance or resolution of the Council shall be presented to the mayor before it shall be of any force or effect. If he approves it, he shall sign it, but if he disapproves he shall return it with his objections to the City Clerk who shall lay it before the council at its next meeting. The council shall enter the objections upon its journal, and proceed to reconsider the ordinance or resolution so disapproved. If upon such reconsideration two-thirds of the members of council (five of seven) shall vote in favor of such ordinance or resolution, the same shall become of force. If any ordinance or resolution is not returned by the mayor disapproved by him within 10 days after its presentation to him, it shall be of force.

§ G-46. Executive and administrative powers.

The executive and administrative powers of the city shall be vested in the mayor and such other officers as shall be elected or appointed pursuant to this act.

§ G-47. Appointive officers of the city.

The council shall by ordinance designate the officers and employees deemed by it necessary for the proper and efficient administration of the city affairs, such ordinance shall also fix their general duties and the salary or compensation to be paid. (L.L. No. 3-1991, § 3)

§ G-48. Acting mayor.

If the mayor shall be unable to perform the duties of his office, in consequence of sickness or temporary absence, he may designate a member of the council to act in his place, and the councilman so designated shall perform the duties of the mayor until the mayor shall resume them. While performing such duties, the councilman shall not act as a member of the Council. (L.L. No. 3-1991, § 3)

ARTICLE V, Legislative Department Consisting of Councilmen Elected by District

§ G-49. Definition and character of plan.

- A. The method of city government provided for in this title is defined as plan F, and upon the adoption by a city of plan F in the method prescribed by this act such plan shall become operative as provided in § G-20 hereof, and its powers of government shall be exercised as in this article provided.
- B. The provisions of §§ G-43 through G-48, inclusive, of Article IV shall apply to plan F, and the plan shall be similar in all respects to plan D, except that the council shall consist of as many members as there are wards in the city, and one councilman shall be elected from each ward.

ARTICLE VI, Saving Clause; Miscellaneous Provisions

§ G-50. Saving clause.

The adoption by a city of a plan of government under the provisions of this act shall not affect the validity of any proceeding or matter pending at the time of such adoption, which shall have been duly taken or begun by the city or its proper department or officer, but the same may be continued and completed as though originally begun under any prior proceedings taken in conformity with the provisions of this act. The adoption by a city of any plan of government under this act shall not affect any action or proceeding duly begun by or against the city, and pending at the time of the adoption of such plan.

§ G-51. When act to take effect.

This act shall take effect on July 15, 1914.

**SUPPLEMENTAL CHARTER AND
OPTIONAL CITY GOVERNMENT LAW
CHARTER**

[HISTORY: Adopted by the Laws of 1917, Chapter 668. Amendments noted where applicable.]

GENERAL REFERENCES

Optional City Government Law.

Election Districts -- See Ch. 53, Art. II.

ARTICLE I, Corporate Capacity and Name; City Boundaries; Ward Boundaries; Definitions

§ C-1. Short title.

This Act (Laws 1917, Ch. 668) shall be known as the "Supplemental Charter of the City of Binghamton."

§ C-2. Corporate name.

The citizens of the State of New York from time to time inhabitants of the territory in the County of Broome, included in the boundaries set forth in § C-3 hereof, and known as the "City of Binghamton" are to continue a municipal corporation in perpetuity under the name of "The City of Binghamton."

§ C-3. City boundaries. [Laws 1950, Ch. 651, § 1]

The territory in the County of Broome included within the following boundaries shall constitute the City of Binghamton: Commencing at the southeast corner of lot 23 in Bingham's patent; running thence northerly along the east line of said lot to the north line of said patent; thence westerly along said north line to a point in said line 500 feet east from the northwest corner of lot 25 in said patent; thence northwesterly in a straight line to the intersection of the east line of the lands of the Albany and Susquehanna Railroad Company with the dividing line between lots 2 and 3 in Clinton and Melcher's patent, being the southeast corner of the Village of Port Dickinson; thence westerly along said dividing line to the west bank of the Chenango River; thence southerly along said west bank to the center line of Bevier Street extended to said west bank of said river; thence westerly and parallel to the north line of Bingham's patent about 3,070 feet to an iron set in the ground in the east line of Ely Park, so called; thence north five degrees seventeen minutes west, 194 feet, more or less, to an iron set in the ground; thence south eighty-five degrees two minutes east, 712.51 feet to an iron set in the ground; thence north seven degrees eighteen minutes east, 514 feet to a twin oak; thence north eleven degrees two minutes west, 374 feet to a rock oak; thence north thirty-one degrees sixteen minutes west, 294.31 feet to an iron set in the ground; thence north eighty-five degrees thirteen minutes west, 135 feet to an iron set in the ground; thence north twenty-eight degrees twenty minutes west, 969 feet to an iron set in the ground; thence north eighty-four degrees thirty-seven minutes west, 3,230 feet to an iron set in the ground; thence south seven degrees eleven minutes west, 787 feet to an iron set in the ground; thence south eighty-four degrees nineteen minutes east, 2,260 feet to an iron set in the ground; thence south twelve degrees thirty minutes west, 800 feet to an iron set in the ground; thence south eleven degrees twenty-six minutes west, 542 feet, more or less, to an iron set in the ground in the extension westerly of the aforesaid line described as parallel to the north line of Bingham's patent; thence westerly and parallel to the north line of Bingham's patent to the west line of lot 32 in the Chenango township, being the east line of the Town of Union; thence, following said Union line, southerly along the west line of said lot 32 to the north line of lot 34 in Bingham's patent; thence westerly along the north line of said lot to the northwest corner thereof; thence southerly along the west line of said lot 34, and the same line continued southerly across the Susquehanna River to the south line of Bingham's patent; thence easterly along said south line to its intersection with the west line of lot 31 in Bingham's patent extended southerly; thence southerly along said line so extended 4,700 feet; thence easterly and parallel to the south line of Bingham's patent to the east line of lot 2 in Sidney or Cooper's patent; thence northerly along said east line to the south line of Bingham's patent; thence easterly along said south line to the southeast corner of lot 13 in Bingham's patent; thence northeasterly to the northeast corner of lot 9 in said patent, and thence diagonally across the Susquehanna River to the place of beginning, reference being had to the map of Bingham's patent recorded in the Broome County Clerk's office in Book of Deeds Number Four, at page 67, excepting all that tract or parcel of land

situated in the City of Binghamton, County of Broome, adjoining the Town of Dickinson, County of Broome, bounded and described as follows: Beginning at a point, the same being a monument at a corner of the City line at Ely Park, being known as C N 3 B having latitude 13589.65 and departure 18456.25 as laid down on a map of the City of Binghamton, New York, thence running S 2° 25' 30" W a distance of 190.0 feet, thence running S 89° 25' 30" W a distance of 1,160.0 feet, thence running S 86° 10' 0" W a distance of 3,451.16 feet to a point on the easterly line of lot No. 34001 as laid down on the assessment map of the City of Binghamton, thence N 1° 21' 30" E a distance of 36.00 feet along the easterly line of said lot to a point of intersection of the City line of the City of Binghamton, thence running N 85° 05' 50" E along the City line a distance of 4,629.43 feet to the point of beginning, the same being a strip of land 190 feet wide on the easterly end and 36.0 feet wide on the westerly end and adjoining the north City line of the City of Binghamton, New York, containing 11.75 acres more or less.

§ C-4. Ward boundaries. [L.L. No. 2-1944, § 1; Amended 3-17-10 by Local Law 1-2010]

Section reserved. Superseded by Councilmanic Districts in § C-6.

§ C-5. Definitions; construal of provisions.

Unless from the context of the language or otherwise it is apparent that a different meaning or application was intended, the meaning of terms used in this Act (Laws 1917, Ch. 668) shall be as given in the General Construction Law; the word "person" shall be held to include and be coextensive with the words "persons," "company," "joint-stock association," and "corporation"; the word "his" as used in this Act shall, in all proper cases, be held to include and be coextensive with the words "her," "its" or "their"; the word "street" shall be held to include and be coextensive with "improvements" and "repairs"; the word "materials" shall be held to include and be coextensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture"; the word "tax" shall, in all proper cases, be held to include and be coextensive with "frontage tax," "water rents or rates," "assessments or reassessments for local improvements." A reference to the Code of Civil Procedure, to the Code of Criminal Procedure, to any statute, to the rules of practice or by sections or parts thereof shall be held to refer to such Code of Civil Procedure or Criminal Procedure and statutes and rules of practice as the same now exist or as they may from time to time hereafter be amended. The expressions "according to law," "pursuant to law," "by law" and "in reference to law," and similar expressions shall be held to refer to the law as now existing or as hereafter from time to time amended or changed.

ARTICLE IA, Councilmanic District Boundaries; Number of Councilpersons; Commencement of Terms; Terms of Office [L.L. No. 3-1966]

§ C-6. Councilmanic district boundaries. [L.L. No. 1-1995, § 1 (Exh. A), 2-6-1995; 8-22-2005 by L.L. No. 5-2005]

The City of Binghamton shall be divided into seven Councilmanic districts, as follows:

FIRST COUNCILMANIC DISTRICT: All that part of said City, bounded by the First, Second, Third, Fourth, Fifth, Sixth and Seventh Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

First Election District.

All that part of said City, bounded and described as follows:

Commencing at the intersection of the westerly extension of the northerly boundary of the City of Binghamton into Ely Park and the westerly boundary of the City of Binghamton, Thence northwardly, westwardly, northwardly, eastwardly, northwardly, eastwardly, southwardly, eastwardly, southwardly, southeastwardly, westwardly, southwardly, westwardly, and southwardly along the boundary line of the City of Binghamton to the northerly boundary line of the City of Binghamton, Thence westwardly along the westerly extension of the northerly boundary line of the City of Binghamton into Ely Park to the place of beginning.

Second Election District.

All that part of the First Ward that is bounded and described as follows:

Beginning at the intersection of the center line of Glenwood Avenue and the center line of Hazel Street,

Thence northwardly along the center line of Glenwood Avenue to the northerly City limits,

Thence eastwardly along the northerly City limits to the northerly extension of the center line of Colfax Avenue,

Thence southwardly along the northerly extension of the center line of Colfax Avenue to the center line of Prospect Street,

Thence westwardly along the center line of Prospect Street to the center line of Holland Street,

Thence southwardly along the center line of Holland Street to the center line of Hazel Street,

Thence westwardly along the center line of Hazel Street to the place of beginning.

Third Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Oak Street with the center line of Lydia Street,

Thence westwardly along the center line of Lydia Street to the center line of Mygatt Street,

Thence northwardly along the center line of Mygatt Street to the center line of Prospect Street,

Thence westwardly along the center line of Prospect Street to the extension of the center line of Colfax Avenue,

Thence northwardly along the extension of the center line of Colfax Avenue to the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the westerly extension of the northerly boundary of the City of Binghamton into Ely Park,

Thence eastwardly along the westerly extension of the northerly boundary of the City of Binghamton to the easterly boundary of Ely Park,

Thence southwardly along the easterly boundary of Ely Park to the center line of Ridge Street,

Thence westwardly along the center line of Ridge Street to the northerly extension of the center line of Oak Street,

Thence southwardly along the northerly extension of Oak Street to the place of beginning.

Fourth Election District.

All that portion of the City of Binghamton that is bounded and described as follows:

Beginning at the intersection of the center line of Front Street with the southerly line of the Erie Railroad right-of-way and running northwardly along the center line of Front Street to center line of Winding Way,

Thence northwestwardly along the center line of Winding Way to the center line of Oak Street,

Thence northwardly along the center line of Oak Street and the northerly extension of the center line of Oak Street to the center line of Ridge Street,

Thence eastwardly along the center line of Ridge Street to the center line of the easterly boundary of Ely Park,

Thence northwardly, along the easterly boundary of Ely Park to the northerly boundary of the City of Binghamton,

Thence eastwardly along said northerly boundary of the City of Binghamton to the center line of the Chenango River,

Thence southwardly along the center of the Chenango River to the southerly line of the Erie Railroad right-of-way,

Thence westwardly along the southerly line of the Erie Railroad right-of-way to the place of beginning.

Fifth Election District.

All that portion of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Glenwood Avenue,
Thence northwardly along the center line of Glenwood Avenue to the center line of Hazel Street,
Thence eastwardly along the center line of Hazel Street to the center line of Holland Street,
Thence northwardly along the center line of Holland Street to the center line of Prospect Street,
Thence eastwardly along the center line of Prospect Street to the westerly line of Spring Forest Cemetery,
Thence southwardly along the westerly line of Spring Forest Cemetery to the extension of the center line of Seymour Street,
Thence westwardly along the extension of the center line of Seymour Street and Seymour Street to the center line of Charles Street,
Thence southwardly, eastwardly, southwardly along the center line of Charles Street to the center line of Field Street,
Thence westwardly along the center line of Field Street to the center line of Berlin Street,
Thence southwardly along the center line of Berlin Street to the center line of Grace Street,
Thence westwardly and southwardly along the center line of Grace Street to the center line of Clinton Street,
Thence southeastwardly along the center line of Clinton Street to the center line of Jarvis Street,
Thence southwardly along the center line of Jarvis Street to the point of intersection of the southerly right-of-way of the Erie Railroad Company and the center line of Jarvis Street,
Thence northwestwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Sixth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Jarvis Street,
Thence northwardly along the center line of Jarvis Street to the center line of Clinton Street,
Thence northwestwardly along the center line of Clinton Street to the center line of Grace Street,
Thence northwardly and eastwardly along the center line of Grace Street to the center line of Berlin Street,
Thence northwardly along the center line of Berlin Street to the center line of Field Street,
Thence eastwardly along the center line of Field Street to the center line of Charles Street,
Thence northwardly, westwardly and northwardly along the center line of Charles Street to the center line of Seymour Street,
Thence eastwardly along the center line of Seymour Street and the extension of the center line of Seymour Street to the westerly boundary of Spring Forest Cemetery,
Thence northwardly along the westerly boundary of Spring Forest Cemetery to the center line of Prospect Street,
Thence eastwardly along the center line of Prospect Street to the center line of Mygatt Street,
Thence southwardly along the center line of Mygatt Street to the center line of Lydia Street,
Thence eastwardly along the center line of Lydia Street to the center line of Oak Street,
Thence southwardly along the center line of Oak Street to the southerly right-of-way line of the Erie Railroad Company,
Thence westwardly and northwestwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northwardly boundary of the City of Binghamton and the center line of Glenwood Avenue,
Thence southwards along the center line of Glenwood Avenue to the center line of Main Street,
Thence northwestwardly along the center line of Main Street to the center line of Matthews Street,
Thence southwestwardly along the center line of Matthews Street to the center line of Grand Boulevard,
Thence northwestwardly along the center line of Grand Boulevard to the center line of Floral Avenue,

Thence westwardly along the center line of Floral Avenue to the center line of Carhart Avenue,
Thence northwardly along the center line of Carhart Avenue to the northerly boundary of the City of Binghamton,
Thence eastwardly along the northerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence eastwardly along the northerly boundary of the City of Binghamton to the place of beginning.

SECOND COUNCILMANIC DISTRICT: All that part of said City, bounded by the Eighth, Tenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth and Twentieth Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Floral Avenue and the center line of Grand Boulevard,

Thence southeastwardly along the center line of Grand Boulevard to the center line of Matthews Street,

Thence northeastwardly along the center line of Matthews Street to the center line of Main Street,

Thence southeastwardly along the center line of Main Street to the center line of Schiller Street,

Thence southwestwardly along the center line of Schiller Street to the center line of Grand Boulevard,

Thence northwestwardly along the center line of Grand Boulevard to the center line of Orton Avenue,

Thence southwestwardly along the center line of Orton Avenue to the center line of Schubert Street,

Thence northwestwardly and westwardly along the center line of Schubert Street to the center line of West End Avenue,

Thence northwardly along the center line of West End Avenue to the center line of Floral Avenue,

Thence eastwardly along the center line of Floral Avenue to the place of beginning.

Tenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Main Street and the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,

Thence westwardly along the center line of Seminary Avenue to the center line of Laurel Avenue,

Thence northwardly along the center line of Laurel Avenue to the center line of Schubert Street,

Thence northwestwardly along the center line of Schubert Street to the center line of Orton Avenue,

Thence northeastwardly along the center line of Orton Avenue to the center line of Grand Boulevard,

Thence southeastwardly along the center line of Grand Boulevard to the center line of Schiller Street,

Thence northeastwardly along the center line of Schiller Street to the center line of Main Street,

Thence southeastwardly along the center line of Main Street to the place of beginning.

Fifteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary of the City of Binghamton and the center line of Carhart Avenue,

Thence southwardly along the center line of Carhart Avenue to the center line of Floral Avenue,

Thence eastwardly along the center line of Floral Avenue to the center line of West End Avenue,

Thence southwardly along the center line of West End Avenue to the center line of Schubert Street,

Thence eastwardly along the center line of Schubert Street to the center line of Crary Avenue,

Thence southwardly along the center line of Crary Avenue to the center line of Harrison Street,

Thence westwardly along the center line of Harrison Street to the center line of West End Avenue,

Thence northwardly along the center line of West End Avenue to the center line of Sumner Avenue,

Thence westwardly along the center line of Sumner Avenue to the center line of Snow Avenue,
Thence northwardly along the center line of Snow Avenue to the center line of Division Street,
Thence westwardly along Division Street to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence westwardly along the northerly boundary of the City of Binghamton to the place of beginning.

Sixteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the westerly boundary of the City of Binghamton and the center line of Division Street,

Thence eastwardly along the center line of Division Street to the center line of Snow Avenue,

Thence southwardly along the center line of Snow Avenue to the center line of Sumner Avenue,

Thence eastwardly along the center line of Sumner Avenue to the center line of West End Avenue,

Thence southwardly along the center line of West End Avenue to the center line of Harrison Street,

Thence eastwardly along the center line of Harrison Street to the center line of Crary Avenue,

Thence southwardly along the center line of Crary Avenue to the center line of Highland Avenue,

Thence westwardly along the center line of Highland Avenue to the center line of West End Avenue,

Thence southwardly along the center line of West End Avenue to the center line of Riverside Drive,

Thence northwestwardly along the center line of Riverside Drive to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the place of beginning.

Seventeenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly extension of the center line of Kneeland Avenue and the center line of the Susquehanna River,

Thence northwesterly along the center line of the Susquehanna River to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the center line of Riverside Drive,

Thence southeastwardly along the center line of Riverside Drive to the center line of West End Avenue,

Thence northeastwardly and northwardly along the center line of West End Avenue to the center line of Highland Avenue,

Thence eastwardly along the center line of Highland Avenue to the center line of Kneeland Avenue,

Thence southwardly along the center line of Kneeland Avenue to the center line of Leroy Street,

Thence northwestwardly along the center line of Leroy Street to the center line of Helen Street,

Thence southwardly along the center line of Helen Street to the center line of Riverside Drive,

Thence eastwardly along the center line of Riverside Drive to the center line of Kneeland Avenue,

Thence southwestwardly along the southerly extension of Kneeland Avenue to the place of beginning.

Eighteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Schubert Street and the center line of Orton Avenue,

Thence southwestwardly along the center line of Orton Avenue to the center line of Jerome Avenue,

Thence southeastwardly along the center line of Jerome Avenue to the center line of Orton Avenue,

Thence southwardly along the center line of Orton Avenue to the center line of Mozart Street,

Thence eastwardly along the center line of Mozart Street to the center line of Schiller Street,

Thence southwardly along the center line of Schiller Street to the center line of Highland Avenue,

Thence westwardly along the center line of Highland Avenue to the center line of Crary Avenue,

Thence northwardly along the center line of Crary Avenue to the center line of Schubert Street,

Thence eastwardly and southeastwardly along the center line of Schubert Street to the place of beginning.

Nineteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Schubert Street and the center line of Orton Avenue,

Thence southeastwardly along the center line of Schubert Street to the center line of Laurel Avenue,

Thence southwardly along the center line of Laurel Avenue to the center line of Lincoln Avenue,

Thence westwardly along the center line of Lincoln Avenue to the center line of Beethoven Street,

Thence southwardly along the center line of Beethoven Street to the center line of Leroy Street,

Thence westwardly along the center line of Leroy Street to the center line of Kneeland Avenue,

Thence northwardly along the center line of Kneeland Avenue to the center line of Highland Avenue,

Thence eastwardly along the center line of Highland Avenue to the center line of Schiller Street,

Thence northwardly along the center line of Schiller Street to the center line of Mozart Street,

Thence westwardly along the center line of Mozart Street to the center line of Orton Avenue,

Thence northwardly along the center line of Orton Avenue to the center line of Jerome Avenue,

Thence northwestwardly along the center line of Jerome Avenue to the center line of Orton Avenue,

Thence northeastwardly along the center line of Orton Avenue to the place of beginning.

Twentieth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Lincoln Avenue and the center line of Laurel Avenue,

Thence southwardly along the center line of Laurel Avenue and the southerly extension of Laurel Avenue to the center line of the Susquehanna River,

Thence westwardly and northwestwardly along the center line of the Susquehanna River to the southerly extension of the center line of Kneeland Avenue,

Thence northeastwardly along the southerly extension of the center line of Kneeland Avenue to the center line of Riverside Drive,

Thence northwestwardly along the center line of Riverside Drive to the center line of Helen Street,

Thence northwardly along the center line of Helen Street to the center line of Leroy Street,

Thence southeastwardly and eastwardly along the center line of Leroy Street to the center line of Beethoven Street,

Thence northwardly along the center line of Beethoven Street to the center line of Lincoln Avenue,

Thence eastwardly along the center line of Lincoln Avenue to the place of beginning.

THIRD COUNCILMANIC DISTRICT: All that part of said City, bounded by the Ninth, Eleventh, Twelfth, Thirteenth and Fourteenth Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southwardly right-of-way line of the Erie Railroad Company and the center line of Glenwood Avenue,

Thence southeastwardly, eastwardly along the southerly right-of-way line of the Erie Railroad Company to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of North Street,

Thence westwardly along the center line of North Street to the center line of Chapin Street,

Thence southwardly along the center line of Chapin Street to the center line of Main Street,

Thence northwestwardly along the center line of Main Street to the center line of Glenwood Avenue,

Thence northwardly along the center line of Glenwood Avenue to the place of beginning.

Eleventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of North Street,

Thence westwardly along the center line of North Street to the center line of Chapin Street,

Thence southwardly along the center line of Chapin Street to the center line of Main Street,

Thence westwardly along the center line of Main Street to the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,

Thence eastwardly along the center line of Seminary Avenue to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the center line of Eaton Place,

Thence eastwardly along the center line of Eaton Place to the center line of Front Street,

Thence northwardly along the center line of Front Street to the center line of Main Street,

Thence eastwardly along the center line of Main Street and the Court Street Bridge to the point of

intersection of the center line of Court Street Bridge and the center line of the Chenango River,

Thence northwardly, northeastwardly along the center line of the Chenango River to the point of intersection

of the southerly right-of-way line of the Erie Railroad Company and the center line of the Chenango River,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the point of

intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Front Street,

Thence northwardly along the center line of Front Street to the center line of Winding Way,

Thence northwardly, westwardly along the center line of Winding Way to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Oak Street,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Twelfth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection to the center line of Seminary Avenue and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of Leroy Street,

Thence westwardly along the center line of Leroy Street to the center line of Chapin Street,

Thence southwardly along the center line of Chapin Street to the center line of Ayres Street,

Thence westwardly along the center line of Ayres Street to the center line of St. John Avenue,

Thence southwardly along the center line of St. John Avenue to the center line of Bennett Avenue,

Thence westwardly along the center line of Bennett Avenue to the center line of Chestnut Street,

Thence northwardly along the center line of Chestnut Street to the center of Lathrop Avenue,

Thence westwardly along the center line of Lathrop Avenue to the center line of Laurel Avenue,

Thence northwardly along the center line of Laurel Avenue to the center line of Seminary Avenue,

Thence eastwardly along the center line of Seminary Avenue to the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,

Thence eastwardly along the center line of Seminary Avenue to the place of beginning.

Thirteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Front Street and Main Street.

Thence eastwardly along the center line of Main Street and the Court Street Bridge to the center line of the Chenango River,

Thence southwardly along the center line of the Chenango River to the center line of the Susquehanna River,

Thence southwestwardly along the center line of the Susquehanna River to the point of intersection of the center line of the Susquehanna River and the southerly extension of the center line of Murray Street,
Thence northwardly along the southerly extension of the center line of Murray Street and Murray Street to the center line of Riverside Drive,
Thence westwardly along the center line of Riverside Drive to the center line of St. John Avenue,
Thence northwardly along the center line of St. John Avenue to the center line of Ayres Street,
Thence eastwardly along the center line of Ayres Street to the center line of Chapin Street,
Thence northwardly along the center line of Chapin Street to the center line of Leroy Street,
Thence eastwardly along the center line of Leroy Street to the center line of Murray Street,
Thence northwardly along the center line of Murray Street to the center line of Seminary Avenue,
Thence eastwardly along the center line of Seminary Avenue to the center line of Oak Street,
Thence southwardly along the center line of Oak Street to the center line of Eaton Place,
Thence eastwardly along the center line of Eaton Place to the center line of Front Street,
Thence northwardly along the center line of Front Street to the place of beginning.

Fourteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly extension of the center line of Murray Street and the Susquehanna River,

Thence westwardly along the center line of the Susquehanna River to the intersection of the center line of the Susquehanna River and the southerly extension of the center line of Laurel Avenue,

Thence northwardly along the center line of Laurel Avenue to the center line of Lathrop Avenue,

Thence eastwardly along the center line of Lathrop Avenue to the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Bennett Avenue,

Thence eastwardly along the center line of Bennett Avenue to the center line of St. John Avenue,

Thence southwardly along the center line of St. John Avenue to the center line of Riverside Drive,

Thence eastwardly along the center line of Riverside Drive to the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the place of beginning.

FOURTH COUNCILMANIC DISTRICT: All that part of said City, bounded by the Thirtieth, Thirty-first, Thirty-second, Thirty-third, Thirty-fourth, Thirty-fifth and Forty-sixth Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Thirtieth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Amsbry Street and the center line of State Street,

Thence southwardly along the center line of State Street to the center line of Bevier Street,

Thence westwardly along the center line of Bevier Street to the center line of State Street,

Thence southwardly along the center line of State Street to the center line of Cary Street,

Thence westwardly along the center line of Cary Street to the center line of Chenango Street,

Thence southwardly along the center line of Chenango Street to the center line of DeForest Street,

Thence northwestwardly along the center line of DeForest Street and the westerly extension of DeForest Street to the center line of the Chenango River,

Thence northeastwardly along the center line of the Chenango River to the westerly extension of the center line of Baird Avenue,

Thence eastwardly along the center line of the westerly extension of Baird Avenue to the center line of Chenango Street,

Thence southwestwardly along the center line of Chenango Street to the center line of Amsbry Street,

Thence eastwardly along the center line of Amsbry Street to the place of beginning.

Thirty-first Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Bevier Street and the easterly right-of-way line of the Delaware, Lackawanna, and Western Railroad Company,

Thence southwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the easterly extension of the center line of Frederick Street,

Thence westwardly along the easterly extension of Frederick Street and the center line of Frederick Street to the center line of Chenango Street,

Thence southwestwardly, southeastwardly and southwestwardly along the center line of Chenango Street to the southerly right-of-way line of the Erie Railroad Company,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the center line of the Chenango River,

Thence northeastwardly along the center line of the Chenango River to the westerly extension of the center line of DeForest Street,

Thence southeastwardly along the westerly extension of the center line of DeForest Street and the center line of DeForest Street to the center line of Chenango Street,

Thence northwardly along the center line of Chenango Street to the center line of Cary Street,

Thence eastwardly along the center line of Cary Street to the center line of State Street,

Thence northwardly along the center line of State Street to the center line of Bevier Street,

Thence eastwardly along the center line of Bevier Street to the place of beginning.

Thirty-second Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the easterly extension of Frederick Street and the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,

Thence southwardly along the easterly right-of-way line of the Delaware,

Lackawanna and Western Railroad Company to the southerly right-of-way line of the Erie Railroad Company,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the center line of Chenango Street,

Thence northeastwardly, northwestwardly and northeastwardly along the center line of Chenango Street to the center line of Frederick Street,

Thence eastwardly along the center line of Frederick Street and the easterly extension of Frederick Street to the place of beginning.

Thirty-third Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of New York State Route 17 and Interstate Route 81 and the center line of Broad Avenue,

Thence southwardly along the center line of Broad Avenue to the center line of Grant Street,

Thence westwardly along the center line of Grant Street to the center line of Griswold Street,

Thence southwardly along the center line of Griswold Street to the center line of Robinson Street,

Thence westwardly along the center line of Robinson Street to the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,

Thence northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of New York State Route 17 and Interstate Route 81,

Thence eastwardly along the center line of New York State Route 17 and Interstate 81 to the place of beginning.

Thirty-fourth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of the Susquehanna River and the center line of the Chenango River,

Thence northwardly along the center line of the Chenango River to the southerly right-of-way line of the Erie Railroad Company,
Thence eastwardly along the southerly right-of-way line of the Erie Railroad Company to the northerly extension of the center line of Fayette Street,
Thence southwardly along the northerly extension of the center line of Fayette Street and the center line of Fayette Street to the center line of Henry Street,
Thence westwardly along the center line of Henry Street to the center line of Carroll Street,
Thence southwardly along the center line of Carroll Street to the center line of Susquehanna Street,
Thence westwardly along the center line of Susquehanna Street to the center line of Exchange Street,
Thence southwardly along the center line of Exchange Street and the center line of the Exchange Street Bridge to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the place of beginning.
Thence southwardly along the center line of Exchange Street and the center line of the Exchange Street Bridge to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the place of beginning.
Excluded from this district are all properties located at 100 and 110 Chenango Place.

Thirty-fifth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Court Street,
Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the northerly extension of the center line of Fayette Street,
Thence southwardly along the center line of the northerly extension of Fayette Street and the center line of Fayette Street to the center line of Henry Street,
Thence westwardly along the center line of Henry Street to the center line of Carroll Street,
Thence southwardly along the center line of Carroll Street to the center line of Susquehanna Street,
Thence westwardly along the center line of Susquehanna Street to the center line of Exchange Street,
Thence southwardly along the center line of Exchange Street and the center line of the Exchange Street Bridge to the center line of the Susquehanna River,
Thence northeastwardly and eastwardly along the center line of the Susquehanna River to the center line of the southerly extension of Oliver Street,
Thence northwardly along the southerly extension of the center line of Oliver Street to the center line of Court Street,
Thence westwardly along the center line of Court Street to the place of beginning.

Forty-sixth Election District.

All those properties located at 100 and 110 Chenango Place.

FIFTH COUNCILMANIC DISTRICT: All that part of said City, bounded by the Twenty-first, Twenty-second, Twenty-third, Twenty-fourth, Twenty-fifth and Twenty-seventh Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Twenty-first Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of the Susquehanna River and the westerly boundary of the City of Binghamton,
Thence southwardly along the westerly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence eastwardly along the southerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,

Thence southwardly along the westerly boundary of the City of Binghamton to the center line of Aldrich Avenue,
Thence eastwardly along the center line of Aldrich Avenue to the center line of Denton Road,
Thence northwardly along the center line of Denton Road to the center line of Vestal Avenue,
Thence eastwardly along the center line of Vestal Avenue to the center line of Brookfield Road,
Thence northwardly along the center line of Brookfield Road and the northerly extension of Brookfield Road to the center line of the Susquehanna River,
Thence westwardly and northwestwardly along the center line of the Susquehanna River to the place of beginning.

Twenty-second Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Aldrich Avenue and the westerly boundary of the City of Binghamton,

Thence southwardly along the westerly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,

Thence eastwardly along the southerly boundary of the City of Binghamton to the center line of Park Avenue,

Thence northwardly along the center line of Park Avenue to the center line of Bayless Avenue,

Thence southwestwardly along the center line of Bayless Avenue to the center line of Brook Avenue,

Thence northwardly along the center line of Brook Avenue and the northerly extension of Brook Avenue to the center line of Hotchkiss Street,

Thence westwardly along the center line of Hotchkiss Street to the center line of Pennsylvania Avenue,

Thence northwardly along the center line of Pennsylvania Avenue to the center line of Moore Avenue,

Thence westwardly and northwestwardly along the center line of Moore Avenue to the center line of Brookfield Road,

Thence northwardly along the center line of Brookfield Road to the center line of Vestal Avenue,

Thence westwardly along the center line of Vestal Avenue to the center line of Denton Road,

Thence southwardly along the center line of Denton Road to the center line of Aldrich Avenue,

Thence westwardly along the center line of Aldrich Avenue to the place of beginning.

Twenty-third Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly extension of Brookfield Road and the center line of the Susquehanna River,

Thence northeastwardly along the center line of the Susquehanna River to the center line of the South Washington Street Bridge,

Thence southwardly along the center line of the South Washington Street Bridge and South Washington Street to the center line of Martha Street,

Thence eastwardly along the center line of Martha Street to the center line of Mary Street,

Thence southwardly along the center line of Mary Street to the center line of James Street,

Thence westwardly along the center line of James Street to the center line of South Washington Street,

Thence southwardly along the center line of South Washington Street to the center line of Morris Street,

Thence westwardly along the center line of Morris Street to the center line of Pennsylvania Avenue,

Thence northwestwardly along the center line of Cross Street to the center line of Pennsylvania Avenue,

Thence southwardly along the center line of Pennsylvania Avenue to the center line of Moore Avenue,

Thence westwardly and northwestwardly along the center line of Moore Avenue to the center line of Brookfield Road,

Thence northwardly along the center line of Brookfield Road and the northerly extension of the center line of Brookfield Road to the place of beginning.

Twenty-fourth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mary Street and the center line of James Street,
Thence southwardly along the center line of Mary Street to the center line of Sherwood Avenue,
Thence eastwardly along the center line of Sherwood Avenue to the center line of Vine Street,
Thence southwardly along the center line of Vine Street to the center line of Woodland Avenue,
Thence eastwardly along the center line of Woodland Avenue to the center line of Spurr Avenue,
Thence southwardly along the center line of Spurr Avenue to the center line of Morgan Road,
Thence westwardly along the center line of Morgan Road to the intersection of the center line of Park Avenue and the center line of Bayless Avenue,
Thence southwestwardly along the center line of Bayless Avenue to the center line of Brook Avenue,
Thence northwardly along the center line of Brook Avenue and the northerly extension of Brook Avenue to the center line of Hotchkiss Street,
Thence westwardly along the center line of Hotchkiss Street to the center line of Pennsylvania Avenue,
Thence northwardly along the center line of Pennsylvania Avenue to the center line of Morris Street,
Thence eastwardly along the center line of Morris Street to the center line of South Washington Street,
Thence northwardly along the center line of South Washington Street to the center line of James Street,
Thence eastwardly along the center line of James Street to the place of beginning.

Twenty-fifth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mary Street and the center line of James Street,
Thence eastwardly along the center line of James Street to the center line of Mill Street,
Thence southeastwardly along the center line of Mill Street to the easterly boundary of the City of Binghamton,
Thence southwardly along the easterly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence eastwardly, northwardly, southeastwardly, northeastwardly, southwardly, eastwardly, southwestwardly, northwardly and westwardly along the boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,
Thence southwardly along the easterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence westwardly along the southerly boundary of the City of Binghamton to the center line of Park Avenue,
Thence northwardly along the center line of Park Avenue to the center line of Morgan Road,
Thence eastwardly along the center line of Morgan Road to the center line of Spurr Avenue,
Thence northwardly along the center line of Spurr Avenue to the center line of Woodland Avenue,
Thence westwardly along the center line of Woodland Avenue to the center line of Vine Street,
Thence northwardly along the center line of Vine Street to the center line of Sherwood Avenue,
Thence westwardly along the center line of Sherwood Avenue to the center line of Mary Street,
Thence northwardly along the center line of Mary Street to the place of beginning.

Twenty-seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Vestal Avenue and the center line of South Washington Street,
Thence southwardly along the center line of South Washington Street to the center line of Martha Street,
Thence eastwardly along the center line of Martha Street to the center line of Mary Street,
Thence southwardly along the center line of Mary Street to the center line of James Street,
Thence eastwardly along the center line of James Street to the center line of Mill Street,
Thence northwardly along the center line of Mill Street to the center line of Vestal Avenue,
Thence westwardly along the center line of Vestal Avenue to the place of beginning.

SIXTH COUNCILMANIC DISTRICT: All that part of said City, bounded by the Twenty-sixth, Twenty-eighth, Forty-first, Forty-second, Forty-third, Forty-fourth and Forty-seventh Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Twenty-sixth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of the Susquehanna River and the center line of the South Washington Street Bridge,

Thence southwardly along the center line of the South Washington Street Bridge and South Washington Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Mill Street,

Thence southwardly along the center line of Mill Street to the center line of Parsons Street,

Thence eastwardly along the center line of Parsons Street to the center line of Rollin Street,

Thence northwardly along the center line of Rollin Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Birch Street,

Thence northwardly along the center line of Birch Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the center line of the Rock Bottom Dam Bridge,

Thence northwardly along the center line of the Rock Bottom Dam Bridge to the center line of the Susquehanna River,

Thence southwestwardly along the center line of the Susquehanna River to the place of beginning.

Twenty-eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mill Street and Parsons Street,

Thence eastwardly along the center line of Parsons Street to the center line of Rollin Street,

Thence northwardly along the center line of Rollin Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Telegraph Street,

Thence southwardly along Telegraph Street and the southerly extension of Telegraph Street to the southerly boundary of the City of Binghamton,

Thence westwardly along the southerly boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,

Thence southwardly along the easterly boundary of the City of Binghamton to the center line of Mill Street,

Thence westwardly, northwestwardly and northwardly along the center line of Mill Street to the place of beginning.

Forty-first Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Pierce Creek and the center line of the Susquehanna River,

Thence southwardly and southeastwardly along the center line of Pierce Creek to the center line of Conklin Avenue,

Thence westwardly along the center line of Conklin Avenue to the center line of Otseningo Street,

Thence northwardly along the center line of Otseningo Street to the center line of Hall Street,

Thence westwardly along the center line of Hall Street to the center line of John Street,

Thence southwardly along the center line of John Street to the center line of Conklin Avenue,

Thence westwardly along the center line of Conklin Avenue to the center line of the Rock Bottom Dam Bridge,

Thence northwardly along the center line of the Rock Bottom Dam Bridge to the center line of the Susquehanna River,

Thence northeastwardly and eastwardly along the center line of the Susquehanna River to the place of beginning.

Forty-second Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Burr Avenue and the center line of Conklin Avenue,

Thence southwardly along the center line of Burr Avenue to the southeasterly boundary of the City of Binghamton,

Thence southwestwardly along the southeasterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,

Thence westwardly along the southerly boundary of the City of Binghamton to the southerly extension of the center line of Telegraph Street,

Thence northwardly along the southerly extension of the center line of Telegraph Street and the center line of Telegraph Street to the center line of Vestal Avenue,

Thence westwardly along the center line of Vestal Avenue to the center line of Birch Street,

Thence northwardly along the center line of Birch Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the center line of John Street,

Thence northwardly along the center line of John Street to the center line of Hall Street,

Thence eastwardly along the center line of Hall Street to the center line of Otseningo Street,

Thence southwardly along the center line of Otseningo Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the place of beginning.

Forty-third Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the southeasterly boundary of the City of Binghamton and the center line of Harding Avenue,

Thence southwestwardly along the southeasterly boundary of the City of Binghamton to the center line of Burr Avenue,

Thence northwestwardly along the center line of Burr Avenue to the center line of Conklin Avenue,

Thence southwestwardly along the center line of Conklin Avenue to the center line of Pierce Creek,

Thence northwestwardly and northwardly along the center line of Pierce Creek to the center line of the Susquehanna River,

Thence eastwardly along the center line of the Susquehanna River to the northerly extension of the center line of Bond Street,

Thence southwardly along the northerly extension of the center line of Bond Street and the center line of Bond Street to the center line of Conklin Avenue,

Thence southwestwardly along the center line of Conklin Avenue to the center line of Medford Street,

Thence southwardly along the center line of Medford Street to the center line of Saratoga Avenue,

Thence westwardly along the center line of Saratoga Avenue to the center line of Decatur Street,

Thence southwardly, southwestwardly, southwardly, eastwardly and northeastwardly along the center line of Decatur Street to the center line of Harding Avenue,

Thence southwardly along the center line of Harding Avenue to the place of beginning.

Forty-fourth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Harding Avenue and the southeasterly boundary of the City of Binghamton,

Thence northeastwardly along the southeasterly boundary of the City of Binghamton to the center line of the Susquehanna River,

Thence northwestwardly and westwardly along the center line of the Susquehanna River to the northerly extension of the center line of Bond Street,

Thence southwardly along the northerly extension of the center line of Bond Street and the center line of Bond Street to the center line of Conklin Avenue,
Thence southwestwardly along the center line of Conklin Avenue to the center line of Medford Street,
Thence southwardly along the center line of Medford Street to the center line of Saratoga Avenue,
Thence westwardly along the center line of Saratoga Avenue to the center line of Decatur Street,
Thence southwardly, southwestwardly, southwardly, eastwardly and northeastwardly along the center line of Decatur Street to the center line of Harding Avenue,
Thence southwardly along the center line of Harding Avenue to the place of beginning.
Excluded from this section are all properties located on Decatur Street, Harding Avenue, Spring Walk, Delmar Street, Medford Street, Bond Street, Delavan Avenue, Brink Street, Iva Avenue, and those properties with an even-numbered address between 14 and 54 on Saratoga Avenue.

Forty-seventh Election District.

All those properties within the boundaries of the Forty-fourth Election District located on Decatur Street, Harding Avenue, Spring Walk, Delmar Street, Medford Street, Bond Street, Delavan Avenue, Brink Street, Iva Avenue, and those properties with an even numbered address between 14 and 54 on Saratoga Avenue.

SEVENTH COUNCILMANIC DISTRICT: All that part of said City, bounded by the Thirty-sixth, Thirty-seventh, Thirty-eighth, Thirty-ninth, Fortieth and Forty-fifth Elections Districts which are described by Chapter 53, Article II, of this Code as follows:

Twenty-ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Bevier Street and the center line of State Street,
Thence northwardly along the center line of State Street to the center line of Amsbry Street,
Thence westwardly along the center line of Amsbry Street to the center line of Chenango Street,
Thence northwardly along the center line of Chenango Street to the center line of Baird Avenue,
Thence westwardly along the westerly extension of Baird Avenue to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence eastwardly along the northerly boundary of the City of Binghamton to the center line of the Brandywine Highway,
Thence southwardly along the center line of the Brandywine Highway to the center of the intersection of the Brandywine Highway and Bevier Street,
Thence westwardly along the center line of Bevier Street to the point and place of beginning.

Thirty-sixth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Grant Street and the center line of Broad Avenue,
Thence southwardly along the center line of Broad Avenue to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the center line of Gaylord Street,
Thence southwardly along the center line of Gaylord Street to the center line of Court Street,
Thence eastwardly along the center line of Court Street to the center line of Glen Avenue,
Thence southwardly along the southerly extension of the center line of Glen Avenue to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the southerly extension of the center line of Oliver Street,
Thence northwardly along the southerly extension of the center line of Oliver Street to the center line of Court Street,

Thence westwardly along the center line of Court Street to the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,
Thence northwestwardly and northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the center line of Griswold Street,
Thence northwardly along the center line of Griswold Street to the center line of Grant Street,
Thence eastwardly along the center line of Grant Street to the place of beginning.

Thirty-seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of New York State Route 17 and Interstate Route 81 and the center line of Bigelow Street,

Thence southwardly along the center line of Bigelow Street to the center line of Frederick Street,

Thence westwardly along the center line of Frederick Street to the center line of Mason Avenue,

Thence southwardly along the center line of Mason Avenue to the center line of Robinson Street,

Thence westwardly along the center line of Robinson Street to the center line of Broad Avenue,

Thence northwardly along the center line of Broad Avenue to the center line of New York State Route 17 and Interstate Route 81,

Thence eastwardly along the center line of New York State Route 17 and Interstate Route 81 to the place of beginning.

Thirty-eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary line of the City of Binghamton and the center line of Bigelow Street,

Thence southwardly along the center line of Bigelow Street to the center line of Frederick Street,

Thence westwardly along the center line of Frederick Street to the center line of Mason Avenue,

Thence southwardly along the center line of Mason Avenue to the center line of Robinson Street,

Thence eastwardly along the center line of Robinson Street to the center line of Fairview Avenue,

Thence northwardly along the center line of Fairview Avenue and the northerly extension of the center line of Fairview Avenue to the northerly boundary of the City of Binghamton,

Thence westwardly along the northerly boundary line of the City of Binghamton to the place of beginning.

Thirty-ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary of the City of Binghamton and the northerly extension of the center line of Fairview Avenue,

Thence eastwardly along the northerly boundary line of the City of Binghamton to the easterly boundary line of the City of Binghamton,

Thence southwardly along the easterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,

Thence westwardly along the southerly boundary of the City of Binghamton to the center line of the Susquehanna River,

Thence northwestwardly along the center line of the Susquehanna River to the southerly extension of the center line of Haskin Avenue,

Thence northwardly along the southerly extension of the center line of Haskin Avenue and the center line of Haskin Avenue to the center line of Rossmore Place,

Thence eastwardly along the center line of Rossmore Place to the center line of Grandview Avenue,

Thence northwardly along the center line of Grandview Avenue to the center line of Robinson Street,

Thence westwardly along the center line of Robinson Street to the center line of Fairview Avenue,

Thence northwardly along the center line of Fairview Avenue and the northerly extension of the center line of Fairview Avenue to the place of beginning.

Fortieth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Robinson Street and the center line of Grandview Avenue,

Thence southwardly along the center line of Grandview Avenue to the center line of Rossmore Place,

Thence westwardly along the center line of Rossmore Place to the center line of Harkin Avenue,

Thence southwardly along the center line of Harkin Avenue and the southerly extension of Harkin Avenue to the center line of the Susquehanna River,

Thence westwardly along the center line of the Susquehanna River to the center line of the southerly extension of Glen Avenue,

Thence northwardly along the southerly extension of the center line of Glen Avenue to the center line of Court Street,

Thence westwardly along the center line of Court Street to the center line of Gaylord Street,

Thence northwardly along the center line of Gaylord Street to the center line of Robinson Street,

Thence eastwardly along the center line of Robinson Street to the place of beginning.

Forty-fifth Election District.

All that part of said City, bounded and described as follows:

Commencing at a point of intersection of the center line of the Brandywine Highway and the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,

Thence southwardly along the easterly boundary of the City of Binghamton to the intersection of the northerly boundary of the City of Binghamton and Bigelow Street,

Thence southwardly along the center line of Bigelow Street to the center line of Interstate Route 81 and New York State Route 17,

Thence westwardly along Interstate Route 81 and New York State Route 17 to the easterly right-of-way of the Delaware, Lackawanna and Western Railroad Company,

Thence northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of Bevier Street,

Thence westwardly along the center line of Bevier Street to the center of the intersection of Bevier Street and the Brandywine Highway,

Thence northwardly along the center line of the Brandywine Highway to the point and place of beginning.

§ C-7. Number of Councilpersons. [L.L. No. 3-1966, § 1]

The Council shall consist of as many members as there are Councilmanic districts in the City of Binghamton, and one Councilperson shall be elected from each district.

§ C-8. Commencement of terms. [L.L. No. 3-1966, § 1; L.L. No. 2-1971, § 1; L.L. No. 5-2005, 8-15-2005]

The Councilpersons elected pursuant to the provisions of this article shall commence their terms of office on January 1, 2008.

§ C-9. Terms of office. [L.L. No. 3-1966, § 1; L.L. No. 2-1971, § 1; L.L. No. 5-2005, 8-15-2005]

The terms of office of the members of Council shall be four years and the first nominations and elections for such office of Councilperson shall be held at the primary and general elections, respectively, held in 2007.

§ C-10. (Reserved)

ARTICLE II, Officers

§ C-11. City officers. [Laws 1953, Ch. 878, § 49]

The officers of the City, in addition to the officers designated by the general laws, shall be a City Judge and four Constables, to be elected by the electors of the City, a Special City Judge, to be elected by the Common Council, Commissioners of Deeds to be appointed by the Mayor, as many in number as shall be authorized by ordinance of the Common Council, and other officers to be elected or appointed as provided in this Act. (Laws 1917, Ch. 668) or otherwise by law.

§ C-12. Terms of office. [L.L. No. 2-1927; L.L. No. 3-1931; 2-23-1932; Amended 1-22-08 by Ord. No. 3-2008; Amended 11-5-2013, see note below for history]

The terms of office of each elective officer hereafter elected, unless elected to fill a vacancy then existing, shall commence on the first day of January next succeeding his or her election. The term of office of each appointive officer shall commence on the day succeeding his or her appointment unless a different date is specified in the certificate of appointment. The term of office of the Mayor, Comptroller, City Treasurer, President of the Common Council, Alderman and Supervisor shall be two years. The term of office of the Corporation Counsel, City Engineer*, Commissioner of Public Works, Commissioner of Public Safety, Commissioner of Charities and Sealer of Weights and Measures shall be two years unless sooner removed by the Mayor. Where the term of office of the appointive officer is not specifically fixed by statute, it shall be deemed to continue only during the pleasure of the officer, officers, board or body authorized to make the appointment.

*Pursuant to Permanent Local Law 13-1, adopted by the Council of the City of Binghamton on April 4, 2013 and approved by the electorate on November 5, 2013, the two year term of the City Engineer is extended for one six year term beginning on January 1, 2014 to December 31, 2019 subject to (i) approval by City Council and (ii) to removal or other disciplinary action by the Mayor for incompetency, misconduct, or insubordination in accordance with Civil Service Law § 75 and the Code of the City of Binghamton § 124-1. That after January 1, 2016, the term and appointment process may be extended by a Local Law approved by City Council.

§ C-13. Eligibility. [L.L. No. 1-1951, § 1; L.L. No. 3-1955, § 1; L.L. No. 4-1962, § 1; L.L. No. 1-1963, § 1; L.L. No. 3-1966, § 2; L.L. No. 6-1977, § 1; L.L. No. 8-1977, § 1; L.L. No. 5-1978, § 1; Amended 2-5-14 by Ord. No. 5-2014]

No person shall be eligible for appointment or election to a City office or as a City employee, unless, at the time of his or her election or appointment, he or she is a bona fide resident of said City, nor to any ward office unless he or she shall be at the time a bona fide resident elector of the ward for which he or she is elected or appointed, nor to the office of Councilperson unless he or she shall be at the time a bona fide resident elector of the Councilmanic district for which he or she is elected or appointed; and whenever any elected official of said City shall cease to be a resident of said City or of the ward or of the Councilmanic district for which he or she was elected the office or position shall thereby become vacant; and whenever any other employee of said City shall cease to be a resident of the County of Broome the position shall thereby become vacant. Notwithstanding the residency provisions of this section, the Municipal Civil Service Commission of the City of Binghamton shall have the power to waive the residence requirements hereinabove set forth, for City employees, except elected officials, under the following circumstances:

- A. Whenever it shall be established to the satisfaction of the Commission that there are no applicants residing in the City of Binghamton who meet the necessary requirements of education, professional training or experience for a position to be filled in the City of Binghamton, waiver may be granted to enable a nonresident to take a civil service examination for such position, but residents of the City of Binghamton shall be preferred in appointment from the list established after such examination prior to the appointment of any nonresident.

- B. Notwithstanding the foregoing, any Broome County resident holding a position in the City of Binghamton under waiver, or otherwise, shall be entitled to equal rights, including those of tenure and promotion within the civil service of the City of Binghamton, as any other employee.
- C. The Commission shall advise the Council of the City of Binghamton of all requests for a waiver of residency prior to making any determination. Final approval of such requests rests solely with the Commission. If a waiver is granted, the Commission shall forward its determination to the Council of the City of Binghamton, including the date the waiver of residence requirement was granted and the reason for the granting of the waiver.
- D. The eligibility and residency requirements set forth in this section shall not apply to any member of the Binghamton Police Force heretofore appointed, whose residence was outside of Broome County prior to the date the eligibility and residency requirements of this section became effective.

§ C-13.1. Applicability of § C-13 to employees of Binghamton General Hospital. EN [L.L. No. 5-1968, § 1]

The eligibility and residence requirements set forth in § C-13 of the Supplemental Charter of the City of Binghamton shall not apply to employees of Binghamton General Hospital heretofore appointed or hereafter appointed. The Board of Managers of Binghamton General Hospital be and they hereby are authorized and empowered to fix and establish residence requirements for employees of Binghamton General Hospital, heretofore appointed or hereafter appointed.

§ C-14. Clerk to keep book containing list of officers.

The City Clerk shall keep a book, ruled in columns, in which he or she shall enter the name of every person elected or appointed to a City office, and the name of the office, when elected or appointed, the commencement of the term, the expiration thereof, time of filing oath of office, and the time of filing official bonds; and every person elected or appointed to any such office shall, upon filing his or her oath of office, subscribe his or her name beside the office to which he or she was elected or appointed. Such book shall be open at all times to the inspection of any elector of said City.

§ C-15. Commissioners of Deeds; fee for appointment.

Each Commissioner of Deeds, hereafter appointed in and for the City of Binghamton shall pay the City Clerk for the use of the City at the time of his or her appointment, the sum of \$10.00.

§ C-16. City Clerk; additional powers and duties. [Laws 1943, Ch. 710; L.L. No. 3-1972, § 1; L.L. No. 6-1972, § 1; L.L. No. 8-1981, §§ 1, 2; L.L. No. 2-1985, §§ 1, 2; L.L. No. 2-1992, § 1]

- A. The City Clerk shall have an office in the City Hall, which shall be kept open at such times as the Common Council shall prescribe; in addition to the duties hereinbefore prescribed, he or she shall have the custody of the corporate seal; carefully index, file and arrange in his or her office, for convenient use, all books and papers required by law or Common Council; see that all matters requiring publication are promptly and correctly published; countersign all licenses granted by the Mayor, and enter in an appropriate book the name of every person to whom a license shall be granted, the date and particulars thereof, and the sum paid therefor. At the end of each week, he or she shall pay the amount so received to the City Treasurer, and report to the Comptroller the amount so received, and file in his or her office the City Treasurer's receipt therefor. He or she shall present to the Mayor for his or her action thereon, the ordinances and resolutions requiring the approval of the Mayor, forthwith, after the same shall have been engrossed; and, within 24 hours after any resolution directing the payment of any money shall take effect, he or she shall furnish to the Comptroller and City Treasurer, certified copies of such resolution, with a statement of the proceedings of the Common Council relating thereto. He or she shall immediately notify every person elected or appointed to any office, and shall give notice to all members of the Common

Council, of special meetings thereof. He or she shall serve, or cause to be served, all notices required by the Common Council, and perform such other duties as it may require. His or her office is hereby declared a Town Clerk's office for the purpose of depositing and filing therein all books and papers required by law to be filed in a Town Clerk's office, and he or she shall possess all the powers and perform all the duties of a Town Clerk not inconsistent with this Act (Laws 1917, Ch. 668) or the Local Finance Law. Copies of all such papers duly filed in his office and of the records of the proceedings of the Common Council and of any board of which he or she is Clerk or secretary, certified by him or her under the corporate seal of the City, shall be evidence in all courts and places the same as the originals. When required to make copies of records, he or she shall be entitled to charges for the following, as set from time to time by the Common Council, except from the City: [Amended 12-4-2006 by L.L. No. 3-2006]

From the City Clerk's Office:

Zoning maps
All other maps
Zoning Ordinance
Housing code
Plumbing code
Budget book
All booklets not specified
Charter and Code of Ordinances
Annual Supplements to Code

Other Departments:

Fire service report
Police, accident reports

- B. He or she may administer oaths, take affidavits, acknowledgments of deeds and other papers, and receive the legal fees therefor. In case of the temporary absence or disability of the Clerk, if there be no Deputy Clerk, the Common Council may appoint a Clerk for the time being, who, on taking the required oath, shall possess the powers and perform the duties of the Clerk during the continuance of such absence or disability.

§ C-17. Appointments during disability and suspension.

If any officer, except a Mayor, City Judge, Special City Judge, Alderman, supervisor, police officer or fire fighter shall, from sickness, absence, suspension from office by the Common Council, or from any other cause, be unable to discharge the duties of his or her office, the Mayor, as to officers appointed by him or her, and the Common Council, as to all other officers, may appoint some suitable person to discharge such duties during such disability, and the person so appointed shall have and exercise all the powers and discharge all the duties and be subject to all the provisions of law applicable to the officer whose place he or she shall supply, or to the officer or the duties of the office to which he or she is appointed.

§ C-18. (Reserved)

§ C-19. (Reserved)

§ C-20. (Reserved)

ARTICLE III, Common Council

§ C-21. Appointment of special committees.

The President of the Common Council shall appoint its standing committees, unless the Common Council shall, by resolution passed by a majority vote of all its members, decide upon some other method of appointing, in which case the appointment of such committees shall be made by the method so decided upon. Special committees shall be designated or appointed in such manner as the Common Council may direct by a majority vote.

§ C-22. Minutes of meetings.

The minutes of each meeting of the Common Council shall be printed in full within six days after its adjournment and immediately distributed, one to the Mayor, one to each member of the Common Council and one to the head of each department. At the end of the year the printed minutes shall be indexed and bound in such manner as shall have been provided in the original letting of the official printing.

§ C-23. Effective date of ordinances. [L.L. No. 3-1937, § 1; Amended 3-18-2012 by L.L. No. 12-1]

No ordinance of the Council shall become operative until it has been attested by the Clerk and signed and approved in writing by the Mayor or passed over his or her veto, and whenever the same may be necessary promulgated according to law; any ordinance imposing a penalty or forfeiture for the violation thereof shall not take effect until 10 days after its approval by the Mayor nor until five days after the publication thereof in the official proceedings of the Council as required by law; provided, however, in the event maps, plans and/or drawings of whatever nature are included in, referred to and/or made a part of any ordinance, such maps, plans and/or drawings shall not be published but the ordinance of which said maps, plans and/or drawings are included, referred to and/or made a part of, shall recite the City office or offices in which the said maps, plans and/or drawings are filed and made available for public inspection and examination. No other publication of such ordinance shall be necessary; provided that in the case of insurrection, riot, pestilence, conflagration or other public necessity requiring immediate operation of such ordinance, it shall take effect as soon as proclamation thereof has been made by the Mayor and it with said proclamation has been posted in five public places in each ward of the City.

Council may pass an ordinance over a mayoral veto by a vote of two-thirds of the members of council (five of seven). See § G-45, *Approval by mayor*.

§ C-24. Additional powers of Council.

In addition to all other powers conferred by law, the Common Council shall have power:

- A. To provide for laying out, opening, constructing, extending, widening, altering, straightening, altering of grade, grading, regrading, paving, repaving, surfacing, resurfacing, narrowing, discontinuing, improving, repairing, maintaining, caring for, cleaning, sprinkling, oiling, watering and flushing of public streets, and acquiring all lands or easements necessary for any or all such purposes.
- B. To provide for constructing, flagging, surfacing, altering, repairing, maintaining, caring for and cleaning sidewalks, crosswalks, drains, gutters and curbs in the public streets.
- C. To provide for constructing, operating and maintaining by the City in, along and under the public streets, highways, parks, squares and public places and in, along and under any real estate owned by the City, or acquired for the purpose, of conduits or ducts for electrical wires and cables and to cause to be installed therein electrical wires and cables constituting part of any system owned or operated by the City, and to permit the installation therein upon uniform rates, terms, rentals and conditions, which shall be approved by the Board of Estimate and Apportionment, of electrical wires and cables, owned, used or operated by any corporation authorized and empowered to construct, own, use or maintain a line or lines of electric telegraph, telephone, or signal system within the City, or to manufacture and supply electricity, for producing light, heat and power. No franchise or right

heretofore granted by the Common Council or under lawful authority to any corporation now operating in the City shall be hereby affected.

- D. To provide for the planting and rearing and to protect and preserve shade and ornamental trees in the streets and public grounds, and to prohibit the injury, defacement or destruction of such trees.
- E. To give names to streets, and to change such names in the manner and subject to the restrictions provided by law; to give numbers to lots and buildings and to change such numbers, and to compel the owners or occupants of any lot or building to place such numbers in a prominent place thereon.
- F. Subject to the Constitution and laws of the state, to regulate the use of streets and sidewalks by foot passengers, animals or vehicles; to regulate the speed at which horses may be driven or ridden and at which vehicles may be propelled in the streets; to regulate processions or parades occupying or marching upon any street; to prevent encroachments upon and obstructions to the streets and to authorize and require their removal by the proper officers; to regulate the opening of street surfaces for purposes authorized by law; to regulate and control the laying, maintaining, alteration and repair of subways, conduits, mains and pipes in and under the streets; to require cables and wires in the public streets, to be placed underground, provided after reasonable notice to the company or companies affected and after hearing, it shall appear to the Common Council that public necessity and convenience require that such cables and wires be placed underground; to regulate and prevent the throwing or depositing of ashes, garbage or other filth and rubbish of any kind upon the streets; to regulate the use of the streets for signs, sign posts, awnings, awning posts, horse troughs, comfort stations, posts for telegraph or other electric wires, trolley poles; and poles for other purposes; to regulate public criers, advertising, noise, steam whistles, and ringing bells in the streets; to regulate the exhibition of banners, placards or flags in or across the streets or from houses or other buildings; to regulate the distribution or exhibition of advertisements or handbills along the streets; and to make such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use of the streets and stations. Whenever the word "street" or the plural thereof occurs in this section, it shall be deemed to include all that is included by the term "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof respectively; whenever the word "vehicle" or the plural thereof occurs in this section it shall be deemed to include wagons, trucks, carts, cabs, carriages, stages, omnibuses, motors, automobiles, street cars, locomotives, bicycles, tricycles, sleighs or other conveyances for persons or property. Nothing herein contained shall be construed to prevent the Common Council from providing by special ordinance for the erection or maintenance on the streets or sidewalks within the City of Binghamton of fountains, public comfort stations, urinals, public baths, or other like structures maintained by the public authorities; for the establishment of which the said Common Council is hereby empowered to provide. All general ordinances relating to authorized structures, encroachments or obstructions in or upon the streets or sidewalks by persons other than the authorities of the City of Binghamton or other public authorities, shall fix a definite license fee for every such authorized structure, encroachment or obstruction, according to the character, extent and duration thereof, excepting, however, any such structures as may belong to the necessary fixtures of public service corporations duly authorized by general or special laws or ordinances of the City to operate in the City, and shall provide for the issuing of revocable licenses therefor, which shall be according to an established form and shall be regularly numbered and duly registered as shall be prescribed by the Common Council.
- G. To establish and maintain a public pound; to restrain the running at large of animals and poultry; to authorize the impounding and sale of the same for the penalty incurred and the fees and costs thereof; to prescribe the manner of impounding or selling animals and poultry impounded; and to collect all costs and expenses from the owners thereof.

- H. To grant rights and franchises to use the streets, highways and public places or any part thereof, or the space above or underneath them for any purpose whatever, upon such terms as it may deem proper and as may be permitted by law.
- I. To provide for constructing, extending, altering, repairing, rebuilding, maintaining and caring for public sewers and drains within or without the limits of the City, and the drainage of swamps and lowlands.
- J. To provide for constructing, building, altering, rebuilding, repairing, maintaining and caring for sewage disposal plants within or without the limits of the City.
- K. To provide for constructing, building, rebuilding, repairing, maintaining, and caring for bridges, arches and culverts.
- L. To provide for constructing, altering and repairing the walls along the banks of any river, stream or watercourse within the City and improving, altering, changing, repairing and cleaning the beds and banks thereof, and to forbid and punish throwing, depositing or leaving rubbish in or on banks of streams.
- M. To establish and define the boundaries and grade of the natural watercourses and streams in the City and to prevent obstructions and encroachments in or upon the same, and to provide for and compel the removal of all obstructions, encroachments and deposits in and to the same and to assess the cost thereof to the owner, and to establish lines for docks, wharves, and retaining walls.
- N. To provide for laying out, enlarging, opening, ornamenting, equipping, improving, maintaining, caring for, and regulating the use of public squares, parks and playgrounds.
- O. To provide for acquiring, constructing, maintaining and regulating the use of public markets.
- P. To provide for acquiring, constructing, building, altering, enlarging, improving, repairing, equipping, furnishing, maintaining and caring for buildings for libraries, hospitals, dispensaries, sanitariums, public baths, fire houses, police stations, lockups, a City Hall, and for other City purposes, and acquiring sites therefor. [Laws 1953, Ch. 878, § 50]
- Q. To provide for the leasing of buildings, or parts of buildings, for City purposes for a period of not exceeding five years.
- R. To provide for lighting the public streets, squares, parks, playgrounds and public buildings of the City.
- S. To provide for maintaining, operating, extending, improving and repairing the waterworks system of the City; acquiring and developing additional sources of water supply, building, operating and maintaining reservoirs, water towers, aqueducts, pumping stations, filtration beds, and acquiring by purchase or condemnation the lands needed therefor, within or without the limits of the City, and to regulate the use of water.
- T. To provide for maintaining a fire department, and acquiring horses, fire engines and other apparatus for the use of such department.
- U. To provide for a police department.
- V. (Reserved)

- W. To establish and maintain libraries, hospitals, dispensaries, sanitariums and public baths.
- X. Subject to the Constitution and laws of the state, to provide for licensing and otherwise regulating auctioneers, pawnbrokers, junk dealers, dealers in secondhand articles, hawkers, vendors, peddlers, dirt carts, public carters, truckers, hackers, cabbies, expressmen, taxicab drivers, car drivers, bootblacks, porters, scavengers, sweepers, theaters, bowling alleys, shooting galleries, billiard saloons, dance halls, skating rinks, automatic baseball courts, circuses, menageries, and other places of amusement and common shows; bone boiling, fat rendering and other noxious business. The Common Council shall establish uniform fees for licenses and shall prescribe the manner in which such licenses shall be issued.
- Y. To regulate the rates of fares to be taken by owners or drivers of hackney coaches, carriages, motors, omnibuses or other vehicles for public hire.
- Z. Subject to the Constitution and laws of the state to provide for licensing and otherwise regulating the carting, carrying, keeping, storing, selling or using gunpowder, dynamite, nitroglycerine and other explosives, gasoline, kerosene, petroleum and other combustible and dangerous materials, and to prevent the manufacture thereof and the refining or preparing of combustible oils or fluids, or bone boiling, fat rendering or other noxious business, either within the limits of the City or except in a specified area.
- AA. To regulate the sale of milk and provide for the inspection thereof, and of the dairies where the same is produced, to fix the fees for such inspection to be paid by the producer or seller, and to prohibit the sale of milk within the City without such inspection, or without first procuring a license therefor.
- BB. To prohibit the use within the City of steam boilers except upon such conditions and regulations regarding safety to life and property as it shall prescribe; to provide for the inspection and testing of steam boilers; to provide for the appointment and to prescribe the duties of an inspector of boilers and steam engines; to provide for the licensing of steam engineers or persons managing or operating steam engines or boilers.
- CC. To regulate or to prohibit the emission of smoke, noxious gas, deposits or other pollution from buildings, engines and from all other sources.
- DD. To regulate and prescribe the manner of weighing and marketing hay, straw, wood, coal and other commodities, and to regulate the inspection and sealing of weights and measures.
- EE. To adopt building ordinances, and to prohibit the erection, construction or repair of buildings, within the City except in compliance therewith; to fix and from time to time extend the area to be included in the fire limits, and to prohibit the erection or construction therein of buildings, except in compliance with such ordinances as to construction and material as it may prescribe. The Common Council shall not pass any special ordinance in relation to any of the matters mentioned in this subdivision. All ordinances in relation thereto shall be general ordinances which may be either applied throughout the whole City or throughout specific portions thereof.
- FF. To regulate the use of all buildings used for the purposes of public assemblage, and to prohibit the use of such buildings except in compliance with its requirements for the safety and security of persons therein; to raze or demolish any building or erection which by reason of fire or any other cause may become dangerous to human life or health.
- GG. To provide for the collection, removal and disposal of garbage, ashes, dead animals and rubbish; to provide for the erection and operation of crematories, incinerators or other apparatus for

the burning and destruction of garbage, dead animals and other substances, and acquiring sites therefor.

- HH. To provide for insuring against fire of City property.
- II. To determine the number of Commissioners of Deeds in the City.
- JJ. To restrain and regulate the rate of speed of locomotive engines and cars upon the railroads within the City, and the unnecessary interruption of the passage in the streets of the City, and to prescribe the rules for and the warning to persons of the approach of locomotives in the City, and to prevent persons, not employees or passengers on any engine or cars, from jumping on or off such engine or cars while in motion. Also, to regulate and control the speed of street cars upon any of the streets or public places of said City.
- KK. To punish the willful giving of a false alarm of fire.
- LL. To regulate or prevent the discharge of firearms, percussion or airguns, rockets, gunpowder or other explosives, or the making of bonfires.
- MM. To prohibit the pursuit or exercise, without a license, of any of the following trades or occupations within the City, to wit: The business of expressmen, carters, porters, and any hack, cab, truck, omnibus, and the use of all vehicles employed for hire in the transportation of passengers or merchandise, goods or articles of any kind, and to require the owners of such vehicles to mark the same in such manner as the Council may designate; to license or regulate common criers, hawkers, peddlers, solicitors, itinerant merchants, except farmers or truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farm or gardens; to license or regulate pawnbrokers, auctioneers, auction sales, billposters, electric or kite advertisers, distributors of samples of medicines or merchandise, and scavengers to license circuses, theaters, moving picture shows or other exhibitions or performances, billiards and pool parlors, bowling alleys, shooting galleries and other places of amusement, for money or hire; to license the use of any public hall, theater or opera house, but such place shall not be licensed unless it complies with all the laws, ordinances, rules and regulations relating to fire; to authorize the City Clerk or the person acting as such, to issue all licenses authorized by this Act (Laws 1917, Ch. 668). If any such trade or occupation shall be prohibited without a license, the Council shall establish uniform fees for licenses therefor and shall prescribe the manner in which such license shall be issued. [L.L. No. 4-1950, § 1]
- NN. To make and adopt a map of the City by wards or sections of wards and to designate thereon the different lots and parcels of land contained in such sections, with the names of the owners thereof, as far as can be ascertained, and to number the same; and also to locate streets on such portions of such territory as are not built upon, which location shall be observed by the owners thereof, and in case any building be erected within the lines of such streets after such location, the owners of such buildings shall not be entitled to compensation therefor when it shall be opened and improved.
- OO. To preserve the public peace and good order; to prevent and suppress vice, immorality, disorderly and gambling houses, and houses of ill fame, riots, tumultuous assemblages, unnecessary crowds upon the streets or in doorways and stairways adjacent thereto, or loitering about such places, and all disorderly, noisy, riotous or tumultuous conduct within the City, disturbing the peace and quiet of the City, or any meeting or assembly therein.
- PP. To permit and regulate public telephone booths and related facilities upon the streets and sidewalks and public grounds of the City. [L.L. No. 3-1962]

QQ. In addition to the authority vested in the Common Council by General City Law § 20 and Second Class Cities Law § 3, Council will have the power and authority to place conditions on conveyances of real property owned by the City, including, but not limited to, deed restrictions limiting the future use or development of the real property, performance guarantees for proposed improvements, requirements for owner occupancy for specified times, to provide for rights of reverter, recapture obligations, or other penalties or forfeitures in the event of a grantee's failure or refusal to comply with such conditions. [8-21-2006 by Ord. No. 06-37]

§ C-25. (Reserved)

§ C-26. (Reserved)

§ C-27. (Reserved)

§ C-28. (Reserved)

§ C-29. (Reserved)

§ C-30. (Reserved)

ARTICLE IV, Assessment and Collection of Taxes

§ C-31. Department of Assessment and Taxation. [L.L. No. 5-1931, § 1; Deleted 1-22-08 by Ord. No. 3-2008]

§ C-32. Powers and duties of Assessor; taxable status date. [Laws 1922, Ch. 27; L.L. No. 5-1931, § 1; L.L. No. 4-1976, § 1; L.L. No. 6-1991, §§ 1--4]

- A. The Assessor shall perform all the duties imposed upon him or her by the provisions of this Act (Laws 1917, Ch. 668) and shall also perform all the duties, possess all the powers and be subject to the same obligations as the Assessors in the State of New York as specified in the New York State Real Property Tax Law in reference to the assessment of property within the City of Binghamton, except as necessarily modified by this Act or as otherwise provided by law and except as otherwise provided by this act, he or she shall also perform all the duties now provided by law in reference to the assessment of local improvements imposed according to law. It shall be his or her duty to install specific systems of Assessment and Taxation maps, unit rules and such other systems and records as may be necessary, and to gather and file useful and available information that pertains to the value of property subject to his or her assessment.
- B. The taxable status of real property in the City of Binghamton shall be determined annually as of the first day of March. All real property shall be assessed according to its condition and ownership as of June 1.
- C. The Assessor shall enter the assessments in books provided for that purpose, to be known collectively as the tentative assessment roll of the City of Binghamton, which roll is to be completed as of May 1.
- D. Upon the completion of such roll the Assessor shall deposit the same in his or her office for examination and shall by publication in the official paper daily for 10 days give notice of the completion of said roll, that the same is on file in his or her office and will remain there for the term

of 10 days following the first publication of said notice, during which time any person interested may examine said roll and at the expiration of said 10 days and more specifically on the third Tuesday in May and at an hour and place to be specified in said notice, that the Board of Review will meet and hear the allegations and objections of all persons interested therein, and to review and correct said roll.

- E. At the time and place designated in said notice, the Board of Review shall meet and hear such allegations, objections, and complaints in relation to such assessments brought before them, and for that purpose may adjourn from time to time. Such complainants shall file with the Board of Review a statement, under oath, specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person assessed or whose property is assessed, or by some person authorized to make such statement, and who has knowledge of the facts stated therein. The Board of Review may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, they may require the person assessed, or his or her agent or representative, or any other person, to appear before them and be examined concerning such complaint, and to produce any papers relating to such assessment with respect to his or her property or his or her residence for the purpose of taxation. If any such person, or his or her agent or representative, shall wilfully neglect or refuse to attend and be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his or her assessments. Minutes of the examination of every person examined by the Board of Review upon the hearing of any such complaint shall be taken and filed in the office of the City Clerk. The Board of Review shall after said hearing fix the value of the property of the complainants and for that purpose may increase or diminish the assessment thereof and make such other corrections as may be proper and may at said time after giving personal notice of two days to the owner or his or her agent add to or insert in said roll any property liable to taxation and the assessment thereof which may have been omitted. On or before the first day of July in each year, the Assessor shall make and file in his or her office, for public inspection, the correct and complete assessment roll identifying each volume except the last by his or her signature and attach to the last volume the oaths required by law, signed by the Assessor, whereupon said Assessor shall cause a notice to be posted conspicuously in at least three public places in the City of Binghamton and to be published in the official paper that such assessment roll has been finally completed and stating that it has been so filed and will be open for public inspection. The Assessor shall make or cause to be made and certify a correct copy of each volume of said assessment roll as it shall then exist for the purpose of extending the tax thereon and on or before the 10th day of November next following shall deliver a certified copy of the original roll to the County Legislature of the County of Broome for the purpose specified in § C-63 of this Act; said Board, shall, after completing its duties, return the roll to the Assessor.

§ C-33. (Reserved)

§ C-34. Map or description to be prepared by City Engineer. [L.L. No. 5-1931, § 1]

The Common Council may, from time to time, direct the City Engineer to prepare and furnish to the Department of Assessment and Taxation, for use therein, a map or brief description of any real estate in the City, or prepare a roll or rolls, exclusive of application, of any real estate in the City for the Department of Assessment and Taxation.

§ C-35. (Reserved)

§ C-36. Assessment of omitted real estate; reassessments. [L.L. No. 5-1931, § 1]

If any taxable real estate has been omitted in any of the general tax rolls for any of the three preceding years, the Assessor may insert, or cause to be inserted, in the roll for the current year in addition to its share of the tax for each such year, the proportion of the tax it should have borne in such preceding years, or either

thereof, stating such additional taxes separately, and such additions shall be collected as part of the tax for the current year; and in case any taxes levied on any real estate in said City shall remain unpaid or uncollected for any year, said Assessor is hereby empowered to reassess such real estate, and the same shall be collected as part of the tax of the current year, and in the same manner. But such taxes shall not be reassessed for a longer period than six years from the time they became due and payable.

§ C-37. Correction of errors in assessment rolls; reassessment of void tax. [L.L. No. 5-1931, § 1]

Whenever there is a manifest error in copying an assessment roll, or levying or extending any tax or assessment the Common Council may, at any time within six months after the completion of said assessment rolls, and upon the application of the person interested or upon 10 days' written notice to such person by a vote of 2/3 of all the members elected, correct, cancel, remit or add to the same, but shall have no power to alter any valuation made by the Assessor, nor shall such amended assessment, if greater than the original assessment, be a lien upon the real estate for the amount added, as against purchasers or mortgagees in good faith. In case any tax or assessment shall be void, or shall have failed for want of jurisdiction, or for any irregularity in the levying or assessing thereof, it shall be the duty of the Common Council to cause the same to be reassessed in a proper manner; if any person shall have paid on the former assessment the amount so paid shall be credited on the new assessment and in case the payment exceeds the amount reassessed, the surplus shall be refunded. The Common Council may, by a vote of 2/3 of all members elected, renew any warrant for the collection of any assessment or tax for a term not exceeding 30 days.

§ C-38. Registry of unoccupied premises. [L.L. No. 5-1931, § 1]

The owners of unoccupied lots or premises in the City may cause a true description of the same to be registered in a book kept by the Assessor for that purpose, with the name of the owner, if a resident of the City, and if not with the name of any resident of the City as an agent for said property; and in the assessment of real estate for local or general taxation, all papers or notices required to be served on the owners or resident occupants of lots, shall be served on such owners or agents, with the same effect as if such lots were occupied.

§ C-39. Levy and collection of taxes. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. No. 4-1967, § 1]

All sums adopted by the Council in the tax budget as provided in § C-62 of this Act (Laws 1917, Ch. 668) shall be assessed on all real and personal estate in the City, (except City property and property exempt by law) according to the valuation of the same in the assessment rolls for said year and shall be extended by the Assessor and shall be regarded and known in all proceedings as "tax" and shall become due on the first day of January in each year; such tax shall be payable in two installments; the first installment shall be payable on the first day of January in each year; and the second installment shall be payable on the first day of July following. Each of said installments shall be 50% of said tax. The sum rated and assessed upon the estate of each person, company, corporation or association shall be set opposite the name of such person, company, corporation or association, respectively by the Assessor and when he or she shall have finally completed said roll, and on or before the 10th day of December in each year, he or she shall deliver the same to the City Treasurer, with a warrant annexed to each volume, under the corporate seal of said City, and signed by the Mayor and City Clerk, commanding him or her to receive, levy and collect from the several persons, companies, corporations, or associations named in the tax roll, the several sums mentioned in such roll opposite their respective names, in the manner in this Act provided. The City Treasurer shall each year receive and collect the relative proportions of the installments payable on the first day of January and the first day of July respectively, as hereinafter provided.

§ C-40. Notice of receipt of tax roll; payment of taxes to City Treasurer; fees. [L.L. No. 5-1931, § 1; L.L. No. 3-1932, § 1; L.L. No. 10-1932, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. L.L. No. 1-1983, § 1]

Upon receiving said tax roll, the City Treasurer shall forthwith give notice by posting a notice in five conspicuous places in the City of Binghamton and by publication thereof once a week for two weeks in the

official paper that the same has been left with him or her for collection and that during the month of January the first installment of tax of every person, corporation or association may be paid to the City Treasurer without an additional charge; that 1% additional fee shall be added and collected on and after the first of each month and that said penalty shall be compounded on the balance outstanding each and every month thereafter. At least 10 days before the second installment of said tax upon said roll shall become due, the City Treasurer shall give notice in the same manner that during the month of July the second installment of tax of every person, corporation or association may be paid to the City Treasurer without an additional charge; that 1% additional fee will be added and collected on and after the first of each month thereafter and that said penalty shall be compounded on the balance outstanding each and every month thereafter. Said penalties shall continue in the manner prescribed above until such time as the City obtains the right to foreclose upon said unpaid taxes as set forth in the Real Property Tax Law.

§ C-41. (Reserved)

§ C-42. (Reserved)

§ C-43. (Reserved)

§ C-44. Sale of real property for unpaid taxes. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. No. 6-1974, § 4]

Whenever any installment of tax or any local assessment shall remain unpaid, the City Treasurer shall, with the Assessor, make a proper description of the land on which such tax or any local assessment is laid, and shall cause a list and description of such lands to be published in the official paper once in each alternate week for a period of six weeks with a notice that, if the taxes, or local assessments, thereon are not paid to the City Treasurer with the fees, the interest and expense on or before a certain day to be therein designated, which shall not be less than six weeks from the first publication thereof, the lands and tenements on which they are imposed, will be sold at auction at City Hall in the City of Binghamton, which sale shall commence at ten o'clock in the forenoon of the day next after the last day for payment to said Treasurer of said taxes or assessments, fees and expenses, with the interest, but no sale for the first installment of tax of any year shall be held prior to the date upon which a sale could be held as herein provided for the second installment of tax for that year. Should any errors be discovered in the description of the lands so assessed and taxed, the said City Treasurer may correct the same at any time previous to the sale, and no errors in the printed description in such newspaper shall vitiate or in any manner affect the validity of such sale. The publisher of the newspaper in which such list shall be published shall, within 10 days after the last publication thereof, deliver to the City Treasurer, to be filed, an affidavit of publications, made by himself, the foreman or his or her principal Clerk, which affidavit shall be presumptive evidence in all courts and places of the facts therein stated. If any tax or assessment, or the fees, interest and expenses thereon, shall remain unpaid on the day specified in the notice, the City Treasurer shall proceed to sell at public auction, the property on which such tax and/or assessment shall have been imposed, all unpaid installments of taxes and/or assessments upon any parcel so advertised shall be included in one tax certificate under one sale. The City Treasurer shall add a penalty of 10% thereto for the benefit of the City of Binghamton. Two certificates of sale of each parcel of land so sold shall be made out, subscribed and acknowledged by said City Treasurer, one of which certificates shall be filed in the City Treasurer's office, and the other, within 20 days after such sale, shall be filed and recorded in the office of the Clerk of the County of Broome. Such certificates shall contain the particular description of the premises sold, the price bid for each distinct lot or parcel, the whole consideration due including recording fees, the names of the person or persons against whom such tax and/or assessment was made, the name of the City of Binghamton, the particular tax and/or assessment for which the sale was made, and the time when such sale will become absolute and the City of Binghamton entitled to a conveyance according to law. In making such sale, the officer making the same shall, nearly as possible, sell so much of the real estate only upon which said tax and/or assessment shall have become a lien, as may be sufficient to raise the amount of said tax and assessment fees, interest and expenses, and which may be sold separately without material injury to the entire premises and shall include in each sale and in one tax certificate all the

taxes and assessments for which said property is sold at said sale. The certificates herein required to be filed in the Clerk's office of the county shall be duly recorded by the said City Treasurer in the same manner as deeds are required to be recorded by law, and, being so recorded shall have the same effect as against subsequent purchasers or encumbrances, as deeds and conveyances duly proved and recorded; and such certificate or record, or a duly authenticated copy of such record shall be received in all courts and places as a prima facie evidence of the fact therein stated. In indexing any certificates so to be recorded in his or her office, or any deed which may be given pursuant thereto, the said County Clerk shall index the same as follows: By inserting as grantor, the name of the person named in such certificate as owner, adding thereto the words by the City of Binghamton, and by inserting as grantee the City of Binghamton. The City Treasurer of said City shall provide and keep in his or her office a suitable book, in which he or she shall enter all such certificates of sale filed therein and shall index all such certificates in the manner as above required.

§ C-45. (Reserved)

§ C-46. Redemption. [L.L. No. 5-1931, § 5; L.L. No. 6-1914, § 4]

The owner or any person interested in or having a lien upon any parcel or lot so sold (as provided in § C-44), may redeem the same from such sale at any time prior to the conveyance of the premises to the City of Binghamton, by paying to the City Treasurer the sum mentioned in the certificate as having been bid for the premises, together with the penalty of 10% and all fees paid the City of Binghamton with interest on all said sums at the rate of 10% per annum from the day of sale, to the day of payment. In case of the redemption of any land by any person entitled to redeem as hereinbefore provided, the City Treasurer shall give to any such person a receipt for the moneys paid for such redemption, which receipt shall be acknowledged by said Treasurer as a deed to be recorded, and such receipt so acknowledged, when filed and recorded in the office of the Clerk of the County of Broome, shall operate to discharge the recorded certificate of sale, and said Clerk shall so note upon the margin of said record; and the City Treasurer shall so note upon the record of the certificate in his or her office.

§ C-47. Disposition of redemption money. [L.L. No. 5-1931, § 1; L.L. No. 6-1974, § 4]

The City Treasurer shall credit such amount so received on account of the redemption of any property to a fund to be known as a tax redemption fund, and such funds shall not be used or employed for any other purpose.

§ C-48. (Reserved)

§ C-48.1. Limitation. [L.L. No. 4-1947, § 1]

- A. The owner of any certificate of sale of land sold by the City Clerk or City Treasurer for unpaid taxes and or assessments, and not redeemed, must file proof of service of the notice to redeem required under this article, and make application to the City Treasurer for a conveyance of the land described in the certificate, within 10 years after the date of sale. If such proof of service and application for a conveyance is not made within said time, the certificate shall become null and void and no claim can be maintained under the purchase.
- B. This section shall apply to the sales of land for unpaid taxes and/or assessments enumerated in Subsection A, whether heretofore or hereafter made, except that in the case of such sale made more than eight years and six months prior to the time this section takes effect, the owner of such certificate of sale must file proof of service of the notice required and make application to the City Treasurer for a conveyance of the land described in the certificate within one year and six months after this section takes effect.

§ C-49. Expense of sale. [L.L. No. 5-1931, 1; L.L. No. 2-1951, § 1; L.L. No. 2-1972, § 1; L.L. No 6-1974, § 4; L.L. No. 6-1993, § 1]

Fees for advertising parcels, giving of certificates, and recording certificates at the County Clerk's office shall be set equal to other agencies with any changes left to the discretion of the finance office of the City of Binghamton.

§ C-50. (Reserved)

§ C-51. Collection of local assessments. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1]

Whenever an assessment roll for local improvements shall be deposited with the City Treasurer, he or she shall forthwith give notice thereof in the official paper, by one insertion; and within five days from the date of the notice so published he or she shall cause a written or printed notice to be given to every person, owner, occupant or agent of real estate assessed for the local improvement, within the City, from whom an assessment may be due, specifying the amount and for what purpose the assessment was made, and when payable. Such notice may be served personally or by leaving the same at the residence or place of business of such person, owner, occupant or agent, or may be served by depositing it in the post office with the postage prepaid thereon, properly sealed and directed to such owner, occupant or agent, at his or her last known address, stating that an assessment roll for local improvements has been left with him or her for collection, and that for the first 10 days he or she will receive the assessment or any installment thereof, then due thereon, without fee; for 10 days thereafter, at 1%; for 10 days succeeding at 3% and thereafter and to and including the day preceding the day of sale as directed by § C-44 of this Act (Laws 1917, Ch. 668), at 5%. Where any assessment shall be payable in installments at least 10 days before any installment after the first shall become due, the said Treasurer shall cause a notice to be served in the same manner as the notice first above specified, which shall specify the amount of the installment about to become due, together with the interest upon all unpaid installments, and the time when the same will be due, and if paid when due, no fee will be charged thereon, and that for five days thereafter, 1% fees; for the succeeding five days, 2% fees; for the succeeding five days, 3% fees and thereafter and to and including the day preceding the day of sale as directed by § C-44 of this Act at 4%.

§ C-52. Annual tax sale. [L.L. No. 5-1931, § 1]

One tax sale shall be held annually by the City Treasurer in which shall be included all taxes and assessments so advertised and remaining unpaid at the time of said sale.

§ C-53. Collection of tax or local assessment by suit. [L.L. No. 5-1931, § 1]

Whenever any tax or local assessment levied or assessed upon any person, copartnership, corporation or property, with the fees, interest, addition and expenses which have by law been added thereto, shall remain unpaid for three months after the warrant for its collection has been placed in the hands of the City Treasurer, he or she may maintain an action in his or her name of office, for the amount of such tax, fees, additions and expenses remaining unpaid and uncollected against any person, corporation or copartnership liable for such tax or local assessment, or the representatives of such corporation, copartnership or person, in any court of competent jurisdiction in which the proceedings, costs, judgments, supplementary proceedings, thereon and executions shall be the same, and with like effect as in actions between public officers and individuals, and in civil actions generally under the Civil Practice Act;EN the amount collected by any such action or proceeding shall be used and applied by said City Treasurer in the same manner as though the same had been collected by the sale of real estate under the provisions of this Act (Laws 1917, Ch. 668), relating to the collection of unpaid taxes, and the same costs and disbursements may be allowed against the person examined in such supplementary proceedings, but none shall be allowed against the City. The warrant delivered to the City Treasurer shall be presumptive evidence that all the previous proceedings, including the assessing and levying of the tax or local assessment, were regular and according to law. A judgment in such action in favor of the City shall not release or in any manner effect the lien of any tax or assessment until satisfied, and nothing in this section contained shall be construed or held to repeal or abridge any other remedy or power given for the collection of taxes or local assessments in the City of Binghamton.

§ C-54. Lien for assessments. [L.L. No. 5-1931, § 1]

All taxes assessed upon the general tax roll shall be and become a lien upon the property assessed upon the first day of January next after the completion of the roll and every assessment for a local improvement, unless otherwise specifically provided, shall be and become a lien upon the property assessed upon the date of the filing with the City Treasurer of such assessment roll and all taxes shall so remain a lien until fully paid.

§ C-55. Payment of eligible delinquent taxes in installments. [L.L. No. 1-2001, § 2]

A. Definitions.

- (1) "Eligible delinquent taxes" means the delinquent taxes, including interest, penalties and charges, which have accrued against a parcel as of the date on which an installment agreement is executed.
- (2) "Eligible owner" means an owner of record of real property who is eligible to or has entered into an installment agreement.
- (3) "Installment agreement" means a written agreement between an eligible owner and the enforcing officer providing for the payment of eligible delinquent taxes in installments pursuant to the provisions of § 1184 of the Real Property Tax Law and this section.
- (4) "Special assessments," for purposes of this section, shall mean any other assessment or charge which has been legally imposed upon said property, including but not limited to an act of City Council, clean-up charges pursuant to a code violation, delinquent water and sewer charges, garbage violation costs, avoidable alarm charges, or any other similar imposition.

B. The City Treasurer, the enforcing officer of the City of Binghamton, is authorized (upon approval of the In-Rem Agreement Committee, consisting of the City Comptroller, Corporation Counsel, City Treasurer, Assessor and Assistant Mayor) to enter into an installment agreement providing for the payment of eligible delinquent taxes in installments with property owners. Such installment payments of eligible delinquent taxes shall be made available to each eligible owner on a uniform basis pursuant to the provisions of the New York State Real Property Tax Law and this section. Such installment payments of eligible delinquent taxes shall commence upon the signing of an agreement between the City of Binghamton and eligible owner. The agreement shall be kept on file in the City of Binghamton Treasurer's office, and copies of each agreement shall be provided to the Comptroller and Corporation Counsel.

C. Pursuant to RPTL § 1184, Paragraph 3, the term of the installment agreement shall be 24 months, the payment schedule shall be monthly, the required initial down payment shall be 25% of the eligible delinquent taxes, and eligible properties shall include all properties within the City of Binghamton. Should an eligible property owner be experiencing extreme financial distress, the property owner may seek the authorization of City Council to enter into an installment agreement with an initial down payment of not less than 10%.

D. A property owner shall not be eligible to enter into an agreement pursuant to this section where:

- (1) There is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such delinquent tax lien is not eligible to be made part of the agreement pursuant to this section;
- (2) Such person is the owner of another parcel within the City of Binghamton on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this section;
- (3) Such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this section; or

- (4) Such person defaulted on an agreement executed pursuant to this section within three years of the date on which an application is made to execute an agreement pursuant to this section.
 - (5) Such person has existing code violations upon any property that person owns within the City of Binghamton.
- E. A property owner shall be eligible to enter into an agreement pursuant to this section no earlier than the date the delinquent listing is filed with the County Clerk.
- F. The amount due under an installment agreement shall be the eligible delinquent taxes plus the interest that is to accrue on each installment payment up to and including the date on which each payment is made. The agreement shall provide that the amount due shall be paid, as nearly as possible, in equal amounts on each payment due date. Each installment payment shall be due on the last day of the month in which it is to be paid.
- G. Interest and penalties. Interest on the total amount of eligible delinquent taxes, less the down payment made by the eligible owner, shall be 12% per annum. If an installment is not paid on or before the date it is due, interest shall be added at the rate prescribed above for each month or portion thereof until paid. In addition, if any installment is not paid by the end of the 15th calendar day after the payment due date, a late charge of 5% of the overdue payment shall be added.
- H. Default.
 - (1) The eligible owners shall be deemed to be in default of the agreement upon:
 - (a) Nonpayment of any installment within 30 days from the payment due date;
 - (b) Nonpayment of any tax, special ad valorem levy or special assessment which is levied, by the City of Binghamton or the Binghamton City School District, subsequent to the signing of the agreement and which is paid prior to the expiration of the warrant; or
 - (c) Default of the eligible owner on another agreement made and executed pursuant to this section.
 - (2) In the event of a default, the City of Binghamton shall have the right to require the entire unpaid balance, with interest and late charges, to be paid in full. The City shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of law, special tax act, charter, or local law.
 - (3) Where an eligible owner is in default and the City does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the City shall not be deemed to have waived the right to do so.
- I. Notification of potential eligible owners.
 - (1) Within 45 days of filing the delinquent listing with the County Clerk, or as soon thereafter as is practicable, the enforcing officer shall notify, by first class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies.
 - (2) The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.
 - (3) The enforcing officer shall not be required to notify the eligible owner when an installment is due.
- J. The provisions of this section shall not affect the tax lien against the property except that the lien shall be reduced by the payments made under the installment agreement, and that the lien shall not be foreclosed during the period of installment payments, provided that such payments are not in default.

K. Charges.

- (1) Pursuant to § 1102 of the Real Property Tax Law and commencing with the effective date of this section, the following charges, required or authorized by RPTL and this section, will be assessed (as they are incurred by the City) to all properties with taxes becoming a lien:
 - (a) Per first class mailing sent: \$1;
 - (b) Per certified mailing sent: \$3;
 - (c) For the cost of publication of notices: \$30;
 - (d) For the cost of recording or filing legal documents: \$25;
 - (e) For title search and legal services: \$150.
- (2) Charges shall be deemed a part of the delinquent tax for purposes for redemption.

§ C-56. (Reserved)

§ C-57. (Reserved)

§ C-58. (Reserved)

§ C-59. (Reserved)

§ C-60. (Reserved)

ARTICLE V, Department of Finance

§ C-61. Department estimates.

The estimates required to be furnished by the heads of departments by the provisions of § 73 of the Second Class Cities Law shall be furnished on or before the 25th day of September instead of the date in said section stated. The Comptroller shall furnish with his or her estimate of such expenditures for his or her department a statement showing in detail the items of principal and interest upon bonds, notes, certificates of indebtedness and other fixed legal liabilities and obligations which will become due and payable during the next fiscal year.

§ C-62. Annual estimate. [Laws 1943, Ch. 710; L.L. No. 3-1967, § 1; 11-20-2006 by Ord. No. 06-53; Amended 7-6-09 by Ord. No. 09-21; Amended 7-7-10 by Ord. No. 10-32; Amended 3-23-11 by Ord. No. 11-9; Amended 9-12-11 by Ord. No. 11-32; Amended 2-23-2011 by Ord. No. 11-9]

The annual estimate by the Board of Estimate and Apportionment required to be made by the provisions of § 75 of the Second Class Cities Law shall be made and submitted to the Common Council on or before the fifteenth of September; that any amendments to the annual estimate by the Common Council shall take place on or before the thirtieth of October; that any veto of any amendment made by the Common Council shall be enacted by the Mayor on or before the sixth of November; that any override of any mayoral veto shall be enacted by the Common Council on or before the twentieth of November; and that the tax warrant for the City of Binghamton shall be delivered to Broome Count on or before the twenty-fifth of November. Said estimate shall include the estimated balances that will remain at the close of the current fiscal year, and shall include the probable amount necessary to be levied in the City for state, county and other lawful purposes. If the amount of state, county and other lawful purposes is finally determined after the adoption of the annual budget but prior to the extension of taxes, the Common Council may amend the budget and revise the amount to be levied for state, county and other lawful purposes. If it is ascertained, when the certificate of amount of tax to be levied in the city, state, county and other lawful purposes is received from the Board of Supervisors, that the amount included in the budget is more or less than the sum certified, the Board of Estimate and Apportionment shall apply the surplus or deficit to its next estimate for state, county and other lawful purposes specified in § C-63 of this Act (Laws 1917, Cha. 668).

§ C-63. Certificate by County Legislature of amount of state and county tax apportioned to City.
[L.L. No. 11-1989, § 1]

- A. The Legislature of the County of Broome shall in each year equalize the assessment rolls delivered to its Chairperson or Clerk by the City Clerk with those of other towns in the County of Broome as required by law, and shall, by resolution, ascertain and direct the amount of tax to be levied in the City for the state, county and other lawful purposes, and shall cause the City to collect said amounts on its behalf by causing such state and county tax to be spread upon the tax roll and property within the City, and shall, on or before the first day of January in each year, certify such resolution under the seal of the county to the Comptroller of the City; and of the amount so certified and actually collected by the City, 1/2 shall be paid by the City to the county on or before the first day of March, and the balance of such amounts as are collected by the City on or before the first day of September next succeeding such certification by warrant of the Comptroller of the City, and payable to the order of the County Treasurer, who shall receive and disburse the same for the purpose of and in liquidation to the extent of the amount actually collected by the City of the amount so certified.
- B. The City shall be obligated to transmit to the county such additional amounts as it collects in the period between the dates set forth above in Subsection A of this section together with the county's pro-rata apportionment of any interest or penalties added to such tax as levied and collected by the City.
- C. In the event that the City collects any tax through the foreclosure in rem of any tax lien, the City shall, upon the sale of any parcel so acquired, transmit to the county its pro-rata share of the sale proceeds less any fees that the City may be entitled by law to collect in connection with the foreclosure action.
- D. In the event that any tax lien cannot be perfected or the taxes cannot be collected as a result of any action commenced under the Bankruptcy Act of the United States (11 U.S.C. Section 101 et seq.), the City shall remit to the county only its pro-rata share of such taxes, interest and penalties as may be allowed by a court of competent jurisdiction and actually received by the City under a plan of reorganization or liquidation, as the case may be.

§ C-64. Appropriations for hospital purposes; pavements, sewers, curbs, park purposes; celebrations. [Laws 1922, Ch. 27; Laws 1926, Ch. 411; Laws 1927, Ch. 177; L.L. No. 7-1941, § 1; Laws 1943, Ch. 710; L.L. No. 1-1945, § 1; L.L. No. 4-1955, § 1]

The Board of Estimate and Apportionment may annually include in the annual estimate such sums as may be deemed necessary for the following purposes: For hospital purposes; to defray the City's portion of the cost of construction of new pavements; and/or the repair and/or the resurfacing of existing pavements; to defray the City's share of the cost of construction of stone or concrete sidewalks, curbs and combination curbs and gutters; to defray the City's portion of the cost of construction of sanitary sewers; to defray the cost of stormwater sewers; for the maintenance of parks. The Board of Estimate and Apportionment may also include in the annual estimate, such sum as it may deem necessary for the decoration of public buildings or other purposes on or for the occasion of any public celebration in which the officers of the City shall participate, or in the entertainment of guests of the City.

§ C-65. Authorization of issuance of obligations by ordinance; application of assessments when collected. [Laws 1943, Ch. 710; Laws 1945, Ch. 839]

- A. Whenever the finance board, as that term is defined in the Local Finance Law, authorizes the issuance of obligations, it shall do so by ordinance.

- B. Deferred assessments and assessments levied for the purposes of paying for the expense of improving streets with bituminous or water bound macadam, constructing, grading or repairing sidewalks, when collected, shall be applied to the payment of the cost and expense of the improvements for which they shall have been levied or to the redemption of the bonds or notes issued to pay all or part of the cost thereof; provided, however, that if tax anticipation notes are issued in connection with the financing of such improvements, the assessments in anticipation of the collection of which such notes were issued shall be applied in the manner provided in § 24.00 of the Local Finance Law.

§ C-66. (Reserved)

§ C-67. (Reserved)

§ C-68. Depositories of City funds. [L.L. No. 1-1932, § 1; L.L. No. 3-1934, § 1; L.L. No. 3-1939, § 1]

All moneys received by the City Treasurer shall be properly deposited and placed to the credit of the City in such banks or trust companies as the Council may designate. Not less than two depositories shall be designated for the City funds and one or more for the sinking fund. Any interest on deposits shall be the property of the City and must be credited to the proper fund. Accounts with depositors shall be verified by the City Treasurer at least once in each month. No money shall be drawn from such banks or trust companies except on checks or drafts signed by the City Treasurer, or his or her deputy, countersigned by the Comptroller and showing the fund chargeable. Such checks shall be made payable to the person entitled to receive the payment unless such moneys are for public use in the Treasurer's office, in which case such checks or drafts must be made payable to the order of the City Treasurer. No money shall be paid out except upon the authorization of the Comptroller.

§ C-69. (Reserved)

§ C-70. (Reserved)

ARTICLE VI, Department of Public Works

SUBDIVISION 1. Streets

§ C-71. Commissioner of Public Works; subordinates.

The Commissioner of Public Works shall appoint to hold office during his or her pleasure, a Superintendent of Streets and Sidewalk Inspector when authorized by the Board of Estimate and Apportionment, and such other subordinates as may be authorized by said board. In case of the absence or disability of the Commissioner, and deputy, or of a vacancy in the office of both, the Superintendent shall discharge the duties of the office until the Commissioner or deputy return, the disability ceases or the vacancy is filled.

§ C-72. Duties of Superintendent of Streets.

The Superintendent of Streets shall personally supervise the making and repairing of streets and other highways and Act in all things, except as in this Act (Laws 1917, Ch. 668) or otherwise by law provided, under the direction of the Commissioner of Public Works.

§ C-73. Duties of Sidewalk Inspector.

The Sidewalk Inspector shall inspect sidewalks within the City, and see that the provisions of this Act (Laws 1917, Ch. 668) and of all the ordinances relating to sidewalks are strictly enforced; he or she shall serve personally, when possible, all certified copies of all sidewalk orders or ordinances passed by the Common Council or made by the Commissioner of Public Works, and shall report to the Commissioner of Public Works the location of all sidewalks, the condition of which require new walks to be laid, and all walks needing repairs, and perform such other duties as the Commissioner of Public Works shall require and direct.

§ C-74. Public streets.

The following shall be deemed public streets within the City:

- A. All streets in public use within said City, laid out as streets or public highways under any law of this state, or under any proceedings authorized by the statutes of this state;
- B. All streets not laid out or recorded under any statute of this state or by proceedings authorized by such statutes, but which have been worked or improved by the City and shall have been used as public streets or highways for 20 years or more;
- C. All such streets heretofore dedicated to the public use in pursuance of law, or dedicated in the manner described in the next section (§ C-75) and hereafter accepted by the Common Council as provided in this article.

§ C-75. Dedication of streets and parks.

Whenever any lands have been or are hereafter sold or conveyed within the City of Binghamton and described in the deed or conveyance thereof as abutting upon or bounded by any street, park or square, which is owned wholly or partly by the grantor in such deed or conveyance, and such street shall not be one of the public streets of said City, as defined in the preceding section (§ C-74), or such park or square shall not be one of the public parks or squares of said City, the fact of such sale or conveyance of lands so described, or the conveyance to the City for street purposes of any land intended to be used for or described as a street, shall be deemed a dedication to the public use by the grantor of the street, park or square, as so described in the description of the land so sold or conveyed, or in any map, plan or survey referred to in such description, and filed in the Clerk's office of the County of Broome or as described in such deed or conveyance to the City.

§ C-76. Acceptance of dedication.

Whenever any street, park or square shall have been dedicated to the public use, the Common Council may, by ordinance, adopted by the affirmative vote of 2/3 of all its members, taken by yeas and nays and recorded in its minutes, accept such dedication. Thereupon the street so dedicated and accepted shall be a public street within said City, and the park or square so dedicated and accepted shall be one of the public parks or squares of said City.

§ C-77. Survey and description of streets dedicated.

Whenever any street, park or square shall have been accepted, as in the preceding section (§ C-76) provided, the Common Council shall cause a survey, map and description thereof to be made by the City Engineer and by him or her reported to the Common Council, stating the course, distance, width and boundaries of the street, park or square so accepted. Such description shall be entered at length in the minutes of the Common Council, and a copy thereof duly certified by the City Clerk shall be presumptive evidence in any proceeding, of the location of said street, park or square.

§ C-78. Record of streets, parks and squares.

The Common Council may by ordinance, cause such streets, public parks or squares in said City as shall have been used for 20 years, and are not sufficiently described, or have not been duly recorded, to be ascertained, described and entered of record in its minutes, and the record thereof, and of such as shall hereafter be laid out, or of such as have been dedicated and accepted by the Common Council or a copy thereof, certified by the City Clerk, shall be evidence of the existence and location of such streets, parks and squares as therein described.

§ C-79. Encroachments on streets, parks and squares.

If any street, park or square in said City, is encroached upon by any fence, building or otherwise, the Common Council may cause a survey to be made and the extent of such encroachment ascertained, and may, by ordinance specifying the nature of such encroachment and the extent thereof, require the person making or maintaining such encroachment, or the occupant thereof, to remove the same or to remove therefrom, within the time specified in such ordinance, which time shall not be less than 10 days from the passage thereof. A copy of such ordinance shall, within 10 days after the passage thereof, be served under the direction of the Commissioner of Public Works, upon the person making or maintaining such encroachment, if he or she is known and resides within the County of Broome, and also, upon the occupant thereof, either personally or by leaving it at his or her place of residence with some person of suitable age. If the removal of such encroachment shall not be made within the time specified in such ordinance, the owner or occupant so served, shall each forfeit to the City the sum of \$5 per day for each day after the time mentioned in said notice that such encroachment shall continue. The Commissioner of Public Works may cause such encroachment to be removed, and may, in the name of the City, collect of such person, owner or occupant, all reasonable charges therefor, with costs, in any court of competent jurisdiction, and upon a judgment rendered in such action, execution may issue against the person of such defendant.

§ C-80. Proceedings if encroachment is denied.

If any person upon whom a copy of such ordinance (provided for in § C-79) shall have been served, shall, within five days after such service, file with the City Clerk a notice that he or she denies such encroachment, the Corporation Counsel may apply to the County Judge of Broome County for a precept directed to the sheriff of said county, commanding him or her to summon 12 freeholders of said City, to be named in such precept to meet at a certain day and place specified therein, not less than two days after the issuing thereof, to inquire into the existence of such encroachment. The Corporation Counsel shall give the person so denying such encroachment at least 24 hours' notice of the time and place at which such freeholders are to meet. At the time and place specified in such precept, a jury of six persons shall be drawn by said judge from those so summoned, who shall appear, which jury shall be sworn by said judge, well and truly to inquire whether any such encroachment has been made, to what extent and by whom. The County Judge shall preside at such investigation, and shall decide all questions of law that may arise upon the evidence offered by either party, and may instruct the jury as to the law of the case, as in civil actions. Any party to such proceedings may except to any ruling or decision of the County Judge made therein, and have such exception inserted in the record. The jury shall hear the proofs and allegations that may be submitted by either party. If the jury finds that any encroachment has been made, the members shall make and subscribe a certificate, in writing, stating the particulars of such encroachment, and by whom made. A record of the proceeding including the testimony and evidence taken therein, and the ruling and decisions of the County Judge, which have been excepted to, and such exceptions, shall be made by or under the direction of the County Judge, and certified to by him, and such record, so certified, filed with the City Clerk. The person denying such encroachment within 10 days after notice of the filing of such record and certificate that there is an encroachment, shall, under the penalty provided in the last preceding section (§ C-79), remove the same, or, in case of a neglect so to do, the Commissioner of Public Works may cause the same to be removed and collect the charges therefor, in the manner provided in the last preceding section. If the jury finds that no encroachment has been made, the members shall so certify, and the proceedings shall be dismissed.

§ C-81. Jurors and witnesses; costs and allowances.

Persons summoned as jurors, and persons subpoenaed and attending as witnesses (pursuant to the provisions of § C-80), shall be entitled to the same fee as jurors and witnesses in courts of record. The party prevailing in such proceeding shall recover costs as against the other, which shall be ascertained and certified by said judge, and, if in favor of the City, collected by a warrant issued by him or her to the Sheriff of the County of Broome, commanding him or her to collect the same out of the goods and chattels of the party against whom such warrant shall issue. Such costs shall consist of the sheriff's, jurors' and witnesses' fees, and such amount as the judge shall allow for attorney's fees, not exceeding \$20. In case the proceeding shall terminate in favor of a party other than the City, his or her costs shall be paid by the City in the same manner as other judgments against the City are paid under the provisions of the Second Class Cities Law.

§ C-82. Appeal to appellate division from determination of jury as to encroachment.

Any party affected by any determination made in a proceeding instituted under § C-80 of this Act (Laws 1917, Ch. 668), may appeal therefrom to the Appellate Division of the Supreme Court, in the same manner as an appeal is taken from a final order of a justice of such court in a special proceeding. Such appeal shall be taken within 30 days after the filing of such record, as aforesaid, by service of a notice of appeal upon the City Clerk, and the other parties to said proceeding. The proceedings for bringing on the appeal and the hearing and decision thereof by the Appellate Division shall conform to the practice and procedure for appeals to said court in similar proceedings as regulated by the Code of Civil Procedure and otherwise by law and rules of practice.

§ C-83. Power of Common Council as to street improvements. [L.L. No. 1-1962, § 1, L.L. No. 7-1975, § 2]

Under the restrictions and limitations hereinafter prescribed, the Common Council may, by ordinance, provide for:

- A. Acquiring lands for and the laying out, opening, constructing and making of public streets, public grounds, squares, parks, and the construction of drains, culverts, arches and bridges in said City;
- B. Widening, narrowing, altering or discontinuing of any street, public ground, square or park, or any part thereof, in said City.

§ C-84. Petition to Common Council for street improvements. [L.L. No. 7-1975, § 2]

Whenever a petition for layout, opening, widening, narrowing, altering, construction or making of any street, public ground or park, including the acquisition and improvement of land to be used in part for a park or public grounds and in part for street purposes, shall be presented to the Common Council, such petition shall be entered at length in the minutes of the Common Council and Common Council, if deemed appropriate, shall direct the City Engineer to prepare plans and specifications for such improvement. Said plans and specifications, when completed, shall be filed with the City Clerk, along with estimates of the probable cost and expense thereof, including the amount of damages which in his or her judgment will be sustained, in consequence thereof, by the owners and occupants of lands and buildings if any, required to be taken for such improvement.

§ C-85. Notice of proposed improvement; hearing and action thereon by Common Council. [L.L. No. 7-1975, § 2]

The Common Council upon the presentation of such plans and specifications (provided for in § C-84) unless it shall determine to deny the petition for such improvement, shall direct the City Clerk to give notice by publication thereof, for at least twice a week for two weeks in the official newspaper, of the time and place at which the Common Council will consider the matter of such proposed improvement, which time shall be not less than 10 days from the first publication of such notice. At the time and place mentioned in such notice, the Common Council shall meet, and then, or at such other time as a majority of its members then present may appoint, shall hear all persons desiring to be heard upon the matter of said proposed improvement and shall take such action as it shall deem proper.

§ C-86. Acquisition of land by contract. [L.L. No. 7-1975, § 2]

After the adoption of such ordinance (provided for in § C-85) the engineer may contract with the owner or owners of any of the lands required for said improvement for the sale thereof, to said City, at a price to be stated in said contract, which price shall be approved by the Board of Estimate and Apportionment, and shall be payable at some time after the final confirmation of the apportionment and assessment of the probable cost and expense of said improvement, as hereinafter provided, and upon the delivery of a good and

sufficient deed or deeds of the lands so contracted for, conveying to the said City in fee the lands so purchased, free and clear of all liens and encumbrances.

§ C-87. Acquisition of land by legal proceedings. [L.L. No. 7-1975, § 2]

Whenever any lands are required for such improvement for the purchase of which no contract shall be made, as provided for in the last preceding section (§ C-86), the City of Binghamton, through its proper official, shall take and is authorized to take appropriate action under the Condemnation Law (Chapter 923, Laws of 1920) of the State of New York, for the acquisition of the lands required for such improvement.

§ C-88. Power of City Engineer as to street improvements. [L.L. No. 7-1975, § 2; L.L. No. 7-1979, § 1; L.L. No. 7-1981, § 1]

- A. Under the restrictions and limitations hereinafter prescribed, the City Engineer is hereby authorized and empowered to determine those streets in the City of Binghamton that are deemed, in his or her opinion, in need of reconstruction or rebuilding. The expense and cost of the street reconstruction or rebuilding including, if the City Engineer deems necessary, the construction of curb, combination curb and gutter and sidewalk on said streets, shall be borne by the City of Binghamton, with no cost being assessed to the property owners adjacent thereto.
- B. The City Engineer is further authorized and empowered to direct the repair and/or replacement of sidewalk and curb or combination curb and gutter when necessary to correct dangerous situations or when in his or her opinion the repair and/or replacement is necessitated by actions of the City. This authorization shall be limited to 20 linear feet per property.
- C. The City Engineer is further authorized and empowered to direct and require any street or public ground in the City or any part of either of them to be graded, paved or macadamized, or to be regraded, repaved or resurfaced or otherwise repaired or improved at the cost or expense of the City of Binghamton.
- D. The estimated cost of the street reconstruction or rebuilding including the replacement of curb, combination curb and gutter, or sidewalk shall be included in the annual budget as presented to City Council.

§ C-89. City improvements; Council may direct. [L.L. No. 7-1975, § 2]

The Council may by ordinance, with or without petition, direct and require any street or public ground in said City or any part of either of them to be graded, paved, or macadamized or to be regraded, repaved or resurfaced or otherwise repaired or improved at the cost or expense of the City of Binghamton. The Council may by ordinance, with or without petition, authorize the Mayor to enter into contract for the laying of substances other than water on the streets and public grounds in said City or any part or either of them or cause the said work to be performed by the employees' tools and machinery of the City of Binghamton, at the expense of the public at large as provided here and after.

§ C-90. Sidewalk, curb, and combination curb and gutter. [L.L. No. 7-1975, § 2; L.L. No. 4-1979, § 1; L.L. No. 7-1981, § 2]

- A. The Council may, by ordinance to be adopted not less than two weeks after being introduced and not until after a public hearing relating to such ordinance is held, order the construction of a sidewalk, curb or combination curb and gutter. The notice of the public hearing must be published in the official newspaper once each week during the two weeks prior to the public hearing. Construction so ordered on any street or portion thereof shall be continuous for not less than from one intersecting street to the next, unless it shall be for more than 400 feet or unless it shall be to complete the construction of sidewalk, curb or combination curb and gutter between two such intersecting streets

or unless it shall be otherwise authorized by Council. The cost shall be borne jointly by the City and by the respective owners of the lots in front of which said improvements are constructed as follows: 50% thereof shall be borne by the City and 50% thereof shall be borne by the owners of the lots in front of which said improvements are constructed in proportion to their respective frontages. This 50% cost proportion to both the property owner and the City can be applied at the time of initial construction of sidewalks, curbs, or combination curbs and gutters and, thereafter, can be utilized for replacement of same once every twenty-year period.

- B. After an ordinance ordering such work has been adopted and approved by the Mayor, the cost and expense to which the owner of property fronting on such street or portions of street along which said sidewalk, curb or combination curb and gutter is constructed shall be apportioned, assessed, collected and enforced in same manner as provided in this article.

§ C-91. Sidewalk, curb, combination curb and gutter, individual application. [L.L. No. 7-1975, § 2; L.L. No. 4-1979, § 2; L.L. No. 7-1981, § 3]

- A. Upon an individual application for the construction of sidewalk, curb or combination curb and gutter, a rebate shall be applied in the same manner as described in the aforementioned section (§ C-90). Said applications shall be made to the City Engineer and are subject to all applicable rules and regulations relating thereto, as deemed appropriate by the City Engineer.
- B. The estimated cost of the aforementioned rebate program shall be included in the annual budget as presented to City Council.

§ C-92. Application of assessments. [L.L. No. 7-1975, § 2]

Moneys received on account of assessments against the owners of the lots in front of which work is done pursuant to § C-90, shall, when collected, be applied to the payment of the cost and expense of such work or to the redemption of the bonds, notes or certificates of indebtedness issued to pay all or part of the cost thereof; provided, however, that if tax anticipation notes are issued in connection with the financing of such work, the assessments in anticipation of the collection of which such notes were issued shall be applied in the manner provided in § 24.00 of the Local Finance Law.

- § C-93. (Reserved)**
- § C-94. (Reserved)**
- § C-95. (Reserved)**
- § C-96. (Reserved)**
- § C-97. (Reserved)**
- § C-98. (Reserved)**
- § C-99. (Reserved)**
- § C-100. (Reserved)**
- § C-101. (Reserved)**
- § C-102. (Reserved)**
- § C-103. (Reserved)**
- § C-104. (Reserved)**
- § C-105. (Reserved)**
- § C-106. (Reserved)**
- § C-107. (Reserved)**
- § C-108. (Reserved)**
- § C-109. (Reserved)**
- § C-110. (Reserved)**
- § C-111. (Reserved)**
- § C-112. (Reserved)**

- § C-113. (Reserved)
- § C-114. (Reserved)
- § C-115. (Reserved)
- § C-116. (Reserved)
- § C-117. (Reserved)
- § C-118. (Reserved)
- § C-119. (Reserved)
- § C-120. (Reserved)
- § C-121. (Reserved)
- § C-122. (Reserved)
- § C-123. (Reserved)
- § C-124. (Reserved)
- § C-125. (Reserved)
- § C-126. (Reserved)
- § C-127. (Reserved)
- § C-128. (Reserved)
- § C-129. (Reserved)
- § C-130. (Reserved)

SUBDIVISION 2. Sewers and Pavements

§ C-131. Plans and specifications for public work to be adopted. [L.L. No. 5-1931, § 1]

Before any contract for the paving, repaving or resurfacing of any street or part of a street or public place or for the building of sewers or reservoirs, public buildings or bridges, shall be made, the Common Council shall cause plans and specifications or specifications only, as the work may require, to be prepared and filed with the City Clerk, unless such specifications shall have already been prepared, under the direction of the head of the department said work is to be performed in, and filed with the City Clerk and, in case of pavements, may include in the specifications a provision requiring the contractor to keep and maintain such pavement in good repair for a certain specified period; and after said Council shall have adopted such plans and specifications, the same shall be referred to the Board of Contract and Supply which shall advertise for proposals as provided by law and the rules of said Board.

§ C-132. Sewers; ordinance for construction; power of City to enter private lands. [L.L. No. 5-1931, § 1]

The Common Council may by ordinance order the construction of a sewer or sewers, which ordinance shall specify the points between which the same is or are to be constructed and for the purpose of sewerage or draining any street or streets in said City, whether said street or streets have been dedicated to the City or accepted or not, shall have power to cause the same to be sewerage, and the said Council is empowered and authorized when necessary for the purpose of sewerage or draining any street or streets to construct a sewer upon and through lands of any owner in said City, and for that purpose the Common Council and those acting by its direction or under the direction of the Commissioner of Public Works for the purpose of performing the work so ordered, shall have power to enter upon any grounds in said City. An ordinance for the construction of a sanitary sewer shall not be finally adopted in less than two weeks from the date of its introduction nor until after a hearing has been called and held thereon as hereinafter provided.

§ C-133. Hearing and notice thereof. [L.L. No. 5-1931, § 1]

The City Clerk shall forthwith after the introduction of an ordinance for the construction of a sanitary sewer or sewers give notice in the official paper that a hearing will be held upon the said ordinance at a time therein specified, not less than two weeks from the date of the introduction of said ordinance, which notice shall be published once a week during the two weeks preceding the date of said hearing.

§ C-134. Objections; hearing. [L.L. No. 5-1931, § 1]

At any time after the first publication provided for in the last preceding section (§ C-133), any person interested, aggrieved or liable to be assessed for the construction of said sewer may file objections thereto in writing, with the City Clerk, to be presented to the Common Council at such hearing. The Common Council at such hearing shall hear all objections so presented, with the evidence which may be offered, and any objections which may be made personally at such hearing, and after such hearing may adopt the ordinance for the construction of said sewer or sewers with all necessary connections, to a point at least six inches beyond the curblin.

§ C-135. Performance of work. [L.L. No. 5-1931, § 1]

After the adoption of such ordinance (ordinance provided for in §§ C-132 through C-134) and its approval by the Mayor, the City Clerk shall transmit a copy thereof to the Board of Contract and Supply which shall advertise for proposals for said work as provided by law and the rules of said Board, to be performed according to the plans and specifications therefor filed with the City Clerk. Should the Board of Contract and Supply deem all bids excessive it may reject the same or withhold action thereon and refer the matter to the Common Council for further consideration and, in case said Common Council shall deem it best for the interest of the City that said bids be rejected and the work done by day labor it may do so, in which case the work done shall be done by and under the direction of the Commissioner of Public Works and under the direct supervision of the City Engineer and his or her assistants. In the event the Common Council shall direct the said work to be done by days' work as hereinbefore provided, the Commissioner of Public Works shall have and is hereby given full power and authority to purchase, as provided by law, all necessary tools, machinery and materials and hire and employ the necessary labor for the doing of said work as in his or her judgment shall be deemed proper.

§ C-136. (Reserved)

§ C-137. Frontage tax; amount. [L.L. No. 5-1931, § 1; L.L. No. 1-1946, § 1; L.L. No. 2-1947, § 1; L.L. No. 5-1953, § 1; L.L. No. 1-1959, § 1; L.L. No. 5-1962, § 1; L.L. No. 1-1964, § 1]

The lands fronting upon any street, and which are provided with sewage facilities by the construction of a sanitary sewer along said street shall, upon the completion of said sewer, be subject to a tax of \$6 per lineal foot of frontage along the street upon which the sewer is constructed, with the following exceptions:

- A. A corner lot shall be assessed for its frontage along the street upon which the lot faces for tax purposes as indicated on the City tax maps, regardless of which street the sewer is constructed on. No further assessment shall be made against said lot for the construction of another sewer along the intersecting street if the lot has less than 10,000 square feet of area. If the lot has 10,000 square feet or more of area it will be subject to an additional assessment on an arbitrary frontage of 50 feet for each full 5,000 square feet of area in excess of the first 5,000 square feet, if or when a sewer is constructed along the intersecting street.
- B. A lot extending through from street to street shall be assessed for the frontage along the street in which the sewer is constructed and shall not be subject to further assessment upon the construction of a sewer along the other street unless the total area of the lot shall equal or exceed 10,000 square feet, in which case the lot shall be subject to assessment along both frontages. If said lot is less than 10,000 square feet, and a request is made for a sewer connection on the other street, then the lot shall be subject to a frontage assessment at the time a sewer connection is requested.
- C. Any lot which cannot be built upon by virtue of the zoning ordinances shall be exempt from assessment for sewage facilities, unless a sewer connection is requested for said lot, then the lot shall be subject to a frontage assessment at the time a sewer connection is requested.

- D. Whenever an intercepting or trunk sewer is constructed, the cost of which is being borne by the City at large, the owner of any lot being provided with sanitary sewer facilities by virtue of said intercepting or trunk sewer shall be subject to an assessment on the frontage along said sewer.

§ C-138. Certificate of completion of work. [L.L. No. 5-1931, § 1]

Upon the completion of the work of construction of any sanitary sewer the City Engineer shall file a certificate and report with the Assessor showing completion of work and total costs thereof and total amount to be assessed against the owners of the land fronting upon the street or portion of the street through which said sewer has been constructed together with a map which shall show such street or portion thereof and the frontage of each parcel of land on said street or portion thereof in which said sewer has been constructed.

§ C-139. Assessment roll proceedings. [L.L. No. 5-1931, § 1]

Upon the filing of such report and map the Assessor shall make out an assessment roll of such frontage tax and when so made out shall give public notice in the official paper by publication thereof twice a week for one week that the same is on file in his or her office and will remain with him or her for a term of 10 days from the date of such notice during which time any person interested may examine said roll and at the expiration of said 10 days and on a day, hour and at a place to be specified in said notice, said Commissioner will hear any objections to said assessment and shall, if need be, alter and correct said roll and, when completed, shall sign same and file it in his or her office. In case any party has filed an objection with the Commissioner as herein provided, deeming himself aggrieved he or she may file with said Commissioner a written appeal therefrom to the Common Council, briefly stating therein the grounds of such appeal, whereupon the Common Council shall proceed to a hearing and determine such appeal or appeals and affirm or reverse the assessment. In case of affirmance the proceedings to collect said tax or assessment shall thereafter be the same as if no appeal had been taken. In case of reversal said Commissioner shall proceed to make out a new assessment roll of said frontage tax in accordance with the determination of the Common Council which he or she shall file in his or her office and which shall be conclusive upon all parties.

§ C-140. Assessment may be paid in installments. [L.L. No. 5-1931, § 1]

During the 10 days when said roll shall be open to review any person assessed may file with the Assessor a notice in writing, stating that he or she desires to pay said assessment in three equal installments, the first when said roll shall be delivered to the City Treasurer for collection, the second one year thereafter, and the third two years thereafter, whereupon the said Assessor shall file such notice, and shall subdivide such assessments upon said roll accordingly, and such deferred installments of said assessments shall bear interest at the rate of 6% per annum from the time said roll is delivered to the City Treasurer for collection until all installments are fully paid and said Common Council shall cause the proper warrant to be attached to said roll delivered to the City Treasurer for collection in the manner provided for the collection of local assessments, under the provisions of this Act (Laws 1917, Ch. 668), and said City Treasurer shall retain said roll in his or her possession until all installments thereon have been collected.

§ C-141. (Reserved)

§ C-142. (Reserved)

§ C-143. Disposition of excess of assessment; City to pay deficiency.

In case the assessments so collected shall exceed the total cost of the sewer or sewers with connections for which the assessments are made, the excess shall be paid into the general sewer fund of said City. In case the assessments so collected shall fall short of the amount necessary to defray the total cost of constructing such sewer or sewers with connections, the deficiency shall be paid by the City from the general sewer fund and the Common Council, subject to the limitations in the next succeeding section (§ C-144) contained, is hereby authorized, whenever there is not sufficient moneys in the general sewer fund to pay such deficiency, to add such deficiency or any part thereof to the annual tax budget of the year in which such deficiency shall occur,

or of the succeeding year, and collect the same in the same manner as other contingent expenses of the City are collected.

§ C-144. Limitation of amount to be expended in any fiscal year. [Laws 1943, Ch. 710]

The amount of liability to be incurred by the City for sanitary sewers in any fiscal year exclusive of frontage tax when the same shall be raised by direct tax levied for such fiscal year shall not exceed the sum of \$20,000; and the amount of liability to be incurred by the City for stormwater sewers in any fiscal year when the same shall be raised by direct tax levied for such fiscal year shall not exceed the sum of \$20,000. Nothing herein contained shall prevent the City of Binghamton from financing any such expenditure, in whole or in part, pursuant to the Local Finance Law.

§ C-145. Sewer through private land; cost of; payment. [Laws 1943, Ch. 710]

When in the opinion of the Common Council it shall become necessary in order to abate a nuisance, or the public interest(s) requires, said Council may order the construction of a sewer or sewers through private lands of any person, persons, corporation or association upon the assessment and payment of damages as in the case of the taking of private lands for streets. And where such sewer or sewers do not furnish sewer facilities for any lots along the route thereof having frontage upon streets, the whole expense of the construction of such sewer shall be borne by the City and shall be paid from the general sewer fund or pursuant to the provisions of the Local Finance Law; except, however, that if the construction of said sewer will furnish drainage for low lands or swamp lands whereby the said lands will be improved and rendered more valuable, the cost thereof, or such portion thereof as shall be determined in the manner prescribed in § C-147, shall be paid by the owners of lands in an assessment district to be determined upon and designated by proceedings the same as prescribed for determining upon and designating an assessment district when private lands are taken for streets as prescribed by this article, and the portion of the said expense which the owners of respective lots or parcels of land shall be assessed and shall pay shall be determined by Commissioners as provided by § C-148 of this Act (Laws 1917, Ch. 668).

§ C-146. Change of and improvement in watercourses. [Laws 1919, Ch. 366, § 1; Laws 1943, Ch. 710]

Whenever in the opinion of the Common Council it shall become necessary in order to abate a nuisance, or the public interests require, said Council may by ordinance direct and order the diversion and change of the natural course of any stream of water within the City of Binghamton except the Chenango River and the Susquehanna River, or the improvement of the bed and banks of such stream to prevent or minimize the danger of overflow thereof and for that purpose may acquire lands either within or without the City of Binghamton for the purpose of providing for a new course for said stream, and in the event that the said lands cannot be acquired by gift or grant or by purchase in the manner provided by law, the same may be acquired in the manner and according to the procedure provided for under the provisions of the General Condemnation Law; and the expense of acquiring lands for such diversion and diverting of such stream and the improvement of the bed and banks of such stream shall, as may be determined upon and directed by ordinance of the Common Council, be borne by the City at large, or by the owners of property which shall be benefited by such diversion or such improvement, or apportioned between the City at large and such owners: Such portion of the expense of such work as is directed to be borne by the owners of property benefited thereby shall be apportioned and assessed against and borne by the owners of property thereby benefited in a district of assessment to be determined upon and designated by proceedings the same as prescribed for determining upon and designating an assessment district when private lands are taken for streets as prescribed in this article, and the portion of the expense which the owners of respective lots or parcels of land shall be assessed and shall pay, shall be determined by Commissioners appointed to ascertain and assess damages and benefits to the parties interested as provided by the sections of this article relating to the taking of private lands for streets and said sections are hereby declared to apply to proceedings under this section. The necessary funds for defraying the portion of the expense of such work which shall be required to be borne by the City at large, may be included in the budget and raised by tax in the same manner as for other general City charges, or may be provided for pursuant to the Local Finance Law. The Common Council may by ordinance permit and direct that the share of the expense of such work which is assessable to the owners of the

property benefited thereby may be paid in annual installments with interest thereon, at the rate of 6% per annum, in which case the portion of expense of such work which shall be represented by such installments shall be paid in the first instance by the City, and funds therefor may be raised pursuant to the Local Finance Law.

§ C-147. Assessment of cost.

If in order to abate a nuisance, or the public interests require, it shall become necessary in the opinion of the Common Council to construct a sewer or sewers through private lands of any person, persons, corporation or association and at the same time for the same purpose and coincident therewith it shall also be decided to be necessary to divert or change the course of any natural stream of water as provided in the last preceding section (§ C-146), the cost of the said entire work shall be apportioned between the City at large, the owners of lands which will be benefited by either the construction of said sewer or sewers or the diversion or change of the said watercourse, or both, and the owners of lots fronting on streets which will be furnished sewer facilities by the construction of such sewer or sewers, and the same proceedings as in this Act (Laws 1917, Ch. 668) prescribed for apportioning, assessing and collecting the cost and expense thereof in either of the said cases separately shall apply to and govern the apportionment, assessment and collection of the cost and expense thereof when taken together.

§ C-148. Proceedings to obtain right-of-way.

Whenever the Common Council shall order a public sewer to be made through the lands of any person, corporation or association, such proceedings shall be had to appoint Commissioners to ascertain and assess the damages and benefits to the parties interested as is provided by the sections of this article relating to the taking of private lands for streets, and said sections are hereby declared to apply to proceedings under this section, and by such proceedings the City of Binghamton shall acquire a permanent right-of-way for a sewer of any size or depth, with the right to repair or relay such sewer at any time.

§ C-149. City Engineer to give direct supervision to work; inspectors to be appointed; duties of inspectors.

The City Engineer shall give direct supervision to the construction of all sewers, and upon the acceptance of a proposal for the construction of a sewer or sewers, or upon the determination of the Common Council to construct a sewer or sewers by days' work, the Commissioner of Public Works, with the approval of the Board of Estimate and Apportionment, shall appoint some competent person or persons, by an instrument in writing, fixing the rate of compensation to be paid to such person or persons by the City, to oversee or superintend under the direction of said City Engineer the construction of such sewer or sewers. Said person or persons must be present at all times during the construction of the sewer, and shall promptly report to the City Engineer any violation of contract on the part of the contractor, or any other person employed on such work, or any neglect or inefficiency of any person employed on said work.

§ C-150. City engineer to certify performance of work; acceptance and payment not conclusive.

Before the claim of the contractor for the construction of the sewer, or any portion of such claim, shall be audited, a certificate of the City Engineer, approved by the Commissioner of Public Works, stating that said sewer has been properly constructed in accordance with the contract must be filed with the City Clerk, but said certificate shall not in any way conclude or bind the City. Nor shall the acceptance of the sewer by the City and full payment for the same preclude the City from recovering against the contractor, or his or her sureties, any damages which the City may suffer by reason of the failure of the contractor to construct the sewer according to contract.

§ C-151. Common Council may authorize payment during progress of work.

The Common Council, if it deems it expedient, may by general ordinance authorize the audit by the Comptroller and payment by the City Treasurer, upon the certificate of the City Engineer, and the approval of the Commissioner of Public Works, of estimates of the contractor to apply upon the contract price of the sewer, not to exceed 85% of the value of the work done, but such payments shall not be used as evidence

against the City that the work already done has been completed according to contract, nor shall it preclude the City from contesting the claims of the contractor that the sewer has been completed according to contract.

§ C-152. Contract prices; when due. [Laws 1943, Ch. 710]

The contract price of any sewer constructed under the provisions of this Act (Laws of 1917, Ch. 668) shall be due and payable within 60 days after the completion and acceptance of the work.

§ C-153. Commissioner of Public Works may compel connection.

The Commissioner of Public Works may, whenever deemed expedient, order any person whose property has been or is about to be provided with sewage facilities, by the construction of any sewer, to make connections of such property with such sewer, and whenever it shall be necessary to do any such work, the Commissioner of Public Works shall order it done within a time specified and in the manner prescribed by the rules and regulations of the Bureau of Health, and in case said premises shall be in the actual occupation of any person such person or the owner of the premises shall be served with a notice in which shall be stated in general terms what has been ordered to be done, and the time in which it has been required; such notice shall be signed by the Commissioner of Public Works and shall be served personally or by leaving it with some person of suitable age at the place of residence of said occupant or owner, or it may be served by depositing it in the post office, with the postage prepaid thereon, properly folded and directed to such owner or occupant at Binghamton, New York.

§ C-154. Procedure to compel connection.

An affidavit stating the time and manner of the service of such notice (provided for in § C-153) shall be made by any person having knowledge thereof, and filed with the Clerk, which affidavit, when so filed, shall be presumptive evidence in all courts of the facts there contained. If any work shall not be done within the time limited therefor, the Commissioner of Public Works shall, by contract or otherwise, cause the same to be done and for that purpose he or she or the person employed by him or her shall have the right to enter such premises.

§ C-155. Procedure to collect expense of connection. [L.L. No. 5-1931, § 1]

Upon the completion of the work provided for in the preceding section (§ C-154), the Commissioner of Public Works shall forthwith present a statement of the expense thereof, with a description of the premises upon which the work was done, to the Assessor who shall assess the expense of said work, with 10% additional, upon said premises, or upon the owner thereof; and in case said premises shall not be in actual occupation of any person the Commissioner of Public Works may cause such work to be done forthwith, and without any notice and the expense thereof to be so assessed. The Assessor shall make out an assessment roll and the same proceedings as to objections, appeals and collection of said assessment thereon shall be had as in this Act (Laws 1917, Ch. 668) provided, in the case of assessments for the construction of sewers, except said assessments shall not be subdivided and payment deferred; assessments upon several different persons and premises may be included in the same roll.

§ C-156. (Reserved)

§ C-157. (Reserved)

§ C-158. (Reserved)

§ C-159. (Reserved)

§ C-160. (Reserved)

§ C-161. (Reserved)

§ C-162. (Reserved)

§ C-163. (Reserved)

§ C-164. (Reserved)

§ C-165. (Reserved)

§ C-166. (Reserved)

§ C-167. (Reserved)

§ C-168. (Reserved)

§ C-169. (Reserved)

§ C-170. (Reserved)

§ C-171. City engineer to give direct supervision to work; inspectors to be appointed; duties of inspectors.

The City Engineer, under the direction of the Commissioner of Public Works, shall have and give direct supervision to all paving, repaving, macadamizing or resurfacing of any street when the same shall have been ordered by the Common Council, and the Commissioner of Public Works shall, with the approval of the Board of Estimate and Apportionment, appoint some competent person or persons, by an instrument in writing, fixing the rate of compensation to be paid to such person or persons by the City, to oversee and superintend, under the direction of the City Engineer, the said paving or repaving, macadamizing or resurfacing; such person or persons must be present at all times during the performance of the work, and shall promptly report to the City Engineer any violation of the contract on the part of the contractor, or any other person employed on such work or any neglect or inefficiency of any person employed on said work.

§ C-172. Certificate of City Engineer; certificate not to bind City.

Before the claim of the contractor for the doing of the work or any portion of such claim shall be audited, a certificate by the City Engineer, approved by the Commissioner of Public Works, stating that said work has been properly constructed in accordance with the contract, must be filed with the City Clerk, but such certificate shall not, in any way, conclude or bind the City, nor shall the acceptance of the work by the City and full payment of the same preclude the City from recovering against the contractor or his or her sureties any damages which the City may suffer by reason of the failure of the contractor to do the work according to contract.

§ C-173. Payments during progress of work.

Upon estimates certified by the City Engineer, approved by the Commissioner of Public Works and filed with the City Clerk, the Comptroller may audit and the City Treasurer may pay to the contractor on account of the contract not to exceed 85% of the contract price of the work then performed as shown by such estimates.

§ C-174. Contract price, when due. [Laws 1943, Ch. 710]

The final payment on the contract price for any pavement constructed under the provisions of this Act (Laws 1917, Ch. 668) shall be due and payable within 60 days after the acceptance of the work.

§ C-175. Correction of errors in assessment.

Every assessment authorized by this title (Laws 1917, Ch. 668) shall be valid and effectual notwithstanding any irregularity, omission or error in any of the proceedings relating to the same, and the Common Council may, in its discretion, correct any such irregularity, error or omission, or any error or mistake in the description of the lands assessed, or intended to be assessed, or in the designation of the owners or occupants thereof; and the original assessment upon such lands, after such corrections are made, may be enforced and collected in the same manner as though no error, irregularity or mistake had been made.

§ C-176. Evidence of assessment generally.

Every assessment authorized by the Common Council under this Act (Laws 1917, Ch. 668), or a copy of the ordinance making the same or authorizing the work for which said assessment is made, certified by the City Clerk, or the minutes of the Common Council containing such ordinance, or a printed copy of such minutes, published under authority of the Common Council, shall be presumptive evidence in all courts and places that such assessment was legally imposed, and that all the notices and proceedings required for such assessment were duly given and taken, and that the lands thereby assessed are legally subject to the lien of such assessments.

§ C-177. Establishment of boundaries of watercourses; publication of description; hearing.

The Common Council may, by ordinance, determine, fix and establish the boundaries, limits and grade at the bed thereof, of the natural streams or watercourses within said City, or of any part of such streams or watercourse. Whenever any such boundaries, limits or grade of such stream or watercourse shall be so fixed and established, the Common Council shall make such description thereof as shall definitely describe and locate the boundaries and grade as so fixed and established, and enter the same at length in their minutes, and cause the same to be published in the official newspaper of the City for at least once a week for two successive weeks, which publications shall be due and sufficient service upon the owners, occupants and other persons interested therein, of all the lands through which said stream shall pass or which abut thereon. If such owner, occupant or other person interested shall, within 15 days after the first publication of such ordinance, file with the City Clerk his or her objections thereto in writing, he or she shall be entitled to be heard by and before said Common Council at its next regular meeting after the filing of such objections, or at such other time as the Common Council may appoint in reference to such ordinance or the determination therein stated, or the facts upon which it was based. Upon such hearing, the Common Council shall receive such legal evidence as may be offered which is relevant to the matter. The Common Council shall thereupon pass upon the objections so filed, and may confirm the ordinance previously adopted, or modify or rescind the same. The ordinance as confirmed or modified shall be final and conclusive upon all parties interested therein, and the boundaries, limits and grade of such stream as thereby and therein described and designated shall thereafter be the legal boundaries, limits and grade of said stream or watercourse, but none of the riparian rights of any of the owners of lands abutting on such watercourse or stream shall be impaired or affected.

§ C-178. Construction in streams; removal.

It shall be the duty of any owner of lands through which a stream flows to keep the same clear and free from obstructions except deposits of stone and gravel deposited in large quantities by freshets and floods, and the Commissioner of Public Works may order the same cleared and the obstructions removed therefrom by the owners, and in event of failure may cause the same to be done and the cost thereof shall be paid by or assessed against the owners. All of the provisions and proceedings contained in § 92 of the Second Class Cities Law relating to cleaning snow or ice from sidewalks shall be and hereby are made applicable to cleaning deposits and removing obstructions from streams.

§ C-179. Compensation of Commissioners and Assessors; action of majority.

The Commissioners and Assessors provided for in this article shall each receive for their services \$5 a day for each day actually and necessarily spent in the hearing and determination of the matters submitted to them, to be paid in the first instance by the City. And any report or assessment provided for in this title (Laws 1917,

Ch. 668) made under the hands of a majority of such Commissioners or Assessors shall be as valid as if signed by all of them.

§ C-180. (Reserved)

SUBDIVISION 3. Water Department [L.L. No. 10-1979, § 2]

§ C-181. Department of Water. [L.L. No. 10-1979, § 2]

The Water Department shall constitute a department within the City of Binghamton; and the chief officer thereof, appointed by the Mayor, shall be the Superintendent of Water (hereinafter referred to as "superintendent"), in accordance with state law.

§ C-182. Powers and duties of Superintendent of Water. [L.L. No. 10-1979, § 2]

The Superintendent of Water may enter upon any public street, highway or place in the City, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water and for the purpose of extending any portion of the waterworks of said City, and may lay and construct such conduits, mains and pipes over, under or across any watercourse, canal or railroad, and may enter upon any public street, highway or place without the City limits in the County of Broome, subject to regulation by the officials having control thereof, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water; and may carry and conduct the same over, under or across any watercourse or railroad without the limits of the City, provided that such public street, highway or place, or watercourse or railroad crossing so entered upon is restored in as good condition as before such entry; and the City may maintain its conduits, mains and pipes in and under the public streets, highways and places within and without the City in which they are now laid, and over, under or across the watercourses and railroads over, under or across which they are now maintained.

§ C-183. Plans for extension. [L.L. No. 10-1979, § 2]

The Superintendent of Water may adopt plans for the extension or improvement of the waterworks system, or for the acquisition of an additional supply of water for public and private use, or for conserving the present water supply of the City, including rights of riparian owners, and rights of all kinds in dams and water powers, developed or undeveloped. A plan so adopted by him or her shall be submitted to the Common Council and the Board of Estimate and Apportionment for their approval. If such plan is approved by the Common Council and the Board of Estimate and Apportionment, the Superintendent of Water shall cause such work to be done, and necessary lands and rights to be acquired, in accordance therewith. The contracts for such work shall be let in accordance with such plan, and in the same manner as other contracts for public improvements; except that if bids are deemed excessive, the Board of Contract and Supply may reject all bids and the Common Council may, upon report thereof, order said work to be done under the supervision of the Superintendent of Water with the tools, machinery and employees of the City.

§ C-184. Acquisition of lands and rights. [L.L. No. 10-1979, § 2]

For the purpose of carrying out the provisions of the preceding section (§ C-183), the Superintendent of Water or City Engineer may enter into or upon any land or water in the County of Broome for the purpose of making surveys. The superintendent, with the approval of the Common Council and the Board of Estimate and Apportionment, may agree with the owner of any property or rights in the County of Broome which in his or her judgment may be required for such extension, improvement, protection, conservation or increase in supply, or which may be injuriously affected by such work. If the Superintendent of Water shall agree with any owner for the purchase of any lands or easement in the same, or for the taking of any water, water rights, rights in dams or other rights, all such agreements and conveyances shall be made and taken in the name of the City of Binghamton. If the Superintendent of Water is unable to agree with the owner of any such lands or easements, water, water rights or other rights, as to the amount of compensation to be paid therefor, the City of Binghamton may acquire such lands or easements, water, water rights or other rights, by the power of eminent domain as provided by law.

§ C-185. Extension of water system. [L.L. No. 10-1979, § 2]

Whenever there is money in the treasury applicable to such purpose, or the issue of bonds for such purpose has been authorized, the Common Council may, by ordinance, direct the Superintendent of Water to cause the line of water mains or pipes for the City waterworks to be extended in any street of the City.

§ C-186. Fire hydrants. [L.L. No. 10-1979, § 2]

The Superintendent of Water shall procure and set hydrants for the supply of water for the extinguishment of fires, of such kind, in such manner and at such places in the public streets of the City as he or she may deem advisable, or as the Common Council shall direct.

§ C-187. Connecting with mains. [L.L. No. 10-1979, § 2]

The connecting or supply pipes leading from the mains or distributing pipes to dwellings or other private property shall be installed from the main to and including service box at the curb, by the Water Department, upon application from the owners of the premises. Such applications for installation shall be in accordance with such regulations and rules as may be promulgated by the superintendent and approved by the Board of Estimate and Apportionment. Whenever permanent type pavements are constructed pursuant to § C-160 hereof, all supply and water service lines which are connected from the main to and including service box at the curb which have been installed for more than 35 years, shall be replaced by the Water Department; and the owner of the premises shall pay such charges therefor as shall be fixed by the superintendent and approved by the Board of Estimate and Apportionment, which charges shall be collected in the manner provided for the collection of other local assessments under applicable provisions of law and the provisions of this Act (Laws 1917, Ch. 668).

§ C-188. Water rates. [L.L. No. 10-1979, § 2]

§ C-188.1. Establishing water rates.

The Superintendent of Water shall recommend rates to be charged for the use and supply of water, to be called water rents. The rates shall be approved by the Board of Estimate and Apportionment prior to implementation. The superintendent may recommend modifying, amending, increasing or diminishing such rates, but the rates shall be so fixed and kept that no consumer shall obtain water for less than cost, and that the aggregate amount collected therefrom shall, each year, at least equal the cost of all expenses.

§ C-188.2. Annual rate review. [Amended 4-21-09 by Ord. No. 22-2008]

The superintendent shall review and issue a report on water rates no less than once every year to determine if rates changes are necessary so revenue will be equal to, or exceed total costs of the Water Department. The superintendent shall file a copy of this report with the Board of Estimate and Apportionment and the City Clerk on or before December 1 of each year.

§ C-188.3. Public notice of water rate changes.

Before any such rates shall be established, the superintendent shall give public notice in the official newspaper of the City by publication thereof once a week during two weeks that he or she has prepared proposed water rates and they are subject to the inspection of any resident for the period of at least five days, at a place to be named by the superintendent, and that he or she will be present at the time and place, which shall be named in such notice, for the hearing and consideration of any complaint that may be made by any resident of the City. At the time and place so appointed, he or she shall hear the complaints and allegations of all parties interested, and may take written statements in relation thereto, and may recommend the adoption of proposed rates without alteration, or with such alteration as he or she may deem proper, except that he or she shall not increase said proposed rates.

§ C-188.4. Correction of charges. [Deleted 6-2-08 by Ord. No. 28-2008]

§ C-188.5. Entry to premises receiving water. [Deleted 6-2-08 by Ord. No. 28-2008]

§ C-189. Frontage tax and enforcement of collection. [L.L. No. 10-1979, § 2]

The City of Binghamton shall have power to levy and collect a frontage tax in each and every year on all real estate or upon real estate not taking City water lying along or facing on either side of a street or alley in which a water main is now laid, or may hereafter be laid; said frontage tax shall be equal to the annual minimum water charge on each 100 feet of frontage, or fraction thereof, in any and all tracts or parcels of land lying along or fronting on either side of such street or alley, and the money collected on such tax shall be applied to the same purpose as water rents. The Superintendent of the Water Department of the City shall, on or before the first day of August in each year, cause to be prepared and deposited in his or her office an assessment roll of the frontage tax assessed for the following year, which roll shall contain in four columns the names of the persons assessed, the street upon which the property assessed to each person is situated, the number of feet frontage assessed upon each piece of real estate and the amount of tax imposed thereon; such roll shall remain in his or her office for the period of 10 days after the depositing thereof and during that time shall be open for the inspection of all persons who are assessed thereby or interested therein; and during the last three days the superintendent shall be at his or her office between the hours of 10:00 a.m. and 3:00 p.m., for the purpose of hearing objections to and making corrections of the roll. The superintendent shall, upon the depositing of the roll in his or her office, cause due notice of the depositing of the roll in his or her office, and of the time and place to hear objections to and make corrections of the roll by publication of the notice in the official paper each day during the 10 days that the roll is required to remain in his or her office, and shall make such corrections thereof as may be proper and for that purpose he or she is hereby given the same powers as are given Assessors by law in making corrections of the annual assessment roll. At the expiration of the 10 days, and after the making of corrections, the roll, as corrected, shall be delivered to the City Clerk to be reported to the Common Council; the Common Council shall, by ordinance, order a warrant to be annexed to the assessment roll, signed by the Mayor and City Clerk under the corporate seal of the City, and the assessment roll with the warrant annexed to be delivered to the City Treasurer for collection, and all taxes and assessments imposed thereby shall, from the time of filing with the City Treasurer, be final and conclusive upon all persons against whom such taxes or assessments are made, and shall be a lien upon such premises and shall bind the same in the same manner as the City taxes which are assessed and levied as provided by law. The frontage tax shall be payable at the office of the City Treasurer at the same time as other City real estate taxes; and if any frontage tax imposed or assessed as herein provided shall remain unpaid on the first day of February following the assessment thereof, said unpaid taxes shall, from that date, draw interest at the rate of 10% per annum, and the Superintendent of Water shall file with the City Clerk a list of such unpaid taxes, duly certified by him, and the same shall be enforced and collected, together with the interest as hereinbefore provided, and expenses of sale, advertising and necessary searches, in the same manner as the City taxes in said City are collected by sale of real estate, and the moneys collected therefrom shall be paid over to the City Treasurer. The City shall have a right of action against any party or parties using the water of the City, and also for the collection of the water tax or rent due from any party; and all property liable to be taken for any other tax, levied by law in the City, shall be liable to be taken upon execution issued upon any judgment obtained for such taxes or rents. Any violation of the rules and regulations made and adopted as provided by law shall be punishable by fine, or imprisonment, or both.

§ C-190. Collection of water rents. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]

§ C-190.1. Shut-off of water service for nonpayment of bill. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]

§ C-190.2. Water billing dates. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]

§ C-190.3. Comptroller's report of rents received. [L.L. No. 10-1979, § 2]

The City Comptroller and City Treasurer shall submit monthly reports to the Water Superintendent of the aggregate of all water rents collected during the preceding month and keep a separate account of the amounts

so received, or otherwise received, and of all payments made in such month for maintaining and operating the City Water Department.

§ C-190.4. Enforcing collection of unpaid water rents. [L.L. No. 10-1970, § 2; L.L. No. 7-1989, §§ 1, 2; 9-18-2006 by Ord. No. 06-43; Deleted 6-2-08 by Ord. No. 28-2008]

§ C-190.5. Receipt and accounting for Water Department moneys. [L.L. No. 10-1979, § 2]

All moneys collected for water rents and frontage taxes, and all other moneys received directly or indirectly from operation of the waterworks, including fines and penalties for violations of rules and regulations of the Water Department, shall be paid to the City Treasurer, who shall keep a separate account of the moneys so received. Said money shall be used exclusively for the purpose of the Water Department, except that an amount equivalent to taxes which said waterworks, if privately owned, would pay to the City of Binghamton, and, in addition, a fair return on the value of the property used and useful in the Water Department, may be used for the payment of expenses and obligations incurred by the City of Binghamton for its municipal purposes. Nothing herein contained shall be construed to limit or abridge the right of the City to issue bonds or notes pursuant to the Local Finance Law for the supply and distribution of water.

§ C-191. (Reserved)

§ C-192. Furnishing water outside of City. [L.L. No. 10-1979, § 2]

Whenever in the judgment of the Superintendent of Water the supply of water shall exceed the needs of the City, the City, by ordinance of the Council and approval of the Board of Estimate and Apportionment, shall have power to contract with any corporation or corporations, municipal or other water districts or person or persons without the City, to supply to such corporations, districts or persons, water for a term not exceeding 10 years and to supply and deliver such water under such contract.

§ C-193. Protecting water supply. [L.L. No. 10-1979, § 2]

The Common Council shall have power to prevent drainage into any lake, stream, reservoir, pond or spring within or without the City of Binghamton in the County of Broome, from which any part of the water supply is obtained, either directly or indirectly, for the purposes herein set forth, or the erection of slaughterhouses, outhouses, stables or other structures or works, causing or being liable to cause impurities to the water, at any place within 500 feet of any such lake, stream, reservoir, pond or spring. No person shall willfully do, or cause to be done, any act whereby any work, materials or property whatever, rejected or used, or hereafter to be erected or used for the purpose of procuring or keeping such supply of water, shall in any manner be injured, nor erect or place any nuisance on the banks of any lake, stream, reservoir, pond or spring from which supply of water is obtained, nor throw anything into such lake, stream, reservoir, pond or spring, or into any reservoir or pipe which will be likely to contaminate the waters thereof. Any person who shall violate any ordinance enacted hereunder or commit any act herein shall be guilty of a misdemeanor and further shall forfeit the sum of \$100 for each violation, to be recovered by action by the superintendent of water.

§ C-194. (Reserved)

§ C-194.1. Creation of Water Advisory Board. [L.L. No. 1-1997, § 1]

There is hereby created a Water Advisory Board for the City of Binghamton ("Board"). The Board shall consist of seven members, to be appointed by City Council, each of whom have background or experience in the fields of water plant operation, engineering, management or finance. One member of the Board shall be a City Councilperson, and this member shall be appointed by the Council President. City employees, other than the Councilperson, are not eligible for membership on the board. Each member of said Board shall be a citizen of the United States and an actual resident of Broome County.

§ C-194.2. Term of office of Water Advisory Board. [L.L. No. 1-1997, § 1]

The term of office of the members of such Board first appointed shall be two members for one year, two members for two years, two members for three years. The term of the Councilperson shall be one year. Upon the expiration of each of said terms, the term of office of each member (except the Councilperson) thereafter appointed shall be three years from the first day of January of the year in which he or she shall be appointed, or until his or her successor is appointed. Vacancies shall be filled for the unexpired term.

§ C-194.3. Officers of Water Advisory Board. [L.L. No. 1-1997, § 1]

- A. The officers of the Board shall be a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected annually, at the first meeting held each year.
- B. The Chairperson shall preside over the meetings; the Vice-Chairperson shall preside in the case of absence of the Chairperson; the Secretary shall be responsible for the preparation and distribution of minutes.

§ C-194.4. Meetings of Water Advisory Board. [L.L. No. 1-1997, § 1]

- A. The Board shall meet one time per month, at a date and time to be selected by the members. Special meetings may be called by the Chairperson as needed, upon no less than 48 hours' notice.
- B. A member of the City Clerk's staff, as designated by the City Clerk, shall serve as Assistant Secretary of the Board for the purpose of preparing and distributing the minutes of each meeting.
- C. At all meetings of members, a majority of the total membership shall constitute a quorum for the transaction of business.
- D. The Water Superintendent and City Engineer will be welcome to attend the meetings of the Board.

§ C-194.5. Powers and duties of Water Advisory Board. [L.L. No. 1-1997, § 1]

- A. The Board shall have the power and duty to:
 - (1) Observe and communicate to the Mayor and the City Council the activities and condition of the Water and Sewer Departments, including the condition of the plants and equipment, and the financial condition of the departments.
 - (2) Make recommendations regarding said activities, including recommended replacements or improvements in plant or equipment, optimum methods of financing improvements or operations of the departments, and recommendations regarding improvements in operations of the departments.
 - (3) Establish a list of needed physical or process improvements by priority.
- B. The Board shall be purely advisory in nature. The Mayor and the department heads shall retain all authority and management power they currently possess over those departments.

§ C-195. (Reserved)

§ C-196. (Reserved)

§ C-197. (Reserved)

§ C-198. (Reserved)

§ C-199. (Reserved)

§ C-200. (Reserved)

ARTICLE VII, Department of Public Safety

SUBDIVISION 1. Bureau of Police [Amended 12-4-2006 by L.L. No. 3-2006]

§ C-201. Qualifications for membership in Police Department.

In addition to the qualifications prescribed by § 135 of the Second Class Cities Law and otherwise by law of appointment to and membership in the Police Department of the City, the Mayor, acting as the Commissioner of Public Safety, may also, by general rules and regulations, prescribe additional requirements as to age, height, weight and physical condition of applicants for appointment to membership therein. To be appointed as a member of the Binghamton Police Department the applicant must pass all New York State Civil Service requirements as prescribed by civil service law, rules and regulations.

§ C-202. (Reserved)

§ C-203. (Reserved)

§ C-204. Execution of orders and commitments; conveyance of prisoners.

The members of the Police Department shall execute the orders and commitments of the City Court Judge of the City of Binghamton and of any judge having power and authority to act in criminal cases, and of all courts held by him or her or them for the trial of criminal cases. They shall convey all persons sentenced by the City Court Judge to confinement in any jail, and for such purpose shall have and possess all the powers of a peace officer under the general laws of the state.

§ C-205. Receiving fees prohibited; traveling expenses.

No fee or compensation shall be charged or received by any member of the Police Department for the arrest, confinement or discharge of any person, or for mileage, or for serving any process or warrant, or for discharging any other required duty. Any reasonable expense incurred and actually paid by any police officer when traveling in the discharge of his or her duties as a police officer shall be paid by the City Treasurer of the City of Binghamton.

§ C-206. Receiving of rewards prohibited.

No member of the Police Department shall receive any gift or reward for services rendered, or to be rendered, absent the approval of the Chief of Police and the Mayor, acting as the Commissioner of Public Safety, who, upon receiving and application in writing; shall refer to § 805-a of the General Municipal Law. Any police officer violating this section shall be subject to removal thereof.

§ C-207. Police Pension Fund.

The Police Pension Fund as created and established by Chapter 268 of the Laws of 1915 and the provisions relating thereto, as contained in said Chapter 268, shall be continued, and said Chapter 268 of the Laws of 1915 and all provisions thereof shall be and remain in full force and effect until changed otherwise by law.

§ C-208. (Reserved)

§ C-209. (Reserved)

§ C-210. (Reserved)

SUBDIVISION 2. Bureau of Fire

§ C-211. Qualifications for membership in Fire Department. [Amended 12-4-2006 by L.L. No. 3-2006]

In addition to the qualifications prescribed by § 135 of the Second Class Cities Law and otherwise by law for appointment to and membership in the Fire Department of the City, the Mayor, acting as the Commissioner of Public Safety, may also by general rules and regulations prescribe additional requirements as to age, height, weight and physical condition of applicants for appointment to membership therein.

§ C-212. Property and effects of Department.

The Commissioners may, upon the approval of the Board of Estimate and Apportionment, from time to time, sell and dispose of such personal property as shall not be needed for the (Fire) Department, in such manner as the Board of Estimate and Apportionment shall direct and the proceeds thereof shall be paid by him or her to the City Treasurer.

§ C-213. Fire limits.

The fire limits of the City of Binghamton shall remain as existing at the time this Act (Laws 1917, Ch. 668) takes effect, until changed as hereinafter provided. The Common Council may, by ordinance, from time to time, adopted by a 2/3 vote of all the members, change the fire limits of the City of Binghamton as existing at the time this Act takes effect or as hereafter established, but no such ordinance shall take effect until it has been published in the official paper once a week during two weeks.

§ C-214. Buildings in fire limits; permits for buildings.

No building, structure, or part of the same, shall hereafter be erected, placed or moved, or added to, within the fire limits, for outside said fire limits of said City, if, in the opinion of the Superintendent of Buildings, such building or structure outside said limits will materially increase the fire hazard, unless the outside and party walls of said building, structure or part of the same shall be built and constructed of brick, stone, concrete or iron or partly of all of such materials, and the roofs covered with slate, tile, tin, gravel or other noncombustible material, but this section shall not be construed to apply to the inside finish of any such buildings or structures, nor prevent the erection of front or rear stoops or stairs of wood not enclosed, nor a bay window of wood. Permits shall be required for all buildings and structures and billboards, or parts of the same, hereafter built, erected, placed or moved within the City, and the Common Council shall, in its building code, specify the manner in which an application for building permits shall be made and to what officer, board or department of the municipality such application shall be made, and may in such code provide for filing with such officer, board or department a copy of the plans and specifications for such building or structure. All provisions of the building code of the City of Binghamton in force when this Act (Laws 1917, Ch. 668) takes effect shall continue in force until changed in the manner provided by law.

§ C-215. Penalties for violations; injunction.

Any owner, builder, occupant, or other person offending against any of the provisions of the last preceding section (§ C-214), shall, for each such violation, be subject to a penalty of \$300, to be recovered in an action brought in the name and for the benefit of the City of Binghamton in any court of competent jurisdiction. If such action is brought in the Supreme Court, the said Court, or any justice thereof, or the County Judge of Broome County, may grant a temporary injunction restraining such owner, occupant, builder or other person from violating the provisions of such section during the pendency of the action. The judgment in such action may perpetually enjoin such defendant from constructing said building or structure so built or being built in violation of the provisions of such section and may order the same to be removed or taken down.

§ C-216. Fire marshals; powers and duties. [Amended 12-4-2006 by L.L. No. 3-2006]

The Mayor, acting as the Commissioner of Public Safety, may appoint a Fire Marshal or designate some member of the Fire Department to perform the duties of a Fire Marshal who shall have all the authority and power of a Fire Marshal. The Chief of the Fire Department and the Assistant Chiefs shall be ex officio Fire Marshals of the City of Binghamton under the direction and control of the Commissioner of Public Safety. The said Fire Marshals shall have the power, at reasonable hours of the day, to enter and inspect buildings,

dwellings and other structures within the limits of the City of Binghamton and to ascertain whether such buildings and structures are safe from danger of fire. Whenever any Fire Marshal shall report that any dwelling, building or structure is not safe from danger of fire, the Commissioner of Public Safety shall be and he or she hereby is authorized to issue orders directing the owner of said building or structure to make such changes therein as shall be directed to lessen and decrease such danger, and the Common Council may adopt such ordinances as necessary to enforce such orders.

§ C-217. City not liable for acts or omission.

The Chief of the Fire Department, Assistant Chiefs and members of the Fire Department, including the Fire Marshals herein provided for, are not officers or agents of the municipal corporation known as the City of Binghamton for whose acts or omissions the said corporation shall be held liable in a civil action for injuries to persons or property.

§ C-218. Destruction of buildings to prevent spread of fire. [Amended 12-4-2006 by L.L. No. 3-2006]

Any two Aldermen, with the engineer in charge at a fire, or the Mayor, acting as the Commissioner of Public Safety, and such engineer, or the Mayor and such engineer, may cause to be pulled down or destroyed any building which they shall, in relation to said fire, deem hazardous or likely to communicate fire to any other building or buildings, and no action shall be maintained against the City of Binghamton nor against any person therefor; but the owner or any person interested in any building so pulled down or destroyed, or in any personal property therein, may, within three months, but not thereafter, apply to the Common Council by petition, stating the interest of the petitioner in said building, or the personal property therein destroyed, with a particular description of the property destroyed, and its value.

§ C-219. Appointment of Commissioner to ascertain damages.

Upon the receipt of such petition (provided for in § C-218), the Common Council may agree with such petitioner on the amount of just compensation to be paid for any building or personal property so destroyed, but in case the Common Council is unable to agree with any petitioner as to the amount of just compensation, then said petitioner or the Common Council may make application for the appointment of Commissioners to ascertain and report the just compensation to be paid to the said petitioner, owner of said building or personal property therein destroyed, in the same manner and to the same court as is provided in Article VI of this Act (Laws 1917, Ch. 668) relating to the opening of streets.

§ C-220. Fees and powers of Commissioners.

The Commissioners so appointed (pursuant to § C-219) shall receive like fees and possess like powers to ascertain and report the just compensation to be paid to any petitioner, for the building or personal property destroyed, as the Commissioners named in Article VI of this Act (Laws 1917, Ch. 668) relating to the opening of streets, and may also take proof of the probability of said building or personal property having been destroyed or injured by fire, if the buildings had not been so pulled down, and may report that no compensation should equitably be awarded to said petitioner when the probability of its being destroyed by fire is established by proof to their satisfaction. The Commissioners, or a majority of them, shall make and sign their report and deliver the same to the City Clerk, and an appeal may be taken therefrom in like manner upon like condition, brought to hearing upon like notice, and the court shall possess upon said appeal like powers as are provided in the said Article VI of this Act relating to street opening proceedings.

§ C-221. Assessment of damages awarded.

The Common Council may, upon the confirmation or correction of the report of the Commissioners or upon agreement with any petitioner, for just compensation, direct the Assessors to assess the amount awarded by the Commissioners or agreed upon as just compensation, as aforesaid, upon the real estate benefited. The Assessors, upon receipt of a copy of the ordinances in either of said cases, shall possess like powers and proceed in like manner to make said assessment, and to make and subscribe an assessment roll thereof, to hear objections, correct amounts and complete and file the assessment roll thereof, as is given to the Assessors in said Article VI of this Act (Laws 1917, Ch. 668), relating to street openings. All the provisions of

Article VI of this Act relating to street openings shall apply so far as applicable to said assessment roll and the amount therein assessed, and the same shall be collected and enforced as other local assessments are collected and enforced, under the provisions of this Act.

§ C-222. Fire Fighter's Relief and Pension Fund.

The Fire Fighter's Relief and Pension Fund as created and established by Chapter 403 of the Laws of 1912 and the provisions relating thereto as contained in said Chapter 403 and all acts amendatory thereof and supplemental thereto shall be continued, and said Chapter 403 of the Laws of 1912 and the acts amendatory thereof and supplemental thereto shall be and remain in full force and effect until changed otherwise by law.

§ C-223. (Reserved)

§ C-224. (Reserved)

§ C-225. (Reserved)

§ C-226. (Reserved)

§ C-227. (Reserved)

§ C-228. (Reserved)

§ C-229. (Reserved)

§ C-230. (Reserved)

SUBDIVISION 3. Bureau of Health

§ C-231. Power of Common Council as to public health.

- A. The Common Council may, by ordinance:
 - (1) Take such measures as it shall deem effectual to prevent the entrance of any pestilential or malignant disease into the City;
 - (2) Stop, detain and examine for the purpose every person coming from any place infected with such a disease;
 - (3) Establish, maintain and regulate a hospital at some place within the City, and cause any person not being a resident of the City, and who shall be infected with any such disease, to be sent to such hospital;
 - (4) Remove from the City or destroy any furniture, wearing apparel or other property of any kind, which shall be tainted or infected with any pestilential disease.

- B. Nothing in this section shall be deemed to supersede the powers of the Mayor, acting as the Commissioner of Public Safety, in making such orders and regulations as he or she deems necessary and proper for the preservation of life and health, and the execution and enforcement of the Public Health Law of the state. [Amended 12-4-2006 by L.L. No. 3-2006]

§ C-232. Powers of Superintendent of Buildings as to removal of dangerous buildings and fences. [Amended 12-4-2006 by L.L. No. 3-2006]

Whenever, in the opinion of the Superintendent of Buildings, any building or any part thereof, or any fence or other erection or any part thereof, is liable to fall down whereby persons or property may be injured, he or she may order any owner or occupant of the premises on which said building, fence or other erection stands, to put the same in a safe condition or take down the same or any part thereof within a reasonable time to be

fixed by the order or immediately as the case may require; or may immediately, in case the order is not complied with as therein provided, cause the same to be taken down at the expense of the owner of the premises, which expense may be sued for and recovered of such owner or occupant and shall, until paid, be a lien and charge on the lot on which said erection stood. Said order shall be served upon the owner or occupant personally or by leaving it at his or her residence if he or she resides in said City or, if he or she does not reside in said City, then in such manner as the Superintendent of Buildings may direct. The owner of any building who is ordered to put the same in a safe condition or take down the same may, within 24 hours after such order is given, appeal to the Mayor, acting as the Commissioner of Public Safety, who shall, after conference with the Commissioner of Public Works and the City Engineer and consideration by the said officers, either affirm or modify or vacate the order of the Superintendent of Buildings, which order of the Commissioner of Public Safety so given shall be final and binding upon the owner of the said property.

§ C-233. (Reserved)

§ C-234. (Reserved)

§ C-235. (Reserved)

§ C-236. (Reserved)

§ C-237. (Reserved)

§ C-238. (Reserved)

§ C-239. (Reserved)

§ C-240. (Reserved)

ARTICLE VIII, (Reserved)

§ C-241. (Reserved)

§ C-242. (Reserved)

§ C-243. (Reserved)

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§ C-300. (Reserved)

ARTICLE IX, (Reserved)

§ C-301. (Reserved)

§ C-302. (Reserved)

§ C-303. (Reserved)

§ C-304. (Reserved)

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§ C-327. (Reserved)

§ C-328. (Reserved)

§ C-329. (Reserved)

§ C-330. (Reserved)

ARTICLE X, Miscellaneous Provisions

§ C-331. City boundaries may be marked; no adverse title obtained by encroachments.

The Common Council shall have power to cause the boundaries of the City to be surveyed and permanent monuments to be placed to indicate the same, and a map to be made thereof. No encroachments on any sidewalk, alley, street, highway or public grounds in said City, shall operate to confer any right upon any person or corporation adverse to the City, but such encroachment shall be deemed a nuisance, and the City may, at any time, cause the same to be removed.

§ C-332. Notice to one owner, notice to all.

Whenever any real estate in said City shall be owned by two or more persons jointly, or as tenants in common, a notice served on one of such persons shall be sufficient notice to all, for any purpose requiring a notice under this Act (Laws 1917, Ch. 668).

§ C-333. City to be regarded as town for certain purposes.

The City shall be regarded as a town, under the provisions of the Code of Civil Procedure respecting the return of jurors, and the supervisors, or a majority of them, and the Clerk of said City shall perform the duties therein enjoined upon the supervisors, Assessors and Town Clerks of the several towns of the state, except that a duplicate of the return of jurors made by them shall be filed in the office of the City Clerk. For all other purposes except those provided for in this Act (Laws 1917, Ch. 668), the City shall be regarded as one of the towns of Broome County.

§ C-334. County to pay expenses of apprehending offenders.

The expense of apprehending, examining, trying and committing offenders against any law of the state, in said City, and of their confinement, properly chargeable against the County of Broome, shall be audited, allowed and paid by the supervisors of said county, in the same manner as if such expenses had been incurred in any town of said County of Broome.

§ C-335. Charges against officers.

Charges against any City officer may be of disability for service, in which case the examination shall be one of inquiry, and the decision may be for honorable discharge from service; or of neglect, or violation of law or duty, inefficiency, intemperance, disobedience of orders, or unbecoming official or personal conduct, in which case the examination shall be a trial, and the offender may be punished as in this Act (Laws 1917, Ch. 668) provided.

§ C-336. Officers to complete term.

Except as otherwise herein expressly provided, every officer elected or appointed for a definite term and in office when this Act (Laws 1917, Ch. 668) shall take effect shall continue in office for the term for which he or she was elected or appointed.

§ C-337. Construction of Act.

The provisions of this Act (Laws 1917, Ch. 668), so far as they are substantially the same, or cover the same subject matter, as those of any law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. References in law not repealed to the provisions of any law incorporated into this Act, shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law (General Construction Law). This Act is

intended to be and shall be deemed and held in all courts to be a public act of which the courts shall take judicial notice and shall be liberally construed so as to carry into effect the objects and purposes thereof.

§ C-338. Obligations and rights to continue.

The repeal of a law, or any part of any law by the provisions of this Act (Laws 1917, Ch. 668), shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment, or any bar, limitation or defense incurred prior to the time when this Act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the City, its boards or officers; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this Act takes effect, may be prosecuted and defended to final effect in the same manner as they might under such law so repealed, unless it be otherwise specifically provided herein. Any limitation or bar imposed by any act repealed hereby, shall be computed from the time when the same began to run, and if the whole time thereof has been completed when this Act takes effect, such bar or limitation shall become absolute, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the City, its board or officers; but if the whole time thereof has not been completed, the time thereof which has run before the taking effect of this Act shall be computed as a part of the time provided by this Act as such limitation or bar. The repeal hereby of a law or part of any law, does not revive a law repealed by the law or part of a law hereby repealed and includes all laws amendatory of the laws hereby repealed, unless otherwise stated.

§ C-339. Saving clause.

Nothing contained in this Act (Laws 1917, Ch. 668) shall be construed to repeal any statute of the state or ordinance of the City, or rule or regulation of the Board of Health or Bureau of Health, Water Commissioners of the City of Binghamton, or any other board, bureau, or department of the City, not inconsistent with the provisions of this Act, and the same shall remain in full force and effect when not inconsistent with the provisions of this Act, to be construed and operated in harmony with the provisions of this Act. The powers which are conferred and the duties which are imposed upon any officer or department of the City under any statute of the state, or any City ordinance which is in force at the time of the taking effect of this Act, shall, if such office or department be abolished by this Act, or otherwise by law, be thereafter exercised and discharged by the officer, board or department upon whom is imposed corresponding or like functions, powers and duties under the provisions of this Act. All contracts, made by the Water Commissioners of the City of Binghamton between the date that the provisions of the Second Class Cities Law, being Chapter 53 of the Consolidated Laws, became applicable to the City of Binghamton, and the first day of January, 1917, are hereby legalized, and all rules, and regulations made by said Water Commissioners of the City of Binghamton between said dates, or prior thereto and in force on the 31st day of December, 1916 are hereby ratified and to remain in full force and effect until changed, modified or repealed as provided by law. Where any contract has been entered into by the City, prior to the time of taking effect of this Act, or any bond or undertaking has been given to or in favor of the City, which contains provisions that the same may be enforced by some officer, board or department therein named, but by the provisions of this Act or otherwise by law, such office, board or department is abolished, such contracts, bonds and undertakings shall not in any manner be impaired and the duties imposed with reference to the same upon the officer, board or department which has been thus abolished shall thereafter be exercised and discharged by the officer, board or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this Act (Laws 1917, Ch. 668).

§ C-340. Laws repealed.

Chapter 751 of the Laws of 1907 (except Title 17-A thereof, added by Chapter 268 of the Laws of 1915); Chapter 337 of the Laws of 1908; Chapter 135 of the Laws of 1909; Chapters 37, 67, 97 and 460 of the Laws of 1910; Chapter 337 of the Laws of 1911; Chapter 402 of the Laws of 1912; Chapter 158 of the Laws of 1913; Chapter 289 of the Laws of 1914 are hereby repealed and all acts or parts of acts inconsistent with the

provisions of this Act (Laws 1917, Ch. 668) so far as they affect the City of Binghamton, and all City ordinances inconsistent herewith are hereby repealed. Such repeal shall not revive any act or ordinance repealed by a law or ordinance hereby repealed, but shall include all laws amendatory of the laws repealed, except as provided in this section. Such repeal shall not affect any right already existing or accrued or any liability incurred by reason of any violation of a law or ordinance heretofore existing, or any suit or proceeding already instituted or action had under the laws or ordinance, unless expressly provided in this Act. Nothing herein contained shall be construed to affect any of the acts or parts of acts to regulate and improve the civil service of the State of New York.

§ C-341. When effective.

This Act shall take effect immediately.

SUPPLEMENTAL CHARTER COMPARATIVE TABLE

Note: This is a chronological and/or numerical listing of the laws of the State of New York and the Local Laws of the City of Binghamton used in the Supplemental Charter. Repealed or superseded laws and any omitted materials are not reflected in this table.

<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1917	Ch. 668 1 – 341	A1 – 341	
1919	Ch. 366 1	146	
1921	Ch. 39	24	
1922	Ch. 27	32, 64	
1926	Ch. 411	64	
1927	Ch. 177	64	
	L.L. No. 2		12
1929	L.L. No. 1		164
1931	L.L. No. 3		12
	L.L. No. 5	1	31, 32
		34 – 40,	
		44 – 54,	
		123 – 129,	
		131 – 135,	
		137 – 140,	
		155 – 162,	
		164,	
		165	
1932	L.L. No. 1	1	68
	L.L. No. 3	1	40
	L.L. No. 7	1	156, 161
	L.L. No. 10	1	40
1933	L.L. No. 2		156, 159, 161
	L.L. No. 3	1	159
1934	L.L. No. 1		39, 40, 44, 51
	L.L. No. 2	1	161
	L.L. No. 3	1	68
1937	L.L. No. 2	1	123
	L.L. No. 3	1	23
1938	L.L. No. 3	1	123
1939	L.L. No. 3	1	68
1940	L.L. No. 3		39, 40, 44
1941	L.L. No. 1	1	190
	L.L. No. 7	1	64

1942	L.L. No. 4	1	161
1943	Ch. 710	16, 24, 62, 64, 65, 124, 144, 145, 146, 152, 159, 166, 168, 169, 174, 183, 191	
1944	L.L. No. 2	1	4
1945	Ch. 839	65, 124, 159, 166	
	L.L. No. 1	1	64

<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1946	L.L. No. 1	1	137
	L.L. No. 2	1	161
1947	L.L. No. 2	1	137
	L.L. No. 3	1	161
	L.L. No. 4	1	48-a
	L.L. No. 6	1	191
1950	Ch. 651 1	3	
	L.L. No. 4	24	
	L.L. No. 1	1	13
	L.L. No. 2	1	49
	L.L. No. 3	1	39, 40, 44
1953	Ch. 878	24	
		49	11
	L.L. No. 4	1	191
	L.L. No. 5	1	137
	L.L. No. 2	1	187
1955	L.L. No. 3	1	13
	L.L. No. 4	1	64
1957	L.L. No. 3	1	192
1958	L.L. No. 2	1	88
1959	Ch. 712 1	40-a	
	L.L. No. 1	1	137
1962	L.L. No. 1	1	83
	L.L. No. 3		24
	L.L. No. 4	1	13
	L.L. No. 5	1	137
1963	L.L. No. 1	1	13
	L.L. No. 5	1	163
1964	L.L. No. 1	1	137
1966	L.L. No. 3	1	6 – 9
		2	13
1968	L.L. No. 5	1	13-a
1969	L.L. No. 3	1	62
	L.L. No. 4	1	39
1971	L.L. No. 2	1	6, 8, 9
1972	L.L. No. 2	1	49
	L.L. No. 3	1	16
	L.L. No. 6	1	16
1974	L.L. No. 6	4	44

1975	L.L. No. 6	1	Rpld 45, 46, 47, 48, 49, 50 191
	L.L. No. 7	1	Rpld 84 – 88,
		123 – 129, 156 – 166, 168, 169	
		2	83 – 92
1976	L.L. No. 4	1	32
	L.L. No. 6	1	40-a (note)
		2	Rpld 40-a
1977	L.L. No. 6	1	13
	L.L. No. 8	1	13
<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1978	L.L. No. 5	1	13
1979	L.L. No. 2	1	16
	L.L. No. 4	1, 2	90, 91
		3	93
	L.L. No. 7	1	88
	L.L. No. 10	1	Rpld 181 – 193
		2	181 – 188.5, 189 – 190.5, 191 – 193
1981	L.L. No. 7	1	88
		2, 3	90, 91
		4	Rpld 93
	L.L. No. 8	1, 2	16
1983	L.L. No. 1	1	40
	L.L. No. 2	1	6
1985	L.L. No. 2	1, 2	16
1989	L.L. No. 7	1, 2	190.4
	L.L. No. 11	1	63
1991	L.L. No. 5	1	Rpld 35
	L.L. No. 6	1-4	32 (2nd note) – (5th note)
		5	32(note)
1992	L.L. No. 2	1	16
1993	L.L. No. 6	1	49
1997	L.L. No. 1	1	194
2001	L.L. No. 1	2	55
2005	L.L. No. 5	1	6, 8, 9
2006	Ord. No. 06-53 1		62
	L.L. No. 3	1 – 3	16, 201 – 207, 211, 216, 218, 231B, 232

CHAPTER 1, GENERAL PROVISIONS

[History: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Definitions, Interpretation and Penalties [Adopted 10-5-1970 (Ch. 1, §§ 1-2, 1-3, 1-6, 1-8 and 1-9, of the 1970 Code)]

§ 1-1. General definitions and rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

A. Terms defined. As used in this Code, the following terms shall have the meanings indicated:

CITY COUNCIL; COMMON COUNCIL --Whenever the term "City Council" or "Common Council" is used, it shall be construed to mean the Council of the City of Binghamton.

CITY; CORPORATION -- Whenever the words "the City," "this City," "the corporation" or "this corporation" are used, they shall be construed as if the words "of Binghamton, New York," followed them.

CORPORATE LIMITS; CORPORATION LIMITS -- Whenever the words "corporate limits," "corporation limits" or "City limits" are used, they shall mean the legal boundary of the City of Binghamton.

COUNCIL MEMBER -- The words "Council member" shall mean any person elected or appointed to that office.

COUNTY -- The words "the county" or "this county" shall mean the County of Broome in the State of New York.

KEEPER and PROPRIETOR -- The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or a servant, agent or employee.

MAYOR -- Whenever the word "Mayor" is used it shall mean the Mayor of the City of Binghamton.

MONTH -- The word "month" shall mean a calendar month.

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

OR; AND -- "Or" may be read "and," and "and" may be read "or" if the sense requires it.

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

PERSON -- The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

PERSONAL PROPERTY -- The term "personal property" includes every species of property except real property, as herein described.

PRECEDING; FOLLOWING -- The words "preceding" and "following" mean next before and next after, respectively.

PREMISES -- Whenever the word "premises" is used it shall mean place or places.

PROPERTY -- The word "property" shall include real and personal property.

PUBLIC PLACE -- The term "public place" shall mean any park, cemetery, school yard or open space adjacent thereto and all waterways.

REAL PROPERTY -- The term "real property" shall include lands, tenements and hereditaments.

RESIDENCE -- The term "residence" shall be construed to mean the place adopted by a person as his or her place of habitation and to which, whenever he or she is absent, he or she has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his or her residence.

SEAL -- Whenever the word "seal" is used it shall mean the City or corporate seal.

SIDEWALK -- The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

SIGNATURE or SUBSCRIPTION -- The "signature" or "subscription" of a person shall include a mark when the person cannot write.

STATE -- The words "the state" shall be construed to mean the State of New York.

STREETS -- The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the City.

TENANT; OCCUPANT -- The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

WEEK -- The word "week" shall be construed to mean seven days.

WRITTEN; IN WRITING -- The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

YEAR -- The word "year" shall mean a calendar year.

B. Rules of construction.

- (1) Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.
- (2) Delegation of authority. Whenever a provision appears requiring the head of a department of the City to do some act or make certain inspections it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
- (3) Gender, singular and plural. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females and to firms, partnerships and corporations, as well as males; provided that these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto. [Amended 12-4-2006 by L.L. No. 2-2006]
- (4) Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- (5) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (6) Name of officer. Whenever the name of an officer is given it shall be construed as though the words "of the City of Binghamton" were added.
- (7) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (8) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (9) Tense. Words used in the past or present tense include the future as well as the past and present.

§ 1-2. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

§ 1-3. Amendments to Code.

- A. All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or, in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the City Council.
- B. Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "That Section _____ of the Code of the City of Binghamton, New York, is hereby amended to read as follows: _____ (Set out new provisions in full) _____."
- C. When the governing body desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which the governing body desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance: "Section _____. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Binghamton, New York, and the sections of this ordinance may be renumbered to accomplish such intention."
- D. All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

§ 1-4. General penalty; continuing violations. [Amended 9-18-2000 by Ord. No. 00-117; Amended 10-1-07 by Ord. No. 45A-2007]

- A. Whenever in this Code or in any ordinance or resolution of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful, where not specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance or resolution shall constitute a misdemeanor, except that an ordinance may provide that a violation thereof shall be an offense, and the Common Council may provide therein or by general ordinance, that any person guilty of such violation shall be liable to such a fine which shall not exceed \$500 or to imprisonment not exceeding 15 days, or to both such fine and imprisonment, or such ordinance may provide for a penalty not exceeding \$1500, together with the cost of any clean-up, extermination, removal or garbage, or other remedial action, to be recovered by the City in a civil action. Each day any violation of any provision of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.
- B. In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the City, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

- C. Whenever the word "fine" or "penalty" is used in any section of this Code, the same may be construed to mean and include either "fine" or "penalty," according as procedure shall be taken, either by civil action or by criminal information, but either a judgment in, or the pendency of, a criminal prosecution for an alleged offense, or a judgment in, or the pendency of, any civil action to collect a penalty for the same alleged offense, shall be a bar to the other proceeding.
- D. Whenever, by any provision contained in this Code, a fine is provided absolute in amount, with no discretion in the court imposing the same, and such court is satisfied that the convicted person in the commission of the offense acted neither willfully nor wantonly and without malice, such court may impose, in its discretion, a fine of any amount less than that provided.

§ 1-5. Prosecution where different penalties exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the City, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

ARTICLE II, Adoption of Code [Adopted 12-4-2006 by L.L. No. 2-2006]

§ 1-6. Legislative intent. [Amended 3-17-10 by Local Law 1-2010]

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the City of Binghamton consisting of the Supplemental Charter and Chapters 1 through 410, together with an Appendix, shall be known collectively as the "Code of the City of Binghamton," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the City of Binghamton" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number where such legislation appears in the Code, as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-7. Continuation of existing provisions. [Amended 3-17-10 by Local Law 1-2010]

The provisions of the Code, insofar as they are substantively the same as those of the previous versions of the Code and local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the City Council of the City of Binghamton, and it is the intention of said Council that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of the previous versions of the Code and former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-8 below.

§ 1-8. Repeal of inconsistent enactments. [Amended 3-17-10 by Local Law 1-2010]

All provisions of the previous versions of the Code, local laws and ordinances or parts of local laws or ordinances inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the City of Binghamton which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-9. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-8 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the City of Binghamton prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the City of Binghamton or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the City of Binghamton.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the City of Binghamton.
- E. Any local law or ordinance of the City of Binghamton providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the City of Binghamton or any portion thereof.
- F. Any local law or ordinance of the City of Binghamton appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the City of Binghamton or other instruments or evidence of the City's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for City employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- N. Any provisions of or amendments to the Traffic Code.
- O. Any local law adopted subsequent to September 18, 2006.

§ 1-10. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-11. Copy of Code on file. [Amended 3-17-10 by Local Law 1-2010]

A copy of the Code, in loose-leaf form, shall be filed in the office of the City Clerk of the City of Binghamton and shall remain there for use and examination by the public. The City Clerk and Corporation Counsel shall maintain an updated electronic version of the Code, and the City Clerk shall publish this Code on the City of Binghamton website. The availability of a copy of the Code for inspection by the public, along with publication on the City of Binghamton website, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-12. Amendments to Code. [Amended 3-17-10 by Local Law 1-2010]

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the City of Binghamton" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the City Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Such amendments shall also be implemented in the electronic version of the Code to be maintained by the City Clerk and Corporation Counsel for publication on the City of Binghamton website. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the City Council deems desirable.

§ 1-13. Code book to be kept up-to-date. [Amended 3-17-10 by Local Law 1-2010]

It shall be the duty of the City Clerk to keep up-to-date the certified copy of the book containing the Code of the City of Binghamton required to be filed in the office of the City Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the City Council subsequent to the enactment of this local law in such form as to indicate the intention of said City Council to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein. The City Clerk and Corporation Counsel shall also maintain a correct and updated electronic version of the Code for publication on the City of Binghamton's website.

§ 1-14. Sale of Code book; supplementation.

Copies of the Code, or any chapter or portion of it, may be purchased from the City Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-15. Penalties for tampering with Code.

Any person who, without authorization from the City Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the City of Binghamton or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the City of Binghamton to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-16. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the City of Binghamton, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said

pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

§ 1-17. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article II of Chapter 1 of the Code of the City of Binghamton, such local law to be entitled "General Provisions, Article II, Adoption of Code," and the sections of this local law shall be numbered §§ 1-6 to 1-18, inclusive.

§ 1-18. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Chapter 5, ADMINISTRATION OF GOVERNMENT

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 2, §§ 2-1 through 2-26, of the 1970 Code). Amendments noted where applicable.]

§ 5-1. City datum plane; official bench mark.

- A. All elevations hereafter established or used for any purpose whatsoever by any department or bureau of the City shall be based on "mean sea level" as established by the United States Geodetic Survey.
- B. The official bench mark for all City purposes hereafter shall be the aluminum tablet set in the west wall of the Broome County Court House north of the original entrance to the basement of the building. The elevation of the official bench mark is established as 866.056 feet above mean sea level. For purposes of comparison elevation 866.056 feet above mean sea level shall be taken as equal to elevation 14,650 feet above City datum as formerly used.

§ 5-2. Official map or plan.

The Randall Topographical Map, consisting of Sheet Nos. 1, 2, 4 to 8 inclusive, 15 to 23 inclusive, 40 and 41, be and the same hereby are adopted as the official general map or plan of the City of Binghamton.

§ 5-3. City Hall hours. [Added 5-30-1973 by Ord. No. 106-73]

Except for certain designated holidays, and certain special hours maintained by the City Treasurer's office for collection purposes, the new City Hall shall be opened throughout the entire year, Monday through Friday, from 9:00 a.m. to 5:00 p.m. In conformance with the negotiated Taylor Law contract between the City and the employees employed in the City Hall, the hours of said employees shall be from 9:00 a.m. to 5:00 p.m., with one hour for lunch, Monday through Friday, throughout the entire year.

§ 5-4. Seal and signatures required for conveyances and leases.

All conveyances or leases executed by the City shall be under the corporate seal and shall be signed by the Mayor and the City Clerk.

§ 5-5. Identification of City-owned automobiles; exception.

All City-owned automobiles, other than those used in the Department of Public Safety, Bureau of Police, shall have inscribed thereon, in letters of not less than two inches in height, the words "City of Binghamton" in gold or luminous paint.

§ 5-6. Depositories for City funds.

The City Council shall from time to time designate such financial institutions as it deems necessary and proper as depositories for City funds.

§ 5-7. Investment policy. [Added 10-17-1988 by Ord. No. 136-88; amended 7-19-1993 by Ord. No. 93-93; 2-21-1996 by Ord. No. 16-96; Amended 5-4-2006 by Ord. No. 06-19; Amended 8-20-2014 by Ord. No. 14-41; Amended 2-6-2019 by Ord. No 19-15]

- A. Scope. This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.
- B. Objectives. The primary objectives of the local government's investment activities are, in priority order:
 - (1) To conform with all applicable federal, state and other legal requirements (legal);
 - (2) To adequately safeguard principal (safety);
 - (3) To provide sufficient liquidity to meet all operating requirements (liquidity); and

(4) To obtain a reasonable rate of return (yield).

C. Delegation of authority. The governing board's responsibility for administration of the investment program is delegated to the chief fiscal officer who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates, and other relevant information and regulate the activities of subordinate employees.

D. Prudence.

- (1) All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the City of Binghamton to govern effectively.
- (2) Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- (3) All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

E. Diversification. It is the policy of the City of Binghamton to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

F. Internal controls.

- (1) It is the policy of the City for all moneys collected by any officer or employee of the government to transfer those funds to the chief fiscal officer within one day of receipt, or within the time period specified in law, whichever is shorter.
- (2) The chief fiscal officer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss for unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

G. Designation of depositories. The banks and trust companies authorized for the deposit of monies up to the maximum amounts are: [Last amended 2-6-2019 by Ord No. 19-15]

<u>Depository Name</u>	<u>Maximum Amount</u>	<u>Officer</u>
JP Morgan Chase Bank	\$30,000,000	Chief Fiscal
M & T Bank	\$30,000,000	Chief Fiscal
HSBC Bank	\$30,000,000	Chief Fiscal
NBT Bank	\$30,000,000	Chief Fiscal
Chemung Canal Trust Bank	\$30,000,000	Chief Fiscal
NYCLASS	\$30,000,000	Chief Fiscal

H. Collateralizing of deposits. In accordance with the provisions of General Municipal Law § 10, all deposits of City of Binghamton, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- (1) By a pledge of "eligible securities" with an aggregate "market value" as provided by GML § 10, equal to the aggregate amount of deposits from the categories designated in § 5-7M.

- (2) By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- (3) By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

I. Safekeeping and collateralization.

- (1) Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and agreements at the discretion of the chief fiscal officer; provided, however, that the bank or trust is rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization. A third party custodian will be required if not so rated.
- (2) The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the City of Binghamton or its custodial bank.
- (3) The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodial for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency or revaluation of eligible securities and for the substitution of securities when change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

J. Permitted investments.

- (1) As authorized by General Municipal Law § 11, the City of Binghamton authorizes the chief fiscal officer to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
 - (a) Special time deposit accounts;
 - (b) Certificates of deposit;
 - (c) Obligations of the United States of America;
 - (d) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
 - (e) Obligations of the State of New York;
 - (f) Obligations issued pursuant to LFL § 24.00 or 25.00 by any municipality, school district or district corporation located in New York State;
 - (g) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to GML § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m, or 6-n.

- (2) All investment obligations shall be payable or redeemable at the option of the City within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the City within two years of the date of purchase.
- K. Authorized financial institutions and dealers. The City of Binghamton shall maintain a list of financial institutions and dealers approved for investment purpose and establish appropriate limits to the amount of investment which can be made with each institution or dealer. All financial institutions with the local government conducts business must be credit worthy. Banks shall provide their most recent consolidated report of condition (Call Report) at the request of the City. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with New York Federal Reserve Bank, as primary dealers. The chief fiscal officer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.
- L. Purchase of investments.
- (1) The chief fiscal officer is authorized to contract for the purchase of investments:
 - (a) Directly, including through a repurchase agreement, from an authorized trading partner.
 - (b) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G, of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
 - (c) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.
 - (2) All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the City of Binghamton by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.
 - (3) The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the local government, will be kept separated and apart from general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.
- M. Repurchase agreements. Repurchase agreements are authorized subject to the following restrictions:
- (1) All repurchase agreements must be entered into subject to a master repurchase agreement.
 - (2) Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
 - (3) Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
 - (4) No substitutions of securities will be allowed.
 - (5) The custodian shall be party other than the trading partner.

N. Schedule of eligible securities.

- (1) Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States Government sponsored corporation.
- (2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.
- (3) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- (4) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by municipal corporation or school district.
- (5) Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organizations.
- (6) Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally organized statistical rating organization.
- (7) Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organizations.
- (8) Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- (9) Commercial paper and bankers' acceptances issued by a bank, other than the bank, rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- (10) Zero coupon obligations of the United States government marketed as "treasury strips."

O. Procedure for investment.

- (1) Chief fiscal officer shall monitor all balances of City accounts to insure sufficient collateral.
- (2) All rates on investments to be obtained through competitive rate, negotiable rate, or comparison of daily rates [i.e., Wall Street Journal rates on thirty-, sixty-, ninety-day certificate of deposit rates, United Treasury rates versus current rates (i.e., MBIA Accounts, Bank Money Market Accounts)].
- (3) Written or FAX confirmation of all investments shall be required.
- (4) All depositories and dealers shall be required to submit statements at least monthly certifying collateral and values. The chief fiscal officer shall monitor the pledged collateral for legality and sufficiency.
- (5) All 5G cooperative investments shall issue monthly statements indicating deposits and withdrawals from the cooperatives to be monitored by the chief fiscal officer.
- (6) The chief fiscal officer shall authorize all investments as to legality and rate.

§ 5-8. Deposit or commingling of proceeds of capital notes and budget notes with other City funds.

The proceeds, inclusive of premiums, of capital notes issued in amounts of \$100,000 or less, and of budget notes, need not be deposited in a special account but may be deposited and commingled with other funds of the City in any account of the City in such banks or trust companies authorized to do business in this state and designated as the official depositories of the City.

§ 5-9. Petty cash funds. [Amended 11-5-1979 by Ord. No. 261-79; 9-7-1982 by Ord. No. 114-82; 1-24-1983 by Ord. No. 6-83; 2-2-1987 by Ord. No. 8-87; 2-21-1989 by Ord. No. 18-89; 5-6-1991 by Ord. No. 48-91; 5-17-2017 by Ord. No. 17-36]

- A. Established; amount. Petty cash funds are hereby created, established and authorized for each department in an amount not to exceed \$150 per department or authorized division of a department. Notwithstanding the above, the City Clerk shall be permitted to maintain petty cash funds of up to \$500 and the City Treasurer shall be permitted to maintain petty cash funds of up to \$1,500.
- B. Written request required; liability of department head. Notwithstanding the foregoing, no such petty cash fund shall be created unless and until the appropriate department or bureau head shall have submitted to the Comptroller a written request for such a fund, setting forth the purpose of such fund and the amount to be deposited in said fund, which amount shall be consistent with the provisions of Subsection A hereof. Said request shall include the specific consent of that department head to assume personal liability for any and all monies transferred to said fund, and he or she shall thereafter be personally and individually liable for any deficiencies in or loss from said fund from any cause whatever. Said request shall require the approval of the Comptroller and the Mayor.
- C. Audit of funds; operation, maintenance of funds. All such petty cash funds shall be subject to periodic audit by the Comptroller, and shall be operated and maintained according to such rules, regulations and procedures as shall be promulgated by the Comptroller and City Treasurer in their discretion. Any such rules, regulations and procedures shall be distributed to all departments and/or bureaus maintaining such funds and shall be filed with the City Clerk.
- D. Source of funds; promulgation of rules, regulations. The Comptroller and City Treasurer are authorized and empowered to create from general funds such petty cash funds as are herein authorized, and to establish and promulgate such rules, regulations and procedures with regard to the maintenance thereof as they in their discretion may deem necessary.

§ 5-10. Bond of officers and employees.

Officers and employees of the City shall, prior to entering into the duties of their offices, post bond in such amount as may be determined from time to time by the City Council.

§ 5-11. Duty of officers to deliver papers in proceedings or actions affecting City to Corporation Counsel.

Whenever any papers in any proceeding or action by which the City is affected shall be served on any officer of the City he or she shall forthwith deliver the same to the Corporation Counsel who shall thereupon take such action in the matter as shall be necessary to protect the interests of the City until the next meeting of the City Council, when he or she shall report the matter to the Council with his or her proceedings thereon.

§ 5-12. Payment of salaries of Council and Mayor.

The salaries of Council members and the Mayor shall be paid in the same installments as the salaries of other City officials and employees.

§ 5-13. Marriage officers. [Amended 10-19-1992 by Ord. No. 93-92; 1-17-1996 by Ord. No. 3-96; Amended 8-17-09 by Ord. No. 28-2009; Amended 3-17-10 by Local Law 1-2010]

- A. The City Council has the power to appoint marriage officers to solemnize a marriage within the boundaries of the City of Binghamton.
- B. The Council for the City of Binghamton hereby creates two positions of marriage officers for the City of Binghamton pursuant to Domestic Relations Law § 11-c, and hereby appoints the City Clerk and the Deputy City Clerk as marriage officers for the City of Binghamton.
- C. The City Clerk and the Deputy City Clerk are currently paid employees and residents of the City of Binghamton and are hereby authorized to perform marriage solemnization services. If these services

are performed during the normal work week of Monday through Friday between 9:00 a.m. and 5:00 p.m. the marriage officers shall provide said services at a cost set forth by City Council (See Exhibit J), such funds to be credited to the City's general fund. All marriage services are to be performed within the City of Binghamton.

D. Records.

- (1) Said marriage officers shall be required to maintain records of the marriage solemnization services that they perform by keeping a record of the name of the parties, their future address and phone number, the date and location of the performance of the service and the amount of any gift or gratuity that was received for performance of said service. These records are to be kept by each of the marriage officers separately.
- (2) A report indicating the date and location of performance of a service and the amount of any gift or gratuity that was received for performance of the same is to be provided to each member of the Council of the City of Binghamton and to the Comptroller's office on a semiannual basis. The first report shall be due the first week of January 1996 and every six months thereafter. In the event that the Comptroller's office, the Corporation Counsel or any member of City Council wishes to review or have copies of the full record which includes the name and address of the parties for whom marriage solemnization services were performed, the marriage officer shall provide said records. Those receiving full records do so with the understanding that said records are to be received in confidence and the parties receiving said record are to avoid any public dissemination of said records in order to protect the confidentiality of the individuals for whom the service was provided.

E. The term of the office of the marriage officers shall commence upon the effective date of this legislation and shall terminate on December 31, 1999, unless sooner terminated pursuant to Domestic Relations Law § 11-c, Subdivision 4.

§ 5-14. Fees for marriage certificates. [Amended 8-15-1979 by Ord. No. 178-79; 4-7-1986 by Ord. No. 31-86]

Pursuant to Domestic Relations Law § 14-a, Subdivision 2, the City Clerk of the City of Binghamton is authorized to charge a fee as set from time to time (See Exhibit J) by resolution of City Council for a marriage certificate, payable at the time of issuance of the marriage license, and upon request of any applicant whose name appears thereon, issue a similar certificate of marriage, as above, and similarly expanded with additional facts upon the express additional request, for all marriages heretofore indexed and recorded in the office of the City Clerk, for a fee as set from time to time by resolution of City Council. No fee shall be charged for any certificate when required by the Veterans Administration to be used in determining the obligation of an person to participate in the benefits made available by the Veterans Administration.

§ 5-15. Mileage allowance for travel on City business. [Amended 8-15-1979 by Ord. No. 178-79; 4-7-1986 by Ord. No. 31-86]

The payment of a mileage allowance equivalent to the mileage allowance now, and as may be, authorized by the Internal Revenue Service, for miles actually and necessarily traveled on official business by any City officer or employee, for the use of his or her own automobile is hereby authorized and established. The payment vouchers shall set forth the point of destination and the miles traveled.

§ 5-16. Number of Commissioners of Deeds.

Under and pursuant to the provisions contained in section eleven of the supplemental charter of the City, 125 is fixed and determined upon as the number of Commissioners of Deeds in and for the City that may be appointed by the Mayor.

§ 5-17. Inspection of work done under contracts for public improvements. [Amended 3-17-10 by Local Law 1-2010]

All contracts for public improvements for the City shall contain a provision that any Council member acting on behalf of the City shall have access to any public improvement for the purpose of surveying and inspecting said public improvement at any reasonable time.

§ 5-18. Publication of orders, ordinances, local laws, etc.

The City Clerk be and he or she hereby is directed to refrain from publishing in the official newspaper of the City, any City, City Council or Traffic Board orders, ordinances, local laws, proceedings, legal advertising or legal notices, except those orders, ordinances, local laws, proceedings, legal advertising and legal notices which are legally mandated or which are legally required by applicable United States or New York State statute, order, rule or regulation or by local law or ordinance of the City.

§ 5-19. Public notification procedures for ordinances affecting zoning. [Amended 10-4-1999 by Ord. No. 99-150]

- A. Within five days after an ordinance amending, supplementing, repealing or changing the Zoning Ordinance of the City has been introduced in the City Council, the City Clerk shall mail a suggested form of protest to each owner of property who is authorized to present a written protest against the particular zoning amendment, supplement, repeal or change pursuant to § 83 of the General City Law, which said suggested form of protest shall be substantially as set out in § 5-20.
- B. The applicant shall place a sign obtained from the City Clerk in the front yard of the property for which the public hearing is required. Said sign shall be posted a minimum of 10 calendar days prior to the date of the public hearing (excluding the date of the hearing) and shall remain on the property until after the public hearing has been conducted. Said sign shall be placed in such a manner as to be visible from the street on which the parcel fronts. In the event that the parcel does not have a front yard, the sign shall be placed in a window or otherwise affixed to a building in a manner which can be easily viewed from the street or sidewalk. The applicant shall then file an affidavit of posting with the City Clerk stating when and where the sign was posted. In the case of parcels containing more than 300 feet of frontage, one sign per 300 feet, or part thereof, of frontage shall be required. In the case of corner lots, one sign shall be placed on each front yard. Said sign shall state the general nature of the public hearing, the date, time and place of the public hearing, and a telephone number to call for additional information. The cost for said sign(s) shall be in addition to the application fee.

§ 5-20. Form of protest. [Amended 3-17-10 by Local Law 1-2010]

The protest provided for in § 5-19 shall be substantially as follows.

Form of Protest

CITY OF BINGHAMTON, NEW YORK,
OFFICE OF CITY CLERK,
MUNICIPAL BUILDING,
BINGHAMTON, NEW YORK

TO: (Name and address from assessment roll) Date:

This is your official notice that Introductory Ordinance No. _____ for the year _____ has been introduced in Binghamton City Council. Said Ordinance proposes a zoning change described below for the properties listed below:

Street Address
Tax Map Lot No.
Presently Zoned

Proposed Zone

A public hearing will be held in the Council Chambers, City Hall, Collier Street, Binghamton, New York, at 6:30 p.m. on _____ with respect to the above zoning change.

Ordinarily, a zoning change requires only a simple majority vote of City Council for adoption. However, if a prescribed number of SIGNED, WRITTEN AND ACKNOWLEDGED PROTESTS are received, a three-fourths vote of City Council is required for adoption of the ordinance containing the zoning change.

The instrument below is a suggested form of protest; it is not necessarily the only form permissible; and, providing that it complies with the provisions of § 83 of the General City Law, you may use any other form.

In order to be valid, the property owner's signature(s) must be acknowledged before a Notary Public or Commissioner of Deeds.

You may appear in person to speak at a public hearing to be held before City Council on _____ at 6:30 p.m. However, for the purpose of deciding whether the majority vote or a three-fourths vote of City Council is required for adoption of the pending Zoning Ordinance, only those written protests signed and acknowledged as required by § 83 of the General City Law will be considered. In other words, verbal objections at the public hearing have no effect whatsoever on the number of Council votes required for adoption of the above-described Zoning Ordinance.

In the event that you are opposed to the above-described zoning change, you may FILL OUT, SIGN AND ACKNOWLEDGE the following PROTEST and return same to the City Clerk of the City of Binghamton on or before _____, the date of the scheduled public hearing.

CITY CLERK

TO THE CITY COUNCIL OF THE CITY OF BINGHAMTON:

This instrument is a protest against the above-described zoning amendment (supplement, repeal or change), pursuant to § 83 of the General City Law and Section 21 of the Zoning Ordinance of the City of Binghamton, New York, as amended.¹

I (We) hereby protest against the proposed zoning amendment (supplement, repeal or change) which is incorporated in an ordinance entitled, "An Ordinance Amending the Zoning Ordinance of the City of Binghamton, New York," being Introductory Ordinance No. _____ for the year _____ Date:

SIGNATURE(S)
OF PROPERTY OWNER(S)

STATE OF NEW YORK,
COUNTY OF BROOME ss:

On this ___ day of _____, 20___, before me the subscriber, personally appeared _____ known to me to be the same person(s) described in and who executed the above instrument, and he acknowledged to me that he executed the same.

NOTARY PUBLIC, OR
COMMISSIONER OF DEEDS

Note: In order to be valid, the property owner's signature(s) must be acknowledged before a Notary Public or Commissioner of Deeds.

§ 5-21. Effect of failure to mail or receive form.

The failure of the City Clerk to mail a copy of the suggested form of protest to any property owner or property owners who are authorized to present a written protest against a particular zoning amendment, supplement, repeal or change pursuant to § 83 of the General City Law, or the failure of any such property owner or property owners to receive such a suggested form of protest shall in no way invalidate the particular zoning amendment, supplement, repeal or change to which such protest would have related. The act of the City Clerk in determining the persons who are entitled to receive such a suggested form of protest shall not be binding or conclusive as to the rights of any person included or not included in such determination, nor shall any such determination be binding on the City Council or the City.

§ 5-22. Identification cards; misuse; revocation. [Amended 10-1-1973 by Ord. No. 201-73]

- A. The Mayor be, and he or she hereby is, authorized and empowered to make, issue and deliver to City officials and employees and representatives of the news media, an identification card permitting the person possessing such card to pass fire and police lines when authorized. Such identification card shall contain the name of the person to whom issued, his or her title or place of employment and a photograph of the holder.
- B. Requests for such identification cards shall be made in writing to the Mayor's office.
- C. Whenever any person to whom the identification card referred to in Subsection A hereof has been issued shall be guilty of misuse of such card, the same may be revoked upon written notice from the Mayor.
- D. Any person who shall obtain or attempt to obtain any privilege by the misuse, fraudulent use, duplication or counterfeit or transfer of such identification card, or knowingly permit its use by another person, shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Chapter 1, General Provisions, § 1-4.
- E. The identification cards issued hereunder and the rights and privileges conferred thereby are revocable at the pleasure of the Mayor with the exception of those identification cards issued to members of the Council of the City of Binghamton, during and for their term of office.

§ 5-23. Adoption of records retention and disposition schedule. [Amended 4-21-1975 by Ord. No. 55-75; Amended 1-6-10 by Ord. No. 4-2010]

- A. The City of Binghamton hereby adopts the Records Retention and Disposition Schedule MU-1, published by the New York State Archive and Records Administration, containing record retention times for the various records held within City Hall, as may be amended from time to time.
- B. Pursuant to New York State Arts and Cultural Affairs Law § 57.19 the Mayor of the City of Binghamton, as chief executive official, designates the City Clerk to be the Records Management Officer ("RMO"), subject to approval of City Council.

§ 5-24. Public access to records. [Added 4-21-1975 by Ord. No. 54-75; Amended 9-4-07 by Ord. No. 44-2007; Amended 5-19-08 by Ord. No. 27-2008]

- A. Adoption of regulations. The Council of the City of Binghamton, in recognition of the right of the people to know the process of governmental decision making and the documents and statistics leading to determinations, as well as the right of the people to orderly and efficient governmental

administration, hereby adopts the following regulations for the City of Binghamton, pursuant to § 88, Subdivision 2, of the Public Officers Law of the State of New York, and Chapter XXV of the Regulations of the Committee on Public Access to Records, Part 1401.

B. Definitions. For the purposes of this section, the following definitions are adopted:

FISCAL OFFICER -- The fiscal officer shall be the City Comptroller, whose office is maintained at City Hall, Governmental Plaza, Binghamton, New York, 13901.

HEARING OFFICER -- The hearing officer shall be the Mayor of the City of Binghamton.

RECORDS ACCESS OFFICER

(1) The head of each department, bureau, or office listed below shall serve as records access officer for said department, bureau or office:

- (a) Mayor.
- (b) Assessment.
- (c) Building Inspector.
- (d) City Clerk.
- (e) City Court.
- (f) Civil Service.
- (g) Community Development.
- (h) Corporation Counsel.
- (i) Data Processing.
- (j) Engineering.
- (k) Finance.
- (l) Fire.
- (m) Police Bureau.
- (n) Public Works.
- (o) Purchasing.
- (p) Recreation.
- (q) Signal Bureau.
- (r) City Treasurer.
- (s) Vital Statistics.
- (t) Water Bureau.
- (u) Weights and Measures.

(2) Each of the above is located at City Hall, Binghamton, New York, 13901.

REQUESTER -- Any person seeking information pursuant to this section.

C. Duties of records access officers, fiscal officer and hearing officer.

(1) The records access officers shall:

- (a) Coordinate responses to public requests for access to records.
- (b) Insure that a current subject matter list is maintained in his or her office and in the office of the City Clerk, and that both copies are available for public inspection during regular business hours.
 - [1] Said subject matter list shall be reasonably detailed and shall enable a requester to specify the records desired with particularity.
 - [2] Said subject matter list shall be reviewed at six-month intervals to insure currency.
- (c) Assist requester in identifying requested records if necessary.
- (d) Upon locating the desired records:
 - [1] Make them promptly available; or

- [2] Specify a date, not more than five days after the date of the request, when said records will be available; or
 - [3] Deny access to the records in whole or in part, and explain in writing the reasons for denial.
 - (e) Upon request for copies of records:
 - [1] Make a photostatic copy available upon payment of the established fee; or
 - [2] Permit the requester to copy said records manually.
 - (f) Upon request, certify that a transcript is a true copy of records copied.
 - (g) Upon failure to locate records certify that:
 - [1] The City is not the legal custodian for such records; or
 - [2] The records of which the City is a legal custodian cannot be found; or
 - [3] The records have been destroyed pursuant to the regulations of the State Education Department.
 - (h) Maintain a record of requests for information, showing date, time, name of requester, copies provided, monies received and action taken upon request.
 - (i) Provide forms for appeals of denials of records, and forward completed forms to the hearing officer forthwith.
- (2) The fiscal officer shall:
 - (a) Maintain a current payroll list showing name, address, title and salary for every City employee, except members of the Binghamton Police Department for whom the list shall show only title and salary.
 - (b) Provide, for inspection, said payroll list, upon written request in the forms provided by the Comptroller of the State of New York.
 - (c) Insure that said list is inspected only under the supervision of, and in the office of, the fiscal officer, during regular working hours, or at such other place as may be convenient to the fiscal officer.
 - (d) Upon requests for copies of said payroll list:
 - [1] Make a copy available upon payment of the established fee; or
 - [2] Permit the requester to copy said list.
- (3) The hearing officer shall:
 - (a) Decide any appeal from a denial of access to records by the records access officer or the fiscal officer, when:
 - [1] Said appeal is in writing; and
 - [2] Said appeal identifies:
 - [a] The date and location of requests for records.
 - [b] The records to which the requester was denied access.
 - [c] The name and return address of the requester.
 - (b) Inform the requester (in writing) of his or her decision within seven business days of receipt of an appeal.
 - (c) Maintain a record, which shall be available for public inspection and copying, of all appeals received, including:
 - [1] Original appeal form.
 - [2] Final disposition thereof.
 - [3] All documentary materials leading to the final determination.
 - [4] Written opinions, if made.

D. Time and place of inspection.

- (1) Requests for records may be made at City Hall, Binghamton, New York, 13901, during regular business hours.
- (2) Requests for the payroll list shall be submitted to the fiscal officer, at the office of the Comptroller, City Hall, Binghamton, New York, 13901, during regular business hours.

- (a) Inspection shall be permitted by the fiscal officer in his or her office during regular business hours, or at such other place or time as the fiscal officer, in his or her discretion, shall specify.

E. Requests for records.

- (1) Requests for records shall be in writing, on the form specified, provided that a written request shall not be required for records that have been customarily available without written request.
- (2) Requests shall be sufficiently detailed to allow the locating of the records by municipal personnel within a reasonable time.
 - (a) A request for any or all records falling within a specific category shall conform to this standard of identifiability.
- (3) No records shall be removed by the requester from the office where the record is located without the permission of the records access officers or the fiscal officer.

F. Denial of access to records.

- (1) Denials of access to records by the records access officers shall be in writing and shall specify the grounds for denial:
 - (a) Said writing shall identify the hearing officer by name, title, office address, and office telephone number.
 - (b) Said writing shall advise the requester of his or her right to appeal to the hearing officer.
- (2) Grounds for denial of access:
 - (a) The following shall not be disclosed:
 - [1] Such personal matters as may have been reported in confidence to the City or any of its officers or employees, and which are not relevant or essential to the ordinary business of the City.
 - [2] Employment, medical or credit histories or personal references of applicants for employment, unless a written release, verified by individual concerning whom information is requested, is provided to the records access officer.
 - [3] Items involving the medical or personal records of a client or patient in a hospital or medical facility.
 - [4] Items of a personal nature when, in the discretion of the records access officer, disclosure would result in an economic or personal hardship to the subject party and when such records are not relevant or essential to the ordinary business of the City.
 - [5] Lists of names and addresses, if such lists would be used for private, commercial, or fund-raising purposes.
 - [a] The records access officers shall have the power to determine the purposes for which such lists are sought. Failure to reply to such inquiry shall be deemed a withdrawal of the request for access to records.
 - [6] Information specifically exempted by statute.
 - [7] Information confidentially disclosed to the City or its officers or employees and compiled and maintained for the regulation of commercial enterprise, including trade secrets, or for the grant or review of a license to do business, which, if openly disclosed, would permit an unfair advantage to competitors of the subject enterprise, unless disclosure is directed by some other statute.
 - [8] Information which, if disclosed, would constitute an unwarranted invasion of personal privacy.

[9] Information which is part of investigatory files compiled for law enforcement purposes.

- G. Public notice. The following shall be conspicuously posted in each department, bureau or office:
- (1) The name, title, office address and office telephone number of the records access officers and the fiscal officer.
 - (2) A notification of the right to appeal by any requester denied access to a record for whatever reason, and the name and office address of the hearing officer to whom an appeal is to be directed.
- H. Fees for copies of records shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record.
- I. Previous procedures unaffected. Nothing in this section shall be construed to deny access to any records that were previously available to the public pursuant to the laws of the State of New York. Furthermore, those records which are, and have been, specifically exempted from disclosure by state and federal law shall remain confidential.
- J. Severability. If any provision of this section or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this section or the application thereof to other persons and circumstances.
- K. Effective date. This section shall take effect immediately.

§ 5-25. Records management program. [Added 9-4-1989 by Ord. No. 89-115; amended 2-6-1995 by Ord. No. 95-8; Amended 1-6-10 by Ord. No. 4-2010]

A local government records management program shall be established pursuant to New York State Arts and Cultural Affairs Law § 57.19 as follows:

- A. The RMO, as defined in § 5-23 above, shall be responsible for overseeing the records management program for the City of Binghamton. Said officer will be responsible for administering the storage of inactive and archival public records for the City of Binghamton in accordance with local, state, and federal laws and guidelines. In performing his/her duties, the records management officer shall:
- (1) Continually survey and examine public records and recommend their classification to determine the most suitable methods to be used for maintaining, storing, and servicing obsolete and permanent records and those records which are not subject to disposition according to the laws of the State of New York.
 - (2) Establish guidelines for proper records management for the various departments and to work with each individual department to establish a retention schedule more consistent with the specific types of documents generated by, and used in their departments.
 - (3) Report when requested to the Mayor and the City Council on the activities of the records management officer with respect to the responsibilities enumerated herein.
- B. Cooperative efforts: That the RMO may accomplish the duties and responsibilities of office in a cooperative effort with all other local government entities. Any cooperative effort shall be based upon a written cooperation agreement subject to the approval of the Council of the City of Binghamton.
- C. Grant application: The records management officer is authorized, alone or in conjunction with another governmental entity or entities, to make application for grant funds established pursuant to Chapter 78, for the implementation of the records management program.

§ 5-26. Records Advisory Board. [Added 2-6-1995 by Ord. No. 95-8; Amended 1-6-10 by Ord. No. 4-2010]

There is hereby established a Records Advisory Board consisting of the Mayor or a designee, a member of City Council appointed by the Council President, the Comptroller or a designee, the Corporation Counsel or a designee, and the RMO. The function of the Advisory Board will be to provide advice and assistance to the RMO on the development of the City's records program, and to review the performance and where necessary propose changes and improvements to the program. The Advisory Board will meet as requested by the RMO or any member of the Advisory Board.

§ 5-27. Definitions. [Added 2-6-1995 by Ord. No. 95-8]

For the purpose of §§ 5-25 through 5-28, the following words and terms shall have the meaning ascribed thereto:

ARCHIVE -- Those records designated for permanent retention in the state records retention schedule, all records dating from 1910 or earlier, and those records designated as archival by the records management officer on the advice of the Records Advisory Board.

RECORD -- Any documents, books, papers, photographs, sound recordings, microfilm or any other materials, regardless of physical form or characteristics, made or received during the course of official City business.

RECORDS DISPOSITION -- The removal by the City, in accordance with the state records retention schedule, of records no longer necessary for the regular course of local government business. Removal methods may include the disposal of temporary records by destruction or donation or the transfer of records from one City agency to any other City agency.

RECORDS MANAGEMENT -- The planning, controlling, directing, organizing, training, promotion, and other managerial activities involved in records maintenance, use and disposition, including records preservation and disposal, records center or other storage facilities.

§ 5-28. Disposal of records. [Added 2-6-1995 by Ord. No. 95-8]

No records of the City of Binghamton shall be destroyed or otherwise disposed of by any department of the City without the express written approval of the records management officer. Destruction of confidential records must be approved by the Advisory Board before any destruction takes place.

§ 5-29. Fees for preparation of documents by City Treasurer. [Added 3-7-1983 by Ord. No. 29-83; amended 1-19-1988 by Ord. No. 6-88]

A schedule of fees as set from time to time (See Exhibit J) by resolution of City Council for the following is hereby established for the duplication of documents by the office of the City Treasurer:

- A. Tax certificate.
- B. Duplicate tax bills.
- C. Tax payment searches, per parcel.
- D. Delinquent tax advertising.
- E. Tax sale certificates.
- F. Checks returned, insufficient funds.

§ 5-30. Official newspaper designated. [Added 4-4-1983 by Ord. No. 46-83; amended 9-16-1985 by Ord. No. 111-85]

- A. Pursuant to and in accordance with the provisions of § 43 of the Second Class Cities Law, as amended by Local Law 4-71EN entitled, "A Local Law Amending Section 43 of the Second Class Cities Law Entitled 'Designation of Official Papers, Official Printing,' in Its Application to the City of Binghamton," the Council of the City of Binghamton hereby determines to designate but one official newspaper and designates The Press & Sun-Bulletin (a daily newspaper published in the County of Broome, and having general circulation in the City of Binghamton, and owned and published by the

Binghamton Press Co., Inc., Vestal Parkway East, Binghamton, New York 13903), as the official newspaper of the City of Binghamton for the period beginning immediately and continuing until a successor or successors shall be designated.

- B. The fees payable by the City of Binghamton to the Binghamton Press Co., Inc., for printing and publishing in accordance with the provisions of this section and Local Law 4-71 shall be calculated and paid in accordance with the provisions of § 70-a of the Public Officers Law or as the same may hereafter be amended by the New York State Legislature.
- C. The Binghamton Press Co., Inc., within 30 days after the adoption of this section by the Council of the City of Binghamton, shall enter into a written agreement with the City of Binghamton embodying the terms and conditions herein set forth; and the Mayor of the City of Binghamton is hereby authorized to execute such agreement on behalf of the City of Binghamton.

§ 5-31. Free parking authorized. [Added 5-2-1983 by Ord. No. 55-83]

The City Treasurer is hereby authorized to provide stamps for one hour of free parking at City ramps for those citizens paying taxes and bills in person at City Hall.

§ 5-32. Comptroller to provide financial information. [Added 4-21-1986 by Ord. No. 34-86; Amended 12-21-11 by Ord. No. 11-55]

The Comptroller will provide (i) all financial reports, audit reports, weekly revenue/budget reports, (ii) each fund's cash balance and interfund advances, and (iii) random audit results, to the Mayor and members of City Council on at least a quarterly basis via a shared internet portal site. The Comptroller or the Comptroller's representative will attend the second City Council work session in the months of May, August, November, and February, to review the preceding quarterly information with City Council.

Chapter 9, APPROPRIATIONS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part XIV of the 1970 Code). Amendments noted where applicable.]

§ 9-1. Amendment of statute. [Amended 10-21-09 by L.L. No. 1-2009; Amended 5-9-12 by Ord. No. 12-34]

Section 76 of Chapter 55 of the Laws of 1909, being § 76 of the Second Class Cities Law, and as amended by the City of Binghamton thereafter in March 1942 and October 1970, is hereby superseded and amended to read as follows:

Section 76. Annual appropriations. When the Council shall have adopted the final estimate, the same shall be included at large in its minutes and become a part of its proceedings. The several sums enumerated for expenditures therein shall be and become appropriated in the amounts and for the several boards, departments, bureau, or office thereof and purposes as therein specified for the fiscal year, except that the Comptroller and City Treasurer are authorized and empowered to transfer funds, within a board, department, bureau, or office thereof, when necessary to provide for the expense of conducting the business of the City in such board, department, bureau or office thereof, in amounts not to exceed \$2,500, and whenever the transfer exceeds \$2,500 and does not exceed \$10,000 such transfer shall first be approved by the Board of Estimate and Apportionment and the Chairman of the Finance Committee or the Chairman's designee from the Finance Committee. The Chairman of the Finance Committee or to the Chairman's designee shall notify Council of all such budget transfers. Any transfer not approved by the Chairman of the Finance Committee or the Chairman's designee, from department to department, or exceeding \$10,000, shall be authorized and empowered by ordinance of the Council. No transfer shall be made of funds appropriated for state or county taxes, for the purpose of paying the principal or interest of any City indebtedness, for the purpose of paying any judgments against the City, for pension fund and for library or hospital purposes; and no transfer of funds shall be made that will deprive any officer or employee of the City of his or her salary or wages. The several sums therein enumerated as estimated revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the City and for the purposes contemplated by this chapter and otherwise by law, shall be and become applicable in the amounts therein named for the purposes of meeting said appropriations except as otherwise herein provided. In case the revenues received by the City exceed the amount of such estimated revenues named in said annual estimate, or in case there remain any unexpended balances or appropriations made for the support of the City government or for any other purpose, then such surplus revenues or such unexpended balances shall, except such sums as may be appropriated by ordinance to pay accounts incurred in the prior year then remaining unpaid, and except as otherwise provided by law, remain upon deposit and be included as a part of the estimated revenues for the succeeding year. When any moneys or revenues are received by any officer, board or department of the City, from any source other than by municipal tax, which are not otherwise appropriated, such moneys or revenues may be used and applied toward and in addition to the funds appropriated, as aforesaid, in such manner as in the judgment of the Council may be most beneficial to the City.

Chapter 16, BOARD, COMMISSION AND COMMITTEE PROCEDURES
[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees -- See Ch. 18.
Board of Electrical Examiners -- See Ch. 225, Art. II.

ARTICLE I, Vacancies Due to Nonattendance [Adopted 4-7-1986 by L.L. No. 3-1986 (Sub-Part LXII of the 1970 Code)]

§ 16-1. Application.

Notwithstanding any local law or ordinance to the contrary, this article shall govern the creation of vacancies on account of nonattendance on certain enumerated boards, commissions or committees of the City of Binghamton.

§ 16-2. Determination of vacancy.

When any member of the Zoning Board of Appeals, Planning Commission or Commission on Architecture and Urban Design, holding office by appointment of the Mayor, fails to attend three consecutive regular meetings of four meetings in one calendar year of such board, commission or committee, unless such absence is for good cause and is excused by the Chairperson or other presiding officer thereof or, in the case of a Chairperson or other presiding officer, by the Mayor, the office may be deemed vacant by the appointing authority for purposes of the nomination and appointment of a successor.

ARTICLE II, Filing of Minutes [Adopted 5-2-1988 (Ch. 2, § 2-52, of the 1970 Code)]

§ 16-3. Filing of minutes, decisions and reports with City Clerk.

All boards, commissions or agencies of the City of Binghamton shall file in the office of the City Clerk all minutes, decisions and/or reports which the board, commission, committee or agency is required to make and keep.

Chapter 18, BOARDS, COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Board, commission and committees procedures -- See Ch. 16.

Board of Electrical Examiners -- See Ch. 225, Art. II.

**ARTICLE I, Board of Municipal Auditorium [Adopted 10-5-1970 (Sub-Part VI of the 1970 Code);
Amended 3-17-10 by Local Law 1-2010]**

§ 18-1. Reserved

§ 18-2. Reserved

§ 18-3. Reserved

§ 18-4. Reserved

§ 18-5. Reserved

**ARTICLE II, Board of Assessment Review [Adopted 10-5-1970 (Ch. 2, § 2-50, of the 1970 Code);
Amended 12-8-10 by Ord. No. 10-59]**

§ 18-6. Composition; duties.

The Mayor of the City of Binghamton shall appoint five (5) qualified municipal residents to the Board of Assessment Review, contingent upon approval by the Council of the City of Binghamton. The Board shall hear and determine complaints in relation to the assessment roll, and shall act in accordance with the duties and regulations prescribed by New York State Real Property Tax Law § 523.

**ARTICLE III, Board of Contract and Supply [Adopted 10-5-1970 (Ch. 2, Div. 4, §§ 2-75 through 2-92,
of the 1970 Code)]**

§ 18-7. Creation; composition.

There is hereby created a Board of Contract and Supply to be composed of the Mayor, Comptroller, Commissioner of Public Works, Corporation Counsel, and City Engineer.

§ 18-8. President; meetings; quorum.

The Mayor shall be President of the Board of Contract and Supply and shall preside at all meetings. Meetings of the Board shall be held in the municipal building upon the call of the Mayor. A majority of the members of said Board shall constitute a quorum for the transaction of business.

§ 18-9. Authority to adopt rules.

The Board of Contract and Supply shall have power to adopt such rules as may not be inconsistent with the statutes and ordinances in force relative to the government of the City.

§ 18-10. Secretary.

- A. Position created; appointment; term. There is hereby created the position of Secretary of the Board of Contract and Supply. Such Secretary shall be appointed by the Board to hold office during its pleasure.
- B. Duties. It shall be the duty of said Secretary to keep a full journal of all the proceedings of the Board and to perform such additional duties as may be required by the Board, or by law or ordinance of the City Council.

§ 18-11. Awarding of contracts generally. [Amended 2-2-1976 by Ord. No. 19-1976]

- A. Except as otherwise provided by law, it shall be the duty of the Board of Contract and Supply, after public notice and in accordance with regulations prescribed by general ordinance of the City Council, to award to the lowest responsible bidder, who will give adequate security therefor, all contracts for public work involving an expenditure of more than \$20,000 and all purchase contracts involving an expenditure of more than \$10,000. [Amended 12-4-2006 by L.L. No. 2-2006]
- B. Notwithstanding the provisions of Subsection A of this section, in the case of a public emergency arising out of an accident or other unforeseen circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the City of Binghamton therein, or any public property requiring immediate action which cannot wait competitive bidding, contracts of public work or the purchase of supplies, materials or equipment may be let by the appropriate officer or board without a letting by contract and filing with the Board of Contract and Supply a certificate setting forth the reasons of said emergency.
- C. Upon the adoption of an ordinance by a vote of at least 4/5 of all the members of City Council therein stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, materials or supplies of more than \$10,000 may be awarded by the Board of Contract and Supply to the lowest responsible bidder furnishing the required security after advertisement of sealed bids therefor in the manner provided in this section. Such ordinance shall contain a full explanation of the reasons for its adoption. [Amended 12-4-2006 by L.L. No. 2-2006]
- D. In the event the award is not made to the lowest qualified bidder then and in that event, before a contract is awarded to other than the lowest qualified bidder, such board shall report to the Council all bids received with a certificate from such board stating in full the particulars of and the reasons why the lowest qualified bidder is not to be awarded the contract and no contract shall be awarded by such board to other than the lowest qualified bidder unless and until a resolution of the Council is duly adopted authorizing such board to award a contract to one other than the lowest qualified bidder.

§ 18-12. Procedure in case of emergency.

In case of public emergency involving accident or other injury, by which the heating or plumbing of any of the public buildings or any of the fire or waterworks apparatus shall become disabled, the commissioner or officer having jurisdiction thereof shall promptly cause repairs thereto to be made without a letting by contract, upon filing with the Board of Contract and Supply a certificate, approved by the Mayor, showing such emergency and the necessity for such repairs.

§ 18-13. Contents of notice.

The public notice, required by § 18-11, shall describe the work and materials for which contracts will be awarded and the day and hour and place of the meeting of the Board of Contract and Supply at which proposals therefor will be opened.

§ 18-14. Details of specifications.

Specifications for the performance of any work and for the supply of any materials shall be prepared and set forth with sufficient detail to inform all persons proposing to bid therefor of the nature of the work to be done and of the materials to be supplied, and written or printed copies thereof shall be delivered to all applicants therefor.

§ 18-15. Contracts for public improvements to be based on estimate of whole cost.

Every contract for a public improvement shall be based upon an estimate of the whole cost thereof, including all expenses incidental thereto and connected therewith, to be furnished by the proper officer, board or department having charge of such improvements.

§ 18-16. Franchise required for contracts involving excavations.

No bid or proposal shall be received or contract awarded, other than for a local improvement or work to be performed by the City, which involves the construction or maintenance of any structure, erection, obstruction or excavation within, under, over, along or upon any street or public place within the City, unless the person to whom such contract shall be awarded shall have a franchise permitting the same.

§ 18-17. Bid deposits.

The Board of Contract and Supply may, in its discretion, require, as a condition precedent to the reception or consideration of any bid or proposal in respect to which it has power and authority to award a contract thereon, the deposit with it of a certified check upon a state or national bank, drawn to the order of the Comptroller, or of money, in an amount not exceeding 10% of the amount specified in such bid or proposal. Within three days after a decision as to the award of the contract, the deposits so made shall be returned to the bidders making the same, except the deposit made by the bidder whose bid has been accepted; and if the bidder whose bid has been accepted shall refuse or neglect to execute the same within 10 days after due notice that the contract has been awarded, or to give the security, if any, required for the performance thereof, the amount of the deposit made by him or her shall be forfeited to and retained by the City as liquidated damages for such neglect or refusal; but if said bidder shall execute the contract within the time aforesaid and give the security, if any, required for the performance thereof, the amount of his or her deposit shall be returned to him.

§ 18-18. Security for performance. [Amended 9-21-1981 by Ord. No. 157-81]

In cases where security is required to be given for the performance of any contract, a performance bond, executed by the contractor and by a fidelity or surety company, authorized by law to transact business within the state, shall be given to the City. Cash or equivalent or cash bonds, escrow accounts, or irrevocable letters of credit from a bank payable to the City of Binghamton shall be acceptable in lieu of a performance bond. The form of such bond or other acceptable security for performance shall be prescribed by the Corporation Counsel.

§ 18-19. Bid blanks required.

The Board of Contract and Supply shall furnish printed blanks for bids or proposals for the performance of any work or for the supply of any materials to any person demanding the same, and all bids or proposals must be made upon such blanks.

§ 18-20. Rejection of bids.

- A. The Board of Contract and Supply shall have power to reject all bids or proposals if, in its opinion, the lowest bid or proposal is excessive.
- B. The Board of Contract and Supply shall disregard all bids or proposals not complying with the terms of the public notice or advertisement inviting the same, and no bids shall be accepted from or contract awarded to any person who is in arrears to the City upon any debt or contract, or who is in default on surety or otherwise upon any obligation to the City, or who has refused or neglected to execute any contract awarded to him or her, or to give the surety, if any, required for the performance thereof within the time fixed therefor.

§ 18-21. Separation of items in bids.

Whenever any bid or proposal consists of two or more separate and distinct items, the Board of Contract and Supply may, in its discretion, award a contract upon any one or more of such items, in the same manner and with the same force and effect as though the several separate and distinct items of such bid were each in the form of a separate and distinct bid or proposal.

§ 18-22. Delinquent contractors.

After a contract is awarded, the party or parties to whom such award is made shall sign the same within 10 days from the date of said award and the work under such contract shall be commenced within the time set forth in the specifications, unless the Board of Contract and Supply shall, by a two-thirds vote of all the members, extend such time; and if the party or parties to whom such award is made shall fail to so sign, or to so begin the work as herein required, or to cause the same to progress to the satisfaction of the Commissioner of Public Works, said Commissioner shall report the same to the Corporation Counsel, whose duty it shall then be to notify the contractor and his or her sureties to proceed with said work, as required, within 10 days from the receipt of said notice, and if the contractor or his or her sureties shall fail to comply with said notice the Corporation Counsel and Commissioner of Public Works shall notify, in writing, the Board, which shall thereupon vacate the contract and relet the work to the next lowest bidder, or readvertise for new bids. The party or parties failing as above shall be barred, both directly and indirectly, from rebidding for said work, and the Corporation Counsel shall thereupon proceed against the contractor and his or her sureties and shall recover upon his or her bond all damages resulting from his or her failure to perform his or her contract, together with any liquidated damages therein provided to be paid.

§ 18-23. Approval of contracts by resolution prior to final execution.

All proposed contracts, after preparation thereof, shall be approved by resolution of the Board of Contract and Supply before final execution by the Mayor.

§ 18-24. Use of inferior materials; stopping of work; resumption of work.

The Commissioner of Public Works shall have power to stop any work being performed or materials being delivered under contract, when in his or her judgment such work or materials are inferior in character or quality, or contrary to specifications, and it shall be his or her duty thereafter to report the same immediately to the Board of Contract and Supply, and such work or delivery shall not be resumed until the Board shall so authorize.

§ 18-25. Additional requirements for responsible bidder on public works projects. [Added 4-4-2005 by Ord. No. 05-18]

- A. Whenever any person, corporation or other entity shall desire to submit a bid on any public works project or any part of such a contract, that firm shall as a part of its bid complete and submit a "Contractor/Subcontractor Questionnaire."
- B. All answers submitted in response to the Contractor/Subcontractor Questionnaire shall be complete, accurate and true for a period of five years in the past and be made under penalty of law.
- C. Whenever a bidder answers a question in the affirmative that bidder must submit an attachment, providing details concerning the matter in question, including applicable dates, locations, names or projects/project owners and circumstances.
- D. The following questions shall be contained in the Contractor/Subcontractor Questionnaire:
 - (1) Has the firm been debarred, suspended or otherwise prohibited from doing business with any federal, state or local governmental agency, or private enterprise?
 - (2) Has the firm been denied prequalification, declared nonresponsible, or otherwise declared ineligible to submit bids or proposals for work by any federal, state or local government agency, or private enterprise?
 - (3) Has the firm defaulted, been terminated for cause, or otherwise failed to complete any project that it was awarded?
 - (4) Has the firm been assessed or required to pay liquidated damages in connection with work performed on any project?

- (5) Has the firm had any business or professional license, registration, certificate or certification suspended or revoked?
 - (6) Have any liens been filed against the firm as a result of its failure to pay subcontractors, suppliers, or workers?
 - (7) Has the firm been denied bonding or insurance coverage, or been discontinued by a surety or insurance company?
 - (8) Has the firm been found in violation of any laws, including but not limited to contracting or antitrust laws, tax or licensing laws, labor or employment laws, environmental, health or safety laws?
 - (9) Has the firm or its owners, officers, directors or managers been the subject of any criminal investigation concerning any aspect of the firm's business?
 - (10) Has the firm been subject to any bankruptcy proceeding?
- E. The Contractor/Subcontractor Questionnaire shall be completed by a director, officer or manager of the entity submitting the bid and shall bear that person's signature.
- F. A failure to submit information or documents responsive to the Contractor/Subcontractor Questionnaire, or the submission of any false statement, misrepresentation or omission regarding a material fact concerning any aspect of the Contractor/Subcontractor Questionnaire, will render that bidder ineligible to be awarded the contract.
- G. Further, should the bidder engage in any conduct which would require an affirmative answer to any of the questions of the Contractor/Subcontractor Questionnaire during the completion of a public works contract, the City of Binghamton may, at its discretion, render the contract void and render the bidder ineligible for future contracts for a period of two years.

§ 18-26. Preference for bidders for public works contracts utilizing local labor. [Added 4-4-2005 by Ord. No. 05-18]

- A. It shall be the policy of the City of Binghamton to give preference to otherwise qualified contractors who will employ local labor or laborers.
- B. "Local" defined. For the purposes of this section, a labor or laborers are local if they reside or maintain their principal place of business within the County of Broome, New York.
- C. The bidding specifications for all public works contracts shall require that all bidders shall submit, with their bid, a statement of whether or not local labor or laborers will be used on the project. If local labor will not be used, the bidder may submit a statement of why local labor is not being used. If local labor is being used, then the bidder certification shall specify what percentage of the labor will be performed by local labor or laborers.

§ 18-27. Severability. [Added 4-4-2005 by Ord. No. 05-18]

The several provisions of this article shall be severable in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of this article to be invalid, such judgment shall not affect any other provision of this chapter.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this article to a particular contract, such judgment shall not affect the application of said provision to any other contract.

ARTICLE IV, Board of Estimate and Apportionment [Adopted 10-5-1970 (Ch. 2, Div. 5, §§ 2-98 through 2-102, of the 1970 Code)]

§ 18-28. Creation; composition.

There shall be a Board of Estimate and Apportionment. Said Board shall consist of the Mayor, Comptroller, Commissioner of Public Works, Corporation Counsel and City Engineer, except as provided in § 18-29.

§ 18-29. When City Treasurer to serve on Board.

When the number of subordinates or the salaries thereof in the department of any of the members of the Board of Estimate and Apportionment are to be fixed and determined, the City Treasurer shall temporarily take the place of the member whose number of subordinates or the salaries thereof are under consideration, for the purpose of fixing such salaries or number of subordinates, and for that purpose alone.

Notwithstanding any provision of any statute or ordinance, the City Council shall have the power to diminish, increase or reject any items which relate to salaries in the annual estimate submitted by said Board of Estimate and Apportionment.

§ 18-30. Meetings; officers; journal of proceedings.

- A. The members of the Board of Estimate and Apportionment shall meet upon call of the Mayor or as directed by the Board.
- B. The Mayor shall be President of the Board and the City Clerk shall act as Secretary thereof. The Secretary shall keep a journal of all of the proceedings of the Board.

§ 18-31. Powers and duties.

Except as herein provided, the Board of Estimate and Apportionment shall possess all of the powers and perform all of the duties heretofore conferred by law upon the Board of Estimate and Apportionment.

§ 18-32. Limitation on powers.

The Board of Estimate and Apportionment shall not possess any of the powers or perform any of the duties conferred upon the City Council of the City or upon the Mayor by the provisions of the Optional City Government Law.

ARTICLE V, Planning Commission [Adopted 10-5-1970 (Ch. 2, Div. 6, §§ 2-108 through 2-112, of the 1970 Code); Amended 02-07-2018 by Ord. No 18-15]

§ 18-33. Creation; composition [Amended 02-07-2018 by Ord. No 18-15].

A City Planning Commission is hereby created under Article 12-A of the General Municipal Law, which shall consist of seven (7) members.

§ 18-34. Appointment of members. [Amended 6-2-1975 by Ord. No. 85-75; Amended 02-07-2018 by Ord. No 18-15]

The Mayor is hereby specified and designated as the public officer who shall appoint the Planning Commissioner members. Such appointment shall be subject to the approval of the City Council. City Council will act to approve or disapprove an appointment within forty-five (45) days of the City Clerk's receipt of a written proposed appointment from the Mayor. A failure to act within such forty-five (45) days will be considered an approval.

Planning Commission members must be a resident of the City of Binghamton at all times during his or her appointment.

§ 18-35. Terms of members [Amended 02-07-2018 by Ord. No 18-15].

All appointments prior to February 7, 2018, will expire on February 9, 2018. All members serving as of February 7, 2018, will continue to be members of the Planning Commission until appointments are made in 2018. In 2018, the Mayor will appoint, subject to City Council's approval as provided in § 18-34 above, two (2) members whose terms will expire on December 31, 2018; two (2) members whose terms will expire on December 31, 2019; and three (3) members whose terms will expire on December 31, 2020. Thereafter, the term of office for each Planning Commission member will be three (3) years, so that every year either two (2) or three (3) terms expire. If a Planning Commission member leaves or is removed prior to expiration of his or her term, then the vacancy will be filled as provided in § 18-34 above for the unexpired term of such member. There is no limit as to the number of terms to which a Planning Commission member can be re-appointed.

§ 18-36. Compensation of members. [Amended 5-19-08 by Ord. No. 25-2008; Amended 12-21-11 by Ord. No. 11-52]

Each member of the Planning Commission shall be paid an annual stipend of four hundred (\$400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Planning Commission other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed for cause or pursuant to the Code of the City of Binghamton Article I, *Vacancies due to nonattendance*, § 16-1, *Application*, or § 16-2, *Determination of vacancy*, shall not be paid for any missed meetings leading to dismissal.

§ 18-37. Powers and duties.

- A. The powers and duties of the Planning Commission shall be as set forth in Article 12-A of the General Municipal Law, but the only matter which shall be referred for report thereon, to such Commission by the City Council before final action thereon by said City Council, is the adoption of a general map or plan of the City providing for the present and future development and growth of the City as a whole, and none of the matters incident thereto as set forth in detail in § 236 of the General Municipal Law, or otherwise, shall be referred to said Planning Commission, separately, for report thereon, pending the final adoption of said plan or map as aforesaid.
- B. This section shall not be construed as intended to limit or suspend action by the City Council upon any matter or class of matters incident to the preparation of a City plan or map as referred to in § 236 of the General Municipal Law pending the final report of said Planning Commission and adoption of such plan or map.

ARTICLE VI, Commission on Architecture and Urban Design [Adopted 10-5-1970 (Ch. 2, Div. 7, §§ 2-118 through 2-129, of the 1970 Code)]

§ 18-38 Definitions. [Amended 12-4-2019 by Ord No. 19-125].

COMMISSION: Whenever the term "Commission" is used in this article it shall mean the "Commission on Architecture and Urban Design of the City of Binghamton, New York."

SMALL WIRELESS FACILITIES: a telecommunications antenna, collocated on an existing structure that meets the following parameters:

1. The facilities are mounted on structures 50 feet or less in height including their antennas, or are mounted on structures no more than 10 percent taller than adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

§ 18-39. Commission established; composition; appointment and qualification of members. [Amended 7-16-1973 by Ord. No. 149-73; Amended 12-21-11 by Ord. No. 11-52; Amended 10-17-2012 by Ord. No. 12-68; Amended 3-5-2014 by LL 14-1]

To prevent the deterioration of property belonging to the City or property in which any City funds are involved and to advise builders to designers in regard to the use of space and the design of structures and to encourage protection of economic values and proper and appropriate use of surround areas, there is hereby established in and for the City a commission to be known as the “Commission on Architecture and Urban Design of the City of Binghamton”. This Commission shall consist of seven (7) persons who shall be residents of the City or owners of real property situated therein, and who shall be appointed by the Mayor. Persons eligible for membership shall be persons who, by training, experience, interest or expertise, are qualified to carry out the duties of the Commission as set forth herein. The membership should include, if such persons are available and agreeable to serving, a professional engineer or contractor, an architect, and a landscape architect or an expert in the field of landscaping. Each member of the Commission on Architecture and Urban Design shall be paid an annual stipend of four hundred (\$400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Commission on Architecture and Urban Design other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed pursuant to the Code of the City of Binghamton Article I, *Vacancies due to nonattendance*, § 16-1, *Application*; § 16-2, *Determination of vacancy*; or § 410-91.D, *Removal of members*, shall not be paid for any missed meetings leading to dismissal.

§ 18-40. Ex officio members. [Amended 7-16-1973 by Ord. No. 149-73; 3-18-1974 by Ord. No. 36-74' 12-4-2019 by Ord No. 19-125]

Ex officio members of the Commission shall include the Mayor of the City, the Director of Planning, the Supervisor of Building, Construction, and Code enforcement, one Council Member appointed by the City Council, the Director of the Binghamton Urban Renewal Agency, the City Engineer, the Commissioner of Parks, Building Inspector II, and other persons whom the Mayor or the Commission may appoint, which persons shall have experience or specialized talents deemed useful to the Commission. Ex officio members shall have no voting privileges.

§ 18-41. Terms of office.

Of the members first appointed to the Commission, one architect, and two of the other members shall be appointed for a term of five years; one architect and one professional engineer, and one other member shall be appointed for a term of three years, and three members shall be appointed for a term of two years; except that they may continue to serve after the expiration of their respective terms of office until their successors have been appointed and have qualified. The successors of all of such members shall be appointed for terms of five years; except that they may continue to serve after the expiration of their respective terms of office until their successors have been appointed and qualified.

§ 18-42. Filling of vacancies. [Amended 7-16-1973 by Ord. No. 149-73]

A vacancy occurring in the membership of the Commission from any cause shall be filled by the Mayor, for the unexpired term of the member whose office has become vacant. Recommendations for filling vacancies may be made to the Mayor by the Commission, which recommendations shall be made within 30 days after the date when such vacancies occur.

§ 18-43. Election of Chairperson; appointment and removal of Secretary.

The Commission shall annually elect a Chairperson and shall have the right to appoint and at pleasure to remove a Secretary.

§ 18-44. Quorum.

A majority of the Commission shall constitute a quorum for the transaction of business.

§ 18-45. Removal of members.

A member of the Commission may be removed by the Mayor for good and sufficient cause, after he or she has been afforded an opportunity to be heard in his or her defense.

§ 18-46. Duties.

The Commission shall have the following duties in addition to those elsewhere described in this article:

- A. Meetings: to hold at least one meeting in each month and as many other meetings at such other times as in the opinion of the Chairperson or majority of the Commission are necessary or desirable for the efficient discharge of the business of the Commission.
- B. Rules and regulations: to adopt such rules and regulations as may be necessary, not inconsistent with the provisions of this article and with respect to the conduct of the meetings and the business of the Commission and the other matters incidental and appropriate to the powers and duties of the Commission as described by this article and for the proper administration and enforcement of this article and to amend or repeal any of such rules or regulations by a majority vote at any special or regular meeting, with at least 30 days' written notice of the proposed change.

§ 18-47. Powers and functions concerning municipal property; approval of design of site, design of structure, location, alteration and demolition. [Amended 3-5-2014 by LL14-1; 12-4-2019 by Ord No. 19-125]

- A. No design for a building, addition to a building, or any other design element that is accessory to a new development site or structure proposed to be erected upon any street or property owned, leased, or occupied by the City, or involving the use of funds or monies of or from the City, shall be implemented without the approval of the Commission.
- B. The Commission shall also consider the location of structures and may make recommendations for changes in location thereof.
- C. The Commission may recommend that works of art be a part of any new construction under their purview and may require that up to 1% of the total cost of construction be used for works of art.
- D. Notwithstanding the above, utility equipment installations in the public right-of-way, including small wireless facilities, shall be exempt from review by the Commission, except in local historic districts, or in historic districts listed on the State and National Registers of Historic Places, or when located within fifty feet of the property line of a designated local landmark.

§ 18-48. Factors considered prior to approval. [Amended 3-5-2014 by LL14-1]

In considering applications for the approval, and in the recommendation of designs for buildings or structures as set forth in this article, the Commission shall review all material submitted to it, taking into consideration, but not limited to, the following factors:

- A. The location of the building, structure, or sign on the site or street.

- B. The relation of the building, or structure to adjacent open space or spaces, including adjoining property, both private and public, including streets.
- C. The form and bulk of the building, or structure in association with other nearby structures.
- D. The placing of buildings, or other structures in existing or newly created public open spaces, including parks.

ARTICLE VII, Citizens Advisory Committee on Social Services [Adopted 10-5-1970 (Ch. 19, Art. II, §§ 19-18 through 19-22, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-49. Reserved

§ 18-50. Reserved

§ 18-51. Reserved

§ 18-52. Reserved

§ 18-53. Reserved

ARTICLE VIII, Parks and Recreation Commission [Adopted 10-5-1970 (Ch. 15, § 15-2.1, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-54. Reserved

§ 18-55. Reserved

ARTICLE IX, Commission for Conservation of the Environment [Adopted 5-15-1972 by Ord. No. 95-72 (Ch. 2, Div. 10, §§ 2-159 through 2-163.3, of the 1970 Code)]

§ 18-56. Legislative intent.

The preservation and improvement of the quality of the natural and man-made environment within the City of Binghamton, in the face of population growth, urbanization, and technologic change with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare, and economic well-being of present and future inhabitants and require forthright action by the governing body of the City of Binghamton. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the City working in partnership with local and state officials and with various public and private institutions, agencies, and organizations. Establishment of a commission for conservation of the environment is a necessary step in fostering unified action on environmental problems.

§ 18-57. Establishment.

The Common Council of the City of Binghamton hereby creates a commission which shall be known as the "Binghamton Commission for Conservation of the Environment," hereinafter called the "Commission."

§ 18-58. Membership; filling of vacancies.

The Commission shall consist of nine members who shall be appointed by the Common Council, and who shall serve at the pleasure of Council, and upon appointment shall serve as follows: four of the nine initial appointees shall serve one-year terms of office, and the other five initial appointees shall serve for two years. Thereafter all appointees, other than those filling unexpired vacancies, shall be for two-year terms. Persons residing within the City of Binghamton who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Commission. Vacancies on the Commission shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term. Ex officio members of Binghamton City Council, City of Binghamton Public Works Department, Binghamton Parks and Recreation Department, Binghamton Planning Commission and other City of Binghamton officials may hereafter be designated by City Council.

§ 18-59. Officers, meetings and committees.

The Common Council shall designate a member of the Commission to act as Chairperson thereof. At the first meeting of the Commission its members shall elect from among themselves a recording secretary. The Commission shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 18-61 of this article.

§ 18-60. Powers and duties.

The powers and duties of the Commission shall be to:

- A. Advise the Common Council on matters affecting the preservation, development, and use of the natural and man-made features and conditions of the City insofar as beauty, quality, biologic integrity, and other environmental factors are concerned and, in the case of man's activities and developments, with regard to any major threats posed to environmental quality, so as to enhance the long-range value of the environment to the people of the City of Binghamton.
- B. Develop and, after receiving general approval by ordinance of the Common Council, conduct a program of public information in the community which shall be designed to foster increased understanding of the nature of environmental problems and issues and support for their solutions.
- C. Conduct studies, surveys, and inventories of the natural and man-made features within the City of Binghamton and such other studies and surveys as may be necessary to carry out the general purposes of this article.
- D. Maintain an up-to-date inventory or index of all open spaces in public or private ownership within the municipality, including but not limited to natural landmarks, glacial and other geomorphic or physiographic features; streams and their floodplains, swamps, marshlands, and other wetlands; unique biotic communities; scenic and other open areas of natural or ecological value; and of the ownership, present use and proposed use of such open areas, so as to provide a base of information for recommendations by the Commission for their preservation and/or use.
- E. Seek to coordinate, assist, and unify the efforts of private groups, institutions, and individuals within the City of Binghamton in accord with the purposes of this article.
- F. Maintain liaison and communications with public and private agencies and organizations of local, state, and national scope whose programs and activities have an impact on the quality of the environment or who can be of assistance to the Commission.
- G. Working in cooperation with the Planning Board, recommend from time to time to the Common Council features, plans, and programs relating to environmental improvement for inclusion in the Master Plan of the City of Binghamton and, similarly, recommend to the Common Council appropriate and desirable changes in existing local laws and ordinances relating to environmental control or recommend new local laws and ordinances.
- H. Prepare, print, and distribute books, maps, charts, and pamphlets in accord with the purposes of this article.
- I. Obtain and maintain in orderly fashion maps, reports, books and other publications to support the necessary researches of the Commission into local environmental conditions.
- J. When authorized by ordinance of the Common Council of the City of Binghamton, the Commission may accept by gift, grant, devise, bequest, or otherwise, property, both real and personal, in the name of the City of Binghamton, as may be necessary to conserve and otherwise properly utilize open spaces and other land and water resources within the boundaries of the City of Binghamton. Such real property may be accepted in fee for land and water rights, or as any lesser interest, development

right, easement, including conservation easement, covenant, or other contractual right, including conveyance with limitations or reversions.

K. Carry out such other duties as may be assigned from time to time by the Common Council.

§ 18-61. Reports.

The Commission shall submit an annual report to the Common Council not later than the first day of April of each year, concerning the activities and work of the Commission and from time to time shall submit such reports and recommendations as may be necessary to fulfill the purpose of this article.

§ 18-62. Compensation and expenses.

The members of the Commission, including ex officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

§ 18-63. Construal of provisions.

This article shall be deemed an exercise of the powers of the City of Binghamton to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This article is not intended and shall not be deemed to impair the powers of any other public corporation.

ARTICLE X, Financial Advisory Committee [Adopted 6-11-1973 by Ord. No. 120-73 (Ch. 2, Div. 9, §§ 2-154 through 2-158, of the 1970 Code)]

§ 18-64. Creation.

There is hereby created and established a Binghamton Financial Advisory Committee.

§ 18-65. Advisory capacity of Committee.

The Binghamton Financial Advisory Committee shall function only in an advisory capacity to the Mayor and City Council on matters of a major budgetary or fiscal planning nature.

§ 18-66. Review of major budgetary and fiscal planning programs.

Prior to the adoption or implementation of any major budgetary or fiscal planning program or plan for the City of Binghamton, said program shall be submitted to the Binghamton Financial Advisory Committee for its review and recommendation.

§ 18-67. Composition.

Said Committee shall be composed of nine members, consisting of the Chairperson of City Council's Finance Committee, one other member of City Council of the opposite political party than the Finance Chairperson, and seven residents or real property owners of the City of Binghamton, who are skilled in financial matters, who are to be appointed by the Mayor. The Mayor and Director of Finance shall be ex officio members of said Committee.

§ 18-68. Terms of citizen members.

Said citizen Committee members shall serve for a term of three years. The initial appointments shall be as follows:

Two members, one year.

Two members, two years.

Three members, three years.

ARTICLE XI, Board of Management Directors for Old City Hall [Adopted 5-10-1976 by Ord. No. 103 (Ch. 2, Div. 12, §§ 2-163.26 through 2-163.31, of the 1970 Code)]

§ 18-69. Establishment.

A permanent Board of Management Directors for Old City Hall shall be established.

§ 18-70. Composition.

Said Board shall be comprised of 11 voting members representative of City Council, the Community Development Department, the City of Binghamton Engineering Department, the Commission on Architecture and Urban Design, the Corporation Counsel's staff, and the Landmark Society of Broome County.

§ 18-71. Appointment of voting members; ex officio members.

- A. The 11 voting members shall be appointed in the following manner:
 - (1) Three members of CAUD to be selected by its membership to serve for two-year terms, at the end of which any or all may be reappointed by its (CAUD) membership for successive two-year terms.
 - (2) Two representatives from City Council to be selected by the Planning and Community Development Committee, to serve for one-year terms, at the end of which any or all may be reappointed by the Committee for successive one-year terms.
 - (3) Two representatives of the City of Binghamton Community Development Department, one representative being the Director of Planning or his or her designee, and one representative to be appointed by the Director of Community Development to serve for a one-year term, at the end of which said representative may be reappointed by the Director of the Community Development Department for additional one-year terms.
 - (4) One representative of the City of Binghamton Engineering Department, said representative being, if possible, the City Engineer, or his or her designee.
 - (5) One Corporation Counsel staff member, said representative to be the Corporation Counsel or the First Assistant Corporation Counsel, as decided by the Corporation Counsel.
 - (6) One representative of the Landmark Society of Broome County, to be selected by its membership to serve for a two-year term, at the end of which said representative may be reappointed by its membership for successive two-year terms.
 - (7) One member at large appointed by the Mayor of the City of Binghamton to serve for two years.

- B. The Mayor of the City of Binghamton and the remaining seven City Council members shall serve as ex officio members of the Board.

§ 18-72. Organization.

This Board of Management Directors shall meet as soon as possible after enactment of this article, under the temporary chairpersonship of the Chairman of CAUD, to:

- A. Elect a Chairperson (for a one-year term; no one member may be Chairperson more than two successive years).
- B. Establish a quorum.
- C. Adopt rules of order.

§ 18-73. Duties and responsibilities.

The Board of Management Directors for Old City Hall shall accept as its charge the implementation of recommendations made by the special task force as approved by City Council and shall be responsible for recommending to City Council and the Mayor the contract arrangements for the restoration and reuse of old City Hall, for their approval, and for as long as the building is owned by the City.

§ 18-74. Reports.

The Board of Management Directors shall report to the Mayor and/or the Planning and Community Development Committee of City Council on a regular basis.

ARTICLE XII, Landmarks Preservation Commission [Adopted 12-18-1978 by Ord. No. 273-78 (Ch. 2, Div. 13, §§ 2-163.32 through 2-163.41, of the 1970 Code); Amended 4-21-10 by Ord. No. 19-2010]

§ 18-75. Purpose [Amended 4-21-10 by Ord. No. 19-2010]

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Binghamton has many significant historic, architectural and cultural resources, which constitute its heritage, this act is intended to:

- A. Protect and enhance the landmarks and historic districts, which represent distinctive elements of Binghamton's historic, architectural, and cultural heritage;
- B. Foster civic pride in the accomplishments of the past;
- C. Protect and enhance Binghamton's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- D. Ensure new or remodeled structures, located within historic districts, be designed and constructed to harmonize with structures located within the historic district;
- E. Strengthen the economy of the City and provide a stimulus to new business; and
- F. Ensure the harmonious, orderly, and efficient growth and development of the City.

§ 18-76. Historic Preservation Commission [Amended 4-21-10 by Ord. No. 19-2010; Amended 10-17-2012 by Ord. No. 12-68]

- A. In order to effectuate the purpose and intent of this article, there is hereby established in and for the City of Binghamton a commission to be known as the Binghamton Historic Preservation Commission ("the Commission").
- B. This Commission shall be one and the same as the Commission on Architecture and Urban Design.
- C. The Commission shall consist of seven (7) members to be appointed, to the extent available in the community, by the mayor and composed of:
 - (1) An architect experienced in working with historic buildings;
 - (2) A historian;
 - (3) A resident of a historic district;
 - (4) An engineer or contractor experienced in working with historic buildings;
 - (5) A community member who has demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and
 - (6) All members shall have a known interest and/or expertise in historic preservation, real estate law, architectural development, and/or economic development within the City of Binghamton.

- (7) Persons eligible for membership shall be persons who, by training, experience, interests or expertise, are qualified to carry out the duties of the Commission, as set forth herein.
- D. Ex officio members shall include, to the extent available, the Mayor, the Planning Director, a Code Inspector, a member of the Susquehanna Heritage Area Commission, a member of the Preservation Association of the Southern Tier (PAST), a member from Binghamton Downtown Inc., a member of Broome County Department of Planning and Economic Development, and other persons whom the Mayor or the Commission may appoint, which persons shall have experience or specialized talents deemed useful to the Commission. Ex officio members shall have no voting privileges.
- E. Commission members shall serve for a term of three (3) years, with the exception of the initial term of one of the seven (7) members, which shall be one year, one, which shall be two years, and one, which shall be three years.
- F. A member of the Commission may be removed by the Mayor for good and sufficient cause, after he or she has been afforded an opportunity to be heard in his or her defense.
- G. A vacancy occurring in the membership of the Commission from any cause shall be filled by the Mayor, for the unexpired term of the member whose office has become vacant. Recommendations for filling vacancies may be made to the Mayor by the Commission, which recommendations shall be made within 30 days after the date when such vacancies occur.
- H. The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.
- I. The powers of the Commission shall include:
- (1) Engage staff and/or professional consultants as necessary to carry out the duties of the Commission, subject to the availability of funding and subject to approval by the City Council and the Mayor;
 - (2) Promulgate rules and regulations as necessary to carry out the duties of the Commission;
 - (3) Adopt criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts;
 - (4) Conduct surveys of significant historic, architectural, and cultural landmarks and historic districts within the City;
 - (5) Designate identified structures or resources as landmarks and historic districts;
 - (6) Accept on behalf of the City government of the donation of facade easements and development rights and the making of recommendations to the City government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;
 - (7) Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
 - (8) Seek out local, State, Federal, or private funds for historic preservation, and make recommendations to the Binghamton City Council concerning the most appropriate uses of any funds acquired;
 - (9) Recommend acquisition of a landmark structure by the City government where its preservation is essential to the purposes of this act and where private preservation is not feasible;
 - (10) Approve or disapprove applications for Certificates of Appropriateness pursuant to this act;
 - (11) Approve or disapprove the design of buildings, bridges, approaches, gates, steps, fences, lamps and/or other structures or additions which shall be erected upon any street or property owned, leased, or occupied by the City, or involving the use of funds or monies of or from the City prior to implementation; and

- (12) Recommend that the Binghamton City Council exercise its authority to exempt such structures, as may be designated by the Commission as having historical and architectural value, from municipal taxation for such period of years as the Council may determine; provided, however, that the owner of such structures, for themselves, their heirs and assigns, shall agree by covenant, contained in duly executed instruments, capable of being recorded, in the Broome County Clerk's Office, land records, the Clerk of the City of Binghamton, and the Commission, that those structures shall never be altered or demolished without the approval of the Commission. [Previously § 18-79(g)]
- J. The Commission shall meet at least monthly on a specific date and time to be determined yearly by the Commission, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Mayor.
- K. A quorum for the transaction of business shall consist of four (4) of the Commission's members, but not less than a majority of the full-authorized membership may grant or deny a Certificate of Appropriateness.

§ 18-77. Designation of Landmarks or Historic Districts [Amended 4-21-10 by Ord. No. 19-2010]

- A. The Commission may designate an individual property as a landmark if it:
- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
 - (2) Is identified with historic personages; or
 - (3) Embodies the distinguishing characteristics of an architectural style; or
 - (4) Is the work of a designer whose work has significantly influenced an age; or
 - (5) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The Commission may designate a group of properties as a historic district if it:
- (1) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - (2) By reason of possessing such qualities, it constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Clerk's Office for public inspection.

- C. Unless as determined by the Commission to have exceptional importance, properties which have achieved significance within the last fifty (50) years shall not be considered eligible for designation.
- D. Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least ten (10) days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building or demolition permits shall be issued by the building inspector until the Commission has made its decision.
- E. The Commission shall hold a hearing prior to designation of any landmark or historic district, which shall be open to members of the public. The Commission, property owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance and/or architectural, cultural, or

economic impact of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

- F. Within seven days after designation of a landmark or historic district, the Commission shall file a copy of such designation with the Planning Commission and with the Common Council. Within 30 days of the designation by the Commission, the Planning Commission shall file a report with the Council with respect to the relation of such designation to the Master Plan, the zoning laws, projected public improvements and any plans for the redevelopment of the site or area involved. The Council shall, within 30 days from the date of submission of the report of the Planning Commission to the Council, approve or disapprove, or refer back to the Commission for modification, said proposal. Any designation approved by the Council shall be in effect on and after the date of approval by the City Council.
- G. The Commission shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the office of the Broome County Clerk for recordation.

§ 18-78. Certificate of Appropriateness for Alterations or New Construction Affecting Landmarks or Properties within Historic Districts [Amended 4-21-10 by Ord. No. 19-2010; Amended 4-17-2013 by Ord. No. 29-2013]

- A. No person shall carry out any exterior alteration, restoration, reconstruction, new construction, or moving of a landmark or property within a local historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, awnings, fences, steps, paving or other exterior elements which affect the appearance and cohesiveness of the landmark or historic district, without first obtaining a Certificate of Appropriateness from the Commission.
- B. Administrative Certificate of Appropriateness. Notwithstanding Subsection A above, certain minor exterior alterations, restorations and material changes which conform to the standards established in the most recently adopted City of Binghamton Historic Preservation Design Guidelines and the Secretary of the Interior's Standards for Historic Preservation may be approved on behalf of the Commission and issued an Administrative Certificate of Appropriateness by the Historic Preservation Planner, or any other City-contracted qualified professional meeting the Professional Qualifications referenced in the Code of Federal Regulations, 26 CFR Part 61 in the fields of History, Architectural History, Architecture, or Historic Architecture; such approval shall be made in consultation with the Senior Planner and/or the Chair of the Commission. Activities which may be eligible for an Administrative Certificate of Appropriateness are limited to the following:
 - (1) Painting of exterior wooden or metal materials and previously painted masonry materials with colors as pre-approved from time to time by the Commission.
 - (2) Roofing
 - (a) Replacement of existing roofing materials with roofing materials original to the structure as supported by documentation.
 - (b) In-kind replacement of roofing materials with new roofing materials to be substantially similar to the existing in design, composition and color.
 - (c) In-kind replacement of existing rubber roofing materials on a flat roof provided: (1) it is not visible from the public right-of-way; (2) it does not obscure or cover any skylights; and (3) it does not require removal or replacement of existing wall coping materials.
 - (d) Replacement of non-original gutters and downspouts with new gutters and downspouts of an appropriate material and color; straps or hangers must be hidden.

- (3) Minor ornamentation (such as, but not limited to, fascia, spindles, brackets, shutters, and skirting)
 - (a) In-kind replacement of existing minor ornamentation with new minor ornamentation of the same material(s) and to substantially match the existing in size, location, design and color.
 - (b) Reintroduction of historic minor ornamentation based on documented evidence of its original presence.
- (4) Masonry repointing, using an appropriate mortar with a joint to match the existing joint
- (5) Light fixtures
 - (a) Replacement of non-original light fixtures with new fixtures of a period appropriate design.
 - (b) Ground lighting for the purposes of illumination of existing ground signage.
 - (c) Must be in compliance with §410-25(j) of the City of Binghamton Code of Ordinances
- (6) Windows or doors
 - (a) Replacement of non-original or deteriorated windows or doors with new windows or doors of a period appropriate material, size, operation, design and color when there are not alterations to the existing opening(s), location(s), lintel(s), sill(s) or trim.
 - (b) Replacement of deteriorated window elements (such as, but not limited to, jambs, muntins, glazing, stiles, or rails) with new window elements to match the existing in materials, size, operation, design and color when repair of the existing window elements is not possible due to their condition.
- (7) Mechanical (such as, but not limited to HVAC, exterior vent pipes and exhaust systems)
 - (a) Installation of new mechanical systems when restricted to areas not visible from the public right-of-way and installed in such a way as to be reversible without resulting in damage to the historic fabric of the structure.
 - (b) Replacement of existing mechanical provided it does not exceed any existing in size by more than ten percent (10%) and is not visible from the public-right-of-way.
- (8) Awnings
 - (a) Installation of new awning fabric, to be canvas or treated fabric, on an existing awning frame.
 - (b) Awnings with signage require full review by the Commission.
- (9) Accessibility Ramps. Construction of a new accessibility ramp may be approved if it is: (1) in compliance with standards of the Americans with disabilities act (ADA); (2) located and designed such that it is not visible from the public right-of-way; and (3) designed and constructed to be compatible with the architecture and materials of the building.
- (10) Site Features.
 - (a) Installation of new, period appropriate fencing along the rear property line.
 - (b) In-kind replacement of existing fencing along any rear or side property line with new fencing of a substantially similar style, material, height and color.
 - (c) In-kind replacement of existing steps with new steps of a period appropriate design, materials and color.
 - (d) Construction or replacement of brick, stone, concrete patios, or other paved, non-vehicular areas, which are not readily visible from the public right-of-way and are compatible in material, location and design with the historic character of the property.
- (11) One time extension if a valid Certificate of Appropriateness, issued within the previous twelve (12) months, for a period of no more than six (6) months, provided the parameters of the project have not changed from those approved in the original Certificate of Appropriateness.

- C. If it is determined by Planning Staff or the Chair of the Commission that a proposed project seeking an Administrative Certificate of Appropriateness is likely to have a significant impact on the historic character of the structure or the historic district, Staff shall be authorized to forward the application to the Commission for full review at the next available meeting.
- D. Denial of an Administrative Certificate of Appropriateness application shall result in the application being forwarded to the Commission for full review at the next available meeting.

§ 18-79. Criteria for Approval of a Certificate of Appropriateness [Amended 4-21-10 by Ord. No. 19-2010]

- A. In passing upon an application for a Certificate of Appropriateness, the Commission shall not consider changes to interior spaces, unless they are open to the public. The Commission's decision shall be based on the following principles:
 - (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
 - (2) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
 - (3) New construction shall be compatible with the area in which it is located.
- B. In applying the principle of compatibility, the Commission shall consider the following factors:
 - (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;
 - (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the historic character of the area;
 - (3) Texture, materials, and color and their relation to similar features of other properties in the immediate vicinity;
 - (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
 - (5) The importance of historic, architectural or other features to the significance of the property.

§ 18-80. Certificate of Appropriateness Application Procedure [Amended 4-21-10 by Ord. No. 19-2010; Amended 4-17-2013 by Ord. No. 29-2013]

- A. Prior to the commencement of any work requiring Certificate of Appropriateness, the owner shall file an application for such a certificate with the City. The application shall contain:
 - (1) Name, address and telephone number of applicant;
 - (2) Location and photographs of property;
 - (3) Elevation drawings of proposed changes, if available;
 - (4) Perspective drawings, including relationship to adjacent properties, if available;
 - (5) Samples of color or materials to be used;
 - (6) Where the proposal includes signs or lettering, a scale drawings showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
 - (7) Any other information which may be deemed necessary in order to visualize the proposed work

§ 18-81. Hardship Criteria for Alterations or New Construction Affecting Landmarks or Properties within Historic Districts [Amended 4-21-10 by Ord. No. 19-2010]

An applicant whose application for a Certificate of Appropriateness for a proposed alteration or new construction has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the denial imposes an undue economic burden or that the

property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, as set forth in Sect 12 of this ordinance.

§ 18-82. Determination of Historic Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

No person shall carry out demolition of a structure more than forty (40) years old without first obtaining a negative Determination of Historic Significance from the Commission. This section shall not apply to those buildings and structures which have been determined to be a danger to the health, safety or welfare of the public in that they have been determined to have sustained damage and to be beyond repair in accordance with Chapter 203, Unsafe Buildings, of the Code of the City of Binghamton.

§ 18-83. Criteria for Determination of Historical Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. The Commission's Determination of Historic Significance shall be based on the following considerations which are based on the United States Secretary of the Interior Standards for Historic Preservation:
 - (1) If the structure is an outstanding example of a structure or memorial representative of its era, either past or present; or
 - (2) If the structure is one of the few remaining examples of a past architectural style or combinations of styles; or
 - (3) If the structure is associated with a historical person or event of significance to the City, region, state or nation.

§ 18-84.1. Procedure for Determination of Historical Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. Prior to demolition of any building more than forty (40) years old, the owner shall file an application for a Determination of Historic Significance with the Commission. The application shall contain:
 - (1) Name, address and telephone number of applicant;
 - (2) Location and interior and exterior photographs of the building;
 - (3) History of the building, if known;
 - (4) Photographs of surrounding properties;
 - (5) Proposed future use of the site;
 - (6) Reason for requesting Determination of Historic Significance
- B. Deterioration caused by deliberate neglect of maintenance or repairs by owner shall not be considered valid grounds for a negative Determination of Historic Significance or for the approval of a demolition permit application.
- C. No demolition permit shall be issued for such a building until a negative Determination of Historic Significance has been issued by the Commission. The Determination of Significance required by this act shall be in addition to and not in lieu of any demolition permit that may be required by another ordinance of the City of Binghamton.
- D. The Commission shall issue a Determination of Historic Significance within forty-five (45) days from initial Commission review of the completed application, unless an extension of this deadline is agreed upon by both the Commission and the applicant. The Commission may hold a hearing on the application at which time an opportunity will be provided for proponents and opponents of the application to present their views.

- E. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for positive or negative Determination of Historic Significance.

§ 18-84.2. Hardship Criteria for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. An applicant whose proposed demolition has been denied due to a positive Determination of Historic Significance may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

§ 18-84.3. Hardship Application Procedure [Amended 4-21-10 by Ord. No. 19-2010]

- A. After receiving written notification from the Commission of the denial of a Certificate of Appropriateness or the denial of demolition permit due to a positive Determination of Historic Significance, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The owner may be required to submit any of the following information by affidavit to the Commission for evaluation and recommendation.
 - (1) For all property:
 - (a) The assessed value of the land and improvements thereon according to the last two (2) assessments; the current fair market value of the property as determined by at least two (2) independent appraisals;
 - (b) Real estate taxes for the previous two (2) years;
 - (c) Any listing of the property for sale or rent, price asked, and offers received, if any;
 - (d) Any consideration by the owner as to profitable adaptive uses for the property;
 - (e) An estimate of rehabilitation and/or construction cost to restore the structure to active use;
 - (f) Exceptions: when a property owner is financially unable to meet the requirements set forth in the subsection, the Commission may waive some or all of the requirements and/or request substitute information that a property owner may obtain without incurring any costs.
 - (2) In addition to subsection 1 above, owners of income-producing property shall submit the following:
 - (a) Annual gross income from the property for the previous two (2) years;
 - (b) Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed;
 - (c) Annual cash flow, if any, for the previous two (2) years;
 - (d) Proof that efforts have been made by the owner to obtain a reasonable return on investment based on previous service.
- C. An applicant may request a waiver of one or more of the submittal requirements based on the specific nature of the case.

- D. The Commission shall issue a decision on the hardship application within forty-five (45) days from initial Commission review of the completed application. The Commission may hold a hearing on the application at which time an opportunity will be provided for proponents and opponents of the application to present their views.
- E. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- F. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

§ 18-85.4. Enforcement [Amended 4-21-10 by Ord. No. 19-2010]

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the City Staff to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Commission, the Building Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

§ 18-85.5. Maintenance and Repair Required [Amended 4-21-10 by Ord. No. 19-2010]

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.

- A. No owner or person with an interest in real property designated as a landmark or included within a locally designated historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
- B. Examples of deterioration include, but are not limited to:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of exterior chimneys.
 - (4) Deterioration or crumbling of exterior stucco or mortar.
 - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - (6) Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
 - (7) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for the public safety.
- C. Vacant properties shall be maintained in accordance with the City of Binghamton vacant property ordinance (§265-14).

§ 18-85.6. Violations [Amended 4-21-10 by Ord. No. 19-2010]

- A. Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars or to imprisonment not exceeding fifteen (15) days, or to both such fine and

imprisonment together with the cost of any clean-up, removal, or other remedial action, to be recovered by the City in a civil action for each day the violation continues.

- B. Any person or entity of any kind who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.
- C. Any person or entity of any kind who demolishes a designated property or a property located within the boundaries of a historic district without a Certificate of Appropriateness for demolition, in addition to any fine or imprisonment, may have one of the following penalties imposed by the Courts as recommended by the Commission by a majority vote. These penalties shall be in addition to and not in lieu of any criminal prosecution and penalty.
 - (1) For a Noncontributing Property, prohibition or restriction of building permits for new construction on the site and permits involving work in the public right-of-way for not more than seven (7) years, but not less than thirty (30) days. A Noncontributing Property is considered to be any property located within the boundaries of a designed historic district which does not contribute to the overall historic character of the historic district, as determined by the Commission based upon the United States Secretary of the Interior Standards for Historic Preservation.
 - (2) For Contributing Property or Historic Landmark, prohibition or restriction of building permits for new construction on the site and permits involving work in the public right-of-way for not more than seven (7) years, but not less than two (2) years. A Contributing Property is considered to be any property located within the boundaries of a designed historic district which contributes to the overall historic character of the historic district, as determined by the Commission based upon the United States Secretary of the Interior Standards for Historic Preservation. A Historic Landmark property is a property which has been designed for its individual merits.
- D. The following factors shall be considered in imposing any penalty or remedy.
 - (1) Whether than structure, site, or Historic Landmark is one of the last remaining examples of its kind in the neighborhood, city, or region.
 - (2) Whether there exists sufficient documentation, plan, or other data so as to make reconstruction feasible.
 - (3) The age of the original structure, site, or Historic Landmark and all subsequent additions and modifications.
 - (4) The physical condition of the structure, site, or Historic Landmark immediately prior to its total or partial demolition.
 - (5) The amount of demolition sustained by the structure, site, or Historic Landmark.
 - (6) Whether or not, had total or partial demolition occurred, the structure, site, or Historic Landmark could have been put into a reasonable economic use either prior to or after rehabilitation.
 - (7) Whether the structure, site, or Historic Landmark was eligible for inclusion on the National Register of Historic Places immediately prior to its total or partial demolition.
 - (8) Whether the structure, site, or Historic Landmark is included on the National Register of Historic Places.
 - (9) Whether the responsible party has a legal or equitable interest in the structure, site, or Historic Landmark.

Any person aggrieved by a decision of the Commission may, within 15 days of the decision, file a written application with the City Council for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same criteria.

§ 18-85.8. Continuation of previous designations [Added 11-3-1980 by Ord. No. 243-80; Amended 4-21-10 by Ord. No. 19-2010]

Any designation of a landmark or historic structure made by the Commission on Architecture and Urban Design pursuant to Article VI of this chapter shall remain in full force and effect.

ARTICLE XIII, Downtown Task Force [Adopted 1-18-1982 by Ord. No. 4-82 (Ch. 2, Div. 14, §§ 2-163.42 through 2-163-45, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-85. Reserved

§ 18-86. Reserved

§ 18-87. Reserved

§ 18-88. Reserved

ARTICLE XIV, Community Development Advisory Committee [Adopted 8-15-1988 by Ord. No. 103-88 (Ch. 2, Div. 15, §§ 2-163.56 through 2-163.66, of the 1970 Code)]

§ 18-89. Creation; purpose.

There is hereby created and established a Community Development Advisory Committee for community development, hereinafter referred to as CDAC, to make recommendations to the Mayor and the Council of the City of Binghamton regarding the planning, development, monitoring, coordination and evaluation of a comprehensive community development program pursuant to and in accordance with HUD regulations, and in accordance with the interests and needs of the residents of the City of Binghamton.

§ 18-90. Composition; appointment of members. [Amended 4-16-07 by Ord. No. 12B-2007]

- A. The CDAC shall be composed of 11 members, each of whom shall have one vote. The members of the CDAC shall be appointed as follows, effective January 1, 2008:
 - (1) One member appointed by each of the seven City Council members. Council members may seek recommendations of prospective appointees from their active neighborhood citizen groups. The appointee need not be from such Council member's district.
 - (2) One member appointed by a majority of City Council members.
 - (3) Three members appointed by the Mayor of the City of Binghamton.
- B. Two City Council members, one being the majority leader and the other being the minority leader, shall serve as ex-officio members of the CDAC without voting power. The Mayor of the City of Binghamton shall serve as an ex-officio member of the CDAC without voting power.

§ 18-91. Term of office of members. [Amended 4-16-07 by Ord. No. 12B-2007]

The term of office for each CDAC member shall be for two years as follows:

- A. The members appointed by the Councilmen of the even-numbered Councilmanic districts shall expire on the even-numbered years.
- B. The members appointed by the Councilmen of the odd-numbered Councilmanic districts shall expire on the odd-numbered years
- C. For 2008 only, City Council will randomly select three Councilmanic district appointees to expire in one year. Thereafter, all appointments will be for two years.

- D. The terms of the majority and minority leaders shall correspond to their term of office as majority and minority leaders.
- E. The members appointed by the Mayor of the City of Binghamton shall serve for an initial term of two and three years. Two members shall be appointed for two years and one member shall be appointed for a one-year term. Two members' terms will expire at the end of even-numbered years and one members' term will expire on odd-numbered years after the term of the initial appointment expires.

§ 18-92. Vacancies and terminations.

The following procedures shall be followed regarding vacancies and terminations of CDAC members:

- A. Vacancies. In the event a vacancy occurs in the membership of the CDAC for any reason, the appointing power shall expeditiously appoint another person to fill said vacancy for the unexpired term in conformance with § 18-90 of this article.
- B. Termination. If a member of CDAC misses three consecutive regular or special meetings, or 50% of the meetings in a six-month period, he or she may be removed from the membership upon recommendation by the CDAC to the City Council.

§ 18-93. Duties; meetings; quorum; rules and regulations. [Amended 4-16-07 by Ord. No. 12B-2007; Amended 12-7-2012 by Ord. No. 11-49]

The CDAC shall constitute the official citizen participation structure for the community development block grant program in the City of Binghamton. The following shall govern the activities of the CDAC:

- A. The CDAC shall recommend plans and proposals to the Mayor and City Council for review, amendment and approval. Such plans and proposals must be approved by at least seven members of the CDAC at a regular or special meeting. In addition, the CDAC will respond to specific requests of the Mayor and City Council for comment on issues that do not require City Council approval.
- B. The CDAC shall react to plans and proposals presented to it by the Director of Planning, Housing and Community Development, and make recommendations to the Mayor and City Council with respect to acceptance or rejection of such plans.
- C. The CDAC may make recommendations to the Mayor in connection with the implementation of the City's community development programs as approved by Council of the City of Binghamton. CDAC members would provide input to the Mayor and City Council relative to the responsibility of the grantee for ensuring that each activity to be carried out with CDBG funds is eligible and benefits low- and moderate-income families or aids in the prevention or elimination of slums or blight or meets other community development needs, having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.
- D. The CDAC shall meet at least once per month, namely, the second Wednesday of each month. Said meetings will be open to the public.
- E. A three-day written notice must be sent to each CDAC member before any CDAC meeting is held indicating the time, place and agenda of the meeting.
- F. More than 50% of the appointed members of the CDAC shall constitute a quorum which must be present to conduct an official CDAC meeting.

G. The CDAC shall have authority to devise additional rules of order and operating procedures which are not inconsistent with this article or Robert's Rules of Order as revised.

H. Special meetings may be called by the Chairperson and/or a majority of the CDAC.

§ 18-94. Officers.

The CDAC shall elect by a majority of the membership the following officers: Chairperson, Vice-Chairperson and Secretary. The election of officers shall occur at the first meeting in January.

A. Chairperson.

(1) Duties.

(a) The Chairperson shall preside over meetings of the CDAC.

(b) The Chairperson shall prepare the agenda for the CDAC meeting in consultation with the Director of Planning, Housing and Community Development; however, the Director of Planning, Housing and Community Development shall not have a veto power over items placed on the agenda, nor shall the Chairperson have a veto power to exclude agenda items requested by the Director of Planning, Housing and Community Development.

(c) The Chairperson shall have the authority to call special meetings of the CDAC at his or her discretion.

(d) The Chairperson shall have the authority to modify meeting dates when regularly scheduled meeting dates conflict with national or religious holidays or other events which would prevent a quorum of members from attending such meeting.

(e) The Chairperson will serve as the official spokesperson of the CDAC.

(2) Term of office. The term of office shall be one year.

(3) Qualifications. The person nominated to serve as Chairperson must have been a CDAC member for at least one year.

B. Vice-Chairperson. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have all the powers and duties of the Chairperson during his or her absence. Upon the arrival of the Chairperson the Vice-Chairperson shall vacate the chair. The Vice-Chairperson shall, however, have the power of the chair when the Chairperson wishes to enter into discussion.

C. Secretary.

(1) Duties.

(a) The Secretary shall be the keeper of all minutes (not to be construed as the recorder of minutes).

(b) The Secretary shall review the minutes as recorded by the Planning, Housing and Community Development staff and shall be the sole judge as to the accuracy of said minutes, prior to the approval by the CDAC.

(c) The Secretary shall certify all minutes of each regular and special meeting of the CDAC, prior to their approval by the CDAC.

§ 18-95. Citizen input.

In order to encourage citizen participation, particularly from low- and moderate-income households, the following procedures will be adhered to:

A. Provide citizens with at least 10 days' prior notice of public hearings to be held by the CDAC. All public hearings shall be advertised at a minimum in the Press and Sun-Bulletin. Notices of public hearings shall not be published in the "Legal Notice" section of the paper, but in a more conspicuous section of the paper such as the "Community" section. The staff of the CDAC shall keep a record of

the notice(s) of publication. The City Clerk's office and the City Council shall also receive notices of all CDAC regular meetings and public hearings.

- B. The CDAC and staff will identify how the information needs of non-English-speaking residents or citizens with disabilities (such as deafness) will be accommodated at public hearings and meetings. If more than 5% of the citizens at a public hearing or meeting are anticipated to have such a language or disability barrier, the CDAC and staff shall determine before proceeding with the hearing or meeting how their needs will be addressed.
- C. Public hearings or meeting locations shall be accessible to the handicapped, have adequate audiovisual and seating arrangements and be in locations convenient for citizen access.
- D. Any documents relating to meetings or public hearings shall be made available to the general public by the staff of the CDAC at least 10 days prior to the meeting/hearing.
- E. The CDAC shall respond to written requests for information or complaints in writing within 15 days from receipt of the request. If a response cannot be given in 15 days, a written response indicating that the information request/complaint is being formulated shall be sent in to the affected party(ies).
- F. The CDAC shall provide technical assistance, through itself or staff, to groups or individuals requesting assistance that relate to the goals and objectives of the CDBG program. The specific type and level of assistance will moreover be dependent upon the resources of the CDAC and staff.
- G. The aforementioned procedures shall not supersede any other federal regulation governing the CDBG program.

§ 18-96. Responsibilities of City to CDAC.

The following shall be the responsibilities of the City to the CDAC:

- A. It is the responsibility of the City Council, the Mayor and the Director of Planning, Housing and Community Development to transmit to the CDAC proposals made by other public and private bodies regarding use of CDBG funds, and responses to CDAC's request for information.
- B. The Planning, Housing and Community Development Department of the City will be responsible for providing staff liaison with City Council and other necessary and appropriate support to the CDAC.

§ 18-97. Responsibilities of CDAC.

The following shall be the responsibilities of the CDAC:

- A. The CDAC is responsible for the coordination of all citizen input regarding the community development block grant program and for submitting recommendations to the Planning, Housing and Community Development Department and City Council.
- B. The CDAC will be responsible for achieving the following specific objectives:
 - (1) To identify the needs and define the problems presented by the community.
 - (2) To formulate a set of objectives addressing these needs and problems.
 - (3) To assign priorities to the accomplishment of these objectives according to their degree of importance and potential benefits.
 - (4) To develop strategies suggesting how these objectives may be achieved.
 - (5) To evaluate program proposals and those solutions most appropriate for development.

§ 18-98. Authority of City.

The Act provides that no part of its citizen participation requirement shall be construed to restrict the responsibility and authority of the City for the development of its community development block grant application and the execution of its community development programs. Accordingly, the citizen participation requirements of the Act or this article do not include concurrence by any person or group involved in the citizen participation process in making final determinations concerning the findings and content of the City's application or program. The sole responsibility and authority to make such final determinations rests exclusively with the Mayor and City Council.

§ 18-99. Compensation for Board members. [Added 1-21-1997 by Ord. No. 2-97; Amended 12-21-11 by Ord. No. 11-52; Amended 12-19-12 by Ord. No. 12-79]

Each Board member of the CDAC shall be paid an annual stipend of \$400.00. Payment of this amount shall be calculated in accordance with the percentage of meetings each member has attended throughout the year. Each member will need to satisfy an attendance record of at least 75% to receive the full stipend. An attendance record of 50-74% shall result in the receipt of 50% of the stipend. An attendance record of less than 50% will result in the denial of the stipend. Stipend payments shall be made no later than December 31 of each year.

ARTICLE XV, Police/Community Relations Advisory Board [Adopted 2-5-1990 (Ch. 2, § 2-53, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-100. Reserved

§ 18-101. Reserved

§ 18-102. Reserved

ARTICLE XVI, Municipal Youth Bureau [Adopted 9-5-2006 by Res. No. 06-104]

§ 18-103. Findings.

- A. The City of Binghamton desires to establish a Youth Bureau pursuant to Article 19(a) of the Executive Law and General Municipal Law § 95, starting January 1, 2007.
- B. Funding for a City of Binghamton Youth Bureau in the amount of \$25,000 is intended to be included in the 2007 budget, subject to a commitment of matching funds from New York State.
- C. The City Council recognizes a need for the creation of an instrument to coordinate youth development and youth violence prevention programming; and to facilitate continued state funding for youth programs in the City.

§ 18-104. Purpose.

A Youth Bureau would be established to:

- A. Assist the youth development, youth education, youth recreation and youth special programs institutions and agencies in identifying and meeting unmet needs of youth.
- B. Assist in effecting coordination between and among youth servicing agencies to avoid duplication of services and foster collaboration.
- C. Coordinate the creation of a Youth Development Comprehensive Plan thereby maximizing the availability of services and funding.
- D. Establish a planning and implementation process that identifies the connections between youth interests, critical academic and developmental outcomes and community improvement activities and outcomes.

§ 18-105. Establishment.

The Council hereby establishes a Youth Bureau pursuant to Article 19(a) of the Executive Law and General Municipal Law § 95, subject to inclusion of \$25,000 in the 2007 budget and a commitment of matching funds from New York State; and hereby authorizes the Mayor to take such action as may be necessary and appropriate to create the Youth Bureau, to hire a Director consistent with the attached job description, and to obtain matching funds from New York State.

ARTICLE XVII, City of Binghamton Waterfront Consistency Review Law [Adopted 12-5-2005 by Perm. L.L. 05-6]

§ 18-106. Title

This local law will be known as the City of Binghamton Waterfront Consistency Review Law.

§ 18-107. Authority and purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this local law is to provide a framework for agencies of the City of Binghamton to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. It is the intention of the City of Binghamton that the preservation, enhancement, and utilization of the natural and manmade resources of the unique waterfront area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of living estuarine resources and wildlife; diminution of open space areas or public access to the waterfront; losses due to flooding and erosion; impairment of scenic resources; or permanent adverse changes to ecological systems.
- D. The substantive provision of this local law shall only apply while there is in existence a Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§ 18-108. Definitions.

- A. "Actions" mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) which are undertaken by an agency and which include:
 - (1) Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (a) Are directly undertaken by an agency; or
 - (b) Involve funding by an agency; or
 - (c) Require one or more new or modified approvals from an agency or agencies.
 - (2) Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; an

- (4) Any combinations of the above.
- B. “Agency” means any board, agency, department, office other body, or officer of the City of Binghamton.
 - C. “Consistent” means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
 - D. “Direct Actions” means actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.
 - E. “Local Waterfront Revitalization Program (LWRP)” means the Local Waterfront Revitalization Program of the City of Binghamton, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inlands Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the City of Binghamton.
 - F. “Waterfront Advisory Committee” or “Committee” means the Waterfront Advisory Committee of the City of Binghamton, as created by Local Law 05-6 of the City of Binghamton.
 - G. “Waterfront Assessment Form (WAF)” means the form used by an agency to assist it in determining the consistency of an action with the LWRP.
 - H. “Waterfront Area” means the Waterfront Revitalization Area delineated in the City’s LWRP.

§ 18-109. Waterfront Advisory Committee. [Amended 3-19-2007 by Perm. Ord. 07-11]

- A. The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the policies and purposes of the LWRP.
- B. The River Trails Initiative will appoint not less than five or more than seven of its members to serve as a Waterfront Advisory Committee. In the event the River Trails Initiative fails to appoint the required members or otherwise fails to fulfill its obligations hereunder, then the Planning Commission will serve as the Waterfront Advisory Committee until further action by City Council. The Chairman of the Planning Commission will have authority to determine whether the River Trails Initiative is fulfilling its obligations hereunder.

§ 18-110. Review of actions.

- A. Whenever a proposed action is to be located in the City’s waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that is consistent with the LWRP policy standards and conditions set forth in § 18-112 herein.
- B. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency’s formulation of a direct action, to be located in the waterfront area, the applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review of the proposed action.
- C. The agency shall refer a copy of the completed WAF to the Committee within ten (10) days of its submission, and prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
- D. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in § 18-110(K) herein. The

Committee shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency recommendation.

- E. The Committee shall render its written recommendation to the agency within thirty (30) days following referral of the WAF form the agency, unless extended by mutual agreement of the Committee and the applicant, or in the case of the direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with, or inconsistent with, one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion.
- F. The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.
- G. In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.
- H. If the agency and the Committee concur in the consistency of the proposed action, the agency may proceed with the action. In the event that the agency, after reviewing the written recommendation of the Committee, finds that it disagrees with the consistency recommendation of the Committee, the agency shall, within fifteen (15) days, prepare a written finding detailing its position and transmit it to the Committee. The Committee and the agency shall meet to resolve their differences within fifteen (15) days of the Committee's receipt of the agency's finding.
- I. If the Committee and the agency cannot reach a mutually agreeable determination of the consistency, the matter will be referred to the City Council for a finding of consistency. The agency shall take no action until the City Council has made a determination and finding of consistency with the LWRP.
- J. The provisions of § 18-110(C) shall not apply to the Zoning Board of Appeals. Instead, where the Zoning Board of Appeals is the agency, the Zoning Board of Appeals shall consider the written consistency recommendation of the Committee when reviewing and considering an application for a variance.
- K. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in §18-108 of the City of the Binghamton LWRP, a copy of which is on file in the City's Department of Planning, Housing and Community Development and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section 3 ("Waterfront Revitalization Policies") and Section 4 ("Proposed Projects") of the LWRP in making their consistency determination. The action shall be consistent with the polices to:
 - (1) Foster a pattern of development in the riverfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.
 - (2) Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.
 - (3) Promote sustainable use of fish and wildlife resources.
 - (4) Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.
 - (5) Protect and improve water resources.
 - (6) Minimize loss of life, structures, and natural resources from flooding and erosion.
 - (7) Protect and improve air quality.
 - (8) Promote appropriate use and development of energy and mineral resources.

- (9) Minimize environmental degradation from solid waste and hazardous substances and wastes.
 - (10) Improve public access to and use of public lands and waters.
 - (11) Enhance visual quality and protect outstanding scenic resources.
 - (12) Preserve historic resources located in the waterfront area.
- L. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:
- (1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions
 - (2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 - (3) The action will advance one or more of the other LWRP policy standards and conditions; and
 - (4) The action will result in an overriding City, regional or state-wide public benefit.

Such finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

- M. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

§ 18-111. Enforcement.

- A. The City Zoning Enforcement Officer and Building Inspector shall be responsible for enforcing this local law.
- B. No work or activity on a project in the waterfront area which is subject to review under this local law shall be commenced or undertaken until the Zoning Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the City's LWRP policy standards and conditions.
- C. In the event that an activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Zoning Enforcement Officer, Building Inspector or any authorized official of the City shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on this project so long as a stop work order is in effect.

§ 18-112. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding five hundred (500) dollars for a conviction of a first offense and punishable by a fine of one thousand (1,000) dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.
- B. The City Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 18-113. Severability.

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

§ 18-114. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

ARTICLE XVIII, Public Art Advisory Board [Adopted 3-5-2014 by Perm. L.L. 14-1]

§ 18-115. Creation

The City Council of the City of Binghamton hereby creates an advisory board that shall be known as the Public Art Advisory Board (hereinafter referred to as “the Advisory Board”). The Advisory Board is formed to make recommendations concerning the selection, acquisition, and display of public art.

§ 18-116. Purpose and duties.

The purpose and duties of the Advisory Board shall be as follows:

- A. To create and oversee a public art program to enrich the visual and aesthetic environment of public spaces within the City of Binghamton.
- B. To initiate and develop proposals, to receive recommendations and to solicit contributions for additions to the existing collection of art in public places.
- C. To develop criteria and guidelines for the selection, acquisition, exhibition and display of new works of art, either temporary (on loan) or permanent. The criteria and guidelines shall relate to, but are not limited to, economic feasibility, maintenance, security and aesthetics. Acquisition of art includes either the purchase of art by the City or the acceptance of a donation of art to the City.
- D. To review all proposals for the exhibition and display of public art in the City’s public spaces, in public buildings, and public facilities and infrastructure, including appropriate locations.
- E. To advise the Mayor and Common Council about the selection of acquisitions and donations of public art that meet the selection criteria and guidelines and to determine whether to accept unsolicited donations of art and where they may be located.
- F. Notwithstanding any other provision herein to the contrary, final approval and acceptance of any and all public art resides with the Mayor (daily operations) and Common Council (grants/gifts and through the legislative process).

§ 18-117. Private Properties.

If requested by the owner, the Advisory Board will work with the owners of privately owned outdoor public space and semipublic interior spaces, including assistance obtaining grants, gifts, or other funding opportunities. The Advisory Board will have no oversight or input on privately owned property without written consent of the owner.

§ 18-118. Historic Properties.

Any public art proposed to be located on the exterior of any designated historic property, either individually designated Local Landmark Properties, or properties located in a designated Local Historic District, shall be subject to review and approval by the Commission on Architecture and Urban Design (CAUD) as set forth in the Article XII above. The Advisory Board will have no oversight or input on such proposed public art unless requested in writing by CAUD.

§ 18-119. Membership. [Amended on 2-12-16 by Ord. No. 16-07]

The Advisory Board shall consist of five (5) voting members, all of whom shall be appointed by the Mayor and shall be residents or work in the City of Binghamton. In selecting the members, the Mayor will attempt to recruit members from the community from the field of design, visual arts, architecture, or landscape architecture. The Advisory Board shall also have three (3) non-voting ex-officio members: a representative from the Broome County Council of Arts, a representative from the Gorgeous Washington Street Association, and a representative from the Downtown Binghamton Business Association.

§ 18-120. Terms of office; vacancies.

- A. The five (5) voting members shall be appointed for terms of three (3) years, except that the terms of the first Advisory Board members shall be for such lesser periods of time as to provide appropriate staggered rotation and continuity.
- B. Vacancies on the Advisory Board shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by expiration of term of office shall be filled only for the remainder of the unexpired term.

§ 18-121. Officers.

The Advisory Board shall have a Chairperson, a Vice Chairperson and a Secretary, who shall be elected by and from among the voting members of the Advisory Board once yearly.

§ 18-122. Compensation of members.

The voting members of the Advisory Board shall receive no compensation for their services.

§ 18-123. Meetings. [Amended on 2-12-16 by Ord. No. 16-07]

- A. A quorum for the transaction of business shall consist of three (3) voting members of the Advisory Board.
- B. The Advisory Board shall meet at least quarterly.
- C. The Advisory Board shall adopt rules and procedures for its meetings.
- D. The Advisory Board meetings will be open to the public and minutes will be kept and published as required by the New York State Public Officers Law, Article 7, Open Meetings Law.

Chapter 21, BONDS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 2, §§ 2-230 and 2-231, of the 1970 Code). Amendments noted where applicable.]

§ 21-1. Form of serial bonds.

Unless otherwise specifically provided, all serial bonds of the City hereafter issued shall contain the provisions prescribed by § 51.00 of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York, as amended, shall be executed in the name of the City by the Mayor and Comptroller, shall have the Corporate Seal affixed thereto and be attested by the City Clerk, and the coupons annexed thereto shall bear the facsimile signature of the Comptroller and, subject to said provisions, shall be in substantially the following form.

§ 21-2. Delegation of certain powers and duties to Comptroller. [Added 4-7-1997 by Ord. No. 23-97]

Pursuant to § 56.00 of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York (the "Law"), as amended by the Level Debt Legislation, the Council hereby delegates to the City Comptroller all of its powers and duties prescribed in § 21.00 of the Law, as amended by the Level Debt Legislation, pertaining to the making of determinations respecting the issuance of bonds with substantially level or declining annual debt service. The foregoing delegation shall apply to all bonds authorized pursuant to bond resolutions heretofore and hereafter adopted by the Council of the City.

FORM OF BOND

No. _____ \$ _____

UNITED STATES OF AMERICA
STATE OF NEW YORK
COUNTY OF BROOME
CITY OF BINGHAMTON
SERIAL BOND (date)

The City of Binghamton, in the County of Broome, a municipal corporation of the State of New York, hereby acknowledges itself indebted and for value received promises to pay to the bearer of this bond, or if it be registered to the person in whose name it is registered, on the day of _____, 20____, the sum of _____ dollars (\$_____) and to pay interest on such sum at the rate of _____ per centum (____%) per annum, payable _____ semiannually _____ on the days of _____ and in each year from the date of this bond until it matures upon presentation and surrender, as they severally mature, of the coupons therefore annexed hereto or, if this bond be registered, to the registered holder. Both principal and interest of this bond will be paid in lawful money of the United States of America, at the office of _____.

This bond may be converted into a registered bond in accordance with the provisions of the Local Finance Law.

This bond is one of an authorized issue, the aggregate principal amount of which is \$_____, the bonds of which are of like tenure except as to number and denomination, as is issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York, as amended.

The faith and credit of said City of Binghamton are hereby irrevocably pledged for the punctual payment of the principal of and interest on this bond according to its terms.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or Statutes of the State of New York to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that the issue of bonds of which this one, together with all other indebtedness of said City of Binghamton is within debt and other limit prescribed by said Constitution or Statutes of said State.

IN WITNESS WHEREOF, The City of Binghamton has caused this bond to be signed by its Mayor _____ and the Comptroller _____ and its Corporate Seal to be hereunto affixed and attested by its City Clerk _____ and the coupons hereto attached to be authenticated by the facsimile signature of its Comptroller _____ and this bond to be dated as of the ____ day of _____, 20____.

(Corporate Seal) CITY OF BINGHAMTON

By
Mayor

ATTEST:

City Clerk Comptroller

FORM OF COUPON

No. _____. The City of Binghamton, in the County of Broome, a municipal corporation of the State of New York, _____ 20____, on the ____ day of _____ will pay to the bearer the sum of _____ dollars (\$_____), in lawful money of the United States of America, at the _____ Office of _____ being six months' interest then due on its _____ dated _____ 20____, and bearing No. _____.

Comptroller

FORM OF PROVISIONS ON BACK OF BOND CONVERSION CERTIFICATE

I hereby certify that upon the presentation of the within bond with a written request by the holder thereof for its conversion into a bond registered as to both principal and interest, I have this day cut off and destroyed _____ coupons attached thereto, of the amount and value of _____ dollars (\$_____) each, being all the coupons for interest on the within bond payable after the date of this certificate, and that the interest at the rate and on the dates stated in the within bond and as was provided by the coupons, as well as the principal is to be paid to the registered holder, his or her legal representatives, successors or transferees at the place stated in the within bond and as was stated in the coupons. This bond shall hereafter be transferable only upon presentation of the same with a written transfer of title. Such transfer shall be dated, and signed by the registered holder, or his or her legal representatives, and it shall be duly acknowledged or provided, or in the alternative the signature thereto shall be certified as to its genuineness by an officer of a bank or trust company located and authorized to do business in this state.

Dated: _____, 20____.

Comptroller

It is hereby certified that the within bond has been registered as follows:
Date of Registration Name of Registered Holder Registered by

Chapter 26, CITY COUNCIL

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

- Administration of government -- See Ch. 5.
- Boards, commissions and committees -- See Ch. 18.
- Elections -- See Ch. 53.
- Code of Ethics -- See Ch. 59.
- Adoption of local laws -- See Ch. 87.
- Mayor -- See Ch. 92.

ARTICLE I, Meetings [Adopted 10-5-1970 (Ch. 2, §§ 2-30 and 2-31, of the 1970 Code)]

§ 26-1. **Regular meetings.** [Amended 1-2-1978 by Ord. No. 1-79; 10-20-1980 by Ord. No. 229-80; 8-6-1990 by Ord. No. 83-90; 6-6-2005 by Ord. No. 05-35; 8-4-08 by Ord. 37-2008]

- A. Time, place designated. The regular meetings of the City Council shall be held in the Council chamber in the municipal building on each Wednesday following the first and third Monday evenings of each month commencing at 6:30 p.m.
- B. Meeting date falling on holiday. Should any regular meeting date fall upon a legal holiday, then, in such case, the meeting appointed for such date shall be held on the next day thereafter, at the appointed hour and place as set forth herein.
- C. Change of meeting time. The date or time of any regular meeting may be changed by a majority vote of the Council taken at a regular Council meeting.

§ 26-2. **Special meetings.**

- A. Generally. The President of the City Council, or a majority of its members, may call a special meeting of the City Council by causing a written notice thereof, specifying the objects of the meeting, to be served by the City Clerk upon each member of the City Council personally or by mail, directed to his or her place of residence or place of business, at least 24 hours before the time fixed for such meeting.
- B. Limitation on business. No business shall be transacted at any special meeting other than the business specified in the notice of meeting. [Added 1-2-1979 by Ord. No. 1-79]
- C. Organizational meetings. The City Council shall convene and conduct an organizational meeting on the first Monday following January 1 of each year unless such Monday is a holiday. In this event, said meeting shall be held the following Tuesday unless otherwise ordered by the City Council. [Added 1-2-1979 by Ord. No. 1-79]

ARTICLE II, Inspection of Institutions [Adopted 10-5-1970 (Ch. 2, § 2-32, of the 1970 Code)]

§ 26-3. **Inspection of City departments, bureaus and institutions.**

Any member of the City Council shall have the authority to inspect any City department, bureau or institution at any reasonable time.

ARTICLE III, Travel [Adopted 10-5-1970 (Ch. 2, § 2-33, of the 1970 Code)]

§ 26-4. **Trips taken by Council members and committees.**

- A. Approval required. No Council member or committee of the City Council is authorized to take any trip for or on behalf of the Council or of the City, without first obtaining the approval of the Council.
- B. Expenses. After permission is given to a Council member or a committee of the Council to take a trip outside the City, the expenses incurred on said trip shall not be paid unless accompanied with vouchers specifying the amount and the purpose of such expenditures, which expenditures shall be certified by the Comptroller, who shall forward a written report to the City Clerk, and said report shall be read at the next regular meeting. In the event that an automobile owned by a Council member is used on the said trip, a sum not to exceed the amount set forth in Chapter 5, Administration of Government, § 5-15, shall be allowed for the use of the said car, and the mileage traveled shall be set forth in said voucher.

ARTICLE IV, Rules of Procedure [Adopted 10-5-1970 (Ch. 2, §§ 2-39 through 2-45, of the 1970 Code); amended in its entirety 1-2-1979 by Res. No. 1-79]

§ 26-5. Rules adopted. [Amended 10-5-1992 by Ord. No. 92-92; 2-6-1995 by Ord. No. 10-95; 6-1-1998 by Ord. No. 98-57; 7-20-1998 by Ord. No. 98-107; 12-21-1998 by Ord. No. 98-172; 1-19-1999 by Ord. No. 99-4; 12-17-07 by Ord. No. 57-2007; 2-4-08 by Ord. No. 11-2008; 4-5-2017 by Ord. No. 17-26]

The following rules be and the same are hereby adopted as the rules of the City Council:

- A. Call to order. At any meeting of the Council, at the scheduled time and as soon as a quorum appears, the President of the Council shall take the Chair and call the meeting to order. Immediately thereafter, official attendance of Council members who are present shall be taken. Such official attendance shall be taken at each and every meeting of the Binghamton City Council. This includes special meetings, committee meetings, special committee meetings and work session meetings.
- B. Order of business. Except in case of special meetings, or when any subject shall have been made a special order at a particular time, the order of business, which shall not in any case be departed from unless by the unanimous consent of the members present, shall be as follows:
 - I. Call to Order
 - II. Pledge of Allegiance
 - III. Roll call
 - IV. Acknowledgements and Recognitions
 - V. Reports from committees and approval of minutes
 - VI. Approval of Appointments
 - VII. Public hearing(s)
 - VIII. Set public hearing(s)
 - IX. Public comment/communication
 - X. Review of Mayoral Veto
 - XI. Second reading legislation
 - XII. First reading legislation — preferred agenda
 - XIII. Other first reading legislation
 - XIV. Communications from Council members
 - XV. Adjournment
- C. Petitions. All petitions or other papers previous to presentation to the City Council shall have the name of the Council member presenting the same endorsed thereon, and, when requested, the entire paper shall be read by the Clerk before reference or voting thereon.

- D. Recording of communications. No communication shall be spread upon the minutes which is not germane to an action taken or to be taken by the Council and then only by motion duly made, seconded and carried.
- E. Introduction of Legislation and Voting.
- (1) Except for the Preferred Agenda (See 26-5.FF), legislation shall be introduced by the applicable committee chair, or if the chair did not sign out the legislation then by a committee member that did sign the legislation.
 - (2) The member introducing legislation shall stand and read in full or summarize the legislation. The legislation must receive a second before discussion.
 - (3) The President shall recognize any member wishing to discuss the legislation. When discussion is complete the President, or acting President, shall call the question.
 - (4) Every member of the Council who shall be present when a question is stated from the President, or acting President, shall vote thereon unless excused by a majority vote of the Council.
- F. Questions of order; appeals from decision of chair. All questions of order shall be decided without debate; also appeals from the decision of the chair.
- G. Members to rise, remain at desk when making motion, debating, etc. It shall not be in order for any member to make a motion or to debate any question, or to present any petition, report or other paper from his or her desk while seated or away from his or her desk.
- H. Voting on expenditure of money. In all cases involving the expenditure of money, the vote shall be by ayes and nays on any question whatsoever.
- I. Appointment of standing committees. The standing committees of the Council shall be appointed by the President of the Council to serve for one year.
- J. Composition, enumeration of standing committees.
- (1) The standing committees of the City Council shall each consist of three members and shall be as follows:
 - (a) Employees' Committee. This committee shall consider and report upon all matters relating to employees, including salaries, wages and all other employee benefits and terms and conditions of employment. This committee shall also be responsible for reporting to the Council the current status of all labor negotiations.
 - (b) Finance. This committee shall consist of three members, including one member of the minority party, who shall consider and report upon all matters pertaining to the Department of Finance. The committee shall:
 - [1] Review and make recommendations for any change or modification in the current annual budget or capital program;
 - [2] Investigate and report all matters pertaining to City insurance and bonds of City officers and employees;
 - [3] Consider and report upon all matters pertaining to the equalization of assessments, the assessment rolls, and footings, erroneous assessments, tax maps and tax sales;
 - [4] Report upon all property deeded or conveyed to the City, and shall recommend disposal or sale of all real and personal property when no longer required for public use;

- [5] Survey, consider, study and report upon all capital projects and submit recommendations thereon with the order of priority based upon the City's financial condition and future needs.
 - (c) Municipal and Public Affairs.
 - [1] This committee shall consider all matters in connection with the welfare of the general public of the City of Binghamton.
 - [2] This committee shall act as a liaison between the City government and the general public of the City of Binghamton.
 - (d) Public Works/Parks and Recreation Committee.
 - [1] This committee shall consider and report upon all matters pertaining to the Department of Public Works.
 - [2] This committee shall consider and report upon all matters pertaining to City parks and recreation, including purchase of sites, administration, equipment and related recreational facilities and programs.
 - (e) Planning and Community Development. This committee shall consider and report upon all matters pertaining to the Community Development Department as well as all matters pertaining to planning and zoning.
 - (f) Rules and Procedures/Special Studies.
 - [1] This committee shall present an initial proposal for the copy of all rules of the Council in a separate format. Upon approval of the City Council, the rules and procedures shall be put in a separate book form adaptable for revisions, changes or supplements.
 - [2] Review, on an ongoing basis, the approved rules and procedures booklet for purpose of revision, amendments, additions and other changes to be submitted to the City Council for consideration.
 - [3] At the next regularly scheduled meeting following the annual (organizational) meeting of the City Council, the Chair of the committee shall move to adopt the rules and procedures of the City Council in the printed form, subject to amendment or revision. This would include an update of the rules and procedure by revision or amendment during the past calendar year.
 - [4] Consider and report upon any legislation requiring lengthy study and research in order to relieve other Council committees for their day-to-day, short-term legislation.
 - (2) Each standing committee shall consist of three members each to serve for a one-year term and shall be appointed by the President of the Council, with one member designated as Chair. The President of the Council shall be an ex officio member of each committee without a vote.
- K. Reports on petitions, etc.; action thereon. All committees of the City Council and officers to whom petitions or other papers are referred shall report in writing at the first succeeding regular meeting, unless time be extended by the Council. The report when received may be adopted, recommitted or action thereon postponed.
- L. Certain ordinances to be certified by Corporation Counsel. No ordinance granting any right, franchise or property shall be adopted until certified by the Corporation Counsel as to form and legality. He or she shall report the same within 10 days after such ordinance is referred to him or her.
- M. Order of roll call, voting. The roll call and voting on any local law, ordinance, resolution, motion or other matter coming before the Council shall be in consecutive order by wards, commencing with the First Council District, except that each President may elect to vote last throughout his/her term. Such election to be made at the organizational meeting.

- N. Altering, suspending, rescinding rules. No rules of the Council shall be altered, suspended or rescinded unless by majority vote of all the members elected and no motion to alter, suspend or rescind any such rule shall be in order without the unanimous consent of all members of the Council present, unless notice thereof shall have been given at the previous regular meeting and no motion to suspend shall embrace more than one rule or relate to any other subject than the one specified in the motion.
- O. Members of public addressing Council. Members of the general public may address the Council in an orderly fashion and shall speak for not more than five minutes.
- P. Robert's Rules of Order. Robert's Rules of Order shall govern the deliberations of the City Council, except as otherwise provided by its rules.
- Q. Verbatim statements in minutes. Any member of the City Council may have his or her statements included verbatim in the minutes of the Council if a motion is adopted by the majority of the members of Council, provided that such statements are not excessive and are capable of being transcribed by a stenographer.
- R. Election of President Pro Tem. The City Council shall elect a President Pro Tem to act during the temporary absence or inability of the President and to perform such other duties as the Council may direct.
- S. Special committees. The President of the Common Council shall designate members to a special committee whenever it is deemed necessary and appropriate with the approval of a majority of the members of the Council.
- T. Committee of the whole meetings.
- (1) The City Council may at any time while in regular or special session revolve itself into a committee of the whole meeting on any subject before it, including the annual budget. [See §26-5.U(2) below]. Except as provided in §26-5.U(2) below, the President may name some other member of the Council to preside at said meeting and take his or her place as a voting member of the committee.
 - (2) A committee of the whole meeting shall be public (Public Officers Law § 100 et seq.), unless, by consent of the majority, it shall be deemed necessary to the public welfare, and in accordance with the Open Meetings Law (Public Officers Law § 100 et seq.), to hold said meeting in private. The member presiding at such meeting shall report to the Council of the action taken.
- U. Authority and responsibility:
- (1) Pursuant to the laws of the State of New York, the City Council has the power and authority to subpoena persons and documents and to examine witnesses under oath on any matter or proceeding referred to or before them. Any documents and papers shall be returned after Council's examination.
 - (2) It shall be the responsibility of the Council to adopt an annual tax budget. The City Council shall meet as a committee of the whole to review and vote on each budget item, each page, or group of pages during the forty-five day annual budget review period. The Chair of the Finance Committee shall preside over the meetings regarding the annual budget.
- V. Legislation holdover. [See § 26-7, First Read Legislation]
- W. Reconsideration.

- (1) A motion to reconsider a vote shall be in order at (i) the same meeting at which the vote to be considered was taken, (ii) the next succeeding regular meeting or (iii) the next succeeding special meeting when such special meeting has been called for reconsideration.
 - (2) The Annual Budget. Any time during the forty-five annual budget review period and before final approval and adoption of the budget as a whole, a motion for reconsideration can be made by any member who voted in favor of the adoption of a particular budget item, page, or group of pages requesting reconsideration of a particular budget item, budget page, or pages. Said motion can be seconded by any member. Said motion to reconsider must be approved by a two-thirds (a least five of seven) vote of the City Council. Once the motion to reconsider has been approved, a motion to amend any previously approved budget items, page, or group of pages requires a majority vote of City Council.
- X. Question reduced to writing. No question shall be decided unless reduced to writing if requested by any member of the Council.
- Y. Absence. No member of the Council shall be absent from a Council meeting prior to adjournment for more than 10 minutes without the permission of the presiding officer.
- Z. Discussion. When a member of the Council wishes to speak, he or she shall rise from his or her chair and address the presiding officer. If two or more members rise to speak at the same time, the presiding officer shall determine the first to speak.
- AA. Chair. In the absence of the President or President Pro Tem at any regular or special meeting of the Council, the majority leader shall preside at said meeting. If the majority leader is also absent, the minority leader shall preside.
- BB. Lack of quorum. A majority of the members of the Council shall constitute a quorum. If a quorum shall not be in attendance at any regular meeting of the Council, the only action which can be taken is to take the appropriate measures to establish a quorum.
- CC. Presiding officer.
- (1) Generally. The duties of the presiding officer shall be to enforce the rules of order and to determine, without debate, all questions of procedure. Any member of the Council may appeal to the presiding officer regarding a question of procedure.
 - (2) Participation in discussion. The presiding officer shall limit his or her discussion in the deliberations of the Council. If it is the desire of the presiding officer to participate in the full debate, he or she shall leave the chair and take a place on the Council floor, and the President Pro Tem shall take the place of the presiding officer.
 - (3) Explanation of ruling. Nothing herein shall be construed to prevent the presiding officer from explaining his or her ruling.
- DD. Communications. The Clerk shall provide a synopsis of communications received by members of the Council during a given Council meeting. The Clerk shall read in full any communication if so directed by the presiding officer or a member of the Council.
- EE. Public hearings. The following rules shall apply to any public hearing before the Council:
- (1) Each person shall register with the Clerk his or her name, address, and, if representing a group or organization, the name of said group or organization, and if he or she is speaking in favor or against the subject.
 - (2) All persons speaking in favor of the subject shall be given opportunity to speak first. The opponents shall then be given an opportunity to speak.

- (3) Only members of the Council shall be permitted to ask questions during the course of the hearing.

FF. A Preferred Agenda may be presented at any regular meeting. The Preferred Agenda shall be limited to Ordinances or Resolutions (collectively "Legislation") that has been signed by all seven members of City Council as provided in 26-6.A below. The City Clerk will read the title of each Legislation on the Preferred Agenda. After each title is read, any City Council member may comment on the proposed Legislation. Once all the titles on the Preferred Agenda are read, the Preferred Agenda will be voted on as one item. Prior to voting, any Council member may request to remove any Legislation from the Preferred Agenda.

§ 26-6. Legislative procedure for drafting of local laws, ordinances and resolutions [Amended 4-5-2017 by Ord. No. 17-26].

- A. All local laws, ordinances or resolutions, or any other papers to be presented to the Council, shall carry the name of the Council member(s) sponsoring same, with the name(s) of the member(s) reviewing the legislation listed on the legislation.
- B. Requests for legislation from the Mayor, members of the Council, department heads, and the general public shall be referred to the City Clerk, who shall forward same to the President of the Council for appropriate committee designation. Any request for legislation to be forwarded to the Corporation Counsel for drafting, following approval by the designated committee(s), shall be approved by a majority of each of the designated committee(s). A request for legislation may be removed from committee for drafting if approved by a majority of the member of Council.
- C. The Clerk shall not process a late request for a legislation unless so authorized by City Council President.
- D. A digital copy of every proposed local law, ordinance, or resolution shall available to the Mayor and City of Binghamton employees at least 24 hours prior to its inclusion as first read legislation.

§ 26-7. First reading legislation. [Amended 4-2-07 by Res. No. 37-2007; 4-5-2017 by Ord. No. 17-26]

All first reading legislation shall be referred by the sponsoring Council member to the appropriate committee(s), unless unanimous consideration is requested. Upon receiving the right of the floor, a council member may move to holdover the pending question to the next regular business meeting. The request to holdover must receive a second. Upon a motion and a second, the question will be held over to the next regular business meeting or special meeting called to consider such legislation. The motion or second may be withdrawn at any time. The Council President will decide whether or not to allow discussion on the question to continue.

§ 26-8. Council member sponsoring legislation to move for formal adoption.

The sponsoring Council member must move for formal adoption of his or her legislation on the Council floor.

§ 26-9. Discharge of legislation from committee. [Amended 5-15-1997 by Ord. No. 72-97; 8-4-2003 by Ord. No. 03-93; 4-5-2017 by Ord. No. 17-26]

- A. Any formal legislation signed out of committee by a majority of committee members, or a majority of the members of the Council, shall be first read legislation at the next regular meeting or special meeting called for that purpose.
- B. Any legislation that has been returned to committee, after first read, will automatically be returned to the assigned Council floor for a second reading at the next regular business meeting or special

business called for that purpose, unless one or more Council members removes his or her name from the legislation and, as a result, there is no longer a majority of committee members or a majority of Council members who signed the legislation; in which event the legislation will be returned to committee. [Amended 8-21-2006]

§ 26-10. Legislation carry-over.

All requests for legislation, ordinances, local laws and resolutions introduced for consideration by the Council and not acted upon before the end of the year in which said request for legislation or legislation was introduced shall be deemed withdrawn, and in order for such request for legislation, ordinance, local law or resolution to be considered the following year, such request for legislation or legislation shall be carried over by the request of any member of Council.

§ 26-11. Amendments to legislation [Amended 4-5-2017 by Ord. No. 17-26].

- A. All amendments to legislation which are deemed in violation of the law shall be deemed out of order.
- B. All amendments to legislation shall be made (i) at a regular or special meeting or (ii) in writing prior to said meeting and copies of same shall be provided to all members of Council, the City Clerk, and Corporation Counsel.
- C. All amendments to legislation may be referred, delayed or otherwise disposed of without delay or prejudice to the legislation itself.

ARTICLE V, Salaries of Council Members [Adopted 10-5-1970 (Sub-Part XVII of the 1970 Code); amended in its entirety by L.L. No. 2-1988]

§ 26-12. Annual salary. [Amended by L.L. No. 4-1990; Amended 11-17-2003 by O03-120; Amended 11-19-2014 by O14-61]

- A. From January 1, 2016, through December 31, 2019, the annual salary of each of the members of the Common Council of the City of Binghamton shall be as follows:

2016-\$8,500
2017-\$9,000
2018-\$9,500
2019-\$10,000

- B. In the absence of further legislation amending said annual salaries, starting January 1, 2020, the annual salary shall be increased by the average upstate New York consumer price index (CPI) as determined by the U.S. Department of Labor for the preceding twelve (12) month average as of October 1.

§ 26-13. Effect of article on Optional City Government Law.

Article III, Section 38; Article VI, Title 1, Section 106; and Article VI, Title III, Section 115 of Chapter 444 of the Laws of 1914, known as the "Optional City Government Law," hereby are superseded in their application to the City of Binghamton insofar as the same conflict with the provisions of this article.

§ 26-14. Effective date.

This article shall take effect January 1, 1988, subject to the provisions of the Municipal Home Rule Law.

§ 26-15. Except for salary increases as provided in § 26-12 above [Amended 4-5-2017 by Ord. No. 17-26]

The salary for members of City Council for each Councilmatic term shall be established prior to the Councilmatic election for the term for which that salary shall be effective.

ARTICLE VI, Telephone Services [Adopted 12-20-1976 by Ord. No. 265-76 (Ch. 2, § 2-34, of the 1970 Code); 4-5-2017 by Ord. No. 17-26]

§ 26-16. Council members to contract for telephone services.

- A. The City of Binghamton will provide and pay for a cellular or home phone for use by Council members.
- B. It is optional that each member of the Council take advantage of Subsection A above.

ARTICLE VII, First Reading of Ordinances [Adopted 2-21-1995 by L.L. No. 2-1995 (Sub-Part LXXXVI of the 1970 Code)]

§ 26-17. Statutory provisions superseded.

The Second Class Cities Law § 35 is hereby superseded as to that portion of the law requiring unanimous consent for first reading legislation.

§ 26-18. Same-day approval of ordinance by majority vote.

The Council of the City of Binghamton is hereby authorized to approve an ordinance, on the same day as it is introduced, by a majority vote of the Council.

Chapter 29, CITY COURT

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Part C of the 1970 Code). Amendments noted where applicable.]

ARTICLE I, Organization

§ 29-1. Jurisdiction; establishment. [Amended 12-4-2006 by L.L. No. 2-2006]

Binghamton City Court is a New York State run court of record with both civil and criminal jurisdiction as provided in the Uniform City Court Act (Judiciary Law/UCCA §§ 101 through 2301).

§ 29-2. Full- and part-time Judges; Acting Judge or Judicial Hearing Officer; vacancies; removal. [Amended L.1968, c.240; 12-4-2006 by L.L. No. 2-2006]

- A. Two full-time judges serve the Court and are chosen by election every 10 years. Each full-time judge takes office on the first day of January following such election. Salary is fixed by the New York State Legislature by statutory enactment. Each judge must be a resident of Binghamton and have been admitted to practice for five years. A full-time City Court Judge shall not engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding, or engage in the conduct of any other professional business that interferes with the performance of his or her judicial duties.
- B. One part-time (1/4) City Court Judge serves the Court by appointment of the Mayor for a six-year term. The Judge, by statute, must be a resident of the City in which he/she is appointed and be an admitted attorney, practicing law in this state for at least five years. The next appointment date is December 28, 2007, and every six years thereafter.
- C. An Acting City Court Judge and/or a JHO (Judicial Hearing Officer) may be appointed by order of the Administrative Judge of the Sixth Judicial District. The extent of the appointment and duties pursuant thereto shall be delineated by the Administrative Judge.
- D. In the event of temporary disqualification of a City Court Judge, i.e., illness, accident or disability, the Administrative Judge of the Sixth Judicial District may assign City Court Judges, duly elected or appointed, from other jurisdictions in the Sixth Judicial District or justices of a town or village court in the County of Broome to fill the vacancy.
- E. In the event of a permanent vacancy, i.e., retirement, death or removal of a City Court Judge, the Mayor of the City of Binghamton shall appoint a qualified replacement until a special election can be held the November following the vacancy.
- F. The Appellate Division of the Supreme Court Third Department may remove any City Court Judge upon recommendation of the Commission on Judicial Conduct (Judiciary Law § 43).

§ 29-3. Compensation of Judges. [Amended 12-4-2006 by L.L. No. 2-2006]

City Court Judges, both full-time and part-time, are compensated by New York State legislative enactment (Judiciary Law § 221-i). Acting City Court Judges and Judicial Hearing Officers, appointed by the Administrative Judge, are paid on a per-diem basis.

§ 29-4. Powers of Judges. [Amended 12-4-2006 by L.L. No. 2-2006]

The Judges of the City Court shall possess all the powers and exercise all the jurisdiction in all matters, suits and proceedings conferred by the laws of the State of New York under the Uniform City Court Act, §§ 101 through 2301, and the Code of the City of Binghamton, including the power to punish for contempt, both criminal and civil, conferred by the laws of the State of New York. The Senior City Court Judge, in

consultation with the other full-time Judge, shall supervise the business of the Court. She/He shall, under the guidelines of the New York State Office of Court Administration and the consent of the Administrative Judge, prescribe the hours and scheduling of the Court's business.

§ 29-5. Chief Clerk. [Amended 12-4-2006 by L.L. No. 2-2006]

- A. The Chief Clerk of the Court shall supervise the Court employees under the civil service laws and the directives of the Office of Court Administration. The Chief Clerk is responsible to keep the official records of the Court and to maintain the financial accounts of the Court, including the taking of bails, fines, surcharge and any penalties or all monies for which the Court is responsible. The Chief Clerk shall distribute these monies in accordance with the law and keep all records concerning the same. The Chief Clerk shall have the authority to delegate his/her responsibilities to the Deputy Chief Clerk and any clerk employed by the court for that purpose. Other duties of the Chief Clerk include, but are not limited to:
- (1) To keep the seal of the Court and affixing the same to such papers and documents, as required by law.
 - (2) To keep, store and maintain any and all books, accounts, papers and records of the Court as prescribed by law and the Office of Court Administration.
 - (3) To schedule employees to attend to the business of the Court and assist the judges in their duties.
 - (4) To issue and sign subpoenas, transcripts of judgments, executions, commitments and certificates of conviction.
 - (5) To perform such other duties as are inherent in the Office of Clerk and also as he/she shall be directed to perform by the City Court Judges.
- B. The Chief Clerk, and all subordinates, including Chambers Staff, shall be selected and paid in accordance with the law as prescribed by the New York State Legislature (New York State Civil Service Law) and the rules of the Chief Judge.

§ 29-6. Jurisdiction of Chief Judge of Court of Appeals. [Added 12-4-2006 by L.L. No. 2-2006]

As a state court in the Unified Court System, Binghamton City Court falls under the purview of the Chief Judge of the Court of Appeals (NY Constitution Article 6, § 28).

- A. The Chief Judge of the Court of Appeals shall be the Chief Judge of the State of New York and shall be the chief judicial officer of the Unified Court System. There shall be an administrative board of the courts, which shall consist of the Chief Judge of the Court of Appeals as Chairperson and the presiding justice of the Appellate Division of the Supreme Court of each judicial department. The Chief Judge shall, with the advice and consent of the administrative board of the courts, appoint a Chief Administrator of the courts, who shall serve at the pleasure of the Chief Judge.
- B. The Chief Administrator, on behalf of the Chief Judge, shall supervise the administration and operation of the Unified Court System. In the exercise of such responsibility, the Chief Administrator of the courts shall have such powers and duties as may be delegated to him or her by the Chief Judge and such additional powers and duties as may be provided by law.
- C. The Chief Judge, after consultation with the administrative board, shall establish standards and administrative policies for general application throughout the state, which shall be submitted by the Chief Judge to the Court of Appeals, together with the recommendations, if any, of the administrative board. Such standards and administrative policies shall be promulgated after approval by the Court of Appeals.

§ 29-7. State rules applicable to City Court regarding salary allocations. [Added 12-4-2006 by L.L. No. 2-2006]

The Chief Judge of the Court of Appeals in compliance with the Constitution has promulgated the following rules:

- A. Salary schedules for nonjudicial officers and employees allocated to salary grades; promulgation; placement thereon.
 - (1) The chief administrator of the courts shall promulgate salary schedules for state-paid positions in the Unified Court System, allocated to salary grades, in accordance with law.
 - (2) This subsection shall apply to each nonjudicial officer or employee of the Unified Court System in a position allocated to a salary grade and paid pursuant to a salary schedule, who moves to another position allocated to the same salary grade, provided:
 - (a) His or her former position is in a collective negotiating unit established pursuant to Article 14 of the Civil Service Law and his or her new position is in another collective negotiating unit or not in any such unit, or
 - (b) His or her former position is not in a collective negotiating unit and his or her new position is not in a collective negotiating unit and his or her new position is in such a unit.
 - (3) Each such nonjudicial officer or employee shall receive a basic annual salary upon such movement, to be determined as follows:
 - (a) Where his or her new position is paid pursuant to the same salary schedule as his or her former position, such nonjudicial officer or employee shall be paid the same basic annual salary in his or her new position as he or she received in his or her former position.
 - (b) Where his or her new position is paid pursuant to a salary schedule ("new salary schedule"), which is different from the salary schedule pursuant to which he or she was paid in his or her former position ("former salary schedule"), he or she shall be placed on such new salary schedule and paid a basic annual salary on such new salary schedule which shall equal a rate that represents the same proportion of the maximum salary of his or her grade on the new salary schedule, as his or her basic annual salary under the former salary schedule represented of the maximum salary of his or her grade on such former salary schedule.
- B. All state-paid positions in the competitive, noncompetitive and labor classes in the Unified Court System shall be allocated to a salary grade by the administrative board of the judicial conference and shall be paid in accordance with this section. In the discretion of the administrative board any or all state-paid exempt class positions may also be so paid, within the appropriation available therefor.
- C. Additional increment.
 - (1) Notwithstanding any inconsistent provision of this chapter, when an employee holding a position allocated to a salary grade prescribed in Subsection A of this section has reached, on or after April 1, 1999, a salary equal to or in excess of the maximum salary of the grade of his or her position and thereafter has rendered continuous service in such position, or in a position in the same salary grade, he or she shall be entitled, on the first day of the fiscal year following completion of four years of such service, to an additional increment of the grade to which his or her position is allocated and, following completion of eight years of such service, to a second additional increment of such grade. The salary of such employee shall not be increased, pursuant to the provisions of this subsection, to an amount in excess of the maximum salary of the grade of his or her position plus one additional increment of such grade or, upon qualifying for such second additional increment, to an amount in excess of

the maximum salary of the grade of his or her position plus two additional increments of such grade.

(2) For the purposes of this subsection:

- (a) An employee who has reached a salary equal to or in excess of the maximum salary of the grade of his or her position and whose position, on or after April 1, 1972, is reallocated to a higher salary grade shall be deemed to have had continuous service at the maximum salary of the grade of his or her position, notwithstanding the fact that, as a result of such reallocation, he or she is not receiving the maximum salary of the higher salary grade to which his or her position is reallocated.
- (b) An employee who has not reached the maximum salary of the grade of his or her position and whose position, on or after April 1, 1972, is reallocated to a higher salary grade shall be deemed to have reached the maximum salary of the grade of his or her position on the date on which he or she would otherwise have reached the maximum salary of the grade from which his or her position was reallocated.
- (c) When a position, on or after April 1, 1972, is reclassified to a title allocated to a higher salary grade, with no substantial change in duties and responsibilities from those associated with the former title, the incumbent's eligibility for additional increments authorized by this subsection shall be determined as though his or her position had been reallocated to such higher salary grade; such employee shall not be deemed to be appointed or promoted to a position in a higher grade for purposes of determining his or her salary therein.
- (d) When an employee is appointed or promoted to a position in a higher salary grade or, in a case not subject to the provisions of Subsection C(2)(c) of this subsection, when a position is reclassified to a title allocated to a higher salary grade and the incumbent thereof is appointed or promoted to such reclassified title, his or her eligibility for additional increments authorized by this subsection shall be determined on the basis of his or her service after the date of such appointment or promotion, except that, notwithstanding the other provisions of this subsection, where his or her salary upon appointment or promotion is equal to or greater than the maximum salary of the grade of his or her position plus one additional increment of such grade but less than such maximum salary plus two additional increments of such grade, he or she shall be eligible for an additional increment in accordance with the provisions of this subsection upon completion of four years of continuous service in such position following appointment or promotion.
- (e) An employee who has been on a preferred list pursuant to the rules of the administrative board of the judicial conference or § 243 of the Military Law, or has been on leave of absence, or who has resigned, and who has been reinstated to his or her position or a similar position, shall be deemed to have continuous service; provided, however, that such employee shall be credited with service in his or her position only in a fiscal year for which he or she would otherwise be entitled to receive an increment in such position if he or she were not receiving a salary equal to or in excess of the maximum salary of the grade of his or her position.
- (f) An employee shall not be credited with service in his or her position in any fiscal year where such service was unsatisfactory or insufficient to render him or her eligible for an annual increment if he or she were not receiving a salary equal to or in excess of the maximum salary of the grade of his or her

position, but the failure to receive credit for such year shall not constitute an interruption of his or her continuous service.

- (g) When an employee is appointed, demoted or reinstated from a higher grade position to a lower grade position, he or she shall receive credit toward eligibility for additional increments in the lower grade position for his or her years of service in the higher grade position as though such service had been rendered in the lower grade positions.

D. Annual increments; determination of salaries.

- (1) Rates of compensation. An employee holding a position allocated to one of the salary grades included in Subsection A of this section shall receive the minimum salary of the salary grade to which his or her position is allocated, plus the number of increments which corresponds with the number of his or her years in service in such position, unless his or her services during the year immediately preceding shall have been found to be unsatisfactory. No employee shall receive an increment which would result in his or her receiving an annual salary in excess of the maximum of the salary grade to which his or her position is allocated or of the amount to which he or she may be entitled pursuant to Subsection A of this section.
- (2) Appointment above minimum salary in certain cases. Notwithstanding any other provision of this chapter, with respect to positions allocated to salary grades in Subsection A of this section, if the annual salary of an employee subject to the provisions of this section who has rendered 26 biweekly periods of service during the period from April 1, 1970, through March 31, 1972, is less than \$6,000 per year, such employee in lieu of such annual salary shall receive an annual salary of \$6,000.
- (3) Notwithstanding any other provision of this chapter, no employee whose salary is below the minimum of the salary grade to which his or her position is allocated shall receive more than two increments in the fiscal year beginning April 1, 1973.

E. Appointments and promotions to higher grade positions.

- (1) If an employee is appointed or promoted to a position in a higher grade, he or she shall receive an increase in salary, upon such appointment or promotion, which is equivalent to the full increment payable in the position to which he or she is appointed or promoted, or he or she shall be paid the minimum salary of the grade of the position to which he or she is appointed or promoted, whichever results in a higher annual salary.
- (2) Upon the reallocation of a position to a higher salary grade, the salary of any employee previously appointed or promoted from such position to another position in a higher grade shall not be less than the salary which he or she would otherwise be entitled to receive if such promotion occurred immediately following such reallocation.
- (3) For the purpose of computing future increments such employee shall be credited with the number of years of service in the higher grade position to which he or she is appointed or promoted which corresponds with his or her resulting rate of compensation as determined pursuant to this subsection.

F. Appointments, transfers, reinstatements, demotions and displacements to lower grade positions. If an employee is demoted or displaced to a position in a lower grade, or is appointed, transferred or reinstated to a position in a lower grade, he or she shall, upon such demotion, appointment, displacement, transfer, or reinstatement, receive the rate of compensation which corresponds with the total number of his or her years of service in the positions from which and to which he or she is demoted, displaced, appointed, transferred or reinstated, as the case may be, and, for the purpose of computing future increments, he or she shall be credited with the number of years of service in such position which corresponds with such rate of compensation. If an employee is demoted to a position in a lower grade, he or she shall, upon such demotion, be paid the salary in such lower grade which

corresponds with the number of his or her years of service in the grade from which he or she was demoted, or, in the discretion of the administrative board of the judicial conference, he or she may be paid a higher rate of compensation, not exceeding the maximum of the grade to which such position is allocated, and not exceeding the rate of compensation received prior to such demotion, and, for the purpose of computing future increments, he or she shall be credited with the number of years of service in such position which corresponds with such rate of compensation.

G. Appointment, transfers and reinstatements to similar grade positions. If an employee is transferred to a similar position, or is appointed or reinstated to a position in the same salary grade, he or she shall be paid the same salary in such new position as he or she received in his or her former position, except that, in the case of a transfer, if such salary does not correspond with the schedule established for the new position, he or she shall be paid the rate of compensation for the new position which most nearly corresponds with the salary he or she is then receiving. An employee so appointed, transferred or reinstated shall be eligible to receive the increments in the schedule established for the new position based upon the number of his or her years of service in the new position and in his or her former position.

H. Appointments, promotions, reinstatements, and transfer of employees occupying nonallocated positions.

- (1) An employee who has been continuously occupying a position which is not allocated to one of the salary grades described in Subsection A of this section and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in such subsection, the minimum salary of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement or transfer, be paid the minimum salary of the grade of such allocated positions plus the number of increments which corresponds to the number of years of his or her service in his or her former unallocated position or positions during which he or she received a salary equal to or in excess of the minimum salary of the position to which he or she is appointed, promoted, reinstated or transferred, not to exceed the salary that he or she was receiving in his or her former position immediately prior to the date of such appointment, promotion, reinstatement or transfer, and not to exceed the maximum salary of his or her new position.
- (2) For the purpose of computing future increments, he or she shall be credited with the number of years of service in such new position which corresponds with such rate of compensation. For the purposes of this subsection, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per-diem basis or on any basis other than at an annual salary rate shall be deemed to be the compensation which would have been payable if the services were required on a full-time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

I. Allocation of nonallocated positions.

- (1) When a nonallocated position is allocated to one of the salary grades described in Subsection A of this section, the annual salary of the incumbent thereof shall be determined in accordance with this subsection.
- (2) Notwithstanding the provisions of Subsection I(3) of this subsection, the annual salary of any nonallocated position, compensable on an annual basis, shall not, upon allocation to a salary grade, be reduced for the then permanent incumbent by reason of any provision of this section so long as such position is held by the then permanent incumbent.
- (3) When a nonallocated position is allocated to one of the salary grades described in Subsection A of this section, the incumbent thereof, whether employed on a permanent or temporary basis, shall be paid the minimum salary of the salary grade to which such position is

allocated, plus the number of increments which corresponds with the number of his or her years of service in such position; provided, however, that such incumbent shall not receive an annual salary in excess of the maximum salary of the grade to which his or her position is allocated or the amount to which he or she may be entitled pursuant to Subsection C of this section, as the case may be.

- (4) No employee whose salary would be increased by such allocation shall have any claim against the state for the difference, if any, between his or her former salary and that which he or she should receive as a result of such allocation for the period prior to the date such allocation became effective.
- J. Accrual of increments. Annual increments shall take effect on the first day of each fiscal year, subject, however, to the provisions of § 44 of the State Finance Law. An employee who has served the equivalent of at least 12 complete payroll periods of actual service during the fiscal year in his or her position shall be eligible to receive an increment in such position on the first day of the next succeeding fiscal year; provided, however, that an employee appointed or promoted at any time during the fiscal year, who received an increase in salary upon such appointment or promotion which was less than two full increments of the grade of the position to which he or she was appointed or promoted shall be eligible to receive in such position on the first day of the next succeeding fiscal year the difference between two full increments of the grade of such position and the increase in salary which he or she received upon such appointment or promotion, notwithstanding the fact that he or she has less than the equivalent of 12 complete payroll periods of actual service in such position during the fiscal year. Notwithstanding the provisions of this section, where an employee receiving the maximum salary or the maximum salary plus the first additional increment, as the case may be, of the grade of his or her position is appointed or promoted to a position in the next higher salary grade, his or her salary on the first day of the fiscal year on which he or she would otherwise be entitled to the first additional increment of the grade of his or her former position, if he or she had been receiving the maximum salary in his or her former position at the time of such appointment or promotion, or on the first day of the fiscal year on which he or she would otherwise be entitled to the second additional increment of the grade of his or her former position, if he or she had been receiving the maximum salary plus the first additional increment in his or her former position at the time of such appointment or promotion, shall not be less than the salary to which he or she would be entitled if such appointment or promotion occurred on such first day of the fiscal year.
- K. Service credit for temporary and provisional employment. Except as otherwise expressly provided herein, temporary or provisional service shall be treated in the same manner as permanent service for the purpose of this section.
- L. Reallocations; adjustment of salaries.
 - (1) When any position allocated to a salary grade in Subsection A of this section is reallocated on or after April 1, 1972, to a higher salary grade other than Grade 38, the annual salary of a then incumbent on the effective date of such reallocation shall be determined as follows:
 - (a) If, on the effective date of such reallocation, the annual salary of such incumbent would otherwise, if such reallocation did not occur, be identical with the hiring, first, second, third, fourth, fifth, sixth or seventh year rate of compensation of the lower grade from which such position is reallocated, or a rate of compensation equal to one or two additional increments above the maximum salary of such lower grade, his or her annual salary shall be increased to the corresponding rate of compensation of the higher grade to which such position is reallocated.
 - (b) If, on the effective date of such reallocation, the annual salary of such incumbent would otherwise, if such reallocation did not occur, be less than the rate of compensation equal to two additional increments above the maximum salary of the lower grade from which such position is reallocated,

and not identical with the hiring, first, second, third, fourth, fifth, sixth or seventh year rate of compensation of such lower grade or with the rate of compensation equal to one additional increment above the maximum salary of such lower grade, his or her annual salary shall be the salary he or she would otherwise receive on the date of such reallocation in such lower grade if such reallocation did not occur plus the difference between the next higher rate of higher grade to which such position is reallocated.

(c) If, on the effective date of such reallocation, the annual salary of such incumbent would otherwise, if such reallocation did not occur, exceed the rate of compensation equal to two additional increments above the maximum salary of the lower grade from which such position is reallocated, his or her annual salary shall be the annual salary he or she would otherwise receive if such reallocation did not occur plus the difference between such rate of compensation and the corresponding rate of compensation of the higher grade to which his or her position is reallocated, but his or her salary shall not be increased to an amount in excess of the maximum salary of the grade to which his or her position is reallocated plus two additional increments of such grade.

- (2) If an employee has been appointed or promoted from one position allocated to a salary grade in Subsection A of this section to another position allocated to a higher salary grade and his or her former position, on or after April 1, 1972, and within two years after such appointment or promotion, is reallocated to a higher salary grade, the salary of such employee in the second position on the effective date of such reallocation shall not be less than the salary which he or she would otherwise be entitled to receive on such date had such appointment or promotion occurred on such date.
- (3) The provisions of this subsection shall apply to temporary and provisional employees, as well as permanent employees.
- (4) When a position allocated to a salary grade in Subsection A of this section is reclassified to a title allocated to a higher salary grade, and such reclassification represents no substantial change in duties and responsibilities from those associated with the former title, the incumbent thereof may continue to serve in such position without further examination, and his or her salary in his or her new title shall be determined in accordance with the provisions of this subsection.

M. Status of employees upon transfer of functions. The salary of any employee of a civil division, public authority or other public benefit corporation who, upon transfer of his or her functions to the state, is transferred to a position in the Unified Court System which is allocated to a salary grade, and the salary of any employee of a private institution or enterprise, whose employment is continued in an allocated position pursuant to law upon the acquisition by the Unified Court System of such institution or enterprise, shall be prescribed by the chief administrator of the courts within amounts available thereof, at a rate between the minimum salary of the grade to which the employee's position is allocated and the maximum salary of such grade plus two additional increments; provided, however, that if the salary received by such employee immediately prior to such transfer or entry into service with the Unified Court System was an amount greater than the minimum salary of the grade to which his or her position is allocated and less than the maximum salary of such grade plus two additional increments of such grade, his or her salary as prescribed by the chief administrator shall not exceed the salary received by him or her immediately prior to such transfer or entry. For the purpose of computing future increments, such employee shall be credited with the number of years of service in such position which corresponds with his or her salary as determined pursuant to this subsection.

§ 29-8. Stenographer.

- A. The present City Court stenographer, who was duly appointed from an eligible list established by the Civil Service Commission of the City of Binghamton, shall continue as City Court stenographer under this act. All further appointments shall be made by the City Judge from the eligible list established as the result of competitive examination by the said Commission.
- B. The stenographer of the Court shall take stenographic notes of the testimony and other proceedings in all cases heard or tried before the Court. Such notes shall be filed with the Clerk (of the City Court), and the stenographer shall furnish a transcript of the same when requested upon payment of the prescribed fees. All stenographic notes and minutes made by the stenographer shall become a part of the records of the Court and belong to the City of Binghamton and shall be retained for a period of at least three years.
- C. The City Judge may appoint a temporary City Court stenographer from time to time in the absence or disability of the regular stenographer.
- D. The stenographer shall receive an annual salary to be fixed by the Council of the City of Binghamton.
- E. A temporary stenographer shall receive such compensation for the period of service as shall be fixed by the Council of the City of Binghamton.

§ 29-9. Constables; appointment of additional employees.

- A. The present constables of the Court shall continue in office until the terms of office for which they were duly appointed respectively shall have expired or unless sooner removed by the Mayor of the City of Binghamton.
- B. As vacancies occur after the effective date of this act, all constables shall be appointed by the City Judge to hold office during the pleasure of the City Judge. The number of constables appointed by the City Judge shall be five or such lesser number as the City Judge shall deem adequate for the work of the Court. The appointment of constables shall be made in writing and filed in the office of the City Clerk of the City of Binghamton.
- C. The constables shall perform in the City Court the same duties as are performed by sheriffs in courts of record and such other duties as they are directed to perform by the Judge. They shall have the same power to serve and execute all process and mandates of the Court within the County of Broome as a sheriff, and all provisions of law relating to the powers, duties and liabilities of the sheriff shall apply to constables so far as the same can be made applicable and are not in conflict with the provisions of this act. The constables shall be employees of the City of Binghamton.
- D. The constables shall receive for the services performed by them the fees prescribed by § 29-31B of this act and such additional compensation as shall be fixed by the Council of the City of Binghamton.
- E. The City Judge shall appoint such other employees as are provided for by the City Council.

§ 29-10. Oath of office required.

Before entering upon the discharge of their official duties, the City Judge, Special City Judge, Acting City Judge, Clerk, temporary Clerk, stenographer and temporary stenographer and constables shall take the oath of office prescribed by law and file the same in the office of the City Clerk.

§ 29-11. Bond required of certain officers.

The City Judge, Special City Judge, Clerk, temporary Clerk and constables, before entering upon the discharge of their official duties, shall each execute and file in the office of the City Clerk a bond, in an amount fixed by the Council of the City of Binghamton, to be approved by the Mayor and conditioned that they will faithfully

perform the duties of their respective offices and fully account and pay over all money received by them in the performance of their duties.

§ 29-12. Seal.

The Court shall have an Official Seal to be furnished by the City, upon which shall be engraved thereon the words, "City Court of Binghamton, N.Y. Seal."

§ 29-13. Expenses, rooms and supplies.

The Council of the City of Binghamton shall provide suitable rooms, light, heat, furniture, and necessary books and supplies for the use of the Court and shall provide for the payment of the salary and compensation of the judges and employees of the Court, and for whatever else may be necessary for the transaction of the business of the Court. In default of such provisions or any of them being made by the Council, any Justice of the Supreme Court residing in the Sixth Judicial District of the state is authorized, upon the application of the City Judge showing such default, to make such provisions by an order which shall have the same effect as though the directions contained therein had been made by the Council, and the expense thereof shall be a City charge.

ARTICLE II, Civil Jurisdiction and Procedure

§ 29-14. Civil jurisdiction, territorial.

In civil cases, process and mandates of the Court may be served and executed throughout the County of Broome.

§ 29-15. Civil jurisdiction, generally.

- A. The City Court shall have jurisdiction:
 - (1) In an action to recover a sum of money only, where the amount demanded in the complaint does not exceed \$4,000, exclusive of interest and costs;
 - (2) In an action to foreclose a lien on a chattel, where the amount sought to be recovered does not exceed \$4,000, exclusive of interest and costs;
 - (3) In an action to recover one or more chattels, with or without damages for the taking, withholding or detention thereof, where the value of the chattel or chattels does not exceed \$4,000;
 - (4) In a summary proceeding to recover the possession of real property situated wholly or partly within the City, and to remove tenants therefrom;
 - (5) To enter judgment upon confession, where the sum confessed does not exceed \$4,000, exclusive of interest and costs.

- B. Notwithstanding the jurisdiction hereinabove conferred upon the City Court, its authority shall not be construed:
 - (1) To extend to any cause in which the title to real property is involved;
 - (2) To include the right to exercise equity jurisdiction, except that an equitable defense may be interposed.

§ 29-16. Civil jurisdiction, residence requirements.

- A. Except as provided in Subsection B of this section, the plaintiff or defendant, or one of the plaintiffs or defendants, must reside within the City of Binghamton. A person, an association or a corporation having an office or a place for the transaction of business within the City or being engaged in the business of transportation therein is, for the purposes of this section, to be deemed a resident thereof.

- B. In a summary proceeding to recover the possession of real property or in an action to foreclose a lien on a chattel, or to recover one or more chattels, neither the plaintiff nor the defendant need reside within the City if the real property or chattel is located within the City.

§ 29-17. Civil practice, general provisions.

- A. The provisions of the Civil Practice Law and Rules, notwithstanding express reference by name or classification therein to any other court, shall apply to the City Court as far as the same can be made applicable and are not in conflict with the provisions of this act.
- B. Where the word "state" is used in applicable provisions of the Civil Practice Law and Rules, it shall be construed to mean "county" as applied to the City Court if the context of the particular section or rule permits of such construction.
- C. The City Court, within the limits of its jurisdiction, is vested with all the powers possessed by the County Court in like causes.

§ 29-18. Processes, warrants and other mandates; methods of service. [Amended L.1963, c.887]

- A. Processes, warrants, and other mandates may be served upon a party within the County of Broome or in any part of any adjoining county within the state in like manner as in the Supreme Court, except as otherwise provided in this act or rules adopted pursuant thereto. Service may also be made upon the Secretary of State, Superintendent of Insurance, or any other designee for the service of process, in any action within the jurisdiction of the Court, where such service is authorized by any statute, and such service shall be effected pursuant thereto.
- B. An order for substituted service of a summons upon a defendant, whether a domestic corporation other than a municipal corporation, a joint stock or other unincorporated association having a president or treasurer residing within the County of Broome, or a natural person residing within said county, may be made by the Court, or a judge thereof, upon satisfactory proof that the plaintiff has been or will be unable, with due diligence, to make personal service of the summons within the county or within an adjoining county in the state.
- C. The summons shall not be served by publication, except that in an action in which a warrant of attachment has been granted, and a levy has been made thereunder upon property of the defendant within the County of Broome, an order may be obtained within 30 days after the granting of the attachment, providing for the service of the summons upon the defendant by publication.
- D. Where a warrant of attachment has been granted and a levy has been made thereunder upon property of the defendant within the County of Broome, service of the summons in lieu of publication may be made personally upon the defendant within or without the County of Broome, whether or not an order has been made for service by publication.
- E. Where a warrant of attachment has been granted, and the summons cannot with reasonable diligence be served within the County of Broome, it may be served by leaving a copy thereof, together with the warrant of attachment and the inventory of the property attached, at the last known place of residence of the defendant in the County of Broome, with a person of suitable age and discretion, or, if such person cannot be found there, by posting them on the outer door, and also depositing another copy of each in the post office, enclosed in a sealed, post-paid wrapper, directed to the defendant at his or her residence. If the defendant has no place of residence in the County of Broome, the constable shall deliver a true copy of the summons, warrant and inventory to the person in whose possession the property attached is found and send another copy of each by registered mail,

addressed to the defendant at his or her last known address. The defendant's return receipt, the summons and an affidavit of compliance herewith, shall be filed with the Clerk of the Court within 30 days after the defendant's return receipt is received by the plaintiff. Service of process shall be complete 10 days after proof thereof is filed.

- F. The provisions of the Civil Practice Law and Rules governing like service in the Supreme Court shall apply where the summons is served pursuant to the provisions of Subsection B, C or D of this section.

§ 29-19. Pleadings.

Pleadings shall be written and in accordance with the Civil Practice Law and Rules.

§ 29-20. Time frames.

- A. Appearance, answer and reply. The summons shall require the defendant to serve his or her answer or appear in the action within six days after service of the summons, except that where the summons is served outside the County of Broome, the summons shall require the defendant to serve his or her answer or appear in the action within 12 days after service of the summons. If the complaint does not accompany the summons, it shall be served within six days after service of the notice of appearance. A reply shall be served within six days after service of the answer.
- B. Amendments. The time within which a pleading may be amended of course shall be six days, and an amended pleading shall be answered within six days after it has been served.
- C. Motions. Notice of a motion under Rule 3024 of the Civil Practice Law and Rules shall be served within six days after the service of the pleading to which the motion is addressed. Notice of a motion under Rule 3211 of the Civil Practice Law and Rules shall likewise be served within six days after the service of the pleading to which the motion is addressed except in those instances when the motion may be made at any time prior to trial as provided in such rules.
- D. Notice of motion. Unless brought on by order to show cause, notice of motion shall be served at least six days before the date set therein for hearing except where attorneys for the several parties have their offices in the same City, when notice of three days may be given.
- E. Note of issue. The note of issue may be filed by either party with the Clerk of the Court at any time after issue is first joined. It shall state the title of the action, the names and addresses of the attorneys, the time when the last pleading was served, the specific nature and object of the action, and, if such cause be entitled to a preference, demand therefor.
 - (1) At the time of such filing, the party filing the same shall also serve an exact copy thereof upon the other party.
 - (2) Within five days after the filing of the note of issue, the Clerk shall notify each party in writing of the date of trial assigned to the cause by the Court.
 - (3) The trial shall proceed upon such date unless adjourned by the Court for good cause shown.
 - (4) Rule 150 of the Civil Practice Law and Rules shall be applicable to notes of issue in all other respects.
- F. Motion for new trial. A motion for a new trial upon the Judge's minutes shall be made within five days after rendition of the verdict of the jury.

§ 29-21. Attachments.

An attachment may be levied upon any property within the County of Broome upon which an attachment may be levied in an action in the Supreme Court, except real property and interest therein.

§ 29-22. Removal when question of title to realty is raised.

If it shall appear that the title to real property will come in question in the action, it may be removed to a court having jurisdiction thereof, in accordance with the provisions of § 325 of the Civil Practice Law and Rules.

§ 29-23. Counterclaims.

If a counterclaim in excess of the Court's jurisdiction is interposed, the Court may, nevertheless, grant judgment to the extent of its jurisdiction, but the defendant shall be deemed to have waived any right to further recovery.

§ 29-24. Juries.

- A. Demand. Trial by jury shall be deemed to have been waived unless a demand therefor has been made and the fee prescribed by § 29-31A(8) has been paid. In the event the party filing the note of issue desires a jury trial, he or she shall demand same in the note of issue and pay the prescribed fee. In the event that the other party desires a jury trial, he or she shall file a written demand therefor with the Clerk within two days after the service of the note of issue upon him or her and pay the prescribed fee; a copy of such demand shall be served upon the other party within the same period of time.
- B. Jury lists. The officers charged by law in Broome County with selecting the persons qualified to serve as jurors in the County and Supreme Courts shall furnish the Clerk of the City Court with the names of such qualified persons who are residents of the City. Jurors shall be drawn from among such persons.
- C. Ballots and jury boxes. The Clerk must prepare suitable ballots by writing the name of each person appearing on the list, with his or her place of residence and other information, on a separate piece of paper. The ballots must be uniform in appearance, and the Clerk must deposit them in a box kept for that purpose, to be known as the "undrawn jury box." The ballots containing the names of persons who have been summoned and appeared for service must be placed in a box to be known as the "drawn jury box." When all ballots have been drawn from the undrawn jury box the whole number must be returned to the undrawn jury box.
- D. Summoning of jurors; jury terms.
 - (1) When a jury trial is demanded the Clerk must draw, from the undrawn jury box, such number of names as shall be prescribed by the Court, and shall deliver a list thereof to a constable, who shall summon the persons named therein to attend the Court at a specified time to serve as jurors. The constable may summon such persons personally or by mail.
 - (2) The Court may, by rule, provide that a jury term be established during certain periods of the year for the trial of jury cases. A jury panel shall be drawn to try jury cases generally for each of such terms and shall consist of such number of jurors as shall be prescribed by the Court. At least three days' notice of attendance shall be given to persons summoned to serve as jurors. Provisions of law relating to the summoning of jurors and their attendance in the county court shall be nearly as may be, apply to the summoning and attendance of jurors in the City Court.
- E. Numbering of jurors. A jury shall be composed of six persons.
- F. Drawing of jurors. The jury shall be selected from among the persons summoned and attending pursuant to Subsection D of this section. It shall be drawn in the same manner as in the county court. Each party may peremptorily challenge not more than three of the persons drawn as jurors for the trial. This provision shall be applicable to criminal as well as civil cases.

§ 29-25. Decision; time to render.

- A. A decision upon the trial of a nonjury case may be general in form as though it were a verdict by a jury.
- B. The decision of the Court on the trial of a nonjury case, or upon the hearing of a motion, shall be rendered within 14 days after the matter has been finally submitted for determination, unless an extension of time be agreed to in writing by both parties or by stipulation in open court. If the decision is not rendered within such time, either party may move for a new trial upon that ground. If the decision has not been rendered when the motion is heard, the Court must make an order for a new trial.

§ 29-26. Judgments. [Amended L.1963, c.887]

- A. Upon application, the Clerk must deliver a transcript of a judgment. If the judgment is for the recovery of a chattel which has been delivered to the unsuccessful party, or for the value thereof, the Clerk shall insert in the transcript an additional statement setting forth the nature of the action and specifying the chattel described in the judgment.
- B. Upon presentation of a transcript of a judgment and payment of the filing fee, the Clerk of Broome County must endorse upon the transcript the date of its receipt and must file it in his or her office and must docket the judgment as of the time of the receipt of the transcript, in a book kept by him or her for that purpose as prescribed by law; and if the judgment is for the recovery of a chattel which has been delivered to the unsuccessful party or for the value thereof, he or she must enter in the docket the particulars of the judgment as stated in the transcript.
- C. Upon the docketing of a judgment as prescribed in Subsection B of this section it shall be deemed a judgment of the Broome County Court and may be enforced accordingly. This shall not prevent the City Court or a judge thereof from vacating, setting aside or modifying the judgment or staying execution thereon.

§ 29-27. Executions.

No execution other than an execution pursuant to § 684 of the Civil Practice ActEN shall issue out of the Court after a transcript of the judgment has been issued.

§ 29-28. Appeals.

Appeals in civil causes may be taken to the County Court of Broome County, in the manner provided in Article 55 of the Civil Practice Law and Rules from:

- A. A judgment in an action;
- B. A final order in a special proceeding;
- C. An order granting or denying a new trial;
- D. An order granting or denying a motion to open a default and to vacate a judgment or final order entered thereon;
- E. An order granting or denying a motion to vacate a judgment or a final order upon the ground that the judgment was rendered or the final order was made without service of summons or process;

- F. An order granting or denying a motion to discharge a defendant from arrest, or an order granting or denying a motion to vacate or modify a warrant of attachment or a requisition to replevy or a warrant of seizure;
- G. An order denying a motion for summary judgment or for judgment on the pleadings;
- H. Any other order, provided that leave to appeal be granted:
 - (1) By the judge who made the order, upon motion made within eight days after service of a copy of such order with notice of entry thereof; or
 - (2) In the event of the denial of such leave in the City Court, by the County Court of Broome County upon motion made within 10 days after such denial.
- I. Upon the determination of an appeal to the County Court of Broome County, as provided in this section, or of a further appeal to the Appellate Division, as provided in Article 57 of the Civil Practice Law and Rules, a certified copy of the order of the appellate court with the original case or papers upon which appeal was heard shall be transmitted to the Clerk of the Court, and the judgment, if any, rendered or directed, pursuant to such order, shall be entered by such Clerk.

§ 29-29. Small claims.

The Court may, by rule, establish a part for the determination of small claims, pursuant to the following provisions:

- A. Small claims defined. The term "small claim," as used in this section, shall mean and include any claim or cause of action or counterclaim within the jurisdiction of this Court except summary proceedings for the recovery of real property, where the amount claimed by the plaintiff or claimant or defendant, or the value of the property affected or of the right claimed does not exceed \$25, exclusive of interest and costs.
- B. Small claims procedure, generally. The Court may, by rules, regulate the practice and procedure controlling the determination of small claims and prescribe and furnish the forms for instituting them. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of such claims so as to do substantial justice between the parties in accordance with the rules and principles of substantive law. The provisions of the Civil Practice Law and Rules and this act shall apply to claims brought under this section, so far as the same can be made applicable and are not in conflict with the provisions of this section. In case of conflict, the provisions of this section shall control. Nothing contained in this section, however, shall be construed to render inapplicable statutory provisions relating to privileged communications and the provisions of § 4519 of the Civil Practice Law and Rules.
- C. Commencement of action. Actions on small claims shall be commenced upon payment by the claimant of a filing fee as set from time to time, without the service of a summons, and, except by special order of the Court, without the service of any pleading other than a statement of his or her cause of action by the claimant or by an attorney in his or her behalf to the Clerk, who shall reduce the same to a concise written form and record it in a docket kept for such purpose. A notice of such claim and of the time set for the hearing thereof shall be sent to the person complained against by registered mail to his or her last known place of residence with return receipt requested. The cost of sending such notice shall be included in the filing fee hereinbefore specified.
- D. Transfer. The Court shall have power to transfer any small claim or claims to any other part of the Court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the Court.

- E. Trial by jury. A person commencing an action upon a small claim under this section shall be deemed to have waived a trial by jury, but if said action shall be removed to a regular part of the Court, the plaintiff shall have the same right to claim a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the plaintiff, prior to the day upon which he or she is notified to appear or answer, may file in the Court where the action is pending a demand for a trial by jury and his or her affidavit that there are issues of fact in the action requiring such a trial, specifying the same, and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of \$50 in such form as may be approved by the rules, payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him or her in the action or any appeal, within 30 days after the entry thereof; or, in lieu of said undertaking, the sum of \$50 may be deposited with the Clerk of the Court and thereupon the Clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules of the part of the Court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons and such action may be considered a preferred cause of action. In any small claim which may have been transferred to another part of the Court, the Court may award costs up to \$25 to the plaintiff if he or she prevails.
- F. Review. A person commencing an action upon a small claim under this section shall be deemed to have waived all right to appeal, except that either party may appeal on the sole ground that substantial justice has not been done between the parties according to the rules and principles of substantive law.
- G. Res judicata. A judgment obtained under this section may be pleaded as res judicata only as to the amount involved in the particular action and shall not otherwise be deemed an adjudication of any fact at issue or found therein in any other action or Court.
- H. To whom procedure unavailable. No corporation, partnership or association and no assignee of any small claim shall institute an action or proceeding under this section.
- I. Procedure alternative. Procedure under this section shall not be exclusive but shall be alternative to the procedure in actions commenced in the Court by the service of a summons.

ARTICLE III, Costs and Fees

§ 29-30. Costs.

In a civil action or proceeding there shall be allowed to the prevailing party, who has appeared by attorney, the following sums as costs, which in no event shall be less than \$3 nor more than \$50:

- A. To the plaintiff, if he or she recovers judgment after trial is commenced, 10% of the amount recovered or of the amount demanded in any counterclaim, whichever is greater, but in no event less than \$5.
- B. To the defendant, if he or she recovers judgment after trial is commenced, 10% of the amount demanded in the complaint or recovered on his or her counterclaim, whichever is greater, but in no event less than \$5.
- C. To either party, who recovers judgment before trial, costs shall be allowed at 1/2 of the rates prescribed by Subsection A or B as the case may be, but in no event more than \$15.

- D. Where an action or counterclaim is discontinued before trial, costs shall be allowed at the rates prescribed by Subsection C of this section. Where an action or counterclaim is discontinued after the trial thereof has commenced, costs shall be allowed at the rates prescribed by Subsection A or B as the case may be.
- E. If the defendant interposes a counterclaim, and both the plaintiff's complaint and the defendant's counterclaim are dismissed, costs shall be awarded as follows: The plaintiff's costs shall be computed at the rates prescribed in Subsection A of this section based on the amount demanded in the counterclaim, and the defendant's costs shall be computed at the rates prescribed in Subsection B of this section based on the amount of the plaintiff's claim, such computation being made without regard to the limitation of \$50 prescribed in this section, and the costs to be included in the judgment, in no event to exceed \$50, shall consist of the amount of the difference between the plaintiff's costs and the defendant's costs as thus computed and shall be awarded to the party whose costs as above computed are the larger. Neither party shall be entitled to disbursements. If the defendant interposes a counterclaim and both the plaintiff and defendant recover on their claims, the plaintiff's costs shall be awarded at the rates prescribed in Subsection A of this section, based on the amount recovered upon his or her claim, and the defendant's costs shall be awarded at the rates prescribed in Subsection B of this section, based on the amount recovered upon his or her claim; the costs to be included in the judgment shall consist of the amount of the difference between the plaintiff's costs and the defendant's costs, which shall be thus computed without regard to the limitation of \$50 heretofore prescribed by this section and shall be awarded to the party whose costs as above computed are the larger. Costs as finally awarded by virtue of this subsection shall not exceed \$50.
- F. To either party, where provision for costs is not otherwise made, the Court may, in its discretion, award costs not exceeding \$10.
- G. To either party, the Court may, in its discretion, grant costs not exceeding \$10, upon a motion, including the adjournment of a trial.
- H. In an action for the recovery of one or more chattels or for the enforcement or foreclosure of a lien, plaintiff's costs shall be computed upon the value of the chattel or the amount of the lien as assessed or found by the Court or jury, and the defendant's costs shall be computed upon the value of the chattel or the amount of the lien as claimed by the plaintiffs.

§ 29-31. Fees in civil matters. [Amended L.1960, c.249, L.1963, c.887]

The following fees and no others shall be paid in civil matters:

- A. Court fees. There shall be paid to the Clerk of the City Court, before the services hereinafter enumerated are performed, fees in an amount as set from time to time for the following:
 - (1) Furnishing a transcript of judgment.
 - (2) Issuing execution or the renewal of execution.
 - (3) Issuing a commission.
 - (4) Filing and indexing an assignment of judgment.
 - (5) Filing a note of issue.
 - (6) Filing a notice of appeal.
 - (7) Issuing an order of arrest, a warrant of attachment, a requisition to replevy or a warrant of seizure.
 - (8) Entry of judgment or final order.
 - (9) Issuing a precept in a summary proceeding to recover possession of real property and for issuing a warrant to dispossess.

- (10) Trial by jury, to be paid by the party demanding the jury at the time of filing the demand, not to be refunded in case for any reason a jury is not summoned.
 - (11) Certifying a copy of a paper on file in the Clerk's office, except that no fee shall be charged for certifying a return on appeal.
- B. Fees of constables. There shall be paid to a Constable of the Court by the party requiring his or her services, fees in an amount as set from time to time for the following:
- (1) Serving a summons.
 - (2) Serving a petition and precept or other mandate by which a special proceeding is commenced.
 - (3) Serving a summons and executing an order of arrest.
 - (4) Serving a summons and levying a warrant of attachment.
 - (5) Serving a summons and affidavit and executing a requisition in an action for recovery of a chattel.
 - (6) Taking charge of a jury during their deliberation.
 - (7) Notifying the jurors to attend a trial.
 - (8) Collecting money by virtue of an execution, a warrant of attachment, or an attachment for the payment of money in an action or special proceeding.
 - (9) Each mile necessarily traveled going and returning to serve a summons or to serve or execute any other mandate, except a venire, the distance to be computed from the place of abode of the person served or the place where it is served to the place where it is returnable, except that a constable shall not be entitled to mileage for service or execution within the City of Binghamton. When two or more mandates in one action are served or executed against two or more persons in one journey, a Constable shall be entitled in all to the same amount for each mile necessarily traveled.
 - (10) Constables shall also be entitled to receive for other services performed by them the same fees to which a sheriff would be entitled for like services if performed by a sheriff.

§ 29-32. Disbursements.

A prevailing party shall be allowed his or her necessary disbursements whether he or she has appeared in person or by an attorney, except as provided by § 29-30E.

§ 29-33. Jury fees.

A person notified to attend as a juror is entitled to a fee as set from time to time for attending and serving upon the trial of an action or hearing of a special proceeding, and to a fee as set from time to time for attending to serve when not sworn.

§ 29-34. Stenographer's fees.

The City Court stenographer is entitled, for a copy fully written out from his or her stenographic notes of the testimony or other proceeding taken in an action, or a special proceeding in this Court, and furnished upon request to a party or his or her attorney, to a fee as set from time to time. He or she shall also be entitled to the same fee for furnishing one copy of the testimony to the appellant on an appeal and to a fee as set from time to time for additional copies.

ARTICLE IV, Criminal Jurisdiction and Procedure

§ 29-35. Criminal jurisdiction, territorial.

The criminal jurisdiction conferred by this act shall extend to charges of crimes and offenses committed within the territorial limits of the City of Binghamton. A warrant issued by a judge shall be executed only by a peace officer and may be executed, without endorsement by any other magistrate, in any county by any peace officer in the state.

§ 29-36. Criminal jurisdiction, generally.

- A. The City Judge shall possess all the powers and jurisdiction of a magistrate.
- B. The Court shall have the jurisdiction of a court of special sessions, to be exercised under the title of the City Court, and shall have, in the first instance, exclusive jurisdiction to hear, try and determine any charge of misdemeanor committed within the City of Binghamton. It shall also have exclusive jurisdiction to hear, try and determine all complaints and charges of violations of the Binghamton City Charter, local laws, ordinances and rules and regulations adopted pursuant thereto or pursuant to any other law.
- C. Any charge of misdemeanor pending before the Court may be removed to a court sitting with a grand jury in the manner provided by Sections 57 and 58 of the Code of Criminal Procedure, except that a complaint or charge involving violation of the Binghamton City Charter, local law, ordinance, rule or regulation shall not be removed.
- D. The Court shall have power, upon conviction, to impose such sentence as is provided by law for the particular crime or offense.
- E. The City Judge shall have power to let to bail as provided by law, all persons brought before him or her charged with a crime or offense, and shall not be limited by Criminal Procedure Law § 170.25.

§ 29-37. Criminal procedure.

Except as herein provided, all provisions of the Criminal Procedure Law relating to inferior courts of local jurisdiction shall apply to criminal actions, proceedings and matters in the City Court.

ARTICLE V, General Provisions

§ 29-38. Pending actions and proceedings.

- A. No civil action or proceeding or matter pending before the City Court when this act takes effect shall abate or in any way be affected by the passage of this act, but all such actions or proceedings so pending shall thereafter be continued before the City Court established by this act.
- B. Subsequent proceedings in an action or proceeding or matter so continued before the City Court must be conducted in accordance with the laws in force on the day before this act takes effect, except that the Court or Judge may apply thereto, in the interest of justice, any remedial provision of this act not inconsistent with the proceedings theretofore had or taken in such action or proceeding.

§ 29-39. Laws repealed.

Chapter 482 of the Laws of 1931, entitled, "An Act to amend the Supplemental Charter of the City of Binghamton, in relation to the City Court of Binghamton," and all acts and parts of acts amendatory thereof or supplemental thereto, are hereby repealed.

§ 29-40. Title.

This chapter shall be known as the "Binghamton City Court Act."

§ 29-41. Effective date.

This act shall take effect on July 1, 1950.

Chapter 33, CLAIMS AGAINST CITY

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Payment Procedure [Adopted 10-5-1970 (Sub-Part XII of the 1970 Code)]

§ 33-1. Statutory amendment.

Section 64 of Chapter 53 of the Consolidated Laws, known as the "Second Class Cities Law," as last amended by local law number three of the year 1953, is hereby superseded and amended to read as follows: Section 64. Claims against the City. No claim against the City except for a fixed salary, for the principal or interest on a bonded or funded debt or other loan, or for the regular or stated compensation of officers or employees in any City department, or for work performed or materials furnished under contract with the City of Binghamton or for claims arising under the provisions of the Workmen's Compensation Law, shall be paid unless a claim therefor certified by or on behalf of the claimant, in such form as the Comptroller shall prescribe, and approved by the head of the department or officer whose action gave rise or origin to the claim, shall have been presented to the Comptroller and shall have been audited and allowed by him. The Comptroller shall cause each such claim, upon presentation to him for audit, to be numbered consecutively and the number, date of presentation, name of the claimant and brief statement of character of each claim shall be entered in a book kept for such purpose, which shall at all times during office hours be so placed as to be convenient for public inspection and examination. The Comptroller shall not be required to audit a claim until two weeks have expired after the date upon which such claim was presented to him. The Comptroller is authorized, in considering a claim, to require any person presenting the same for audit to be sworn before him touching the justness and accuracy of such claim, and to take evidence and examine witnesses in reference to the claim, and for that purpose he may issue subpoenas for the attendance of witnesses. If the claimant be dissatisfied with the audit he may appeal to the Board of Estimate and Apportionment by serving notice of appeal in writing upon the Comptroller and the Council at any time before the first regular meeting of the Council that is held after he receives the Comptroller's audit. If the Council or any taxpayer be dissatisfied with such audit, it or he may appeal to the same board on behalf of the City, in like manner, by serving notice of appeal upon the claimants and the Comptroller and the City Treasurer within 10 days after the meeting of the Council at which such claims shall have been reported by the Comptroller. The Board of Estimate and Apportionment shall make rules for the procedure upon the hearing of such appeals and the decision and audit of that Board after the hearing upon the appeal to it, shall be final and conclusive as to the amount of the claim; but if there be no appeal from the original audit it shall in like manner be final and conclusive. Upon the appeal herein provided for, the City Treasurer shall take the place of the Comptroller as a member of the Board. The Comptroller and the Board of Estimate and Apportionment upon an appeal to it, as herein provided, shall have authority to take evidence and examine witnesses in reference to the claim and for that purpose may issue subpoenas for the attendance of witnesses; and the Comptroller and each member of the Board of Estimate and Apportionment is hereby declared to be ex-officio a Commissioner of Deeds. When a claim has been finally audited by the Comptroller he shall endorse thereon or attach thereto his certificate as to such audit, and the same shall thereupon be filed in and remain a public record in his office. If any person shall present to the Comptroller for audit a claim in the name of any person or firm other than that of the actual claimant he shall be guilty of a misdemeanor.

ARTICLE II, Settlement [Adopted 11-4-1985 by L.L. No. 9-1985 (Sub-Part XX of the 1970 Code)]

§ 33-2. Compromise of claims.

The Corporation Counsel shall, whenever he or she considers that the interests of the City will be subserved thereby, enter into an agreement in writing, to compromise and settle any claim against the City up to but not exceeding \$2,500; and all claims in excess of \$2,500 shall be subject to the approval of the Board of Estimate and Apportionment, which agreement shall constitute a valid obligation against the City.

§ 33-3. Effect of article on prior local law and state law.

This article shall supersede the provisions of Local Law No. 2 of 1963 and § 205 of the Second Class Cities Law to the extent that said laws are inconsistent with this article.

Chapter 36, CRIMINAL HISTORY RECORDS CHECK

[HISTORY: Adopted by the City Council of the City of Binghamton 7-16-07 by Ord. No. 39-2007]

Section I. Title.

This Ordinance shall be referred to as “Criminal History Records Check.”

Section II. Criminal History Records Check Amendment of Code of Ordinances.

A new chapter 36 entitled “Criminal History Records Check” is hereby added to the City’s Code of Ordinances to read as follows:

§ 36-1. Purpose.

The purpose of this Chapter is to set forth requirements and procedures for the fingerprinting and the criminal history records check of certain prospective City of Binghamton employees in the positions set forth in Exhibit A, which is annexed hereto and made a part hereof, to determine whether such individuals will be granted a clearance for employment.

§ 36-2. Definitions.

As used in this Chapter, the following terms will have the meanings indicated:

CITY – The City of Binghamton.

CLEARANCE FOR EMPLOYMENT – A determination by the Personnel Director that, based upon its review of a Prospective City Employee’s criminal history record, such individual may be employed or continue to be employed by the City, provided that all other requirements for employment are met.

CRIMINAL HISTORY RECORDS CHECK – Will include, but is not limited to, a New York State Division of Criminal Justice Services (“DCJS”) criminal history records, such individual may be employed or continue to be employed by the City, provided that all other requirements for employment are met.

PERSONNEL DIRECTOR – Will mean the Director of Personnel and Safety, his/her designee, or such other City employee chiefly responsible for City personnel matters and the processing of employment applications.

PROSPECTIVE CITY EMPLOYEE – Any individual:

- (1) Who is seeking employment with the City, including re-hires; and
- (2) Excluding individuals who are:
 - (a) Filling an elected position either by election or appointment to a vacancy;
 - (b) Serving solely as an appointed member of a board or commission of the City;
 - (c) Considered an applicant by reason of a transfer pursuant to Civil Service Law § 70;
 - (d) On a preferred list subject to Civil Service Law § 81; or
 - (e) On an eligible list as defined in Civil Service Law § 56 and who have successfully completed a promotional exam subject to Civil Service Law § 52.

§ 36-3. Criminal History Records Check.

- A. The positions set forth in Exhibit A will be subject to a Criminal History Records Check.
- B. No Prospective City Employee who applies for a position listed on Exhibit A on or after August 1, 2007, will be employed by the City, other than a “conditional appointment”, prior to a criminal history records check having been performed. Any Prospective City Employee who has a criminal history that is determined to disqualify him or her from employment with the City will not be eligible for appointment to the position or be subject to immediate termination of such “conditional appointment”.
- C. The City may, but shall not be required to, waive a criminal history records check for any rehire within the last three years.

§ 36-4. City Requirements.

- A. Fingerprint cards for Prospective City Employees subject to this chapter will be prepared by the City of Binghamton Police Department or other entity approved by the City's Personnel Director to perform fingerprinting for identification processing. Two sets of fingerprint cards will be forwarded to the Personnel Director or his or her designee. Such fingerprinting procedure will be established by the City of Binghamton Police Chief and/or the Personnel Director.
- B. The Personnel Director will forward the fingerprint cards and all applicable fees to DCJS for processing. The criminal history records processed by DCJS will be submitted to the Personnel Director for review regarding the prohibition on eligibility as set forth in § 36-6 below. If the information received indicates that there is a pending criminal offense that would require a disqualification, the employee will forward documentation to the Personnel Director evidencing the disposition of such offense in accordance with the procedures established by the Personnel Director. Upon a determination of disqualification, and after review and consultation with the Corporation Counsel, as well as legal direction if necessary, the Personnel Director will notify the employee and the department head of said determination. Said notice to the employee will include information regarding the right to appeal and contest any claimed ground for disqualification in accordance with the procedures established by the Personnel Director. Any challenge to information contained in criminal records provided by DCJS will be conducted in accordance with the applicable DCJS rules and regulations.
- C. The Personnel Director will establish procedures and forms for the orderly administration of this Chapter.

§ 36-5. Requirements for Prospective City Employees subject to this Chapter.

- A. A City employee will consent to the Personnel Director making a request for the employee's criminal history records from the DCJS upon a form prescribed by the City which indicates that such person has:
 - (1) Supplied a current mailing and/or home address;
 - (2) Been informed that he or she may withdraw his or her application for employment, without prejudice, or withdraw from employment at any time before employment is offered or declined, regardless of whether the employee or the City has reviewed such employee's criminal history information;
 - (3) Been informed that in the event his or her employment is terminated by the City, within twelve-months of such termination such person may request the City to notify the DCJS of such termination, and request the DCJS to terminate its return processing with respect to such person.
- B. Be fingerprinted for purposes of a criminal history records check by authorized personnel of the City Police Department or another pre-approved fingerprinting entity.

§ 36-7. Removal of criminal history file.

Where individuals have been separated from employment by the City, upon request of such person within 12 months of such separation, the personnel department will notify DCJS for the purpose of terminating its return processing with respect to such employee.

§ 36-8. Fees.

The City will pay the fee for the criminal history records search established pursuant to law, by DCJS, or as approved by City Council for processing the criminal history information request.

§ 36-9. No effect on collective bargaining agreements.

Nothing in this Chapter will be construed or interpreted to alter or in any way diminish the integrity of collective bargaining agreements negotiated between the City and any certified or authorized collective bargaining agent nor to diminish any rights pursuant to such agreements.

SECTION III. Unconstitutionality or Illegality.

If any clause, sentence, paragraph, word, section or part of this Chapter is adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment will not affect, impair or invalidate the remainder thereof, but will be confined in its operation to the clause, sentence, paragraph, word section or part thereof directly involved in the controversy in which such judgment will have been rendered.

SECTION IV. Effective Date.

This Ordinance will take effect immediately.

EXHIBIT A

1. School Crossing Guards

Chapter 40, DEPARTMENTS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government -- See Ch. 5.

ARTICLE I, Department of Public Safety [Adopted 10-5-1970 (Ch. 2, § 2-51, of the 1970 Code)]

§ 40-1. Department established; bureaus enumerated. [Amended 3-17-10 by Local Law 1-2010]

There is hereby established a Department of Public Safety which shall consist of the following municipal bureaus:

- A. Bureau of Police.
- B. Bureau of Fire.
- C. Bureau of Signals.
- D. Bureau of Building Inspection.
- E. Plumbing Examining Board.
- F. Electrical Examining Board.

ARTICLE II, Department of Public Works [Adopted 10-5-1970 (Ch. 2, §§ 2-57 through 2-60, of the 1970 Code)]

§ 40-2. Department established.

There is hereby established a Department of Public Works.

§ 40-3. Commissioner of Public Works.

- A. Position created. There is hereby created the position of Commissioner of Public Works.
- B. Powers and duties. The Commissioner of Public Works shall be the head of the Department of Public Works. He or she shall possess all the powers and shall perform all the duties, prescribed, imposed and conferred upon a Commissioner of Public Works by Article 7 of the Second Class Cities Law and by the provisions of the Supplemental Charter of the City, not inconsistent with provisions of the Optional City Government Law, except that he or she shall not possess the power nor perform the duties of directing the superintendence of parks and recreational facilities. The Commissioner of Public Works shall possess such other powers and perform such other duties as may be prescribed by law or by ordinance of the City Council.
- C. Salary. The Commissioner of Public Works shall receive such salary as may be determined by the City Council, to be paid in the same installments as the salaries of other City officers and employees.

§ 40-4. Deputy Commissioners of Public Works. [Amended 9-20-1979 by Ord. No. 191-79]

- A. Positions created. There are hereby created the positions of Deputy Commissioners of Public Works to the number and extent as the Common Council may by ordinance prescribe, to be appointed by, and serve at, the pleasure of the Mayor, unless superseded by civil service regulations.

- B. Powers, duties, salary. The Deputy Commissioners of Public Works are hereby authorized to act generally for and in place of the Commissioner of Public Works. They shall possess every power and perform all and every duty belonging to the office of Commissioner of Public Works or so much of such duties as the Commissioner of Public Works may deem it necessary to delegate. They shall receive such salary as may be determined by the City Council, to be paid in the same installments as the salaries of other City officers and employees.

§ 40-5. Designation of fiscal officer. [Amended 10-20-1980 by Ord. No. 218-80]

Pursuant to the authority granted by the State Legislature in Chapter 363 of the Laws of 1980, the City hereby elects to designate the State Industrial Commissioner as the fiscal officer for the purposes of § 220 of the Labor Law.

ARTICLE III, Purchasing Department [Adopted 10-5-1970 (Ch. 2, §§ 2-65 through 2-70, of the 1970 Code)]

§ 40-6. Department established.

There is hereby established a Purchasing Department.

§ 40-7. Purchasing Agent.

- A. Position created. There is hereby created the position of Purchasing Agent.
- B. Duties. The Purchasing Agent shall be the head of the Purchasing Department. He or she shall possess all the powers and perform all the duties heretofore held and performed by the Purchasing Agent and Deputy Purchasing Agent of the City. He or she shall possess such other powers and perform such other duties as prescribed by law or ordinance of the City Council.
- C. Salary. The Purchasing Agent shall receive such salary as may be determined from time to time by the City Council. Such salary shall be paid in the same installments as the salaries of other City officers and employees.
- D. Bond. The Purchasing Agent is hereby required to give an official undertaking in such penal sum as may be determined by the City Council.

§ 40-8. Assistant Purchasing Agent.

- A. Position created. There is hereby created the position of Assistant Purchasing Agent.
- B. Bond. The Assistant Purchasing Agent is hereby required to give an official undertaking in such penal sum as may be specified by the City Council.
- C. Duties; salary. The Assistant Purchasing Agent is hereby authorized to act generally for and in place of the Purchasing Agent. He or she shall possess every power and perform all and every duty belonging to the office of Purchasing Agent or so much of such duties as the Purchasing Agent may deem it necessary to delegate. He or she shall receive such salary as may be determined by the City Council to be paid in the same installments as the salaries of other City officers and employees.

§ 40-9. Authority of Purchasing Agent to dispose of items. [Amended 11-19-1973 by Ord. No. 235-73]

- A. Upon certification by the department head of any City department that any item or items of equipment, materials or other personal property belonging to the City of Binghamton, and used by said department, has become obsolete, worn out or for any reason is no longer of use to the City of

Binghamton, and is available for disposition, the Board of Contract and Supply be and it hereby is authorized to dispose of such property at public auction or by sealed bids upon the best cash terms available. Such sales shall be advertised in the official newspaper of the City of Binghamton in accordance with standard procedures of sealed competitive bidding.

- B. Upon written representation of a department head and the Purchasing Agent that surplus property has a market value of less than \$100, the Board of Contract and Supply may authorize the Purchasing Agent to dispose of said property upon such terms as he or she deems appropriate.
- C. Any funds received from such sale or sales shall be payable to the City Treasurer upon receipt thereof.

§ 40-10. Authority of Purchasing Agent to purchase insurance in open market.

The Purchasing Agent is hereby authorized and empowered to purchase and procure fire, property damage and public liability insurance on motor equipment, including fire apparatus and trailers used in the collection of ashes and garbage, and owned by the City, in the open market, and to expend the sums, or so much thereof as may be necessary, from and out of the items for insurance as appear, from year to year, in the budget of the City, and as may be necessary for such purpose.

§ 40-11. Minority business commitment program. [Added 3-21-1983 by Ord. No. 41-83; amended 5-4-1987 by Ord. No. 45-87]

The following terms and conditions shall be incorporated as a condition of all bid specifications prepared by the City of Binghamton's Department of Developmental and Community Services and Department of Public Works for those contracts for public work which result in a contract award exceeding the sum of \$50,000.

- A. Minority utilization commitment. Any primary contractor shall take affirmative action, as defined herein, to utilize certified minority business enterprises for subcontracts on City projects.
- B. Definitions. The following terms as used herein are defined as follows:

AFFIRMATIVE ACTION -- A goal of awarding 10% of the total dollar value of the contract to minority business enterprises.

MINORITY BUSINESS ENTERPRISE (MBE)

- (1) A business at least 51% of which is owned by minority group members or, in the case of publicly owned businesses, at least 51% of the stock is owned by minority group members. For the purposes of this paragraph, minority business members are citizens of the United States who are Black, Hispanic, Asian American, American Indian, Eskimos or Aleuts. The minority group ownership interest shall be real, substantial and continuing.
- (2) Certification of eligible minority business enterprises shall be extended, upon written application submitted by a bona-fide MBE as defined above, by the Board of Contract and Supply for a probationary period not to exceed one year pending final MBE certification by the New York State Department of Commerce.

SUBCONTRACTING -- Includes construction, modifications, supplies and material and service work contracted for by the primary contractor in the first prosecution of any work so performed.

- C. Implementation of affirmative action.
 - (1) Contractors shall implement the affirmative action requirements provided for herein by:
 - (a) Utilizing a source list of certified minority business enterprises as established by the Board of Contract and Supply; and

- (b) Soliciting bids from such minority business enterprises, particularly from those located in the City of Binghamton, the County of Broome and those counties contiguous to the County of Broome; and
 - (c) Giving minority business enterprises at least 10 days to submit proposals in response to such solicitations; and
 - (d) Maintaining records showing minority business enterprises and specific efforts to identify and award contracts and subcontracts to these companies; and
 - (e) Agreeing to make every reasonable effort to meet the City's affirmative action goals under this minority utilization commitment program in conjunction with the Board of Contract and Supply in the exercise of such efforts.
- (2) The Board shall establish an administrative procedure to remove from the MBE source list minority business enterprises whose work product or performance is determined by the Board to be unsatisfactory by clear and convincing evidence.
 - (3) The Board of Contract and Supply shall have the authority to establish such reasonable rules and regulations as it deems necessary to implement the goals of this program consistent with the terms of this section.

D. Contractor's obligations.

- (1) A contractor's bid shall not be considered by the Board when a contractor fails to certify in his or her bid that he or she agrees to make every reasonable effort to comply with the affirmative action requirements provided for in this section. Prior to the issuance by the Board of a "Notice to Proceed," each contractor shall submit to the Board a list of all minority business enterprises with whom he or she has signed a binding contractual agreement or is presently negotiating an agreement for the purpose of satisfying the minority business enterprise utilization goals provided for in this section.
- (2) The Board shall establish periodic compliance checks by the affirmative action specialist at a minimum of 20%, 40% and 60% of project completion. Evidence of noncompliance shall promptly be transmitted to the Board by the affirmative action specialist.
- (3) In the event the contractor violates any of the provisions of this section, the Board may:
 - (a) To the extent permitted by law, withhold payment due the contractor until the contractor takes such actions as are necessary to cure or remedy such violation;
 - (b) Require the contractor to pay the City with respect to the contractor's refusal or bad faith failure to achieve the goal for minority business enterprise (MBE) participation liquidated damages which equal on a dollar for dollar basis the amount of achievable and reasonable "MBE" participation and/or unachieved MBE contracts;
 - (c) Declare the contractor an irresponsible bidder for a reasonable period of time consistent with law.

E. Women business enterprise (WBE), voluntary.

- (1) "Women business enterprises" are defined as a business concern:
 - (a) That is at least 51% owned by one or more economically disadvantaged women, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more such women; such women being United States citizens or permanent resident aliens, regardless of race or ethnicity; and
 - (b) The ownership interest controlled by a woman or women shall be maintained on a real, substantial and continuing basis.
- (2) Contractors are encouraged to voluntarily seek out qualified WBE's for participation in City contracts; neither a goal nor a compliance requirement is herein established.

ARTICLE IV, Department of Developmental and Community Services [Adopted 6-14-1982 by L.L. No. 1-1982 (Sub-Part XXXVIII of the 1970 Code)]

§ 40-12. Department established; designation of Department head.

A Department of Developmental and Community Services, to be known as the Office of Developmental and Community Services, is hereby established in and for the City of Binghamton. The head of the Department, until such time as the position of Director of Community Development is reclassified pursuant to the Civil Service Law, shall be the Director of Community Development, who shall be appointed by and serve at the pleasure of the Mayor.

§ 40-13. Powers and duties of Director.

The powers and duties of the Director of Community Development, under the general direction of the Mayor, shall include but not be limited to the inauguration and direction of comprehensive programs for the development and redevelopment of properties in the City of Binghamton through clearance, reconstruction, renewal, rehabilitation, conservation, restoration or improvement, or any combination of these, for the arrest, prevention and elimination of substandard and unsanitary areas, slums and blight; the coordination of capital improvement programs of the City for purposes of obtaining maximum assistance for urban renewal and economic development from the state and federal governments; the inauguration and undertaking of programs, designed to retain, restore or expand the City's commercial, industrial and residential tax base; the inauguration and development of social programs of the type and nature presently administered by the Community Development Department; the inauguration and development of programs of public information in all areas concerned with the development and redevelopment of properties and the development of social programs; the implementation of programs to promote understanding and support for proposed projects and to promote cooperation with interested citizens' groups in the development of interest and participation in public projects; and the submission of applications for federal or state funds, subsidies, grants or grants-in-aid for the development of social programs and the conservation, urban renewal or redevelopment through clearance, replanning or rehabilitation of any areas as may be authorized by the City Council.

§ 40-14. Exercise of powers regarding planning and zoning.

In addition to those powers and duties set forth above, the Director of Community Development shall possess all of the powers and duties heretofore exercised by the City Planning Director, including those of Zoning Director.

§ 40-15. Department to succeed Community Development Department.

The current administrative and operational organization of the Community Development Department shall become part of the Department of Developmental and Community Services. The Department of Developmental and Community Services shall be in all respects the successor in interest to the Community Development Department as created by State Local Law 2 of 1974.

§ 40-16. Creation of bureaus and divisions authorized.

City Council shall authorize by ordinance the creation of bureaus or divisions within the Department of Developmental and Community Services upon the submission of administrative and operational reorganization plans by the Director of Community Development.

Chapter 43, DISCRIMINATION AGAINST DISABLED PERSONS

[HISTORY: Adopted by the City Council of the City of Binghamton 11-19-1984 by Ord. No. 156-84 (Ch. 5.5, § 5.5-1, of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

GENERAL REFERENCES

Fair housing and equal opportunity plan -- See Ch. 64.

§ 43-1. Grievance procedure for resolution of complaints. [Amended 3-17-10 by Local Law 1-2010]

The procedures set forth in this section are established for the purpose of meeting the requirements of 31 CFR 51.55(d) of the Federal Revenue Sharing Regulations as of September 26, 1984:

- A. The City of Binghamton hereby adopts an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Office of Revenue Sharing (ORS) regulations implementing Section 504 of the Rehabilitation Act of 1983 as amended.
- B. Section 504 states, in part, that "no otherwise qualified individual with a disability ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal finance assistance"
- C. Complaints should be addressed to the Affirmative Action Specialist, Department of Personnel & Safety, Binghamton City Hall, Binghamton, New York, (607) 772-7067, who has been designated to coordinate Section 504 compliance efforts.
 - (1) A complaint should be filed in writing or verbally, containing the name and address of the person filing it, briefly describing the alleged violation of regulations.
 - (2) A complaint should be filed within 30 days after the complainant becomes aware of the alleged violations.
 - (3) An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the affirmative action specialist. These rules contemplate informal, but thorough, investigations affording all interested persons and their representatives, if any, an opportunity to submit evidence relative to a complaint.
 - (4) A written determination as to the validity of the complaint and description of its resolution, if any, shall be issued by the affirmative action specialist and a copy forwarded to the complainant no later than 30 days after its filing.
 - (5) The Section 504 coordinator shall maintain the files and records of the City of Binghamton relating to the complaints filed.
 - (6) The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 30 days.
 - (7) The right of a person to a prompt and equitable resolution of any complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the Office of Revenue Sharing, United States Department of Treasury. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
 - (8) These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the City of Binghamton complies with Section 504 of the Office of Revenue Sharing regulations.

Chapter 45, BINGHAMTON HUMAN RIGHTS LAW

[HISTORY: Adopted by the City Council of the City of Binghamton 12-15-08 by L.L. No. 1-2008]

§ 45-1. Name.

This Local Law shall be referred to as the Binghamton Human Rights Law.

§ 45-2. Purpose and Intent. [Amended 2-2-09 by Ord. No. 5-2009]

It is the intent of the Binghamton City Council, in enacting the Binghamton Human Rights Law, to protect and safeguard the right and opportunity of all persons to be free from discrimination based on a person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, weight or height; and to empower the courts to provide for remedies for any such discrimination. The authority for this Local Law is the exercise of the City's police power to preserve and care for the safety, health, comfort, and general welfare of its residents and visitors.

§ 45-3. Definitions. [Amended 2-2-09 by Ord. No. 5-2009; Amended 3-17-10 by Local Law 1-2010]

"Discriminate, Discrimination or Discriminatory" shall mean any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment in and as a result of that person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, weight or height. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

"Educational Institution" shall mean any educational institution and any business, nursing, professional, secretarial, technical, or vocational school. Such term shall not include any educational institutions under the supervision of the Regents of the State of New York.

"Employee" shall mean any individual employed or seeking employment from an employer.

"Employer" shall mean any person who, for compensation, regularly employs five or more individuals, not including the employer's parents, spouse or children. For purposes of this ordinance, an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

"Gender identity or expression" shall mean having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.

"Person" shall mean any natural person, firm, the City of Binghamton, corporation, partnership, limited liability company, or other organization, association or group of persons however arranged;

"Weight" and "Height" as follows:

Weight is a numerical measurement of total body weight, the ratio of a person's weight in relation to height or an individual's unique physical composition of weight through body size, shape and proportions.

"Weight" encompasses, but is not limited to, an impression of a person as fat or thin regardless of the numerical measurement. An individual's body size, shape, proportions, and composition may make them appear fat or thin regardless of numerical weight. Height is a numerical measurement of total body height, an expression of a person's height in relation to weight, or an individual's unique physical composition of height through body size, shape and proportions.

"Height" encompasses, but is not limited to an impression of a person as tall or short regardless of numerical measurement. The length of a person's limbs in proportion to the person's body may create an impression that the person is short, tall, or atypically proportioned, independent of numerical measurements of height.

"Place of public accommodation" shall include all establishments within the City of Binghamton which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private.

"Sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

§ 45-4. Prohibited Acts of Discrimination — Employment [Amended 3-17-10 by Local Law 1-2010]

The opportunity to obtain employment without discrimination is hereby recognized as and declared to be a civil right. With regard to employment, it shall be unlawful for any employers or labor organizations to engage in any of the following acts, wholly or partially for a discriminatory reason:

- A. To discriminate against any individual, with respect to failure to hire, refusal to hire, discharge, compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;
- B. To limit, segregate, or classify employees in any way which would deprive any employee of employment opportunities, or which would otherwise adversely affect his or her status as an employee; or
- C. To fail or refuse to refer for employment, or to give negative information to a potential employer of any individual, in such a manner that would deprive an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee.

§ 45-5. Prohibited Acts of Discrimination - Housing and Real Estate Transactions. [Amended 3-17-10 by Local Law 1-2010]

The opportunity to obtain housing and to engage in real estate transactions without discrimination is hereby recognized as and declared to be a civil right. With regard to housing and real estate transactions, it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

- A. To discriminate by impeding, delaying, discouraging, imposing different terms, or otherwise limiting or restricting any transaction in real estate;
- B. To discriminate in the terms and conditions, or in performing, or refusing to perform, any act necessary to determining an individual's financial ability to engage in a real estate transaction, or to represent falsely that an interest in real estate is not available for transaction;
- C. For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants or potential occupants of any real estate which he or she manages; or
- D. It shall not be an unlawful discriminatory practice for an owner, lessor or renter to refuse to rent, lease or sublease a portion of a single family dwelling unit where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling.

§ 45-6. Prohibited Acts of Discrimination - - Business Establishment or Public Accommodations.

The opportunity to enter business establishments or public accommodations without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.

§ 45-7. Prohibited Acts of Discrimination - - Educational Institutions.

The opportunity to obtain an education without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for an educational institution to engage in any of the following acts wholly or

partially for a discriminatory reason: to deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified.

§ 45-8. General Exceptions. [Amended 3-17-10 by Local Law 1-2010]

- A. It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system based on age such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this Local Law.
- B. Nothing contained in this Local Law shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, or a bona fide physical requirement.
- C. Nothing contained in this Local Law shall be deemed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised by or controlled by or in connection with a religious organization, from limiting employment, sales or rental of housing accommodations, admission to or giving preference to persons of the same religion or denomination, or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained. Provided however, that this exception shall not apply to any program operated by any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, if the same receives any form of financial assistance from the City of Binghamton.

§ 45-9. Private Right of Action.

Any person who discriminates or commits any prohibited act against any individual or individuals based upon age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, weight or height, shall be liable in a civil action or proceeding maintained by such individual or group of individuals for injunctive relief, damages, or any other appropriate relief in law or equity. In any such action or proceeding, the court, in its discretion, may allow the party commencing such action or proceeding, if such party prevails, a reasonable attorney's fee as part of the costs.

§45-10. Effective Date.

The Binghamton Human Rights Law shall take effect upon filing with the Secretary of State.

§ 45-11. Prohibition on retaliatory action.

It shall be an unlawful discriminatory practice for any person, agency, institution, firm, corporation, partnership or other organization, or association or group of persons to whom this chapter applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this chapter or because he or she has filed a complaint, testified, or assisted in any proceeding under this chapter.

§ 45-12. Severability.

If any clause, sentence, paragraph or part of this Chapter or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Chapter.

Chapter 45A, BINGHAMTON HUMAN RIGHTS COMMISSION

[HISTORY: Adopted by the City Council of the City of Binghamton 12-7-11 by L.L. No. 11-3; Amended 2016.02.18 by L.L. No. 16-01]

§ 45A-20. Name. Pursuant to General Municipal Law § 239-o, the City of Binghamton hereby establishes the Binghamton Human Rights Commission (the “Commission”).

§ 45A-21. Purpose. The purpose of the Commission is to condemn discrimination in all its forms, to educate the public, and to pursue by all appropriate means and without delay a policy of eliminating discrimination against people as set forth in Chapter 45, *Binghamton Human Rights Law*, veteran status, or criminal conviction to the extent provided by Correction Law § 752.

§ 45A-22. General duties and powers. It shall be the duty of the Commission:

1. (a) To foster mutual respect and understanding among all groups as set forth in Chapter 45, *Binghamton Human Rights Law*, veteran status, and those with prior criminal convictions.

(b) To make such studies in any field of human relationship in the community as in the judgment of the commission will aid in effectuating its general purposes and where desirable, to make the results of such studies public.

(c) To inquire into incidents of tension and conflict among or between various groups, and to take such action as may be designed to alleviate such tensions and conflict.

(d) To conduct and recommend such educational programs as, in the judgment of the Commission, will increase goodwill among inhabitants of the community and open new opportunities into all phases of community life for all inhabitants.

2. In addition to all other powers, the City of Binghamton hereby grants these additional powers:

(a) To report complaints to the New York State Division of Human Rights alleging unlawful discriminatory practices under Article Fifteen of the Executive Law or Chapter 45 of the Binghamton Human Rights law.

(b) To receive, accept and use and expend public grants and private gifts, donations or bequests and other payments, goods and services, as may be approved as part of the City’s budget process.

§ 45A-23 General obligations. The Commission shall discharge the following obligations.

(a) To receive complaints of alleged discrimination, to seek the active assistance of the division of human rights in the solution of complaints which fall within the jurisdiction of the division and to prepare its own plans in the case of other complaints with a view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion.

(b) To hold conferences, and other public meetings in the interest of the constructive resolution of group tensions and the prejudice and discrimination occasioned thereby.

(c) To issue such publications and reports of investigation as in its judgment will tend to effectuate the purposes of this Chapter.

(d) To enlist the cooperation and participation of the various racial, religious and nationality groups, community organizations, industry and labor organizations media or mass communication, fraternal and benevolent associations, and other groups in an educational campaign devoted to fostering among the diverse groups of the community mutual esteem, justice and equity and opening new opportunities into all phases of community life for all individuals.

(e) To encourage and stimulate agencies under the jurisdiction of the City of Binghamton to take such action as will fulfill the purposes of this article.

(f) To submit an annual report of the services performed by March 1 of the following year to City Council and the Mayor and to furnish a copy thereof to the New York State Division of Human Rights.

§ 45A-24. Officers and employees; expenses.

The Commission shall have the power and authority to employ an executive director, a secretary and such attorneys, experts and other employees as may be necessary, and to otherwise expend funds within the amount made available by the City of Binghamton as part of the City's budget process.

§ 45A-25. Membership, Rules and Procedures.

A. Number. The Commission shall consist of seven (7) voting members and two (2) ex-officio, non-voting members.

B. Appointments. The Mayor is hereby specified and designated as the public officer who shall appoint the voting members of the Human Rights Commission. All members shall reside or work in the City of Binghamton. Such appointment shall be subject to approval of City Council. In appointing the Members, the Mayor and City Council will attempt to recruit members from the community who represent the diversity of the community as set forth in Chapter 45, *Binghamton Human Rights Law*, veteran status, or those with prior criminal convictions. The Mayor and City Council will each appoint one (1) ex-officio, non-voting Member to the Commission.

D. Term of Membership. All appointments made prior to January 1, 2016, are null and void. Members shall be appointed for two (2) year terms, the initial term of all members will expire on December 31, 2017. Thereafter all terms will expire on December 31 of each odd numbered year. Ex-officio, non-voting members will be appointed to one (1) year terms. The Commission will vote for a Chairperson for each year. Members, ex-officio non-voting members, and the Chairperson may be re-appointed without term limits.

E. Vacancies. In the case of death, resignation, or removal of a Commission Member, a successor to fill the balance of the unexpired term shall be filled in the same manner as appointments.

F. Membership responsibilities. All Commission members must personally attend at least seventy-five percent (75%) of the scheduled meetings per year. Members will be expected to maintain

confidentiality of all cases that come before the Commission to the extent that protects the claimants against legal risk.

G. Removal. Members may be removed from the Commission by the Mayor and City Council for failing to carry out membership responsibilities. To be removed a Commission Member must receive a no confidence vote by a majority of City Council and the Mayor.

H. Rules and procedures. The Commission may adopt such rules and procedures, including the creation of committees, as it may deem necessary and proper to fulfill the purposes of this Chapter. The Commission will meet monthly at City Hall at a date and time determined by the Commission. The City will provide a meeting room and other related services.

I. All correspondence or inquiries to the Commission will be referred to the Chairperson.

Chapter 46, DRUG-FREE ZONES

[HISTORY: Adopted by the City Council of the City of Binghamton 9-19-1994 by Ord. No. 102-94 (Ch. 14, § 14-13, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation -- See Ch. 301.

§ 46-1. Drug-free zones designated.

The Council of the City hereby declares that all schools and parks located within the City of Binghamton be designated drug-free zones.

§ 46-2. Maximum penalties.

The Council is hereby requesting from all judges, magistrates, and justices that anyone convicted of using or selling illegal drugs in Binghamton City schools or on school property, or in any park located in the City of Binghamton, be given the maximum penalty allowed under New York State laws.

§ 46-3. Signage.

The Council authorizes all school districts and the City of Binghamton to place the appropriate signs in all Binghamton City schools and parks declaring them drug-free zones.

Chapter 50, EMPIRE ZONE

[HISTORY: Adopted by the City Council of the City of Binghamton 2-22-1994 by L.L. No. 1-1994 (Sub-Part LXXXII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Fair housing and equal opportunity plan -- See Ch. 64.

Infrastructure development program -- See Ch. 76.

Model Cities City Demonstration Agency -- See Ch. 96.

§ 50-1. Local Zone Administrative Board.

The Local Zone Administrative Board shall consist of one representative of a local financial institution, one representative of an organized labor union, one representative of an educational institution, one officer or employee from one of the municipalities sponsoring the application; and from the City of Binghamton, Village of Johnson City, and the Village of Endicott, there shall be appointed one business owner, one zone resident, and one representative of a community organization for a total of 13 members.

§ 50-2. Submittal of application. [Amended by L.L. No. 5-1995]

The City of Binghamton, on behalf of the aforementioned municipalities (see § 50-1), hereby submits to the Commissioner of Economic Development for the State of New York an application for the creation of an Empire Zone within a certain area of the aforementioned municipalities. The boundaries for the Empire Zone submitted with the original zone application are amended as set forth in Exhibit A attached hereto and made a part hereof.

§ 50-3. Local tax and other incentives. [Amended by L.L. No. 4-1995; L.L. No. 5-1995]

The City of Binghamton hereby agrees, upon the approval of the aforementioned Empire Zone (see § 50-2) to provide local tax and other incentives, pursuant to Real Property Tax Law § 485-e, to properties within the Empire Zone which are also situated within the City of Binghamton as delineated on the map marked Exhibit A heretofore attached and made a part thereof.

§ 50-4. Property assessment incentive; term of exemption; applicability of exemption.

The City of Binghamton hereby adopts the local property assessment incentive offered in the Empire Zone under Real Property Tax Law § 485-e. This exemption shall be for a term of 10 years, notwithstanding that the designation of the zone may expire prior to the end of such ten-year term. This chapter shall be applicable only toward exemptions commencing on assessment rolls with taxable status dates on or after the effective date of this chapter.

§ 50-5. Zone certifier. [Amended by L.L. No. 4-1995]

The zone certifier required by the Empire Zones program shall be an employee of the Broome County Industrial Development Agency until such time as an Economic Development Alliance is established.

§ 50-6. Filing of copies of chapter. [Amended by L.L. No. 4-1995]

Copies of this chapter shall be forwarded to the Town of Union, Village of Endicott, Village of Johnson City, City of Binghamton Mayor and the New York State Department of Economic Development.

Chapter 53, ELECTIONS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Ward boundaries -- See Charter, § C-4.

Council district boundaries -- See Charter, Art. IA.

ARTICLE I, Locations for Registration and Voting [Adopted 10-5-1970 (Ch. 6, § 6-1, of the 1970 Code)]

§ 53-1. Designation of places for registry and voting.

Pursuant to the provision of § 4-104 of the Election Law the City Council shall designate places in each election district at which meetings for the registration of voters and elections and primaries shall be held.

ARTICLE II, Districts [Adopted as last amended 4-16-2001 by Ord. No. 01-45 (Ch. 6, § 6-16, of the 1970 Code)]

§ 53-2. Boundaries described. [Amended 3-17-10 by Local Law 1-2010]

The City of Binghamton shall be divided into 46 election districts, as follows:

First Election District.

All that part of said City, bounded and described as follows:

Commencing at the intersection of the westerly extension of the northerly boundary of the City of Binghamton into Ely Park and the westerly boundary of the City of Binghamton,
Thence northwardly, westwardly, northwardly, eastwardly, northwardly, eastwardly, southwardly, eastwardly, southwardly, southeastwardly, westwardly, southwardly, westwardly, and southwardly along the boundary line of the City of Binghamton to the northerly boundary line of the City of Binghamton,
Thence westwardly along the westerly extension of the northerly boundary line of the City of Binghamton into Ely Park to the place of beginning.

Second Election District.

All that part of the First Ward that is bounded and described as follows:

Beginning at the intersection of the center line of Glenwood Avenue and the center line of Hazel Street,
Thence northwardly along the center line of Glenwood Avenue to the northerly City limits,
Thence eastwardly along the northerly City limits to the northerly extension of the center line of Colfax Avenue,
Thence southwardly along the northerly extension of the center line of Colfax Avenue to the center line of Prospect Street,
Thence westwardly along the center line of Prospect Street to the center line of Holland Street,
Thence southwardly along the center line of Holland Street to the center line of Hazel Street,
Thence westwardly along the center line of Hazel Street to the place of beginning.

Third Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Oak Street with the center line of Lydia Street,
Thence westwardly along the center line of Lydia Street to the center line of Mygatt Street,
Thence northwardly along the center line of Mygatt Street to the center line of Prospect Street,
Thence westwardly along the center line of Prospect Street to the extension of the center line of Colfax Avenue,
Thence northwardly along the extension of the center line of Colfax Avenue to the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the westerly extension of the northerly boundary of the City of Binghamton into Ely Park,
Thence eastwardly along the westerly extension of the northerly boundary of the City of Binghamton to the easterly boundary of Ely Park,
Thence southwardly along the easterly boundary of Ely Park to the center line of Ridge Street,
Thence westwardly along the center line of Ridge Street to the northerly extension of the center line of Oak Street,
Thence southwardly along the northerly extension of Oak Street to the place of beginning.

Fourth Election District.

All that portion of the City of Binghamton that is bounded and described as follows:
Beginning at the intersection of the center line of Front Street with the southerly line of the Erie Railroad right-of-way and running northwardly along the center line of Front Street to center line of Winding Way,
Thence northwestwardly along the center line of Winding Way to the center line of Oak Street,
Thence northwardly along the center line of Oak Street and the northerly extension of the center line of Oak Street to the center line of Ridge Street,
Thence eastwardly along the center line of Ridge Street to the center line of the easterly boundary of Ely Park,
Thence northwardly, along the easterly boundary of Ely Park to the northerly boundary of the City of Binghamton,
Thence eastwardly along said northerly boundary of the City of Binghamton to the center line of the Chenango River,
Thence southwardly along the center of the Chenango River to the southerly line of the Erie Railroad right-of-way,
Thence westwardly along the southerly line of the Erie Railroad right-of-way to the place of beginning.

Fifth Election District.

All that portion of the City of Binghamton, bounded and described as follows:
Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Glenwood Avenue,
Thence northwardly along the center line of Glenwood Avenue to the center line of Hazel Street,
Thence eastwardly along the center line of Hazel Street to the center line of Holland Street,
Thence northwardly along the center line of Holland Street to the center line of Prospect Street,
Thence eastwardly along the center line of Prospect Street to the westerly line of Spring Forest Cemetery,
Thence southwardly along the westerly line of Spring Forest Cemetery to the extension of the center line of Seymour Street,
Thence westwardly along the extension of the center line of Seymour Street and Seymour Street to the center line of Charles Street,
Thence southwardly, eastwardly, southwardly along the center line of Charles Street to the center line of Field Street,
Thence westwardly along the center line of Field Street to the center line of Berlin Street,
Thence southwardly along the center line of Berlin Street to the center line of Grace Street,
Thence westwardly and southwardly along the center line of Grace Street to the center line of Clinton Street,
Thence southeastwardly along the center line of Clinton Street to the center line of Jarvis Street,
Thence southwardly along the center line of Jarvis Street to the point of intersection of the southerly right-of-way of the Erie Railroad Company and the center line of Jarvis Street,
Thence northwestwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Sixth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Jarvis Street,

Thence northwardly along the center line of Jarvis Street to the center line of Clinton Street,

Thence northwestwardly along the center line of Clinton Street to the center line of Grace Street,

Thence northwardly and eastwardly along the center line of Grace Street to the center line of Berlin Street,

Thence northwardly along the center line of Berlin Street to the center line of Field Street,

Thence eastwardly along the center line of Field Street to the center line of Charles Street,

Thence northwardly, westwardly and northwardly along the center line of Charles Street to the center line of Seymour Street,

Thence eastwardly along the center line of Seymour Street and the extension of the center line of Seymour Street to the westerly boundary of Spring Forest Cemetery,

Thence northwardly along the westerly boundary of Spring Forest Cemetery to the center line of Prospect Street,

Thence eastwardly along the center line of Prospect Street to the center line of Mygatt Street,

Thence southwardly along the center line of Mygatt Street to the center line of Lydia Street,

Thence eastwardly along the center line of Lydia Street to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the southerly right-of-way line of the Erie Railroad Company,

Thence westwardly and northwestwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northwardly boundary of the City of Binghamton and the center line of Glenwood Avenue,

Thence southwards along the center line of Glenwood Avenue to the center line of Main Street,

Thence northwestwardly along the center line of Main Street to the center line of Matthews Street,

Thence southwestwardly along the center line of Matthews Street to the center line of Grand Boulevard,

Thence northwestwardly along the center line of Grand Boulevard to the center line of Floral Avenue,

Thence westwardly along the center line of Floral Avenue to the center line of Carhart Avenue,

Thence northwardly along the center line of Carhart Avenue to the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the place of beginning.

Eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Floral Avenue and the center line of Grand Boulevard,

Thence southeastwardly along the center line of Grand Boulevard to the center line of Matthews Street,

Thence northeastwardly along the center line of Matthews Street to the center line of Main Street,

Thence southeastwardly along the center line of Main Street to the center line of Schiller Street,

Thence southwestwardly along the center line of Schiller Street to the center line of Grand Boulevard,

Thence northwestwardly along the center line of Grand Boulevard to the center line of Orton Avenue,

Thence southwestwardly along the center line of Orton Avenue to the center line of Schubert Street,

Thence northwestwardly and westwardly along the center line of Schubert Street to the center line of West End Avenue,

Thence northwardly along the center line of West End Avenue to the center line of Floral Avenue,
Thence eastwardly along the center line of Floral Avenue to the place of beginning.

Ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southwardly right-of-way line of the Erie Railroad Company and the center line of Glenwood Avenue,

Thence southeastwardly, eastwardly along the southerly right-of-way line of the Erie Railroad Company to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of North Street,

Thence westwardly along the center line of North Street to the center line of Chapin Street,

Thence southwardly along the center line of Chapin Street to the center line of Main Street,

Thence northwestwardly along the center line of Main Street to the center line of Glenwood Avenue,

Thence northwardly along the center line of Glenwood Avenue to the place of beginning.

Tenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Main Street and the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,

Thence westwardly along the center line of Seminary Avenue to the center line of Laurel Avenue,

Thence northwardly along the center line of Laurel Avenue to the center line of Schubert Street,

Thence northwestwardly along the center line of Schubert Street to the center line of Orton Avenue,

Thence northeastwardly along the center line of Orton Avenue to the center line of Grand Boulevard,

Thence southeastwardly along the center line of Grand Boulevard to the center line of Schiller Street,

Thence northeastwardly along the center line of Schiller Street to the center line of Main Street,

Thence southeastwardly along the center line of Main Street to the place of beginning.

Eleventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of North Street,

Thence westwardly along the center line of North Street to the center line of Chapin Street,

Thence southwardly along the center line of Chapin Street to the center line of Main Street,

Thence westwardly along the center line of Main Street to the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,

Thence eastwardly along the center line of Seminary Avenue to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the center line of Eaton Place,

Thence eastwardly along the center line of Eaton Place to the center line of Front Street,

Thence northwardly along the center line of Front Street to the center line of Main Street,

Thence eastwardly along the center line of Main Street and the Court Street Bridge to the point of intersection of the center line of Court Street Bridge and the center line of the Chenango River,

Thence northwardly, northeastwardly along the center line of the Chenango River to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of the Chenango River,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Front Street,

Thence northwardly along the center line of Front Street to the center line of Winding Way,

Thence northwardly, westwardly along the center line of Winding Way to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Oak Street,
Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the place of beginning.

Twelfth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection to the center line of Seminary Avenue and the center line of Murray Street,

Thence southwardly along the center line of Murray Street to the center line of Leroy Street,
Thence westwardly along the center line of Leroy Street to the center line of Chapin Street,
Thence southwardly along the center line of Chapin Street to the center line of Ayres Street,
Thence westwardly along the center line of Ayres Street to the center line of St. John Avenue,
Thence southwardly along the center line of St. John Avenue to the center line of Bennett Avenue,
Thence westwardly along the center line of Bennett Avenue to the center line of Chestnut Street,
Thence northwardly along the center line of Chestnut Street to the center of Lathrop Avenue,
Thence westwardly along the center line of Lathrop Avenue to the center line of Laurel Avenue,
Thence northwardly along the center line of Laurel Avenue to the center line of Seminary Avenue,
Thence eastwardly along the center line of Seminary Avenue to the center line of Chestnut Street,
Thence southwardly along the center line of Chestnut Street to the center line of Seminary Avenue,
Thence eastwardly along the center line of Seminary Avenue to the place of beginning.

Thirteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Front Street and Main Street.

Thence eastwardly along the center line of Main Street and the Court Street Bridge to the center line of the Chenango River,

Thence southwardly along the center line of the Chenango River to the center line of the Susquehanna River,

Thence southwestwardly along the center line of the Susquehanna River to the point of intersection of the center line of the Susquehanna River and the southerly extension of the center line of Murray Street,

Thence northwardly along the southerly extension of the center line of Murray Street and Murray Street to the center line of Riverside Drive,

Thence westwardly along the center line of Riverside Drive to the center line of St. John Avenue,

Thence northwardly along the center line of St. John Avenue to the center line of Ayres Street,

Thence eastwardly along the center line of Ayres Street to the center line of Chapin Street,

Thence northwardly along the center line of Chapin Street to the center line of Leroy Street,

Thence eastwardly along the center line of Leroy Street to the center line of Murray Street,

Thence northwardly along the center line of Murray Street to the center line of Seminary Avenue,

Thence eastwardly along the center line of Seminary Avenue to the center line of Oak Street,

Thence southwardly along the center line of Oak Street to the center line of Eaton Place,

Thence eastwardly along the center line of Eaton Place to the center line of Front Street,

Thence northwardly along the center line of Front Street to the place of beginning.

Fourteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly extension of the center line of Murray Street and the Susquehanna River,

Thence westwardly along the center line of the Susquehanna River to the intersection of the center line of the Susquehanna River and the southerly extension of the center line of Laurel Avenue,

Thence northwardly along the center line of Laurel Avenue to the center line of Lathrop Avenue,

Thence eastwardly along the center line of Lathrop Avenue to the center line of Chestnut Street,

Thence southwardly along the center line of Chestnut Street to the center line of Bennett Avenue,

Thence eastwardly along the center line of Bennett Avenue to the center line of St. John Avenue,
Thence southwardly along the center line of St. John Avenue to the center line of Riverside Drive,
Thence eastwardly along the center line of Riverside Drive to the center line of Murray Street,
Thence southwardly along the center line of Murray Street to the place of beginning.

Fifteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary of the City of Binghamton and the center line of Carhart Avenue,

Thence southwardly along the center line of Carhart Avenue to the center line of Floral Avenue,
Thence eastwardly along the center line of Floral Avenue to the center line of West End Avenue,
Thence southwardly along the center line of West End Avenue to the center line of Schubert Street,
Thence eastwardly along the center line of Schubert Street to the center line of Crary Avenue,
Thence southwardly along the center line of Crary Avenue to the center line of Harrison Street,
Thence westwardly along the center line of Harrison Street to the center line of West End Avenue,
Thence northwardly along the center line of West End Avenue to the center line of Sumner Avenue,
Thence westwardly along the center line of Sumner Avenue to the center line of Snow Avenue,
Thence northwardly along the center line of Snow Avenue to the center line of Division Street,
Thence westwardly along Division Street to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence westwardly along the northerly boundary of the City of Binghamton to the place of beginning.

Sixteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the westerly boundary of the City of Binghamton and the center line of Division Street,

Thence eastwardly along the center line of Division Street to the center line of Snow Avenue,
Thence southwardly along the center line of Snow Avenue to the center line of Sumner Avenue,
Thence eastwardly along the center line of Sumner Avenue to the center line of West End Avenue,
Thence southwardly along the center line of West End Avenue to the center line of Harrison Street,
Thence eastwardly along the center line of Harrison Street to the center line of Crary Avenue,
Thence southwardly along the center line of Crary Avenue to the center line of Highland Avenue,
Thence westwardly along the center line of Highland Avenue to the center line of West End Avenue,
Thence southwardly along the center line of West End Avenue to the center line of Riverside Drive,
Thence northwestwardly along the center line of Riverside Drive to the westerly boundary of the City of Binghamton,
Thence northwardly along the westerly boundary of the City of Binghamton to the place of beginning.

Seventeenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the southerly extension of the center line of Kneeland Avenue and the center line of the Susquehanna River,

Thence northwestwardly along the center line of the Susquehanna River to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the center line of Riverside Drive,

Thence southeastwardly along the center line of Riverside Drive to the center line of West End Avenue,

Thence northeastwardly and northwardly along the center line of West End Avenue to the center line of Highland Avenue,

Thence eastwardly along the center line of Highland Avenue to the center line of Kneeland Avenue,

Thence southwardly along the center line of Kneeland Avenue to the center line of Leroy Street,

Thence northwestwardly along the center line of Leroy Street to the center line of Helen Street,
Thence southwardly along the center line of Helen Street to the center line of Riverside Drive,
Thence eastwardly along the center line of Riverside Drive to the center line of Kneeland Avenue,
Thence southwestwardly along the southerly extension of Kneeland Avenue to the place of beginning.

Eighteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Schubert Street and the center line of Orton Avenue,

Thence southwestwardly along the center line of Orton Avenue to the center line of Jerome Avenue,
Thence southeastwardly along the center line of Jerome Avenue to the center line of Orton Avenue,
Thence southwardly along the center line of Orton Avenue to the center line of Mozart Street,
Thence eastwardly along the center line of Mozart Street to the center line of Schiller Street,
Thence southwardly along the center line of Schiller Street to the center line of Highland Avenue,
Thence westwardly along the center line of Highland Avenue to the center line of Crary Avenue,
Thence northwardly along the center line of Crary Avenue to the center line of Schubert Street,
Thence eastwardly and southeastwardly along the center line of Schubert Street to the place of beginning.

Nineteenth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Schubert Street and the center line of Orton Avenue,

Thence southeastwardly along the center line of Schubert Street to the center line of Laurel Avenue,
Thence southwardly along the center line of Laurel Avenue to the center line of Lincoln Avenue,
Thence westwardly along the center line of Lincoln Avenue to the center line of Beethoven Street,
Thence southwardly along the center line of Beethoven Street to the center line of Leroy Street,
Thence westwardly along the center line of Leroy Street to the center line of Kneeland Avenue,
Thence northwardly along the center line of Kneeland Avenue to the center line of Highland Avenue,
Thence eastwardly along the center line of Highland Avenue to the center line of Schiller Street,
Thence northwardly along the center line of Schiller Street to the center line of Mozart Street,
Thence westwardly along the center line of Mozart Street to the center line of Orton Avenue,
Thence northwardly along the center line of Orton Avenue to the center line of Jerome Avenue,
Thence northwestwardly along the center line of Jerome Avenue to the center line of Orton Avenue,
Thence northeastwardly along the center line of Orton Avenue to the place of beginning.

Twentieth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Lincoln Avenue and the center line of Laurel Avenue,

Thence southwardly along the center line of Laurel Avenue and the southerly extension of Laurel Avenue to the center line of the Susquehanna River,
Thence westwardly and northwestwardly along the center line of the Susquehanna River to the southerly extension of the center line of Kneeland Avenue,
Thence northeastwardly along the southerly extension of the center line of Kneeland Avenue to the center line of Riverside Drive,
Thence northwestwardly along the center line of Riverside Drive to the center line of Helen Street,
Thence northwardly along the center line of Helen Street to the center line of Leroy Street,
Thence southeastwardly and eastwardly along the center line of Leroy Street to the center line of Beethoven Street,
Thence northwardly along the center line of Beethoven Street to the center line of Lincoln Avenue,
Thence eastwardly along the center line of Lincoln Avenue to the place of beginning.

Twenty-first Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of the Susquehanna River and the westerly boundary of the City of Binghamton,
Thence southwardly along the westerly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence eastwardly along the southerly boundary of the City of Binghamton to the westerly boundary of the City of Binghamton,
Thence southwardly along the westerly boundary of the City of Binghamton to the center line of Aldrich Avenue,
Thence eastwardly along the center line of Aldrich Avenue to the center line of Denton Road,
Thence northwardly along the center line of Denton Road to the center line of Vestal Avenue,
Thence eastwardly along the center line of Vestal Avenue to the center line of Brookfield Road,
Thence northwardly along the center line of Brookfield Road and the northerly extension of Brookfield Road to the center line of the Susquehanna River,
Thence westwardly and northwestwardly along the center line of the Susquehanna River to the place of beginning.

Twenty-second Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Aldrich Avenue and the westerly boundary of the City of Binghamton,
Thence southwardly along the westerly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence eastwardly along the southerly boundary of the City of Binghamton to the center line of Park Avenue,
Thence northwardly along the center line of Park Avenue to the center line of Bayless Avenue,
Thence southwestwardly along the center line of Bayless Avenue to the center line of Brook Avenue,
Thence northwardly along the center line of Brook Avenue and the northerly extension of Brook Avenue to the center line of Hotchkiss Street,
Thence westwardly along the center line of Hotchkiss Street to the center line of Pennsylvania Avenue,
Thence northwardly along the center line of Pennsylvania Avenue to the center line of Moore Avenue,
Thence westwardly and northwestwardly along the center line of Moore Avenue to the center line of Brookfield Road,
Thence northwardly along the center line of Brookfield Road to the center line of Vestal Avenue,
Thence westwardly along the center line of Vestal Avenue to the center line of Denton Road,
Thence southwardly along the center line of Denton Road to the center line of Aldrich Avenue,
Thence westwardly along the center line of Aldrich Avenue to the place of beginning.

Twenty-third Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly extension of Brookfield Road and the center line of the Susquehanna River,
Thence northeastwardly along the center line of the Susquehanna River to the center line of the South Washington Street Bridge,
Thence southwardly along the center line of the South Washington Street Bridge and South Washington Street to the center line of Martha Street,
Thence eastwardly along the center line of Martha Street to the center line of Mary Street,
Thence southwardly along the center line of Mary Street to the center line of James Street,
Thence westwardly along the center line of James Street to the center line of South Washington Street,
Thence southwardly along the center line of South Washington Street to the center line of Morris Street,
Thence westwardly along the center line of Morris Street to the center line of Pennsylvania Avenue,

Thence northwestwardly along the center line of Cross Street to the center line of Pennsylvania Avenue,
Thence southwardly along the center line of Pennsylvania Avenue to the center line of Moore Avenue,
Thence westwardly and northwestwardly along the center line of Moore Avenue to the center line of Brookfield Road,
Thence northwardly along the center line of Brookfield Road and the northerly extension of the center line of Brookfield Road to the place of beginning.

Twenty-fourth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mary Street and the center line of James Street,
Thence southwardly along the center line of Mary Street to the center line of Sherwood Avenue,
Thence eastwardly along the center line of Sherwood Avenue to the center line of Vine Street,
Thence southwardly along the center line of Vine Street to the center line of Woodland Avenue,
Thence eastwardly along the center line of Woodland Avenue to the center line of Spurr Avenue,
Thence southwardly along the center line of Spurr Avenue to the center line of Morgan Road,
Thence westwardly along the center line of Morgan Road to the intersection of the center line of Park Avenue and the center line of Bayless Avenue,
Thence southwestwardly along the center line of Bayless Avenue to the center line of Brook Avenue,
Thence northwardly along the center line of Brook Avenue and the northerly extension of Brook Avenue to the center line of Hotchkiss Street,
Thence westwardly along the center line of Hotchkiss Street to the center line of Pennsylvania Avenue,
Thence northwardly along the center line of Pennsylvania Avenue to the center line of Morris Street,
Thence eastwardly along the center line of Morris Street to the center line of South Washington Street,
Thence northwardly along the center line of South Washington Street to the center line of James Street,
Thence eastwardly along the center line of James Street to the place of beginning.

Twenty-fifth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mary Street and the center line of James Street,
Thence eastwardly along the center line of James Street to the center line of Mill Street,
Thence southeastwardly along the center line of Mill Street to the easterly boundary of the City of Binghamton,
Thence southwardly along the easterly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence eastwardly, northwardly, southeastwardly, northeastwardly, southwardly, eastwardly, southwestwardly, northwardly and westwardly along the boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,
Thence southwardly along the easterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence westwardly along the southerly boundary of the City of Binghamton to the center line of Park Avenue,
Thence northwardly along the center line of Park Avenue to the center line of Morgan Road,
Thence eastwardly along the center line of Morgan Road to the center line of Spurr Avenue,
Thence northwardly along the center line of Spurr Avenue to the center line of Woodland Avenue,
Thence westwardly along the center line of Woodland Avenue to the center line of Vine Street,
Thence northwardly along the center line of Vine Street to the center line of Sherwood Avenue,
Thence westwardly along the center line of Sherwood Avenue to the center line of Mary Street,
Thence northwardly along the center line of Mary Street to the place of beginning.

Twenty-sixth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of the Susquehanna River and the center line of the South Washington Street Bridge,

Thence southwardly along the center line of the South Washington Street Bridge and South Washington Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Mill Street,

Thence southwardly along the center line of Mill Street to the center line of Parsons Street,

Thence eastwardly along the center line of Parsons Street to the center line of Rollin Street,

Thence northwardly along the center line of Rollin Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Birch Street,

Thence northwardly along the center line of Birch Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the center line of the Rock Bottom Dam Bridge,

Thence northwardly along the center line of the Rock Bottom Dam Bridge to the center line of the Susquehanna River,

Thence southwestwardly along the center line of the Susquehanna River to the place of beginning.

Twenty-seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Vestal Avenue and the center line of South Washington Street,

Thence southwardly along the center line of South Washington Street to the center line of Martha Street,

Thence eastwardly along the center line of Martha Street to the center line of Mary Street,

Thence southwardly along the center line of Mary Street to the center line of James Street,

Thence eastwardly along the center line of James Street to the center line of Mill Street,

Thence northwardly along the center line of Mill Street to the center line of Vestal Avenue,

Thence westwardly along the center line of Vestal Avenue to the place of beginning.

Twenty-eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Mill Street and Parsons Street,

Thence eastwardly along the center line of Parsons Street to the center line of Rollin Street,

Thence northwardly along the center line of Rollin Street to the center line of Vestal Avenue,

Thence eastwardly along the center line of Vestal Avenue to the center line of Telegraph Street,

Thence southwardly along Telegraph Street and the southerly extension of Telegraph Street to the southerly boundary of the City of Binghamton,

Thence westwardly along the southerly boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,

Thence southwardly along the easterly boundary of the City of Binghamton to the center line of Mill Street,

Thence westwardly, northwestwardly and northwardly along the center line of Mill Street to the place of beginning.

Twenty-ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Bevier Street and the center line of State Street,

Thence northwardly along the center line of State Street to the center line of Amsbry Street,

Thence westwardly along the center line of Amsbry Street to the center line of Chenango Street,

Thence northwardly along the center line of Chenango Street to the center line of Baird Avenue,

Thence westwardly along the westerly extension of Baird Avenue to the westerly boundary of the City of Binghamton,

Thence northwardly along the westerly boundary of the City of Binghamton to the northerly boundary of the City of Binghamton,
Thence eastwardly along the northerly boundary of the City of Binghamton to the center line of the Brandywine Highway,
Thence southwardly along the center line of the Brandywine Highway to the center of the intersection of the Brandywine Highway and Bevier Street,
Thence westwardly along the center line of Bevier Street to the point and place of beginning.

Thirtieth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Amsbry Street and the center line of State Street,

Thence southwardly along the center line of State Street to the center line of Bevier Street,

Thence westwardly along the center line of Bevier Street to the center line of State Street,

Thence southwardly along the center line of State Street to the center line of Cary Street,

Thence westwardly along the center line of Cary Street to the center line of Chenango Street,

Thence southwardly along the center line of Chenango Street to the center line of DeForest Street,

Thence northwestwardly along the center line of DeForest Street and the westerly extension of DeForest Street to the center line of the Chenango River,

Thence northeastwardly along the center line of the Chenango River to the westerly extension of the center line of Baird Avenue,

Thence eastwardly along the center line of the westerly extension of Baird Avenue to the center line of Chenango Street,

Thence southwestwardly along the center line of Chenango Street to the center line of Amsbry Street,

Thence eastwardly along the center line of Amsbry Street to the place of beginning.

Thirty-first Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Bevier Street and the easterly right-of-way line of the Delaware, Lackawanna, and Western Railroad Company,

Thence southwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the easterly extension of the center line of Frederick Street,

Thence westwardly along the easterly extension of Frederick Street and the center line of Frederick Street to the center line of Chenango Street,

Thence southwestwardly, southeastwardly and southwestwardly along the center line of Chenango Street to the southerly right-of-way line of the Erie Railroad Company,

Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the center line of the Chenango River,

Thence northeastwardly along the center line of the Chenango River to the westerly extension of the center line of DeForest Street,

Thence southeastwardly along the westerly extension of the center line of DeForest Street and the center line of DeForest Street to the center line of Chenango Street,

Thence northwardly along the center line of Chenango Street to the center line of Cary Street,

Thence eastwardly along the center line of Cary Street to the center line of State Street,

Thence northwardly along the center line of State Street to the center line of Bevier Street,

Thence eastwardly along the center line of Bevier Street to the place of beginning.

Thirty-second Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the easterly extension of Frederick Street and the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,

Thence southwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the southerly right-of-way line of the Erie Railroad Company,
Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the center line of Chenango Street,
Thence northeastwardly, northwestwardly and northeastwardly along the center line of Chenango Street to the center line of Frederick Street,
Thence eastwardly along the center line of Frederick Street and the easterly extension of Frederick Street to the place of beginning.

Thirty-third Election District.

All those properties within the boundaries of the Forty-fourth Election District located on Decatur Street, Harding Avenue, Spring Walk, Delmar Street, Medford Street, Bond Street, Delavan Avenue, Brink Street, Iva Avenue, and those properties with an even numbered address between 14 and 54 on Saratoga Avenue.

Thirty-fourth Election District.

All that part of said City, bounded and described as follows:
Commencing at the point of intersection of the center line of the Susquehanna River and the center line of the Chenango River,
Thence northwardly along the center line of the Chenango River to the southerly right-of-way line of the Erie Railroad Company,
Thence eastwardly along the southerly right-of-way line of the Erie Railroad Company to the northerly extension of the center line of Fayette Street,
Thence southwardly along the northerly extension of the center line of Fayette Street and the center line of Fayette Street to the center line of Henry Street,
Thence westwardly along the center line of Henry Street to the center line of Carroll Street,
Thence southwardly along the center line of Carroll Street to the center line of Susquehanna Street,
Thence westwardly along the center line of Susquehanna Street to the center line of Exchange Street,
Thence southwardly along the center line of Exchange Street and the center line of the Exchange Street Bridge to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the place of beginning.
Excluded from this district are all properties located at 100 and 110 Chenango Place.

Thirty-fifth Election District.

All that part of said City, bounded and described as follows:
Commencing at the point of intersection of the southerly right-of-way line of the Erie Railroad Company and the center line of Court Street,
Thence westwardly along the southerly right-of-way line of the Erie Railroad Company to the northerly extension of the center line of Fayette Street,
Thence southwardly along the center line of the northerly extension of Fayette Street and the center line of Fayette Street to the center line of Henry Street,
Thence westwardly along the center line of Henry Street to the center line of Carroll Street,
Thence southwardly along the center line of Carroll Street to the center line of Susquehanna Street,
Thence westwardly along the center line of Susquehanna Street to the center line of Exchange Street,
Thence southwardly along the center line of Exchange Street and the center line of the Exchange Street Bridge to the center line of the Susquehanna River,
Thence northeastwardly and eastwardly along the center line of the Susquehanna River to the center line of the southerly extension of Oliver Street,
Thence northwardly along the southerly extension of the center line of Oliver Street to the center line of Court Street,
Thence westwardly along the center line of Court Street to the place of beginning.

Thirty-sixth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of Grant Street and the center line of Broad Avenue,
Thence southwardly along the center line of Broad Avenue to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the center line of Gaylord Street,
Thence southwardly along the center line of Gaylord Street to the center line of Court Street,
Thence eastwardly along the center line of Court Street to the center line of Glen Avenue,
Thence southwardly along the southerly extension of the center line of Glen Avenue to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the southerly extension of the center line of Oliver Street,
Thence northwardly along the southerly extension of the center line of Oliver Street to the center line of Court Street,
Thence westwardly along the center line of Court Street to the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,
Thence northwestwardly and northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the center line of Griswold Street,
Thence northwardly along the center line of Griswold Street to the center line of Grant Street,
Thence eastwardly along the center line of Grant Street to the place of beginning.

Thirty-seventh Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of New York State Route 17 and Interstate Route 81 and the center line of Bigelow Street,
Thence southwardly along the center line of Bigelow Street to the center line of Frederick Street,
Thence westwardly along the center line of Frederick Street to the center line of Mason Avenue,
Thence southwardly along the center line of Mason Avenue to the center line of Robinson Street,
Thence westwardly along the center line of Robinson Street to the center line of Broad Avenue,
Thence northwardly along the center line of Broad Avenue to the center line of New York State Route 17 and Interstate Route 81,
Thence eastwardly along the center line of New York State Route 17 and Interstate Route 81 to the place of beginning.

[The former Thirty-third Election District was combined with the Thirty-seventh Election District 3-20-2006 by Ord. No. 06-9 as follows:]

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the center line of New York State Route 17 and Interstate Route 81 and the center line of Broad Avenue,
Thence southwardly along the center line of Broad Avenue to the center line of Grant Street,
Thence westwardly along the center line of Grant Street to the center line of Griswold Street,
Thence southwardly along the center line of Griswold Street to the center line of Robinson Street,
Thence westwardly along the center line of Robinson Street to the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company,
Thence northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of New York State Route 17 and Interstate Route 81,
Thence eastwardly along the center line of New York State Route 17 and Interstate 81 to the place of beginning.

Thirty-eighth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary line of the City of Binghamton and the center line of Bigelow Street,
Thence southwardly along the center line of Bigelow Street to the center line of Frederick Street,
Thence westwardly along the center line of Frederick Street to the center line of Mason Avenue,
Thence southwardly along the center line of Mason Avenue to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the center line of Fairview Avenue,
Thence northwardly along the center line of Fairview Avenue and the northerly extension of the center line of Fairview Avenue to the northerly boundary of the City of Binghamton,
Thence westwardly along the northerly boundary line of the City of Binghamton to the place of beginning.

Thirty-ninth Election District.

All that part of said City, bounded and described as follows:

Commencing at the point of intersection of the northerly boundary of the City of Binghamton and the northerly extension of the center line of Fairview Avenue,
Thence eastwardly along the northerly boundary line of the City of Binghamton to the easterly boundary line of the City of Binghamton,
Thence southwardly along the easterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,
Thence westwardly along the southerly boundary of the City of Binghamton to the center line of the Susquehanna River,
Thence northwestwardly along the center line of the Susquehanna River to the southerly extension of the center line of Haskin Avenue,
Thence northwardly along the southerly extension of the center line of Haskin Avenue and the center line of Haskin Avenue to the center line of Rossmore Place,
Thence eastwardly along the center line of Rossmore Place to the center line of Grandview Avenue,
Thence northwardly along the center line of Grandview Avenue to the center line of Robinson Street,
Thence westwardly along the center line of Robinson Street to the center line of Fairview Avenue,
Thence northwardly along the center line of Fairview Avenue and the northerly extension of the center line of Fairview Avenue to the place of beginning.

Fortieth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Robinson Street and the center line of Grandview Avenue,
Thence southwardly along the center line of Grandview Avenue to the center line of Rossmore Place,
Thence westwardly along the center line of Rossmore Place to the center line of Harkin Avenue,
Thence southwardly along the center line of Harkin Avenue and the southerly extension of Harkin Avenue to the center line of the Susquehanna River,
Thence westwardly along the center line of the Susquehanna River to the center line of the southerly extension of Glen Avenue,
Thence northwardly along the southerly extension of the center line of Glen Avenue to the center line of Court Street,
Thence westwardly along the center line of Court Street to the center line of Gaylord Street,
Thence northwardly along the center line of Gaylord Street to the center line of Robinson Street,
Thence eastwardly along the center line of Robinson Street to the place of beginning.

Forty-first Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Pierce Creek and the center line of the Susquehanna River,
Thence southwardly and southeastwardly along the center line of Pierce Creek to the center line of Conklin Avenue,

Thence westwardly along the center line of Conklin Avenue to the center line of Otseningo Street,
Thence northwardly along the center line of Otseningo Street to the center line of Hall Street,
Thence westwardly along the center line of Hall Street to the center line of John Street,
Thence southwardly along the center line of John Street to the center line of Conklin Avenue,
Thence westwardly along the center line of Conklin Avenue to the center line of the Rock Bottom Dam Bridge,
Thence northwardly along the center line of the Rock Bottom Dam Bridge to the center line of the Susquehanna River,
Thence northeastwardly and eastwardly along the center line of the Susquehanna River to the place of beginning.

Forty-second Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Burr Avenue and the center line of Conklin Avenue,

Thence southwardly along the center line of Burr Avenue to the southeasterly boundary of the City of Binghamton,

Thence southwestwardly along the southeasterly boundary of the City of Binghamton to the southerly boundary of the City of Binghamton,

Thence westwardly along the southerly boundary of the City of Binghamton to the southerly extension of the center line of Telegraph Street,

Thence northwardly along the southerly extension of the center line of Telegraph Street and the center line of Telegraph Street to the center line of Vestal Avenue,

Thence westwardly along the center line of Vestal Avenue to the center line of Birch Street,

Thence northwardly along the center line of Birch Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the center line of John Street,

Thence northwardly along the center line of John Street to the center line of Hall Street,

Thence eastwardly along the center line of Hall Street to the center line of Otseningo Street,

Thence southwardly along the center line of Otseningo Street to the center line of Conklin Avenue,

Thence eastwardly along the center line of Conklin Avenue to the place of beginning.

Forty-third Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the southeasterly boundary of the City of Binghamton and the center line of Harding Avenue,

Thence southwestwardly along the southeasterly boundary of the City of Binghamton to the center line of Burr Avenue,

Thence northwestwardly along the center line of Burr Avenue to the center line of Conklin Avenue,

Thence southwestwardly along the center line of Conklin Avenue to the center line of Pierce Creek,

Thence northwestwardly and northwardly along the center line of Pierce Creek to the center line of the Susquehanna River,

Thence eastwardly along the center line of the Susquehanna River to the northerly extension of the center line of Bond Street,

Thence southwardly along the northerly extension of the center line of Bond Street and the center line of Bond Street to the center line of Conklin Avenue,

Thence southwestwardly along the center line of Conklin Avenue to the center line of Medford Street,

Thence southwardly along the center line of Medford Street to the center line of Saratoga Avenue,

Thence westwardly along the center line of Saratoga Avenue to the center line of Decatur Street,

Thence southwardly, southwestwardly, southwardly, eastwardly and northeastwardly along the center line of Decatur Street to the center line of Harding Avenue,

Thence southwardly along the center line of Harding Avenue to the place of beginning.

Forty-fourth Election District.

All that part of the City of Binghamton, bounded and described as follows:

Commencing at the point of intersection of the center line of Harding Avenue and the southeasterly boundary of the City of Binghamton,

Thence northeastwardly along the southeasterly boundary of the City of Binghamton to the center line of the Susquehanna River,

Thence northwestwardly and westwardly along the center line of the Susquehanna River to the northerly extension of the center line of Bond Street,

Thence southwardly along the northerly extension of the center line of Bond Street and the center line of Bond Street to the center line of Conklin Avenue,

Thence southwestwardly along the center line of Conklin Avenue to the center line of Medford Street,

Thence southwardly along the center line of Medford Street to the center line of Saratoga Avenue,

Thence westwardly along the center line of Saratoga Avenue to the center line of Decatur Street,

Thence southwardly, southwestwardly, southwardly, eastwardly and northeastwardly along the center line of Decatur Street to the center line of Harding Avenue,

Thence southwardly along the center line of Harding Avenue to the place of beginning.

Excluded from this section are all properties located on Decatur Street, Harding Avenue, Spring Walk, Delmar Street, Medford Street, Bond Street, Delavan Avenue, Brink Street, Iva Avenue, and those properties with an even-numbered address between 14 and 54 on Saratoga Avenue.

Forty-fifth Election District.

All that part of said city, bounded and described as follows:

Commencing at a point of intersection of the center line of the Brandywine Highway and the northerly boundary of the City of Binghamton,

Thence eastwardly along the northerly boundary of the City of Binghamton to the easterly boundary of the City of Binghamton,

Thence southwardly along the easterly boundary of the City of Binghamton to the intersection of the northerly boundary of the City of Binghamton and Bigelow Street,

Thence southwardly along the center line of Bigelow Street to the center line of Interstate Route 81 and New York State Route 17,

Thence westwardly along Interstate Route 81 and New York State Route 17 to the easterly right-of-way of the Delaware, Lackawanna and Western Railroad Company,

Thence northwardly along the easterly right-of-way line of the Delaware, Lackawanna and Western Railroad Company to the center line of Bevier Street,

Thence westwardly along the center line of Bevier Street to the center of the intersection of Bevier Street and the Brandywine Highway,

Thence northwardly along the center line of the Brandywine Highway to the point and place of beginning.

(Ord. No. 01-45, § 1, 4-16-2001)

Forty-sixth Election District.

All those properties located at 100 and 110 Chenango Place.

Chapter 56, ESTIMATE, ANNUAL

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Estimate and Apportionment -- See Ch. 18.

ARTICLE I, Financial Data [Adopted 10-5-1970 (Sub-Part XXXI of the 1970 Code)]

§ 56-1. Additional information required.

In addition to the estimates and financial data heretofore required to be included in the annual estimate submitted to (the) Binghamton City Council annually by the Board of Estimate and Apportionment, the Board of Estimate and Apportionment is hereby authorized, empowered and directed to hereafter include the following financial data in the annual estimate required to be submitted pursuant to § 75 of the Second Class Cities Law, §§ C-61 and C-62 of the Supplemental Charter of the City of Binghamton (Laws of 1917, Chapter 668, as amended), and other provisions of law:

- A. With respect to each appropriation item, a statement, as to the exact amount originally budgeted and appropriated for the current fiscal year, and a statement as to the adjusted amount, if any.
- B. With respect to each appropriation item, a statement as to the exact amount expended as of the first day of September preceding the date of submission of the aforementioned annual estimate.
- C. With respect to each appropriation item, a statement as to the exact amount proposed to be budgeted and appropriated for the succeeding fiscal year.

§ 56-2. Provisions superseded.

This article shall amend and supersede the provisions of § 75 of the Second Class Cities Law and §§ C-61 and C-62 of the Supplemental Charter of the City of Binghamton (Laws of 1917, Chapter 668, as amended) to the extent that the same are inconsistent herewith.

ARTICLE II, Budget Revisions [Adopted 6-15-1992 by L.L. No. 5-1992, approved at referendum 11-3-1992 (Sub-Part LXXVII of the 1970 Code)]

§ 56-3. Statutory amendments.

- A. Section 75 of the Second Class Cities Law, entitled "Annual Estimate," be and it hereby is amended to delete the last sentence of the first paragraph thereof which reads: "The Common Council shall not have the power to diminish or reject any item which relates to salaries, the indebtedness or estimated revenues, or the sums directed by the Board of Supervisors of the county within which the City is situated to be levied within the City for state and county purposes or the sums lawfully payable within said fiscal year upon judgments; nor shall the Common Council increase any item, for any purpose contained in said estimate."
- B. Section 75 of the Second Class Cities Law, entitled "Annual Estimate," is hereby amended to add two new sentences to the first paragraph thereof, as follows: "The City Council of the City of Binghamton shall have the authority to diminish, reject or increase any item when contained within said estimate with the exception of the indebtedness, the sums directed by the Broome County Legislature to be levied within the City for state and county purposes, or the sums lawfully payable within said fiscal year upon judgments. Should the net effect of any such budget revisions cause an increase in the revenue estimates for the annual budget, no such increase shall be effective unless the Chief Fiscal Officer of the City of Binghamton shall certify to the Board of Estimate and

Apportionment and the City Council that the budget estimate, as amended and adopted by the City Council is balanced in accordance with accepted standards for local government finance."

§ 56-4. Effect of article.

This article shall supersede, abolish and repeal any local law or special law applicable to the City of Binghamton contrary to the express intent set forth herein.

§ 56-5. Time period for budget estimate unaffected.

This article is not intended to alter the time periods provided for by law regarding the preparation, submission, consideration and adoption of the budget estimate.

§ 56-6. Remainder of statutory provisions.

All remaining provisions of § 75 of the Second Class Cities Law shall remain as currently codified with all full force and effect.

§ 56-7. When effective.

This article shall take effect upon the approval by the voters at a referendum to be held at the next general election of the City of Binghamton pursuant to the terms of the Municipal Home Rule Law.

ARTICLE III, Adoption by Common Council [Adopted 3-17-1997 by L.L. No. 2-1997 (Sub-Part LXXXVIII of the 1970 Code)]

§ 56-8. Statutory amendments.

- A. Section 75 of the Second Class Cities Law, entitled "Annual Estimate," be and it hereby is amended to delete the next to last sentence of the first paragraph thereof which reads: "After such hearing, and, within 30 days after such estimate shall have been submitted to it, the Common Council shall adopt such estimate so submitted or shall diminish or reject any items therein contained, and adopt said estimate as so amended."
- B. Section 75 of the Second Class Cities Law entitled, "Annual Estimate," is hereby amended to insert the following sentence before the last sentence: "After such hearing, and, within 45 days after such estimate shall have been submitted to it, the Common Council shall adopt such estimate so submitted or shall diminish or reject any items therein continued, and adopt such estimate as so amended."

§ 56-9. Repeal of conflicting provisions.

This article shall supersede, abolish and repeal any local law or special law applicable to the City of Binghamton contrary to the express intent set forth herein.

§ 56-10. Remaining provisions to be in full force and effect.

All remaining provisions of § 75 of the Second Class Cities Law shall remain as currently codified with all full force and effect.

§ 56-11. When effective.

This article shall take effect immediately upon the approval of the Board of Estimate and Apportionment.

Chapter 59, ETHICS, CODE OF

[HISTORY: Adopted by the City Council of the City of Binghamton by L.L. No. 5-1970 (Sub-Part XXXIII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government -- See Ch. 5.
Boards, commissions and committees -- See Ch. 18.
City Council -- See Ch. 26.
Mayor -- See Ch. 92.
Treasurer -- See Ch. 148.

§ 59-1. Authority; purpose; construction.

Pursuant to the provisions of § 806 of the General Municipal Law, the Council of the City of Binghamton recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the City of Binghamton. These rules shall serve as a guide for official conduct of the officers and employees of the City of Binghamton. The rules of ethical conduct of this chapter as adopted shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 59-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

INTEREST -- A pecuniary or material benefit accruing to a municipal officer or employee unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE -- An officer or employee of the City of Binghamton, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fire fighter or civil defense volunteer, except a chief engineer or assistant chief engineer.

§ 59-3. Standards of conduct.

Every officer or employee of the City of Binghamton shall be subject to and abide by the following standards of conduct:

- A. Gifts. He or she shall not directly or indirectly, solicit any gift, or accept or receive any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
- B. Confidential information. He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interest.
- C. Representative before one's own agency. He or she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He or she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter

before any agency of his or her municipality, whereby his or her compensation is dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

- E. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Council and any officer or employee of the City of Binghamton, whether paid or unpaid, who participates in the discussion or gives official opinion to the Council on any legislation before the Council shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation.
- F. Investments in conflict with official duties. He or she shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties.
- G. Private employment. He or she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.
- H. Future employment. He or she shall not, after the termination of service or employment with such municipality, appear before any board or agency of the City of Binghamton in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration.

§ 59-4. Filing of claims and suits.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of Binghamton or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 59-5. Distribution of Code of Ethics. [Amended 12-4-2006 by L.L. No. 2-2006]

The Mayor of the City of Binghamton shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the City within 90 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Failure to distribute any copy of the Code of Ethics or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code nor the enforcement of the provisions thereof.

§ 59-6. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

Chapter 64, FAIR HOUSING AND EQUAL OPPORTUNITY PLAN
[HISTORY: Adopted by the City Council of the City of Binghamton 4-15-1985 by Ord. No. 37-85
(Ch. 5.5, §§ 5.5-16 through 5.5-21, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Discrimination against handicapped persons -- See Ch. 43.

§ 64-1. Program goals.

- A. The goals of this chapter are:
- (1) To assist minorities, elderly, and low- to middle-income individuals and families in obtaining suitable housing accommodations of their choice; and
 - (2) To reduce discrimination and complaints of discrimination in rentals, sales and financing of housing accommodations in the City of Binghamton based on race, color, religion, sex or national origin as prohibited by the 1968 Civil Rights Act (Title VIII) and any applicable state laws regarding discrimination.
- B. The measurable objectives of the fair housing and equal opportunity program are designed to assist individuals and families in obtaining suitable housing accommodation, and to reduce discrimination and complaints of discrimination.

§ 64-2. Activities.

The City shall:

- A. Placement. Provide, where possible, assistance in finding suitable rental or purchased housing by working with sellers, landlords and agents to actually place the individual or family in an acceptable apartment or home of their choice.
- B. Listing service. Maintain a listing of agents, sellers, landlords and any available relocation services, which affords equal access to minorities, elderly, and low- to middle-income individuals and families.
- C. Counseling. Counsel persons on the legal basis for open and fair housing opportunities, on the meaning of discrimination and how to recognize it, what to do if discrimination occurs, and the extent of available legal and administrative procedures for redress.
- D. Public education. Educate residents of the City of Binghamton in Fair Housing Law, and other pertinent housing issues, through a program of general information, public speaking, public service announcements (PSAs), news letters and pamphlets; meet with the City's Division of Housing, Broome County Board of Realtors, Binghamton Public Housing Authority, local lending institutions, and other local groups concerned with housing, to define topics to be addressed through such public education.
- E. Litigation. Forward to the appropriate office of the New York State Human Rights Commission and/or the United States Department of HUD cases of discriminatory selling or renting practices, including assisting parties in filling out and filing either HUD Form 903 or 903A, Housing Discrimination Complaint, and follow up to note and report on final dispositions.
- F. Budget and credit management. Act as referral service to agencies involved in counseling and instruction in household and personal budgeting with particular emphasis upon undertaking and discharging indebtedness for housing; may include assistance in overcoming current or past credit difficulties.
- G. Liaison. Establish liaison and working relationships with the County Board of Realtors, Binghamton Public Housing Authority, lending institutions with the City of Binghamton, community-based

organizations, associations, and agencies with housing interest, code enforcement and other housing units of City government.

§ 64-3. Housing education and information.

Housing education will focus on the dissemination of the Fair Housing Law information, through public speaking, pamphlets, news letters, and public service announcements. The objectives are designed to aid and provide service to persons and families who lack the ability to fully articulate their needs and adequately accomplish their goal of adequate housing of their choice and also to recognize discrimination if it is present.

§ 64-4. Operation.

- A. The Mayor of the City of Binghamton shall appoint a Fair Housing and Equal Opportunity Officer whose duties shall include supervising the implementation of this chapter.
- B. This officer shall meet with the Director of the Division of Housing and representatives of other housing assistance services to coordinate activities, and responsibilities of the fair housing and equal opportunity program.
- C. The schedule for implementing this plan is outlined in the attached schedule for implementation, following this chapter.

§ 64-5. Evaluation.

The performance of the fair housing program will be evaluated on a periodic basis.

§ 64-6. Reporting.

- A. The City of Binghamton Fair Housing and Equal Opportunity Officer will submit some annual reports to the Mayor, including but not limited to:
 - (1) Breakdown of work accomplished by activity set forth in § 64-2A through G.
 - (2) Breakdown of funds expended by project activity set forth in § 64-2A through G.
 - (3) Narrative summary of project activities with special attention to significant or unanticipated housing issues addressed.
- B. In addition, the City of Binghamton Fair Housing and Equal Opportunity Officer will submit to the Mayor and City Council an annual report, available as a public record, including:
 - (1) Financial summary of program activity.
 - (2) Narrative summary of accomplishments of program, including:
 - (a) Work completed;
 - (b) Ranking of problem issues;
 - (c) Attendance and minutes of specific meetings held with Broome County Board of Realtors, Binghamton Housing Authority, lending institutions within the City of Binghamton, community-based agencies involved with housing, code enforcement, and other housing units of City government, etc.

TENTATIVE TIME TABLE SCHEDULE FOR IMPLEMENTATION
CITY OF BINGHAMTON
FAIR HOUSING AND EQUAL OPPORTUNITY PLAN

Event:

- A. City council adopts fair housing and equal opportunity plan.
- B. Mayor appoints fair housing officer.

- C. Fair housing officer develops work program.
- D. Fair housing officer coordinates fair housing activities with various groups in the community.
- E. Mayor appoints a fair housing technical advisory committee.
- F. Fair housing program under way.

Chapter 67, FIRE AND POLICE DEPARTMENTS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Police/Community Relations Advisory Board -- See Ch. 18.

Department of Public Safety -- See Ch. 40.

ARTICLE I, Fire Fighters' Relief and Pension Fund [Adopted 10-5-1970 (Part D of the 1970 Code)]

§ 67-1. Definitions.

Unless otherwise specified in this article, the words and terms in this section mentioned shall be defined and construed as follows:

BOARD OF TRUSTEES -- The Board of Trustees of the Fire Fighters' Relief and Pension Fund hereby created.

EXCISE MONEYS -- Any and all fees or moneys paid by any person or public officer to the City Treasurer or to any other officer of said City for the granting of licenses or permission to sell strong and spirituous liquors, ale, wine or beer in said City and any moneys paid for taxes upon the business of trafficking in or selling or dealing in strong or spirituous liquors, ale, wine or beer in said City under the provisions of any law of this state authorizing the granting of any such license or permission.

FIRE COMMISSIONER -- The Fire Commissioner of the City of Binghamton, his or her successors in office, and the person, persons or officers hereafter designated by any statute to have charge and control of the Fire Department of said City.

FIRE DEPARTMENT -- Includes:

- A. All officers and members (both "paid" and "call" persons) of the Fire Department of said City now in office who shall comply with the provisions of this article.
- B. All officers and members (both "paid" and "call" persons) of the Fire Department of said City, hereafter appointed by the Fire Commissioner, who shall comply with the provisions of this article; and, whenever the Fire Commissioner shall see fit, he or she may by proper order require that thereafter all such new appointees shall be examined by a physician and surgeon selected by the said Board of Trustees, and be found to be in sound health and physical condition and able to perform his or her full duty as such officer or member, and also pay into said fund a sum as set from time to time to cover the expenses of such examination and other expenses.

FUND -- The Fire Fighters' Relief and Pension Fund hereby established.

LENGTH OF SERVICE -- Continuous and consecutive service, which shall be computed from the time when the officer or member began to receive pay for such service direct from the City of Binghamton; provided, however, that call persons shall be credited thereon with the same proportion of time upon the salary received by each while (serving as) such call persons as would be credited to a regular person of the same rank.

§ 67-2. Establishment and composition of fund.

There shall be and hereby is established in the City of Binghamton a Fire Fighters' Relief and Pension Fund for the Fire Department of said City which shall consist of:

- A. All securities, property and moneys, which, upon the passage of this article, or any time subsequent thereto, shall be paid into said fund by the Binghamton Firemen's Benevolent Association of Binghamton, New York.
- B. All moneys which may be hereafter received or collected from the tax on foreign fire insurance companies, or agents thereof, doing business in the City of Binghamton, excepting the amount payable to the Firemen's Association of the State of New York. The authority granted by this article

to the Fire Fighters' Relief and Pension Fund for the Fire Department of the City of Binghamton to collect or receive any moneys from the tax on foreign insurance companies doing business in the City of Binghamton shall expire on and after the first day of January 1962.

- C. All fines, penalties and forfeitures imposed upon and collected from any officer or member of said Fire Department by way of discipline, collectible from pay or salary.
- D. All rewards, fees, gifts or emoluments other than salary that may be paid or given for or on account of services rendered by any such officer or member; except such as shall be allowed by said Fire Commissioner to be retained by such officer or member, or as may be given to endow a medal or other form of competitive reward.
- E. All sums of money or property that may be contributed by gifts, or raised by entertainments given for that purpose.
- F. An assessment of 2% per month on the salaries of all officers and members of said Department; which said sum or assessment shall be deducted monthly by the City Treasurer from the salary of each and every officer and member of said Department and paid by such City Treasurer into and for the benefit of said fund.
- G. The Common Council may, from time to time, by ordinance, authorize and direct the payment into said fund of an amount not exceeding 2% of all excise moneys belonging to the City of Binghamton.
- H. The Common Council may also, by ordinance, authorize and direct the payment into said fund of any penalties recovered for violation of any ordinance of the City and the moneys so paid shall be used for the purposes for which said fund is created.
- I. Any and all other sums authorized or provided by law. (Laws 1961, Ch. 634, § 1.)

§ 67-3. Organization and operation of Board of Trustees.

- A. The Mayor, the Comptroller, the City Treasurer, the Fire Commissioner and three members or officers of the Fire Department (to be elected annually in the month of December by the members of the Fire Department who are members of the fund), and their successors in office, shall be and are hereby constituted the Board of Trustees of said fund. The Mayor shall be Chair, the City Treasurer shall be Treasurer, and one of the Trustees chosen from the Fire Department shall be the Secretary of said Board. Said Secretary shall be designated by a majority vote of the Board of Trustees. Each of such officers of the Board of Trustees shall serve without compensation. The Corporation Counsel of the City shall be the legal advisor of such Board of Trustees and shall likewise serve without additional compensation therefor. Said Board of Trustees shall have the exclusive control, management and distribution of said fund, and the said Treasurer shall be the custodian thereof. Said fund shall be kept by said City Treasurer separate and apart from any other funds under his or her custody. The sureties on the official bond of said City Treasurer shall be liable for the safekeeping and due accounting by said Treasurer of the moneys and securities belonging to said fund. Said Treasurer of said Board of Trustees is hereby declared to be the Treasurer of the Fire Department of said City of Binghamton for the purpose of receiving and collecting the tax on foreign insurance companies or agents within the scope and meaning of Insurance Law § 9104, and of any and all acts supplementary thereto or amendatory thereof. The Board of Trustees is hereby authorized to adopt rules and regulations for its government and for the conduct of the annual election of the members of said Board chosen from the Fire Department. Said Board shall hear and determine all applications for relief or pension under this article. It shall cause to be kept a full and complete record of all its proceedings and meetings. Said Board of Trustees may take by gift, grant,

bequest or devise and hold free from taxation, any real or personal property, the annual income of which shall not exceed in the aggregate the sum of \$30,000. No payments whatever shall be made or allowed by said Board of Trustees as rewards, gratuities or compensation to any person for salary or services, rendered to or for such Board of Trustees, unless otherwise authorized by this article. Said Board of Trustees shall have charge of and administer said fund and invest the same, or any part thereof, as hereinafter prescribed. Said Board of Trustees is empowered to make all necessary contracts, and institute all necessary and proper actions or proceedings and make payments from said fund of relief or pensions as provided by this article and not otherwise.

- B. In the month of December 1941, and in the month of December of each year thereafter, the members of the Fire Department who are members of the fund shall elect three of its members or officers who are members of said fund, as such Trustees, who shall enter upon the discharge of their duties on the first Tuesday of January thereafter, and hold office for one year and until their successors are elected and qualified. A majority of said Board of Trustees shall constitute a quorum.

§ 67-4. Retirement from service; payment of pension.

- A. Any officer or member of the Fire Department who, upon examination by the surgeon of the Department duly certified under oath, may be found disqualified physically or mentally for the performance of his or her duties in the Department by reason of disease or disability caused or induced by the active performance of the duties of his or her position, without fault or misconduct on his or her part, or of length of service of not less than 20 years as a paid member of said Fire Department, may, during the continuance of such disability, be retired by the Fire Commissioner. If such officer or member objects to being so retired, he or she may demand an examination as to such disability by three competent physicians or surgeons of good repute and standing, one to be selected by the Fire Commissioner, one by such officer or member, and the third by the two physicians or surgeons thus chosen. The three so selected shall examine such officer or member; the finding of a majority of such examiners shall be final as to the ability or disability at that time of such officer or member to perform his or her full duty; and if found able, he or she shall be returned to duty at the same salary and rank then paid and held by him or her.
- B. Every officer or member of said Department who may have become permanently incapacitated from performing full duty as such officer or member by reason of age or of disease or disability caused or induced by injury, without fault or misconduct on his or her part, or by length of service of at least eight years as a paid member of said Fire Department, may, on his or her own application, be retired from service by the Fire Commissioner, provided the applicant has been examined by three physicians or surgeons selected as aforesaid and their sworn certificate signed by a majority of such examiners filed with the Fire Commissioner, showing that the applicant is permanently disqualified from performing his or her duties in said Department.
- C. Any officer or member retired under Subsection A or B of this section shall remain under the orders of the Fire Commissioner, who may order him or her at any time to do any duty of which he or she is capable and which may be deemed to be for the best interests of said Department. While so serving, he or she shall be paid the same salary as that received by the other members of the Department of the same rank.
- D. Every officer or member of said Department who shall have served therein for 20 consecutive years or more shall, upon his or her own application, without examination or certification, be retired from membership therein.
- E.
- F. Except as otherwise prescribed by this article, a pension shall be granted and paid to each person retired under the provisions of this section to the amount of 1/2 of the salary paid to such person at

the time of his or her retirement. However, such amount shall not be less than \$125 a month, and shall be payable in monthly installments. No officer or member of said Department shall be entitled to any allowance as pension during the time he or she shall be receiving full salary from said Fire Department.

§ 67-5. Death of members; pension to survivors.

- A. The surviving spouse (provided that said surviving spouse was the spouse of a member of this fund on the date of his or her retirement), minor child or children, or dependent parent or parents of (1) any officer or member of said fund, who has reached the rank of first grade fire fighter and who has died while a member of said fund; (2) any officer or member of said fund below the rank of first grade fire fighter who has been killed in the actual performance of his or her duty or who has died from any injury caused by an accident, or from disease which was caused directly by the performance of his or her duty; or (3) any officer or member of said fund retired under the provisions of Chapter 403 of the Laws of 1912 and as amended; shall be awarded an allowance or pension from said fund by said Board of Trustees; the amount of such allowance or pension shall be:
- (1) To the surviving spouse of such officer or member, the sum of \$60 per month.
 - (2) To the child or children of such officer or member, under the age of 18 years, if there be no surviving spouse, or if the surviving spouse dies, the sum of \$25 per month.
 - (3) If there be both surviving spouse and children, each child shall be allowed the sum of \$5 per month; provided, however, that the whole amount paid to the surviving spouse and minor child or children of any officer or member shall not exceed \$35 per month, collectively; and the Board of Trustees shall have the right to cancel any pension that may have been granted to the child or children of any surviving spouse who shall remarry, and such cancellation shall not be subject to review or reversal by any court.
 - (4) To the dependent parent or parents of such officer or member who dies leaving no surviving spouse or children under 18 years of age, the sum of \$25 per month shall be paid; but no more than the aforesaid maximum sum of \$25 per month shall be paid in case both parents survive.
- B. The payment in all cases shall commence within one week after the date of death of any officer or member of said fund.

§ 67-6. Termination of survivors' pension.

Pensions granted to a surviving spouse shall terminate when the surviving spouse shall remarry, and pensions granted to children shall terminate whenever they shall respectively marry or arrive at the age of 18 years.

§ 67-7. Pensions obligatory.

It shall be obligatory on said Board of Trustees to grant or allow pensions pursuant to the provisions of this article.

§ 67-8. Persons eligible for benefits.

If any officer or member of the Fire Department now in office shall refuse to comply with the provisions of this article, or shall withhold his or her consent to the assessment upon his or her salary provided in § 67-2 of this article, neither he or she nor his or her family or dependents shall be eligible to any of the benefits of said fund. Assent to the provisions of this article shall be presumed as a condition precedent to the acceptance of office on the part of all persons hereafter appointed as officers or members of said Fire Department.

§ 67-9. Payment of pensions.

Said Board of Trustees shall pay the pensions as allowed and fixed herein from said pension fund; and said Board of Trustees may, in its discretion, pay the pension of any minor child or children to the surviving parent, or to their general or testamentary guardian, or to the person or persons who shall have the care and

custody of said minor child or children. The decisions of said Board of Trustees as to what is deemed for the best interests of said minor child or children may be reviewed by the surrogate of the County of Broome, and payment according to his or her determination of the pensions herein provided for shall be a full discharge for the moneys so paid.

§ 67-10. Payments and investments.

Payments from said fund shall be made by the Treasurer only upon warrants signed by the Chair of the Board of Trustees and countersigned by its Secretary. No warrant shall be drawn except by order of the Board of Trustees duly entered in the record of its proceedings. Said Board of Trustees is hereby authorized to deposit said fund, or any part thereof, in any of the banks of the City of Binghamton upon receiving adequate security therefor, or to invest the same in the bonds or other obligations of the City, or in the bonds of the United States or of this state issued pursuant to law, or to invest the same in such securities as savings banks of this state are authorized by law to invest in. All income, interest or dividends derived from said investments of said fund shall constitute a part thereof. The Treasurer shall deposit the moneys belonging to said fund in the bank or banks designated by the Board of Trustees.

§ 67-11. Annual reports.

In the month of January of each and every year, the Board of Trustees shall make a report in writing to the Common Council of the condition of said fund, in which report there shall be clearly set forth a complete itemized statement of all receipts and disbursements during such year, giving the name of each and every person, corporation or association from whom any money or property has been received or to whom any money or property has been delivered or paid on account of said fund together with the total amounts thereof.

§ 67-12. Collection of foreign insurance tax.

It shall be the duty of the Treasurer of said Board of Trustees within 60 days after the first day of February in each and every year, to furnish the Corporation Counsel of the City of Binghamton a complete list of all insurance companies, or their agents, who shall not then have paid to said Treasurer the whole of the tax on foreign insurance companies, or agents thereof, as prescribed by law; whereupon the said Corporation Counsel shall forthwith institute whatever legal proceedings may be necessary to compel such delinquent companies, or their agents, to make proper payment to said Treasurer of such overdue tax.

§ 67-13. Suits and settlements thereof.

The Corporation Counsel of said City shall, under the direction of said Treasurer, take charge of the prosecution and defense of all suits or proceedings instituted by or against the Board of Trustees on account, or in the discharge, of their said trust in relation to said fund; and the Treasurer thereof is hereby authorized to settle or compromise any suit or judgment for less than the amount of the same, with the consent of said Board of Trustees.

§ 67-14. Officers receiving money to pay same to Treasurer.

Any officer or board of officers of the City who shall realize, receive or derive any money which, under the provisions of law, constitutes a part of said fund is hereby directed to pay over the same on the first day of the month succeeding the receipt and collection thereof, to the Treasurer of the said Board of Trustees to be used and applied as a part of said fund.

§ 67-15. Exemption of relief and pensions from execution.

All relief and pensions granted under the provisions of this article, and property purchased from the proceeds thereof, shall be exempt from execution, attachment, or any process whatever. The said fund shall be sacredly kept and held secure, and distributed and applied for the purpose of pensioning the persons named herein, and for no other purpose whatsoever.

§ 67-16. Falsification and perjury.

Any person who shall wilfully or knowingly swear falsely in any oath or affirmation in obtaining or procuring any relief or pension, or the payment thereof, under the provisions of this article, shall be guilty of perjury.

§ 67-17. Board of Trustees to serve without additional compensation.

No member of such Board of Trustees shall be paid or receive any additional compensation for his or her services as a member of such Board. No officer or member of said Fire Department shall be entitled to any allowance as pension or relief during the time he or she shall be receiving full salary from said Department.

§ 67-18. Inspection of records and accounts.

The books, records, accounts, transactions, receipts, disbursements, investments and other assets of said Board of Trustees and all matters relating to the care, custody, collection and safeguarding of said fund, shall, upon demand, at any time during business hours, be subject to the visitation and inspection of the Binghamton Firemen's Benevolent Association, of Binghamton, New York, an organization of the paid members of the Fire Department of said City heretofore duly incorporated under the Membership Corporations Law. Such visitation and inspection may be made by the Board of Directors, or a committee thereof, or by a committee appointed at a regular or special meeting of said association.

§ 67-19. Investigation of illegal retirements.

Upon proof being offered, by any person, that any officer or member of the Fire Department has been illegally retired from service therein or is receiving a pension from said fund under circumstances not authorized or contemplated by this article, it shall be the duty of said Board of Trustees, and they shall have full power, jurisdiction and authority, to investigate and take proof of the facts and circumstances relating thereto; and, if such facts shall be established, to restore such officer or member to active service in such Department and relieve such fund from the payment of any further pension on account thereof. In making such investigation such Board shall act in a judicial capacity and it shall be conducted in accordance with proper rules and regulations prescribed therefor. Upon any such investigation any member of such Board may administer oaths and issue subpoenas for witnesses, and any false swearing shall be deemed to be perjury and punishable as such.

§ 67-20. When effective.

This article shall take effect immediately; provided, however, that § 67-2G, relative to the excise moneys apportioned to said fund, shall not become effective until January 1, 1913.

§ 67-21. Members of Department not members of pension system.

Notwithstanding any inconsistent provisions of this article, no member of the Fire Department appointed on or after the first day of January 1935 shall, pursuant to this article, be a member of the relief and pension system or be required to pay any money or part of any monthly pay, salary or compensation to the Relief and Pension Fund, and no such member of the Fire Department, his or her surviving spouse, children, or parents, shall be entitled to receive, granted or paid any relief, pension, allowance or money from said Relief and Pension Fund.

§ 67-22. Termination of pension fund.

Upon the death of all of the members of the Fire Department entitled to any pension, allowance, or money from said pension fund, and upon the death of all persons, now or hereafter in being, who are or shall hereafter be entitled to receive any pension, allowance or money from said fund as surviving spouse, child or parent, pursuant to the provisions of the fire fighters' relief and pension fund law, the said fund shall terminate as such, and the said fund shall thereupon revert to and become the property of the City of Binghamton.

§ 67-23. Termination of service due to superannuation.

- A. Notwithstanding any other provisions of this pension fund, no member of the fire bureau who is or hereafter attains the age of 62 years shall continue to serve as a member of such bureau but shall be retired and placed on the pension rolls of the Department; provided, however, that any member who is not eligible for retirement at age 62 shall continue to serve as a member only until such time as he or she becomes eligible for such pension service retirement.
- B. Termination of service shall take effect on the first day of the calendar month next succeeding his or her attainment of age 62; a member who on September 1, 1964, has already attained age 62 shall retire on or before December 31, 1964.

ARTICLE II, Police Pension Fund [Adopted 10-5-1970 (Part E of the 1970 Code)]

§ 67-24. Definitions.

Except as otherwise herein defined, the words and terms hereafter mentioned in this section shall be construed and defined as follows wherever they occur in this article:

BOARD OF TRUSTEES -- The Board of Trustees of the Police Officers' Relief and Pension Fund hereby established.

FUND -- The Police Officers' Relief and Pension Fund hereby established.

MAYOR -- Any person or officer duly designated to perform the principal executive duties of said City.

POLICE COMMISSIONER -- Includes the Commissioner of Police of the City of Binghamton, his or her successor or successors in office, and the person, persons or officers hereafter designated by any statute to have charge and control of the Police Department of said City.

POLICE DEPARTMENT -- The Chief of Police, Chief of Detectives, Detective Sergeants, the Police Captains, Sergeants, patrol officers and police officers and all other members of the police force and chauffeurs of the police force of said City of Binghamton, now in office or hereafter appointed to office by said Commissioner of Police, his or her successor or successors in office.

§ 67-25. Establishment and sources of fund.

A relief pension fund for members of the Police Department of the City of Binghamton may be created and established by the Common Council, by majority vote, with the approval of the Mayor, which fund shall consist of:

- A. The sum of \$8,500 which shall be included in the annual tax budget of said City and raised by tax as are other moneys in each and every year hereafter. The City of Binghamton is hereby authorized and empowered to raise and levy taxes for this purpose in the same manner as are taxes for the other general expenses of said City and the proper City officers, boards and agents are hereby authorized and directed to take the necessary actions and proceedings in order that the said sum be thus raised.
- B. All lost, abandoned, unclaimed or stolen money and property, or the proceeds thereof, remaining in the possession of the Police Department of said City for one year, and the then Commissioner or other head of said Department is hereby authorized and directed to sell publicly, after reasonable notice, such property and to account to the treasurer of said fund for the proceeds.
- C. Money and property that may be given, devised or bequeathed to said fund.
- D. Two per centum of the salaries earned by all the members of the Police Department of said City, which said per centum shall be deducted from each payment of salary to members of said Department by the financial officers of said City and paid by such officers into said fund.

§ 67-26. Organization and operation of Board of Trustees.

- A. The Mayor, the City Treasurer, the Commissioner of Police, and three members or officers of the Police Department (to be elected annually in the month of December by such Department) and their

successors in office shall be and hereby are constituted the Board of Trustees of said fund. The Mayor shall be Chair, the City Treasurer shall be Treasurer and one of the Trustees elected by the Police Department shall be elected by said Board as Secretary thereof, and each of such officers of the Board of Trustees shall serve without compensation. The Corporation Counsel of the City shall be the legal adviser of such Board of Trustees and shall have charge of all actions or proceedings brought by or against such Board or members thereof and shall likewise serve without additional compensation therefor. Said Board of Trustees shall have the exclusive control, management and distribution of said fund and the City Treasurer shall be custodian thereof. Said fund shall be kept by the City Treasurer separate and apart from any other funds under his or her custody. The sureties on the official bond of said City Treasurer shall be liable for the safe-keeping and due accounting by such Treasurer of the moneys and securities belonging to said fund. The Board of Trustees is hereby authorized to adopt rules and regulations for its government and for the conduct of the annual election of the members of said Board of Trustees chosen from the Police Department. Said Board shall hear and determine all applications for relief or pension under this article. It shall cause to be kept a full and complete record of all of its proceedings and meetings. Said Board of Trustees may take by gift, grant, bequest or devise and hold free from taxation, any real or personal property, the annual income of which shall not exceed in the aggregate the sum of \$30,000. No payment whatever shall be made or allowed by said Board of Trustees as rewards, gratuities or compensation of any person for salary or services rendered to or for such Board of Trustees unless otherwise authorized by this article. Said Board of Trustees shall have charge of and administer said funds and invest the same or any part thereof as hereinafter prescribed. Said Board of Trustees is empowered to make all necessary contracts, institute all necessary and proper actions or proceedings and make payments from said fund of relief or pensions as provided by this article and not otherwise.

- B. In the month of December in each year the Police Department shall elect three of its members or officers as such Trustees, who shall enter upon the discharge of their duties on the first Tuesday of January thereafter and hold office for one year and until their successors are elected and qualified. In the meantime the Board of Trustees now in office and elected pursuant to the provisions of the City ordinance hereinafter mentioned, shall continue to be the Trustees of said fund and have all the powers herein granted to the Trustees of said fund. A majority of such Board of Trustees shall constitute a quorum.

§ 67-27. Pension eligibility and payment.

Every officer or member of the Police Department who has attained the rank of first grade, or who has served in said Department for five years or more, shall be paid from said fund on his or her retiring from said service, in said Department by reason of resignation, death or any other cause, the sum of \$300; provided, however, that no such payment or any part thereof shall be made to any such officer or member who, at the time of such retirement, is receiving or entitled to receive a pension under the provisions of § 67-28 of this article.

§ 67-28. Retirement from service for disability.

Any officer or member of the Police Department who, upon examination by the surgeon of the Department duly certified under oath, may be found disqualified, physically or mentally, for the performance of his or her duties in the Department by reason of long service or disease or disability caused or induced by the active performance of the duties of his or her position, without fault or misconduct on his or her part, may during the continuance of such disability, be retired by the Commissioner of Police. If such officer or member objects to being so retired, he or she may demand an examination as to such disability by three competent physicians or surgeons of good repute and standing, one to be selected by the Commissioner of Police, one by such officer or member and the third by the two physicians or surgeons thus chosen. The three [physicians] so selected shall examine such officer or member, and the finding of a majority of such examiners shall be final as to the ability or disability at that time of such officer or member to perform his or her full duty, and if found able he or she shall return to duty at the same salary and rank then paid and held by

him or her. Any officer or member retired under the preceding provisions of this section, unless he or she has served at least 20 years in said Department, shall, however, remain under the orders of the Police Commissioner, who may order him or her at any time to do such duty of which he or she is capable as may be decided to be for the best interests of said Department, and while so serving he or she shall be paid the same salary as that received by the other members of the Department of the same rank. Every officer or member of said Department who may have become permanently incapacitated from performing full duty as such officer or member by reason of age or of disease or disability caused or induced by injury or by long service and exposure while in the line of his or her duty, without fault or misconduct on his or her part may, on his or her own application, be retired from service by the Commissioner of Police, provided the applicant has been examined by three physicians or surgeons selected as aforesaid, and their sworn certificates signed by a majority of such examiners, filed with the Commissioner of Police, showing that the applicant is permanently disqualified from performing his or her duties in said Department. Every officer or member of said Department who shall have served therein for 20 years consecutively or more, shall upon his or her own application, without examination or certification be retired from membership therein. A pension shall be granted and paid to each person retired under the provisions of this section to the amount of 1/2 of the salary received by such applicant at the time of retirement. However, such amount shall not be less than \$125 a month, payable monthly. No officer or member of said Department shall be entitled to any allowance as pension during the time he or she shall be receiving full salary from said Police Department. Pensions granted under this section shall be for the life of the pensioner.

§ 67-29. Death of members; pension to survivors.

Said Board of Trustees shall also grant, authorize and direct the payment of pensions payable out of said fund as follows:

- A. To the surviving spouse of any officer or member of said [Police] Department who shall have been killed in the actual performance of duty, or who shall have died from the effects of injury received while in the discharge of duty, or who shall hereafter die after having served at least one year continuously in said Department, or to the surviving spouse of a person retired under the provisions of § 67-28, provided that said surviving spouse was the spouse of said person on the date of his or her retirement, the sum of \$720 per annum, if there be no child or children under 18 years of age of said officer or member living, or if there be such child or children under the said age aforesaid, then the sum may be divided between said surviving spouse or child or children, in such proportion or in such manner as said Board of Trustees may direct.
- B. To any child or children under 18 years of age of any deceased officer or member mentioned in the preceding subsection, who died leaving no surviving spouse, or, if a surviving spouse, then after his or her death, to such child or children the sum of \$300 per annum to be apportioned among such children as the Board of Trustees may direct.
- C. To any dependent father, or to any dependent mother, if she be a widow, of any deceased officer or member mentioned in Subdivision A of this section, who died leaving no surviving spouse or child under 18 years of age, the sum of \$300 per annum.

§ 67-30. Termination of survivors' pension.

Pensions granted to the surviving spouse shall terminate when the surviving spouse remarries, and pensions granted to children shall terminate whenever they marry or become 18 years of age.

§ 67-31. Persons eligible for benefits.

If any officer or member of the Police Department now in office shall refuse to comply with the provisions of this article or shall withhold his or her consent to the assessment upon his or her salary as herein provided, neither he or she nor his or her family or dependents shall be eligible to any of the benefits of said fund.

Assent to the provisions of this article shall be presumed as a condition precedent to the acceptance of office on the part of all persons thereafter appointed as officers or members of the Police Department.

§ 67-32. Payment of pensions.

Said Board of Trustees shall pay the pensions as allowed and fixed herein from said pension fund and said Board of Trustees may in its discretion pay the pension of any minor child or children to the surviving parent, or their general or testamentary guardian, or to the person or persons who shall have the care and custody of said child or children. The decisions of said Board of Trustees as to what is for the best interests of said minor child or children may be reviewed by the surrogate of the County of Broome and payment according to his or her determination of the pensions herein provided for shall be a full discharge for the moneys so paid.

§ 67-33. Payments and investments.

All payments from said fund shall be made by the City Treasurer only upon warrants signed by the Chair of the Board of Trustees and countersigned by its secretary, and no warrant should be drawn except by order of the Board of Trustees duly entered in the record of its proceedings. Said Board of Trustees is hereby authorized to deposit said fund or any part thereof, in any of the banks of the City of Binghamton upon receiving adequate security therefor or to invest the same in the bonds or other obligations of the City or in the bonds of the United States or of this state issued pursuant to law, or to invest the same in such securities as savings banks of this state are authorized by law to invest in. All income, interest or dividends derived from said investments of said fund shall constitute a part thereof. The City Treasurer shall deposit the moneys belonging to said fund in the bank or banks designated by said Board of Trustees.

§ 67-34. Annual report.

In the month of January of each and every year, the Board of Trustees shall make a report in writing to the Common Council of the condition of said fund, in which report there shall be clearly set forth a complete itemized statement of all receipts and disbursements during such year, giving the name of each and every person, corporation or association from whom any money or property has been received or to whom any money or property has been delivered or paid on account of said fund, together with the total amount thereof.

§ 67-35. Suits and proceedings; settlement.

The Corporation Counsel of said City shall, under the direction of said Treasurer, take charge of the prosecution and defense of all suits or proceedings instituted by or against the Board of Trustees on account or in the discharge of their said trust in relation to said fund; and the Treasurer thereof is hereby authorized to settle or compromise any suit or judgment for less than the amount of the same with the consent of said Board of Trustees.

§ 67-36. Officers receiving money to pay same to Treasurer.

Any officer or board of officers of the City who shall realize, receive or derive any money which, under the provisions of law, constitute a part of said fund are hereby directed to pay over to the same on the first day of the month succeeding the receipt and collection thereof to the Treasurer of the said Board of Trustees to be used and applied as a part of said fund.

§ 67-37. Falsification and perjury.

Any person who shall willfully or knowingly swear falsely in any oath or affirmation in obtaining or procuring any relief or pension, or the payment thereof, under the provisions of this article shall be guilty of perjury.

§ 67-38. Board of Trustees to serve without additional compensation.

No member of such Board of Trustees shall be paid or receive any additional compensation for his or her services as a member of such Board. No officer or member of said Police Department shall be entitled to any allowance as pension or relief during the time he or she shall be receiving full salary from said Department.

§ 67-39. Investigation of illegal retirements.

Upon proof being offered by any person that any officer or member of the Police Department has been illegally retired from service therein or is receiving a pension from said fund under circumstances not authorized or contemplated by said article, it shall be the duty of said Board of Trustees, and they shall have full power, jurisdiction and authority, to investigate and take proof of the facts and circumstances relating thereto; and, if such facts shall be established, to restore such officer or member to active service in such Department and relieve such fund from the payment of any further pension on account thereof. In making such investigation such Board will act in a judicial capacity and it shall be conducted in accordance with proper rules and regulations prescribed therefor. Upon any such investigation any members of such Board may administer oaths and issue subpoenas for witnesses and any false swearing shall be deemed to be perjury and punishable as such.

§ 67-40. Members of Department not members of pension system.

Notwithstanding any inconsistent provisions of this article, no member of the Police Department appointed on or after March 1, 1935, shall, pursuant to this section, be a member of the pension system or be required to pay any money or part of any monthly pay, salary or compensation to the pension fund and no such member of the Police Department, his or her surviving spouse, children or parents shall be entitled to receive, granted or paid any pension, allowance or money from said pension fund.

§ 67-41. Termination of pension fund.

Upon the death of all of the members of the Police Department entitled to any pension, allowance, or money from said pension fund, and upon the death of all persons, now or hereafter in being, who are or shall hereafter be entitled to receive any pension, allowance, or money from said fund as surviving spouse, child or parent, pursuant to the provisions of the Police Pension Fund Law, the said fund shall terminate as such, and the said fund shall thereupon revert to and become the property of the City of Binghamton.

§ 67-42. Filing applications with retroactive effect.

The Board of Trustees of the Police Pension Fund is hereby authorized and empowered, in its discretion, to accept for filing an application of a former officer or member of the Police Department for pension benefits under the Police Pension Fund Law of the City of Binghamton, who neglected or failed to make such application prior to his or her ceasing to remain a police officer or member of the Police Department, and who would otherwise have been entitled to benefits under said law had he or she filed his or her application for retirement while still a police officer or member of the Police Department. The Board of Trustees is hereby authorized and empowered, in its discretion, to hear and determine and grant such an application with retroactive effect, in the same manner as it would have been empowered to do had such application been filed on the day prior to the date that said applicant ceased to remain a police officer or member of the Police Department.

§ 67-43. Termination of service due to superannuation.

- A. Notwithstanding any other provisions of this pension fund, no member of the police force who is or hereafter attains the age of 62 years shall continue to serve as a member of such force but shall be retired and placed on the pension rolls of the Department; provided, however, that any member who is not eligible for retirement at age 62 shall continue to serve as a member only until such time as he or she becomes eligible for such pension service retirement.
- B. Termination of service shall take effect on the first day of the calendar month next succeeding his or her attainment of age 62; a member who on September 1, 1964, has already attained age 62 shall retire on or before December 31, 1964.

ARTICLE III, Increased Take-Home Pay [Adopted 10-5-1970 (Sub-Part XVIII of the 1970 Code)]

§ 67-44. Election to come under provisions.

The City of Binghamton does hereby elect to come under the provisions of Chapter 746 of the Laws of 1960, and provide a plan for increased take-home pay for members of the City of Binghamton fire fighters' and police officers' pension funds, which shall not be inconsistent with the provisions, limitations, restrictions and payroll periods of the plan for increased take-home pay provided by Chapter 339 of the Laws of 1960, entitled "An act to amend the retirement and social security law, in relation to the addition of pensions providing for increased take-home pay, death benefits, and reopening of a plan for retirement at age 55, an act to amend the retirement and social security law, in relation to authorizing the provision of added pensions providing for increased take-home pay and death benefits for officers and employees of participating employers in the New York State employees' retirement system," and any acts amendatory thereof.

ARTICLE IV, Mandatory Termination of Service [Adopted 10-5-1970 (Sub-Part XXI of the 1970 Code)]

§ 67-45. Termination of service due to superannuation.

No member of the Fire Bureau or the Police Department, who is or hereafter attains the age of 62 years, shall continue to serve as a member of such Bureau or Department but shall be retired and placed on the pension rolls of the Bureau or Department; provided, however, that any member who is not eligible for retirement at age 62 shall continue to serve as a member only until such time as he or she becomes eligible for such pension service retirement. Termination of service shall take effect upon the first day of the calendar month next succeeding his or her attainment of age 62; a member who on September 1, 1964, has already attained age 62 shall retire on or before December 31, 1964.

ARTICLE V, Disability Benefits for Fire Fighters [Adopted by L.L. No. 3-1972 (Sub-Part XXXVII of the 1970 Code)]

§ 67-46. Persons subject to provisions; standards established.

- A. Notwithstanding the provisions of § 207-a of the General Municipal Law, any paid officer or member of the Fire Department of the City of Binghamton hereafter injured in the performance of his or her duties shall be subject to the provisions of this article.
- B. Any paid fire fighter, which term as used in this article shall mean any paid officer or member of the Fire Department of the City of Binghamton who is injured in the performance of his or her duties so as to necessitate medical or other lawful remedial treatment, shall be paid the full amount of his or her regular salary or wages until his or her disability, arising therefrom, has ceased or for a period not exceeding six months, whichever event first occurs.
- C. No such payments of salary or wages shall be made after six months shall have expired and such fire fighter has not made application to the New York State Employees Retirement System. However, in the event such fire fighter has made application to the New York State Employees Retirement System, for disability retirement, such regular salary or wages shall nevertheless be continued until disability or other retirement benefits are paid to such fire fighter. In the event disability retirement benefits are paid to such fire fighter, the City shall thereafter pay such fire fighter the difference between the disability retirement benefit and the regular salary or wages which he or she currently would be receiving in the position from which he or she was retired.
- D. In the event such fire fighter is not eligible for or is not granted accidental disability retirement allowance and is nevertheless, in the opinion of the health authorities or medical advisor of the City, unable to perform his or her regular duties as a result of such injury or sickness, but is able, in their opinion, to perform specified types of light duty, payment of regular salary or wages shall be discontinued with respect to such fire fighter if he or she shall refuse to perform such light duty if the same is available and offered to him or her by an officer having power to assign duties to him or her. However, such light duty shall be consistent with his or her status as a fire fighter and shall enable

him or her to be continued to be entitled to his or her regular salary or wages, including increases thereof and fringe benefits, to which he or she would have been entitled if he or she were able to perform his or her regular duties.

- E. Such fire fighter may be transferred to a position in the same or another agency or department of the City pursuant to the provisions of the regulations of the civil service commission provided the fire fighter shall consent thereto.
- F. If such a fire fighter is not eligible for or is not granted accidental disability retirement, he or she shall not be entitled to further payment of regular salary or wages after he or she shall have attained the mandatory retirement age applicable to him or her or shall have attained the age or performed the period of service specified for the termination of his or her service.
- G. Where such a fire fighter is transferred to another position or retires or is retired under any procedure, he or she shall thereafter, in addition to any retirement allowance or pension to which he or she is then entitled, continue to be entitled to such medical treatment or hospital care necessitated by reason of such injury or illness.
- H. Notwithstanding any provisions of law to the contrary, a cause of action shall accrue to the City for reimbursement in such sum or sums actually paid as salary or wages and/or for medical treatment and hospital care as against any third party against whom the fire fighter shall have a cause of action for the injury sustained or illness caused by such third party.

ARTICLE VI, Supplemental Retirement Allowances for Members of Retirement Systems [Adopted by L.L. No. 7-1974 (Sub-Part XLI of the 1970 Code); amended in its entirety by L.L. No. 9-1977]

§ 67-47. Adoption of statutory provisions.

The City Council of the City of Binghamton does hereby elect and adopt the extension of the Retirement and Social Security Law, Sections 78 and 378, in relation to supplemental programs for pensioners and beneficiaries in order to grant additional allowances.

§ 67-48. When election effective.

This election shall become effective with the payroll period beginning the first day of January 1977.

ARTICLE VII, Police Officer or Member Violations of Election Law [Adopted 5-19-1980 by L.L. No. 3-1980 (Sub-Part XLVII of the 1970 Code)]

§ 67-49. Statutory provision superseded and abolished.

Section 144 of the Second Class Cities Law is hereby superseded and as superseded is abolished.

ARTICLE VIII, Requests for Police Assistance [Adopted 4-20-1981 by L.L. No. 5-1981 (Sub-Part LV of the 1970 Code)]

§ 67-50. Authority to exercise certain powers of Mayor.

The Chief of Police of the City of Binghamton, or, in the event the Chief of Police is absent or disabled, the individual duly authorized to act in his or her behalf, is hereby authorized and empowered to exercise the powers granted to the Mayor of the City of Binghamton pursuant to § 209-m of the General Municipal Law.

ARTICLE IX, Pension Payments to Retired Officers and Members of Police and Fire Bureaus [Adopted 5-17-1999 by L.L. No. 4-1999EN (Sub-Part XLIV of the 1970 Code)]

§ 67-51. Increase in supplemental payment.

All officers and members of the Police and Fire Bureaus of the City of Binghamton, who have heretofore retired, pursuant to the provisions of Chapter 668 of the Laws of 1917, shall be entitled to an increase in supplement pension payments of 5% for 1999.

§ 67-52. Provision of funds.

Funds for such pension increases shall be provided out of budget lines P9026.8 and P9025.8 (Police and Fire Pension Trust Funds, respectively).

ARTICLE X, Supplemental Pension Payments for Surviving Spouses [Adopted 11-20-2000 by L.L. No. 1-2000 (Sub-Part XLVI of the 1970 Code)]

§ 67-53. Cost-of-living increase.

All surviving spouses of police officers and fire fighters eligible for supplemental pension benefits under § 162 of the Retirement and Social Security Law shall be entitled to a cost-of-living increase, as established by the United States Bureau of Labor Statistics, in supplemental pension payments for 2001.

§ 67-54. Provision of funds.

Funds for such pension increases shall be provided for in the budget lines P9026.8 and P9025.8 (Police and Fire Pension Trust Funds, respectively).

Chapter 71, FIRE INSURANCE PROCEEDS

[HISTORY: Adopted by the City Council of the City of Binghamton 8-19-1996 by L.L. No. 2-1996 (Sub-Part LXXXVII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention -- See Ch. 235.

§ 71-1. Return of proceeds upon written agreement.

The City Treasurer of the City of Binghamton is hereby authorized to return to an insured any fire insurance proceeds where the insured agrees in writing to restore the affected premises to the same or improved condition it was in prior to the existence of the lien. The proceeds shall be held in escrow pending completion of the renovations.

Chapter 76, INFRASTRUCTURE DEVELOPMENT PROGRAM
[HISTORY: Adopted by the City Council of the City of Binghamton 4-21-1986 by L.L. No. 4-1986
(Sub-Part LXIII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land -- See Ch. 360.

Zoning -- See Ch. 410.

§ 76-1. Establishment and purpose.

There is hereby established an infrastructure development program in the City of Binghamton, the purpose of which shall be to encourage new residential development.

§ 76-2. Costs provided by City.

Said infrastructure program shall provide for the City payment of 1/2 of the cost of construction of newly constructed City streets in connection with new residential development approved under this program. Said 1/2 payment shall be limited to 1/2 of the lesser of the estimated cost of construction, as approved by the City Engineer, or the actual cost of construction.

§ 76-3. Eligibility requirements. [Amended by L.L. No. 3-1988]

- A. In order to be eligible under this program a residential developer shall make application to the Board of Contract and Supply. Said application may be made at any time before or during construction of the infrastructure, however no application shall be accepted later than 60 days after acceptance of the street(s) by City Council.

- B. In said application the residential development must provide or prove the following:
 - (1) Satisfactory proof of title;
 - (2) An approved subdivision plan;
 - (3) A site plan which includes how the structures will be or are situated on lots, the landscaping and other details as deemed appropriate;
 - (4) Satisfactory financial commitments;
 - (5) Such other information or documentation as determined necessary by the Corporation Counsel;
 - (6) Estimated increase in City taxes, as approved by the City Assessor, to be generated by the completed project which meets or exceeds the eligible City payment for new street construction in accordance with the following formula:

A = [B(b2--b1)]

Where:

A = City's payment

B = Current City tax rate per \$1,000 of assessed valuation

b1 = Current City taxable assessment on the property (in thousands)

b2 = Estimated City taxable assessment on property after completion of the residential

project as detailed by the developer and approved by the City Assessor and the City Comptroller (in thousands)

§ 76-4. Improvements eligible for City payment.

The following shall constitute public improvements eligible for City payment:

- A. Plans and specifications for construction of streets.

- B. Water lines.

- C. Sanitary sewer lines.
- D. Storm sewer lines.
- E. Curbs and gutters.
- F. Grading and paving of streets.

§ 76-5. Obligations of applicant.

An approved applicant shall further contract with the City and obligate itself to:

- A. Develop and provide construction plans and specifications in accordance with City specifications and approved by the City Engineer.
- B. Construct said street and all public improvements in compliance with all applicable statutes, ordinances, codes, rules and regulations.
- C. Convey the street and all improvements associated therewith over to the City upon the acceptance of the street.
- D. Provide the City with copies of all contracts associated with the street and street improvements.
- E. Submit vouchers for City payment eligible work completed on a monthly basis.
- F. Provide a performance bond or other satisfactory security equaling 110% of the estimated City payment. Other items and conditions of such performance security shall be made by the Corporation Counsel as determined necessary to protect the City and accomplish the purpose of this chapter.
- G. Such other terms and conditions as determined necessary by the City to accomplish the purpose of this chapter.

§ 76-6. Payment contingent upon acceptance by City.

Upon the acceptance of the street(s) by City Council and the conveyance thereof, the applicant shall be entitled to the City payment provided hereinabove.

§ 76-7. Administration of program.

This program shall be administered by the Board of Contract and Supply which shall review and approve all aspects of each program except as otherwise provided herein.

§ 76-8. Entitlement limited to available funds.

Entitlement under this program shall be strictly limited and subject to the funding made available for its purpose.

§ 76-9. Inconsistent provisions superseded.

Sections C-131 through C-179 of the Supplemental Charter of the City of Binghamton and any other local laws, to the extent they are inconsistent herewith, are superseded solely as to and for the purpose of this program and to the extent they are inconsistent herewith. Otherwise, such local laws shall remain in full force and effect.

Chapter 84, LIGHTING CONTRACTS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part III of the 1970 Code). Amendments noted where applicable.]

§ 84-1. Requirements; special lighting districts.

- A. Requirements. All municipal lighting shall be supplied pursuant to contract therefor, awarded by the Board of Contract and Supply as herein provided. Such contract shall cover and include the lighting and supplying of the lamps and the oil, gas, electric current, the cleaning, repair and renewal of the lamps and all the materials required in the use and care thereof. No bid or proposal for any such contracts shall be received, nor contract awarded therefor unless the bidder shall, prior to the making of such bid or proposal, have a franchise under the authority of which the proposed contract can be performed. No contract shall be advertised for or entered into for a period exceeding 10 years. Each bidder shall be required to furnish with each bid or proposal a certified check, payable to the order of the City Treasurer, in such sum as the Board of Contract and Supply shall prescribe, but not less than \$10,000. Such sum shall be forfeited to and become the absolute property of the City in case the bidder depositing the same shall be awarded the contract and shall not execute the same. Such certified check shall be returned to the bidder if the contract be not awarded to him, or, if awarded, he shall have executed and furnished the contract.
- B. Special lighting districts. The Council may by ordinance establish a special lighting district or districts for the purpose of ornamental street lighting, and, from time to time, may alter or extend the same. The Board of Contract and Supply may contract for lighting any such district or districts so established or extended as such Board may deem proper or expedient. Any contract so entered into shall be in conformity with the provisions of this section, except that the bond to be given for the faithful performance of the contract shall be in such amount as the Board of Contract and Supply shall determine.
- C. Assessment for special lighting districts. The amount of any such contract that may be entered into for such special lighting, pursuant to the provisions of this section, shall be assessed ratably upon the real property in such lighting district or districts and/or against the City at large in such manner as shall be provided by an ordinance duly adopted by the Council and approved by the Board of Estimate and Apportionment, and when assessed ratably upon the real property in such lighting district or districts, such assessments shall be levied, enforced and collected upon and between the taxable property in such City and district or districts respectively, in the same manner, by the same proceedings, at the same time, under the same penalties and by the same officers as the City taxes, charges or expenses of said City are now levied, enforced, and collected. The Council may by ordinance, approved by the Board of Estimate and Apportionment, reduce or eliminate the expense borne by the taxable property in such special lighting district or districts, and in such event, the expense borne by the taxable property in such special lighting district or districts so reduced or eliminated, shall be borne by the City at large. The Council may by ordinance, approved by the Board of Estimate and Apportionment, apportion the expense that shall be borne by the taxable property in such special lighting district or districts and the City at large, but in no event shall the taxable property in any such special lighting district or districts be charged with more than 50% of such charges or expenses.

Chapter 87, LOCAL LAWS, ADOPTION OF

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part IV of the 1970 Code); amended in its entirety by L.L. No. 3-1971. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Administration of government -- See Ch. 5.

City Council -- See Ch. 26.

§ 87-1. Hearing and notice requirements.

- A. Whenever a local law, after its passage by the Council of the City of Binghamton, shall be presented to the Mayor for approval, he shall within 10 days fix a day for a public hearing, concerning such local law, and cause public notice of the time and place of such hearing to be given. Such notice of public hearing shall be given by publication for two successive days in a daily newspaper or daily newspapers published in Broome County having general circulation in the City of Binghamton, and designated by Council of said City, to be the official newspaper or newspapers of said City. Such hearing shall be held not earlier than five days after the date of the last publication of such notice.
- B. Such notice shall contain the title of the local law and an explanatory statement concerning the same. The Mayor shall attend at the time and place appointed for such hearing and afford an opportunity for a public hearing concerning such local law. Such hearing may be adjourned from time to time but an adjournment shall not operate to extend the time of the Mayor to approve such local law or return it to the council with his objections, pursuant to the Municipal Home Rule Law.

Chapter 92, MAYOR

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Emergency Powers [Adopted 10-5-1970 (Sub-Part XXVIII of the 1970 Code)]

§ 92-1. Special emergency; declaration by Mayor.

In the event of a conflagration, storm, flood, fire, tornado, hurricane, earthquake, aircraft accident, train wreck, motor vehicle accident, enemy attack, power failure, riot, civil disorder, special emergency, or if the public peace is threatened or life or property may be endangered, the Mayor of the City of Binghamton may, in his or her discretion, declare a state of special emergency in all or any part or parts of the City of Binghamton.

§ 92-2. Emergency powers enumerated; authorized restrictions.

Whenever the Mayor declares the existence of a state of special emergency, and during such period, the Mayor shall have the power and authority to invoke any or all of the following provisions, in whole or in part, which shall apply to all of the City or to the part or parts of the City of Binghamton so declared to be in a state of special emergency:

- A. Alcoholic beverages. No person shall sell, purchase, consume, carry, use, or transport any alcoholic beverage or alcoholic beverages on, in or near a public street, park, square, building, hotel, apartment house, dwelling, bar, tavern, restaurant, liquor store, grocery store or scene of such state of special emergency.
- B. Gasoline, kerosene or other flammables. No person, other than a public utility, shall sell, exchange, give away, transport, or carry any gasoline, kerosene or other flammable in the City or any part or parts of parts thereof so declared to be in a state of special emergency. Nothing herein shall be deemed to prohibit the operation of a motor vehicle or the storage of gasoline therein.
- C. Weapons. No person shall sell, purchase, use, carry or transport any firearm, rifle, shotgun, pistol, machine-gun, cannon, revolver, zip gun, bow and arrow, slingshot, incendiary missile, Molotov cocktail, bomb, gasoline, kerosene, flammable liquid, dynamite, explosive, nitroglycerine, tear gas, chemical, hand grenade, rock, bottle, glass, sword, spear, knife, rumble chain, brick, club or any instrument of offensive or defensive combat, unless in the performance of his or her official duties or (unless) authorized by the Mayor or by the Binghamton Chief of Police.
- D. Restricted areas. No person shall enter any such part or parts of the City so declared to be in a state of special emergency unless he or she be employed therein or a resident thereof, or the owner or lessee of premises located therein, or in the performance of his or her official duties, or authorized by the Mayor or the Binghamton Chief of Police.
- E. Curfew. No person, except the owner or lessee of the premises therein or persons employed therein or those in the performance of official duties or so authorized by the Mayor or the Binghamton Chief of Police, shall enter or remain in or near any public street, park, square, bar, tavern, restaurant, liquor store, gasoline station, public property or public building, property owned by a public utility or railroad, or transportation facility, in any such part or parts of the City so declared to be in a state of special emergency during such hours of the day as may be prescribed by the Mayor.

§ 92-3. Publication of declaration, filing, and termination of declaration of state of special emergency.

- A. If the Mayor invokes any or all of the provisions of this article, he or she shall immediately distribute a written declaration thereof to the news media in the City, accompanied by a written request that each publish or broadcast it as soon as possible.
- B. Upon declaration of a state of special emergency, the Mayor shall prepare and sign a written statement indicating that he or she has declared a state of special emergency, setting forth the reasons for such a declaration, specifying the provision or provisions of § 92-2 hereof invoked by the Mayor, and specifying the part or parts of the City declared by him or her to be in a state of special emergency. Said written statement shall be filed with the City Clerk at the earliest opportunity; provided, however, that the failure to file said written statement with the City Clerk or to distribute the same to the news media shall in no way invalidate or nullify such declaration of special emergency or prevent the same from taking effect.
- C. Such a declaration of a state of special emergency shall be deemed to have terminated when the Mayor of the City of Binghamton shall have signed a written statement indicating that such a declaration has been terminated by the Mayor.

§ 92-4. "Person" defined.

As used herein, the term "person" shall mean and include among other things, a natural person, a corporation, partnership and a joint-stock association.

§ 92-5. Liability of City for actions of officers and employees.

Nothing herein shall be deemed to create or establish any cause of action against, or liability of, the City of Binghamton or any officer or employee thereof as a result of, or consequence of, any acts, actions or activities taken or undertaken or occurring under, pursuant to, or as a result of this article.

§ 92-6. Effect of provisions upon existing powers and authority of officers or employees.

Nothing herein shall be deemed to impair or diminish any existing legal powers and/or authority already possessed by the Mayor of the City of Binghamton, and/or other officers and employees of the City of Binghamton.

§ 92-7. Penalties for offenses.

Any person violating this article, or any provision or section hereof, shall be guilty of a misdemeanor, and any person guilty of such violation shall be liable to a fine which shall not exceed \$150 in amount, or to imprisonment not exceeding 150 days, or to both such fine and imprisonment.

ARTICLE II, Duties [Adopted by L.L. No. 3-1974 (Sub-Part XXXIX of the 1970 Code)]

§ 92-8. Mayor to devote entire business day to duties of office.

Effective January 1, 1978, the Mayor of the City of Binghamton shall devote the entire business day to the duties of the office of Mayor.

§ 92-9. Effect upon outside interests; "entire business day" interpreted.

The Mayor shall not be required to divest himself or herself of outside interests, provided said outside interests are not in conflict with his or her position as Mayor. The entire business day shall be interpreted as the normal hours of work scheduled within City Hall.

§ 92-10. Present duties to continue in effect.

All duties and responsibilities of the Mayor of the City of Binghamton presently in effect shall continue in effect.

ARTICLE III, Salary [Adopted 8-3-1998 by L.L. No. 2-1998 (Sub-Part XVI of the 1970 Code)]

§ 92-11. Supersession of state law.

Section 38 of Article III, Section 106 of Title I of Article V, and Section 115 of Title III of Article VI of Chapter 444 of the Laws of 1914, as amended, known as the "Optional City Government Law," are hereby amended and superseded in their application to the City of Binghamton insofar as the same conflict with or is inconsistent with this article.

§ 92-12. Salary established annually [Amended 12-4-2013 by Ord. 13-95]

The Mayor's salary shall increase by 3% annually starting in 2015 until such salary reaches \$72,000. The Council of the City of Binghamton shall then review and establish the mayoral salary structure for additional calendar years.

Chapter 96, MODEL CITIES CITY DEMONSTRATION AGENCY
[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 2, §§ 2-135 through 2-153, of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

- § 96-1. Reserved
- § 96-2. Reserved
- § 96-3. Reserved
- § 96-4. Reserved
- § 96-5. Reserved
- § 96-6. Reserved
- § 96-7. Reserved
- § 96-8. Reserved
- § 96-9. Reserved
- § 96-10. Reserved
- § 96-11. Reserved
- § 96-12. Reserved
- § 96-13. Reserved
- § 96-14. Reserved
- § 96-15. Reserved
- § 96-16. Reserved
- § 96-17. Reserved
- § 96-18. Reserved
- § 96-19. Reserved

Chapter 99, MOTOR VEHICLES, CITY-OWNED

[HISTORY: Adopted by the City Council of the City of Binghamton 6-1-1981 by Ord. No. 104-81 (Ch. 2, §§ 2-241 through 2-246, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies -- See Ch. 124.

Vehicles and traffic -- See Ch. 400.

§ 99-1. Applicability; availability of vehicles to City officers and employees.

- A. This chapter shall apply to all City-owned motor vehicles.
- B. City motor pool vehicles shall be made available to officers and employees of the City solely for use in executing the official duties of their positions.

§ 99-2. Categories of assignment.

Motor vehicles shall be assigned within the three categories set forth below:

- A. Twenty-four-hour assignment. Twenty-four-hour assignment of motor pool vehicles shall be made only when official duties require frequent use of a vehicle outside of regular business hours or a particular work shift.
- B. Designated assignment. Designated assignment of a particular motor vehicle shall be made to officers and employees whose duties require extensive use of a motor vehicle such that it is not practical for them to share a vehicle because of this extensive use or because of the nature of their job.
- C. Motor pool assignment. Motor pool assignment of vehicles shall be made to permit the sharing of cars by officers and employees whose need for a vehicle is not frequent enough to justify either twenty-four-hour or designated assignment.

§ 99-3. Vehicle assignment procedures.

- A. Twenty-four-hour assignment.
 - (1) Twenty-four-hour assignment shall be made in writing by the Mayor. Requests for such assignments may be made only by department heads and must be accompanied by a full justification for such assignment pursuant to the definition set forth above in § 99-2A. The decision of the Mayor shall be final.
 - (2) In accordance with the nature of the official duties of his or her office, the Mayor shall be entitled to twenty-four-hour assignment of a motor vehicle.
- B. Designated assignments. Designated assignments shall be made in writing by the Mayor, upon the recommendation of a department head, pursuant to the definition set forth in § 99-2B. The decision of the Mayor shall be final.
- C. Motor pool assignment. Allocation of motor vehicles to the City motor pool will be determined by the Deputy Commissioner of Public Works who is assigned the responsibility to oversee the motor pool pursuant to rules and regulations approved by the Mayor.

§ 99-4. Rules and regulations; supervision of vehicle use.

- A. The Mayor shall promulgate such written rules and regulations as deemed necessary to comply with the provisions of this chapter.

- B. Department heads and designated bureau heads shall be responsible for general supervision of the use of City vehicles assigned to officers and employees of each such department or bureau.

§ 99-5. Responsibility of individual officers and employees.

Each officer and employee shall be held responsible for a motor vehicle during the period for which it is assigned for his or her use. This responsibility shall include but is not limited to the following:

- A. Observance of all vehicle and traffic laws, codes, rules or regulations.
- B. Proper storage and security of the vehicle.
 - (1) Vehicles taken to the employee's place of residence shall be stored in off-street parking locations whenever possible.
 - (2) Vehicles are to be locked at all times when not in use.
- C. Employees must maintain accurate trip and mileage records in a manner to be prescribed by the Mayor.
- D. Employees must report any moving violation while operating a City vehicle.
- E. Employees must promptly report any accidents or damages while responsible for the vehicle.
- F. The employee shall promptly pay all fines for moving or parking violations incurred while responsible for said vehicle.
- G. The employee shall wear a seat belt at all times while operating a motor vehicle.
- H. The employee shall operate the motor vehicle in a safe and courteous manner.
- I. All employees shall observe any other safety or special operating rules promulgated by the Mayor, Director of Personnel and Safety or the Deputy Commissioner of Public Works responsible for the motor pool.

§ 99-6. Personal use prohibited; out-of-City trips.

- A. Personal use. Personal use of City-owned vehicles shall be prohibited.
- B. Out-of-City trips.
 - (1) Within Broome County. City vehicles may be used for official business trips outside of the City limits within Broome County only with the prior written approval of the responsible department head, subject to review of the Mayor.
 - (2) Trips beyond Broome County. City vehicles may be used for trips outside of Broome County only with the prior written approval of the Mayor pursuant to such rules and regulations as he or she may set forth.
 - (3) Daily report. The Deputy Commissioner of Public Works responsible for the motor pool shall prepare a daily report of all vehicles authorized to travel outside of the City limits. A copy of said report shall be posted in the Department of Public Works.

Chapter 104, NEIGHBORHOOD BUSINESS DISTRICT PROGRAM
[HISTORY: Adopted by the City Council of the City of Binghamton 5-20-1985 by Ord. No. 64-85
(Ch. 19, §§ 19-33 through 19-36, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Empire Zone -- See Ch. 50.

Infrastructure Development Plan -- See Ch. 76.

§ 104-1. Purpose.

- A. The purpose of the Neighborhood Business District Program is to encourage stability and vitality in the City of Binghamton's Neighborhood Business District by the provision of public improvements and through the assistance of programs focused on the needs of each area.
- B. This program is envisioned as a concentrated effort to upgrade the overall physical appearance of neighborhood areas and provide economic development assistance to commercial property owners, and small business owners through technical assistance and loans in these areas.

§ 104-2. Goals and objectives.

The goals and objectives of this program are:

- A. Retention and expansion of neighborhood job opportunities for low- and moderate-income persons.
- B. To aid in the stabilization of the existing tax base.
- C. To preserve and promote neighborhood commercial revitalization within the City.
- D. To upgrade the physical appearance of neighborhood commercial areas.

§ 104-3. Administration.

- A. The Neighborhood Business District Program will be administered by the Binghamton Local Development Corporation's Neighborhood Development Agency. Community development block grant funds programmed to the BLDC's Neighborhood Development Agency will be used for the following:
 - (1) Development and funding of programs to aid commercial property owners in the rehabilitation of their structures. Programs such as facade assistance and rehabilitation loan programs would be available to property owners.
 - (2) Development and funding of programs to aid small business owners in their future growth and expansion.
 - (3) Retention of an architectural/engineering firm(s) to develop an overall design plan for each area, and to complete plans and specifications for public improvements such as sidewalk and curb replacement, landscaping and street furniture.
 - (4) Bid and award of contracts for public improvement projects for each area as determined by the architectural/engineering recommendations.
- B. The staff of the NDA will meet with individual merchants and property owners to advise them of programs available through the Binghamton Local Development Corporation, historic tax credits through the Economic Relief Tax Act of 1981, as well as other local, state and federal programs.

§ 104-4. Eligible areas.

The following areas within the City of Binghamton will be eligible under this program:

- A. Robinson Street (Broad to Bigelow).
- B. South Washington Street (Vestal to Conklin).
- C. Chenango Street (Sturges to Bevier).
- D. Conklin Avenue (Tompkins to Burr).
- E. Leroy Street (Murray to St. John).
- F. Glenwood Avenue (Clinton Street to Prospect).

Chapter 108, NEWSPAPER, OFFICIAL

[HISTORY: Adopted by the City Council of the City of Binghamton by L.L. No. 4-1971 (Sub-Part XXXIV of the 1970 Code). Amendments noted where applicable.]

§ 108-1. Second Class Cities Law amended.

Section 43 of Chapter 53 of the Consolidated Laws known as the "Second Class Cities Law" is hereby amended in its application to the City of Binghamton, to read as follows:

At the first meeting of the Council of the City of Binghamton for the purpose of organization, as provided in the Second Class Cities Law, it shall designate not more than two daily newspapers published in the County of Broome and having general circulation in the City of Binghamton to be the official paper or papers of the City. The Council may, by 2/3 vote of all its members, determine to designate but one official paper, in which case it shall designate a daily newspaper published in the County of Broome and having general circulation in the City of Binghamton, and the paper receiving the highest number of votes shall be the official paper for two years and until a successor is designated. Unless the Council shall so determine to designate but one official paper, it shall designate two official papers of opposite political faith, both of which shall be daily newspapers, published in the County of Broome and having general circulation in the City of Binghamton, and each member shall be entitled to vote for but one paper, and the two papers having the highest number of votes shall be the official papers for two years and until a successor or successors shall be designated. At any time during 1971, the Council of the City of Binghamton may, by 2/3 vote of all its members, determine to designate to be the official paper of the City of Binghamton a daily newspaper published in the County of Broome and having general circulation in the City of Binghamton, and the paper receiving the highest number of votes shall be the official paper until the first meeting of the Council of the City of Binghamton in 1972 for the purpose of organization as provided in the Second Class Cities Law. Such official paper or papers shall publish such matters and in such form as shall be prescribed by statute or otherwise by general ordinance of the Council. In case an official paper shall refuse or fail to act or perform as such, the Council may in its discretion, as hereinbefore provided, designate a successor. All bills and accounts for publication in official newspapers and all City printing and advertising shall be a City charge, and shall be paid by the City Treasurer upon the audit of the Comptroller. The Council may, by general ordinance, prescribe the form in which the proceedings and reports of the City officers, boards and departments shall be issued, and the printing and binding of the same shall be performed under contract awarded as in the case of other City contracts.

Chapter 112, OFFICE HOURS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part IX of the 1970 Code). Amendments noted where applicable.]

§ 112-1. City offices to be closed on Saturday; exceptions.

Notwithstanding the provisions of § 21 of the Second Class Cities Law, all City offices of the City of Binghamton shall be closed to the public all day on each Saturday, except such offices, if any, as are required to be kept open on such days or part thereof by the provisions of any general law of the State of New York applicable alike to all cities; provided, however, that the Council may from time to time by ordinance require any City office to be kept open on such Saturdays or parts thereof as it may prescribe and public convenience require, except as otherwise provided by the provisions of any general law of the state applicable alike to all cities.

Chapter 124, PERSONNEL POLICIES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

Part 1, Removal, Suspension and Discipline of Civil Service Employees [Adopted 10-5-1970 (Sub-Part I of the 1970 Code)]

ARTICLE I, Procedural Requirements

§ 124-1. Hearing required.

No employee of the City of Binghamton, holding a position in the classified civil service subject to competitive or qualifying examination, shall be removed from such position, reduced in rank, suspended, fined or otherwise punished or disciplined except for incompetency, misconduct or insubordination shown after a hearing, upon written charges specifying in detail the accusation made. A copy of such charges shall be served upon the accused employee, and he or she shall be afforded a reasonable time in which to answer the same in writing, and prepare for a hearing; such hearing shall be had before the head of the department, or the appointing officer or board, who is hereby empowered to hear and determine the matter; he or she shall be entitled to be present at such hearing, to be represented by counsel and to present evidence upon any material issues raised by his or her answer. The burden of proving incompetency, misconduct or insubordination shall be upon the person alleging the same. Every person whose rights in any way may be prejudiced, shall be entitled to a writ of certiorari to remedy the wrong. In case of removal, a statement showing the reasons therefor, together with any evidence taken, shall be filed in the office or department where the accused was employed.

§ 124-2. Applicability to Bureau of Police or Bureau of Fire employees.

The provisions of this Part 1 shall not apply to any employee of the City who is, by law or otherwise, entitled to be tried, on charges, to the Bureau of Police or the Bureau of Fire.

§ 124-3. Purpose; conflict with existing laws.

This Part 1 is intended to enlarge the provisions of the Civil Service Law relative to removals and discipline and shall supersede any provisions of the Supplemental Charter of the City of Binghamton, the Second Class Cities Law or general ordinances of the City of Binghamton, inconsistent herewith.

Part 2, Attendance at Conferences, Schools and Conventions; Training Programs

ARTICLE II, Authorization by Mayor [Adopted 10-5-1970 (Sub-Part XI of the 1970 Code)]

§ 124-4. Power of Mayor to authorize.

In accordance with and pursuant to Subdivision 1 of § 77-b of the General Municipal Law, the Mayor of the City of Binghamton is hereby delegated the power to authorize the attendance of any official and employee of the City of Binghamton to conventions, conferences and schools conducted for the betterment of municipal government.

ARTICLE III, Attendance at Conventions, Conferences and Schools by Hospital and Library Officers and Employees [Adopted 10-5-1970 (Sub-Part XIX of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 124-5. Reserved

ARTICLE IV, Training for Department of Public Works Employees [Adopted 9-6-2005 by Ord. No. 05-63, effective 1-1-2006]

§ 124-6. Safety training; number of hours; subjects to be covered.

The City of Binghamton shall provide and each employee of the Department of Public Works shall attend _____ hours of safety training every calendar year on subjects including but not limited to:

- A. The proper maintenance, use and operation of equipment used in the Department of Public Works; and
- B. The review of the proper manner and procedure for reporting a safety concern.

Part 3, Personnel Rules, Regulations and Benefits [Adopted 10-5-1970 (Ch. 2, §§ 2-164 through 2-216, of the 1970 Code)]

ARTICLE V, General Provisions

§ 124-7. Retirement age. [Amended 11-5-1979 by Ord. No. 268-79]

- A. Age specified. No officer or employee of the City shall continue to serve as such officer or employee after such employee shall have attained the age of 70 years, and upon his or her attaining such age, each such employee shall be retired.
- B. Exceptions. The provisions as set forth in Subsection A shall not apply to any officer or employee in the exempt class of the classified service, nor to any officer or employee in the unclassified service, nor to any officer or employee who is a member of the New York State Retirement System and who has been granted an extension by the New York State Civil Service Commission or New York State Retirement Board.
- C. Nonmembers of the state retirement system. The Director of Personnel and Safety is hereby empowered, authorized and directed to promulgate rules and regulations to establish a system whereby employees of the City of Binghamton who are not members of the New York State Retirement System may be eligible for a local waiver from the mandatory retirement age of 70. The Director of Personnel and Safety shall administer said local waiver system.

§ 124-8. Workweek for fire fighters. [Added 12-30-1970 by Ord. No. 239-70; amended 1-17-1972 by Ord. No. 8-72]

Effective February 1, 1972, the average number of hours per week which the fire fighters of the City of Binghamton shall be required to work shall be reduced from the present 47 hours to 46 1/2 hours. Effective January 1, 1973, the average number of hours per week which the fire fighters of the City of Binghamton shall be required to work shall be reduced from 46 1/2 hours to 46 hours.

ARTICLE VI, Compensation

§ 124-9. Plan defined.

The compensation plan shall consist of the rates of compensation prescribed for classes of positions in the classification plan established by this article with such amendments thereto as may be made from time to time.

§ 124-10. Definitions for plan.

When used in this article, the following words, terms and phrases shall have the meanings herein ascribed to them:

COMPENSATION -- Any salary, wage, fee, allowance or other emolument paid to or consideration received by an employee for performing the duties and exercising the responsibilities of a City position and which is computed upon an annual basis.

COMPENSATION SCHEDULE -- A group of rates of compensation consisting of minimum and maximum rates and one or more intermediate rates herein called "increments."

EMPLOYEE -- Any person temporarily or permanently in a City position.

GRADE -- A group of positions, all of which fall within a common minimum and maximum compensation range as set forth in schedules adopted from time to time by the City Council.

POSITION -- A specific City office or employment, whether occupied or vacant, calling for the performance of certain duties and the carrying of certain responsibilities by one individual either on a full-time or part-time basis.

STANDARD COMPENSATION SCHEDULE TABLE -- A series of compensation schedules applicable to the several grades of positions in the City service under the terms and conditions hereinafter prescribed in this article.

STEP -- The addition of one or more increments to the minimum compensation for the particular position affected.

§ 124-11. Conformance with schedules.

The compensation plan shall be in accordance with schedules adopted and from time to time amended by the City Council. Said schedules shall be kept on file in the office of the Comptroller and the office of the City Clerk.

§ 124-12. Positions must be in schedules.

Only such positions as are specifically described in schedules adopted in accordance with this article shall be deemed as included within the compensation plan established herein.

§ 124-13. Compensation to conform to schedules.

Except as otherwise specifically provided, the annual compensation of every position in the City service hereafter created, and of every position now in the City service which shall hereafter become vacant, or the compensation for which shall hereafter be changed, shall be fixed and determined in accordance with the compensation schedules provided for by this article and further in accordance with the provisions of this article relating thereto.

§ 124-14. Installation rules.

The following compensation plan installation rules are hereby approved and adopted:

- A. Employees below the minimum of the grade. If the present salary of an employee is below the minimum of the grade to which his or her position is allocated, he or she shall be raised to the minimum of the grade, provided this raise is at least one full increment of the grade. If it is not, the employee shall be raised to the first-year level.
- B. Employees between the minimum and maximum of the grade. The installation rules contained herein shall apply to employees between the minimum and maximum of the grade. In no event shall the salary of an employee be raised beyond the maximum of the grade.
 - (1) If the present salary of an employee is between steps of the grade to which his or her position is allocated, he or she shall be raised to the next highest step of the grade and shall also receive one full increment.
 - (2) If the present salary of an employee coincides with a step of the grade to which his or her position is allocated, he or she shall be raised to the next highest step of the grade.
- C. Employees above the maximum of the grade. If the present salary of an employee is beyond the maximum of the grade to which his or her position is allocated, he or she shall continue at that rate during the period of his or her incumbency, except in the event of general service-wide increases or reductions, and shall not be entitled to any increments unless he or she becomes eligible for longevity step increments.

- D. Part-time employees. The salary schedule provides rates for full-time employment only. When a person is employed on a less than full-time basis, a determination shall be made as to the percentage of the full workweek that the employee is required to devote to his or her position. The employee then shall be paid that percentage of the annual rate as his or her salary for the part-time employment.
- E. Certain employees ineligible for salary increase. As a result of the classification plan, certain positions were reclassified downward. A few of the incumbents of such positions hold permanent status in a higher level title than the reclassified title of the position. These employees are to be paid the salary received immediately prior to the installation of this salary plan. These employees will not be eligible for salary increases (other than general service-wide increases) unless their present salary is below the maximum of the grade to which their reclassified title has been allocated. In this event, the employee's salary shall be determined in accordance with Subsection B of this section.

§ 124-15. Rules governing administration of plan.

The following compensation plan administration rules are adopted and approved, and such provisions shall apply equally to temporary or provisional employees as well as to those with permanent status:

- A. New appointees. A new appointee shall be paid the minimum rate of pay for the position to which he or she is appointed unless the department head shall certify to the City Council that it is impracticable to recruit at the minimum salary. The City Council then may authorize recruitment above the minimum of the salary grade for such position. When an appointment is made above the minimum of the grade, all employees in the same title receiving less than the new recruitment rate shall have their salaries brought up to the new rate of pay.
- B. Promotions. The salaries of promoted employees shall be raised to the nearest step of the new grade which provides an increase equal to at least 1/2 the increment of the new grade.
- C. Reallocation downward. When an employee's position is reallocated to a lower salary grade, the employee shall be permitted to continue at his or her present rate of pay during the period of incumbency (except in event of general service-wide reductions) but shall not be eligible for a salary increase, except that if his or her present rate of pay is below the maximum of the lower grade, he or she shall be eligible to receive increments in the lower grade until the maximum of that grade is reached.
- D. Reinstatements. A reinstated employee shall be paid at a salary rate within the range for the position to which he or she is reinstated. His or her salary upon reinstatement shall not exceed the salary received at the time he or she vacated his or her position, unless that previous salary is below the minimum for the position to which reinstated. Under this circumstance the employee shall receive the minimum of the grade.
- E. Part-time employment. When employment is on a part-time basis, employees shall be paid a proportionate rate of the annual salary based on the amount of time actually employed. Increments for part-time employees shall also be proportionate to the annual increment for the grade.
- F. Hourly employment. Employees paid on an hourly basis shall be paid in accordance with the hourly salary schedule and on the basis of the number of hours actually employed.
- G. Temporary assignment to higher grade position. Employees assigned for a temporary or limited period exceeding three consecutive calendar months to a higher grade position due to the illness, injury or a bona fide leave of absence of the holder of such higher grade position shall, after having worked in said higher grade position for three consecutive calendar months, receive the minimum of

the higher grade for the duration of such assignment unless the present rate of pay exceeds such minimum. Under such circumstances, the employee will be compensated in accordance with the provisions of Subsection B of this section.

- H. Allowances. The rate of pay prescribed in the salary schedule represents the gross salary earned. Employees receiving maintenance in connection with their positions shall have charges for the various items of maintenance received deducted from their gross salaries.
- I. Annual increments. Each employee shall be eligible for an annual increment up to the maximum of the grade in which his or her position is allocated, provided that the increment is recommended by the department head. Before such recommendation is made, the service of the employee should be reviewed by his or her department head with attention given to the efficiency with which the employee has performed his or her duties, as well as his or her attendance record and all other factors having an effect on his or her work record. No employee shall be eligible for more than one increment increase in any fiscal year. Employees who enter the City service between January 1 and June 30 of a particular year and have served continuously in their positions will be eligible to receive an annual increment on the following January 1. Employees who enter the service between July 1 and December 31 shall be eligible for advancement to the first year step on the following July 1. Persons who are advanced to the first year step on July 1 then shall be eligible for a salary increment the following January 1.
- J. Enforcement. It shall be the duty of the Comptroller of the City to enforce the rules of the salary plan. It shall be the duty of the Civil Service Commission and all City department heads, officers, and employees to cooperate in enforcing these rules.
- K. Review of plan. The compensation plan shall be reviewed annually by the City Council and Board of Estimate and Apportionment to determine whether adjustments are necessary.

§ 124-16. Overtime compensation.

- A. Generally. Except as otherwise expressly provided in an agreement pursuant to Article 14 of the Civil Service Law by and between the City and a duly recognized employee organization, all City employees shall be paid overtime compensation at time and 1/2 of the regular basic pay rate of employees, for all time such employee is required to such work in excess of his or her regular weekly established hours of employment, and double time on all holidays such employee is required to work. No such employee shall be paid overtime compensation unless such employee is requested to work overtime by the department head or his or her authorized representative. No such overtime compensation shall be paid to any officer of the City or to any department head of the City of Binghamton.
- B. Applicability to part-time, seasonal employees. The provisions set forth in Subsection A shall not apply to part-time or seasonal employees of said departments.

ARTICLE VII, Employee Benefits

§ 124-17. Annual leave. [Amended 12-20-1999 by Ord. No. 99-187; Amended 4-7-08 by Ord. No. 16-2008; Amended 12-21-09 by Ord. No. 42-2009; Amended 5-22-2013 by Ord. No. 39-2013; Amended 11-20-2013 by Ord. 13-87; Amended 2-12-16 by Ord. No. 16-04; Amended 1-6-17 by Ord. No. 16-105]

- A. Officers, employees represented by recognized employee organizations. Each officer or employee of the City of Binghamton who is represented by a recognized employee organization pursuant to the provisions of Article 14 of the Civil Service Law shall earn any and all vacation privileges set forth in

the appropriate duly authorized agreement, if any, by and between the City of Binghamton and such recognized employee organization.

B. Officers, employees not represented by recognized employee organizations. Any officer or employee of the City of Binghamton who is not represented by a recognized employee organization pursuant to the provisions of Article 14 of the Civil Service Law shall earn annual leave at the rates set forth hereinafter:

- (1) Officers and employees of the City of Binghamton (the "City") shall earn and accumulate annual leave days at the rate of 1/2 day per biweekly period *or as may be awarded by the Mayor up to 20 days a year*. An officer or employee shall not earn annual leave credit for any biweekly pay period unless he or she is in full pay status for at least seven workdays during such biweekly pay period. *If the Mayor awards annual leave days in excess of 1/2 day per semimonthly period and the additional annual leave days below, then additional annual leave days will not accrue until total annual leave days awarded equal total annual leave days accumulated. The amended language herein in italics will sunset and be null and void as of December 31, 2016, unless extended by City Council.*
- (2) Officers and employees of the City shall also earn and be credited with additional annual leave in accordance with the following schedule:

Completed Years of Continuous Service	Additional Annual Leave Days
1	1
2	2
3	3
4	4
5	5
6	6
7-19	7
20+	9

- (3) As of January 1 of each year, the total additional annual leave credits, based upon the above schedule, shall be credited to each officer's or employee's annual leave record. During any current year, the officer or employee shall be credited with the one additional annual leave day on the anniversary date of his or her employment with the City.
- (4) A leave of absence without pay or a resignation followed by reinstatement or a reemployment in the City service within one year following such resignation shall not constitute an interruption of continuous service for the purpose of Subsection B this section; provided, however, that leave without pay for more than six months or the period between resignation and reinstatement or reappointment, during which the employee is not in City service, shall not be counted in determining eligibility for additional annual leave credits under this section.
- (5) In the event an officer or employee is separated from service with the City, compensation shall be granted for any and all unused annual leave credits earned up to the last day of employment.
- (6) Officers, and employees may be advanced any unearned, current year annual leave credits, upon written approval of the department head; provided, however, that such officer or employee, who has been granted such advance, returns to his or her City service and completes the current year's service. In the event the officer or employee who has been advanced any annual leave days as provided herein terminates his or her service prior to the end of the current year in which such advance was made, a deduction for any unearned annual leave days which had been advanced to the officer or employee shall be made from the final payment due the officer or employee by the City.

- C. Effective date; provisions retroactive. This section shall take effect immediately, and the annual leave benefits referred to herein shall be applied retroactively with respect to officers and employees who are employed by the City of Binghamton at the time of the passage of this section.

§ 124-18. Sick leave.

- A. Accumulation. Each person in the classified service of the City, except those in the exempt class, shall in case of sickness or disability, except for which workers' compensation is paid, be granted a sick leave with pay not to exceed one day for each month employed in said City service after January 1, 1945. Such sick leave shall be cumulative. Each person in the employ of the City prior to January 1, 1945, shall be credited as of such date with one day of sick leave for each month so employed. Such credit shall not, however, exceed 60 days as of such date.
- B. Crediting and deduction of leave. All sick leave earned shall be credited and all sick leave taken shall be deducted from such employees' accumulated credit at the end of each month.
- C. Procedure; physician's certificate. Sick leave shall be granted only upon application to the department head and, where such sickness is for a period of more than three days or where periods of fewer than three days exceed 12 days in any one year, must be accompanied by a certificate from the attending physician. The department head may, in any other case, require such certificate.
- D. Records. Each department head shall immediately set up as January 1, 1945, and keep and have available at all times, an accurate sick leave record of each such person in his or her department. He or she shall transmit immediately upon completion a copy of such record to the Comptroller and thereafter report to the Comptroller at the end of each payroll period all sick leaves approved by him or her. The Comptroller shall keep and have available at all times a record of the sick leave of each employee of the City as reported to him or her.
- E. Cases covered by Workers' Compensation Law. Sick leave shall not be anticipated nor be permitted in cases covered by the Workers' Compensation Law, except the first seven days thereof may be taken as sick leave, provided the total period of disability does not exceed 35 days. In case of employees working a twenty-four-hour tour of duty, each such twenty-four-hour period taken as sick leave shall be considered two days' sick leave.
- F. Applicability to persons on military leave. All City employees on leave of absence by reason of military service from their positions shall be credited with and receive all sick leave benefits as provided in this section to the same extent as though such employees had been continuously employed during such leave of absence.

§ 124-19. Leave of absence with pay for members of veterans organizations.

- A. Leave authorized. The heads of all City departments are authorized to grant leave of absence with pay to officers and employees of the City who are members in good standing of veterans organizations, to attend their respective conventions and encampments, the leave of absence to include traveling time.
- B. Persons who are members of more than one organization. No officer or employee who may be a member of more than one veterans organization shall be granted leave to attend several conventions, excepting, and only one state and one national convention of such organizations as he or she may elect to attend.
- C. Maximum leave granted. No officer or employee of the City shall be granted more than 14 days' leave of absence with full pay during the current year.

- D. Leave not considered part of vacation. Such leave of absence with full pay during the year shall not be considered as part of any vacation period which the statutes of the state or ordinances of the City may allow.
- E. Proof of membership in organization. Every officer or employee who makes application for leave of absence to attend the state and national conventions of veterans organizations shall be required to submit documentary proof of membership in good standing to the head of the City department, and where the member is a department head, such proof and authorization shall be submitted to the Mayor.
- F. Proof of attendance. All officers and employees shall, upon their return, present proof to the head of the department or, if the member is a head of a department, to the Mayor, by the official certificate, that they were in attendance of such convention or encampment on the dates for which leave of absence was granted.

§ 124-20. Old-age and survivors insurance coverage [Amended 11-20-2018 by Ord. No. 18-106.]

The City of Binghamton does not designate any positions to be covered by Section 218 of the Federal Social Security Act. Covered positions, if any, shall be determined by the State of New York and the Social Security Administration pursuant to a Section 218 Agreement.

§ 124-21. Additional retirement benefit under Retirement and Social Security Law § 75-e. [Added 12-3-1973 by Ord. No. 238-73]

- A. The City Council of the City of Binghamton does hereby elect to grant to eligible City employees, other than police officers or fire fighters, an additional pension for service rendered on or after April 1, 1938, and prior to April 1, 1960, as provided in § 75-e of the Retirement and Social Security Law as presently or hereafter amended.
- B. This election shall become effective January 1, 1974.

§ 124-22. Participation in state employee retirement system.

The City does hereby consent to and approve of the officers and employees of the City becoming members in the New York State Employees' Retirement System, established by Chapter 741 of the Laws of 1920, as amended. The provisions of Chapter 741 of the Laws of 1920, as amended, and of Chapter 591 of the Laws of 1922, so far as the same are applicable to membership of the officers and employees of the City of Binghamton in the New York State Employees' Retirement System, are hereby accepted by and made applicable to the City.

§ 124-23. Noncontributory retirement plan generally.

The City does hereby elect to come under the provisions of Chapter 1006 of the Laws of 1966, as presently or hereafter amended, and entitled, "An Act to Amend the Retirement and Social Security Law in Relation to Establishing Noncontributory Retirement Plans and Ordinary Death Benefits for State Employees and Members of Participating Employers"; and the members' contributions in the employ of the above shall be suspended, and the effective date of such suspension shall be the payroll period beginning the first day of January, 1968.

§ 124-24. Pensions for increased take-home pay.

The City does hereby elect to come under the provisions of Chapter 339 of the Laws of 1960, entitled, "An Act to Amend the Retirement and Social Security Law, in Relation to the Addition of Pensions Providing for Increased Take-Home Pay, Death Benefits and Reopening for a Plan for Retirement at Age Fifty-five," as

thereafter amended, for the purpose of providing death benefits and pensions providing for increased take-home pay, effective January 1, 1961.

§ 124-25. Participation in state employees health insurance plan. [Added 2-14-1984 by Ord. No. 9-84; Deleted 1-6-2017 by Ord. No. 16-105]

§ 124-26. City to pay portion of costs of premiums for continued health insurance for eligible retired employees. [Amended 12-17-1973 by Ord. No. 244-73; 5-7-1984 by Ord. No. 40-84; Deleted 1-6-2017 by Ord. No. 16-105; Amended 6-19-2019 by Ord No. 19-66]

The City of Binghamton will provide continued health insurance coverage for eligible retired employees as follows:

- A. For all eligible retired employees, including non-union officers and employees, and excluding retired employees that were members of the International Brotherhood of Teamsters, AFL-CIO, Blue Collar and Supervisor Units, Local No. 317, the City of Binghamton will pay Seventy (70%) Percent of the premium charged for the plan selected by the retired employee, *i.e.*, Excellus Blue Cross/Blue Shield Classic Blue (available in the calendar year of retirement only); Excellus Blue Cross/Blue Shield-PPO-B; or Excellus Blue Cross/Blue Shield Signature Deductible 3. The retired employee will pay the remaining Thirty (30%) Percent of the premium charged for the selected plan.
- B. For all eligible retired employees that were members of the International Brotherhood of Teamsters, AFL-CIO, Blue Collar and Supervisor Units, Local No. 317, the City of Binghamton will pay Seventy (70%) Percent of the premium charged for the “C-2 Plan,” or if discontinued to a plan with the same cost. The retired employee may select another plan offered to such retired employee and will pay the remaining cost of the premium, regardless of the selected plan.
- C. For all eligible retired employees, including retired members of the International Brotherhood of Teamsters, AFL-CIO, Blue Collar and Supervisor Units, Local No. 317, and the spouses, surviving spouses, and dependents of the retired employees who are Medicare eligible must enroll in the City’s Advantage Plan for Groups or the equivalent replacement policy. The City of Binghamton will pay Seventy (70%) Percent of the premium charged for the Advantage Plan for Groups. The retired employee will pay the remaining Thirty (30%) Percent of the premium charged for the Advantage Plan for Groups.
- D. A surviving spouse of an employee who was eligible for continued health insurance coverage, whether or not that employee has retired, is eligible for continued health insurance as provided above, except the surviving spouse will be responsible to pay One Hundred (100%) of the premium charged to the City of Binghamton.

§ 124-27. Optional retirement for fire fighters.

The City hereby agrees to pay on account of any member of its Fire Department who has duly elected, or shall hereafter duly elect, to contribute the additional amount required for the purpose of retiring after 25 years of service as provided by § 384 of the Retirement and Social Security Law, or any subsequent amendments thereto, the entire additional cost on account of the fire service rendered by such officer or member of the Fire Department prior to the date of December 2, 1957, and further agrees to pay 1/2 of the additional cost on account of fire service rendered by such officer or member of the Fire Department after December 2, 1967.

§ 124-28. Optional retirement for police officers.

The City hereby agrees to pay on account of any member of the Police Department who has duly elected, or shall hereafter elect, to contribute the additional amount required for the purpose of retiring after 25 years of service as provided by § 384 of the Retirement and Social Security Law, or any subsequent amendments thereto, the entire additional cost on account of the police service rendered by such officer or member of the Police Department prior to the date of the adoption of the resolution from which this section derived, and further agrees to pay 1/2 of the additional cost on account of police service rendered by such officer or member of the Police Department after the date of adoption of said resolution.

§ 124-29. Additional statutory retirement benefits. [Added 10-2-1972 by Ord. No. 192-72]

- A. The City Council of the City of Binghamton does hereby elect, as provided in §§ 384-d and 384-e of the Retirement and Social Security Law, to grant twenty-year retirement plan or twenty-five-year retirement plan with 1/60th additional retirement benefits for eligible City of Binghamton police officers and fire fighters.
- B. This election shall become effective on January 1, 1973.

§ 124-30. Noncontributory retirement plan for police officers and fire fighters.

The City does hereby elect to come under the provisions of § 375-b of Article 8 of the Retirement and Social Security Law establishing a noncontributory retirement plan and ordinary death benefits for policemen and firemen and the members' contributions in the employ of the City shall be suspended and the effective date of such suspension shall be the payroll period beginning on the first day of January, 1968.

§ 124-31. Retirement benefit of one-year final average salary for police officers and fire fighters. [Added 11-1-1971 by Ord. No. 224-71]

- A. The City Council of the City of Binghamton does hereby elect, as provided in § 302, Subdivision 9(d), of the Retirement and Social Security Law as presently or hereafter amended, to grant a one-year final average salary for eligible City of Binghamton police officers and fire fighters.
- B. This election shall become effective with the payroll period beginning on the first day of January, 1972.

§ 124-32. Career retirement plan for police officers and fire fighters under state law. [Added 4-17-1984 by Res. Nos. 4-84, 5-84, 6-84]

- A. Career retirement plan. The Council of the City of Binghamton does hereby elect to provide the career retirement plan of § 375-g of the Retirement and Social Security Law as presently or hereafter amended, for employees of participating employers.
- B. Improved career retirement plan. The Council of the City of Binghamton does hereby elect to provide the benefits of § 375-i of the Retirement and Social Security Law as presently or hereafter amended.
- C. Guaranteed retirement benefits. The Council of the City of Binghamton does hereby elect to provide the benefits of § 375-e of the Retirement and Social Security Law as presently or hereafter amended.
- D. Effective date of election. The elections provided for in Subsections A through C shall become effective with the payroll period beginning April 21, 1984.

§ 124-33. Career retirement plan under Retirement and Social Security Law §§ 75-g and 75-i. [Added 9-21-1987 by Res. No. 8-87]

- A. The City does hereby elect to provide the career retirement plan of § 75-g of the Retirement and Social Security Law as presently or hereafter amended, and § 75-i of the Retirement and Social Security Law as presently or hereafter amended.
- B. This election shall become effective on the second day of January, 1988.

§ 124-34. Coverage under Workers' Compensation Law. [Amended 9-4-1973 by Ord. No. 178-73]

- A. The Mayor of the City of Binghamton be and he or she hereby is authorized, empowered and directed to execute the necessary documents to provide workers' compensation insurance coverage for all employees of the City of Binghamton, including police and Police Department employees and elected and appointed officials.
- B. The workers' compensation insurance coverage shall be in accordance with the proposal contained in a letter from the State Insurance Fund dated May 1, 1973, and annexed hereto as Exhibit A
- C. The effective date for the insurance coverage shall be October 1, 1973, for the balance of 1973, with a provision for renewal of coverage for the calendar year 1974. The estimated costs for the insurance coverage for three months of 1973 and for the year 1974 shall be as outlined in estimated premiums furnished by the State Insurance Fund and annexed hereto as Exhibit B.
- D. The provisions of insurance coverage shall be as stated in the same insurance policy, which is annexed hereto as Exhibit C.
- E. Constables of City Court. Constables of the City Court while serving and executing any process or mandate issued out of or in connection with any proceeding in the City Court or while performing such other duties as they are required to perform by law shall be deemed officers of the City within the meaning and intent of this section, and thereby are entitled any and all benefits under the provisions of the Workers' Compensation Law.

§ 124-35. Employee retirement incentive program. [Added 3-7-1991 by Ord. No. 22-91; Amended 6-20-2012 by Ord. No. 43-2012]

- A. The Council of the City of Binghamton hereby authorizes the establishment of an employee retirement incentive program.
- B. Said incentive program shall result in the payment of \$12,500 to be applied to future health insurance premiums upon retirement.
- C. In order to receive this retirement incentive, the employee must comply with the following:
 - 1. Meet all eligibility requirements for retirement as provided by the New York State Retirement System, and must be eligible for City of Binghamton retiree health care benefits.
 - 2. Be on the City health insurance at time of retirement to be eligible for this incentive, and employees cannot opt on and off the health insurance while they are receiving the incentive.
 - 3. This incentive shall apply to eligible employees within the Police Department who complete, *i.e.*, finishes employment with the City, between January 2, 2013 through April 2, 2013 to eligible employees within the Department of Public Works who complete retirement between March 15, 2013 through April 12, 2013, and to all other eligible employees of the City of Binghamton who complete retirement between January 2, 2013 through March 29, 2013.
 - 4. If an employee opts off the City health insurance and they have any remaining incentive, they will lose the remaining incentive.

5. The incentive must be used first, prior to any use of sick time monies, for those who are eligible to use sick time to purchase retiree health insurance.
 6. Eligible employees must currently be employed full time either on a regular full time budget line, a fulltime (benefit eligible) temporary budget line or multiple part time budget lines equivalent to full time.
 7. Eligible employees must submit a signed letter of intent to retire, no later than Wednesday, August 1, 2012, and which said letter, becomes an irrevocable letter of resignation for the purpose of retirement on Friday, August 31, 2012, and thereafter the employee must retire on the specified dates.
 8. Elected officials are not eligible for the incentive benefits.
- D. Any necessary regulations for implementation of this incentive shall be established by the Comptroller and the Director of Personnel.

§ 124-36. Accidental disability benefits for police officers.

- A. Any police officer of the City who is totally disabled from any injury arising out of and in the course of his or her employment, within the meaning and intent of the Workers' Compensation Law, shall be retained upon the Police Department payroll and shall be paid the full amount of his or her regular salary or wages during his or her period of total disability resulting from such injury; but the payment of such wages shall not extend over a period of more than one year, nor beyond the time when such police officer shall obtain from either the state retirement system or the City police pension fund approval of his or her application for accidental disability retirement, whichever shall occur earlier.
- B. The payment of wages to a police officer pursuant to the provisions of this section shall be deemed the payment of compensation to such police officer within the meaning and intent of the Workers' Compensation Law.
- C. In the event that any such injury shall be caused by the negligence or wrong of a third person, and in the event of a recovery by the injured police officer from such third person, such police officer shall repay to the City the amount of all wages paid hereunder and the City shall have a lien on the proceeds of any recovery from such third person, whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees incurred in effecting such recovery to the extent of the total amount of all wages paid hereunder, and to such extent such recovery shall be deemed for the benefit of the City.

§ 124-37. Defense and indemnification of Police Department employees. [Amended 12-19-2005 by Ord. No. 05-87]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CITY -- The City of Binghamton, New York.

CIVIL ACTION -- A Civil action shall mean a civil action or proceeding commenced in a state or federal court and arising out of an employee's alleged act or omission which occurred, or is alleged to have occurred, within the scope of their employment or duties. The term shall include actions commenced pursuant to Title 42, Chapter 21, subchapter 1 of the United States Code. The term shall not include a criminal or quasi-criminal proceeding, a disciplinary proceeding brought against the employee or any other proceeding which may be brought against the employee by the City.

EMPLOYEE -- Any person holding a position by employment with the City of Binghamton Police Department. The term shall include former City employees if the acts or omissions out of which a civil action arises occurred when such a person was employed by the City and shall include a formerly employed's estate or judicial appointed representative. The phrase shall not include independent contractors.

GRAND JURY PROCEEDING -- Grand jury proceeding shall mean a grand jury proceeding in a state or federal court arising out of the on duty use of a weapon by a member of the Binghamton Police Department.

B. Conditions of defense.

- (1) Upon compliance with the provisions of Subsection D of this ordinance the City shall provide for the defense of the employee in any civil action.
- (2) The City shall defend a City employee in any civil action or proceeding before any state or federal court or administrative agency seeking any type of relief, including compensatory or punitive damages, including any award of attorneys' fees, arising out of any act or omission that occurred while the employee was exercising or performing and, as to punitive damages, was properly discharging their powers and duties within the scope of their public employment, as determine by the corporation counsel. This duty to provide for a defense shall not arise where the action or proceeding against the employee is brought by or at the behest of the City itself.
- (3) The corporation counsel shall have the duty to defend or may employ special counsel to defend the employee in any civil action or proceeding unless the corporation counsel determines that an actual conflict of interest exists, in which case the corporation counsel, in cooperation with the duly recognized employee representative organization, shall prepare a list of private attorneys from which the City employee may select private counsel of their choice, except that the corporation counsel may require, notwithstanding the foregoing, that appropriate groups of employees be represented by the same private counsel. The selections of the corporation counsel in preparing such a list shall be made in accordance with standards of professional responsibility and that such counsel has agreed to terms of compensation established by the corporation counsel and to honor all provisions of this ordinance. The corporation counsel may, solely as an exercise of discretion, consider and include on the list an attorney requested by the employee to be defended. If special counsel is employed, the City shall pay reasonable and necessary attorneys' fees at rates established at the time of retainer or of assembly of the list, as well as disbursements and litigation expenses incurred by an employee in their defense. Attorneys' fees, disbursements and litigation expenses shall be submitted by the attorney promptly after the end of each month to the corporation counsel, in the manner and form required by the corporation counsel and shall be reviewed and approved by the corporation counsel prior to payment. Any dispute with respect to representation of multiple employees by a single counsel, the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the Court upon motion or by way of a special proceeding.
- (4) When, in a civil action, the employee delivers process and a written request for defense to the City under Subsection D herein, the City shall take necessary steps on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide a defense.
- (5) The City shall pay reasonable and necessary attorneys' fees at rates approved by the corporation counsel and prevailing in the local legal community along with reasonable and necessary disbursements and legal expenses relative to grand jury proceedings in which an on-duty use of a weapon by a member of the Binghamton Police Department is being investigated and in which a no bill is reported. This payment of reasonable and necessary attorneys' fees and reasonable and necessary disbursements and legal expenses shall be payable only on behalf of the member(s) of the Binghamton Police Department who are the subject of such grand jury proceedings and in relation to which a no-bill is reported by such grand jury. Attorneys' fees, disbursements and related legal expenses shall be submitted by the attorney for an eligible member of the Binghamton Police Department within 30 days after the issuance of the no-bill by the grand jury, to the corporation counsel in the manner and form required by the corporation counsel and shall be reviewed and approved by the corporation counsel prior to payment. Any dispute with respect to the payment of such

attorneys' fees, disbursements or related legal expenses on the reasonableness of such attorneys' fees, disbursements and related legal expenses shall be resolved by the court by way of a special proceeding. The provisions of this subsection (5) shall be restricted to the grand jury proceeding specified herein and shall not be applicable to any other criminal action or proceeding.

- (6) In making the determinations required by this section, the corporation counsel may utilize the cumulative information available at the time the corporation counsel makes the determination, including but not limited to any allegations, any type of records or any examinations or investigations by whomever conducted. With respect to subsection (5), the corporation counsel shall make a determination within 60 days of the return of a no-bill by the grand jury. With respect to subsections (2) and (3) the corporation counsel shall make the determination at or before the time to file or serve any answer in a civil action or proceeding; a determination favorable to the City employee may thereafter be revoked by the corporation counsel, no later than the start of trial, only if the City employee, with respect to any material and relevant acts or omissions, lied or withheld pertinent information in any investigation of the underlying incident upon which the corporation counsel relied in making his original determination and the truth or the previously withheld information causes the corporation counsel to revise the original determination. The corporation counsel's determination, original or revised, shall be in writing and served promptly upon the City employee, and if a determination is adverse to the City employee, it shall state the facts and reasons therefor.
- (7) If, after the City assumes an employee's defense, the employee fails or refuses to cooperate in the formation or presentation of their defense, the City may withdraw its representation upon 10 days written notice to the employee.
- (8) A special proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules shall be the exclusive method by which a City employee aggrieved by a determination of the corporation counsel with regard to defense may seek judicial review of the determination.

C. Indemnification generally.

- (1) Upon compliance with this section, the City shall indemnify and save harmless a City employee in the amount of any judgment obtained against the employee in a state or federal court or administrative agency or in the amount of any settlement of a claim, in the nature of compensatory or punitive damages, including any award of attorneys' fees, provided that the employee's act(s) or omission(s) underlying the judgment or settlement occurred while the employee was exercising or performing and, as to punitive damages, was properly discharging his powers and duties within the scope of his public employment, as determined by the corporation counsel. This duty to indemnify and save harmless shall not arise where a judgment is obtained or a claim settled as a result of an action or proceeding brought by or at the behest of City itself.
- (2) Upon the entry of a judgment against the employee, the employee shall serve a copy of such judgment, personally or by certified mail, within five days of the date of entry upon the corporation counsel.
- (3) The City shall have the exclusive right to appeal any judgment rendered against an employee in which private counsel defended the employee if the City is obligated to indemnify or hold harmless the employee with respect to the judgment. At the direction of the corporation counsel the employee shall appeal any such judgment. An employee who fails to appeal any such judgment or to serve the judgment within the time limits set forth herein shall not be entitled to the benefits provided herein.

D. Conditions of defense and indemnification subject to review.

- (1) The duties to defend or to pay for a defense, indemnify and save harmless shall be further conditioned upon the employee.
 - (a) Delivering to the corporation counsel any notice, summons, complaint or any other legal process within 10 days after the employee is served with such document;
 - (b) Fully cooperating in the defense of the civil action or proceeding, and in the defense of any other civil action that may be commenced against the City arising out of the same or related occurrences, and in the prosecution of any appeals, or related proceedings, arising therefrom;
 - (c) Providing the corporation counsel with the full and truthful response to any and all City investigations into the incident(s) and transactions upon which the action or proceeding is predicated.
 - (2) The duties to pay for or to provide a defense and to indemnify and save harmless a compensated City employee serving ex officio or as a designated City representative on a non-city board, commission or committee shall be secondary and supplemental to any obligation to defend and indemnify and any liability insurance provided the City employee by the non-city entity on which the City employee serves.
- E. Applicability of provisions. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights or obligation of any other party.
- F. Provisions not to alter or limit other rights to defense; exception. This section shall not in any way impair any powers of the corporation counsel granted by the City Charter, or any other law, revised general ordinances of the City of Binghamton, ordinance, rule or regulation. The corporation counsel shall have complete charge of the defense in any civil action or proceeding and shall have sole authority to defend or settle, subject to the approval of the Mayor, any action or proceeding or to take, not take or withdraw any appeal in the manner the corporation counsel deems appropriate. This section shall not be construed in any way to impair, alter, limit, modify, or abrogate or restrict any immunity available to or conferred upon any employee, or any right to defense and/or indemnification provided for any employee by, in accordance with, or by reason of, any other provision of state, federal or common law.
- G. Application to civil actions, etc. Notwithstanding any other provision of this section hereof, this section shall have no application to any civil actions, grand jury proceedings or administrative proceedings which were completed either through judgment, settlement or dismissal on any grounds prior to the effective date of this ordinance and such civil actions, grand jury proceedings or administrative proceedings shall be governed by the terms of this ordinance, where applicable.
- H. Effective dates. This ordinance shall take effect immediately upon becoming law and will be applicable to any claims currently pending.

§ 124-38. Continued pay and benefits for active military personnel. [Added 10-15-2001 by Ord. No. 01-127; Amended 5-17-2004 by Ord. No. 04-56; Amended 3-16-09 by Ord. No. 09-10; Amended 5-7-2014 by Ord. No. 14-21; Amended 6-9-2018 by Ord. No. 18-50]

- A. That the Council of the City of Binghamton authorizes payment to city employees who are required to report for active duty pursuant to a United States Code Title 10 "Mobilization" (as defined in section C below) for an OCONUS (Outside Continental United States) tour or CONUS (Continental United States) tour for homeland security as a reservist or members of the National Guard the

difference between their military pay and their city pay during such mobilization. This section does not apply to voluntary service or training.

- B. The Council also authorizes the provision of health insurance benefits, if not provided by the United States Military, during such mobilization and for a period up to six months after demobilization from said active duty. The employee will contribute to the cost of such health insurance in the same amount as if the employee was working for the City.
- C. "Mobilization" shall include required training and any accrued leave time associated with such mobilization, as defined by United States Code Title 10.
- D. All requests for benefits under this section will be submitted in writing to the Director of Personnel and Safety and the Bureau or Department Head within five (5) business days of the employee's receipt of the Order or notice for mobilization. The written notice to the Director of Personnel and Safety and the Bureau or Department Head will include a copy of the Order or notice requiring mobilization and the anticipated dates of mobilization. The final determination regarding eligibility under this section will be made by the Director of Personnel and Safety.
- E. This Ordinance shall automatically expire on May 30, 2023.

ARTICLE VIII, Officers and Employees Not Covered by Collective Bargaining Agreements
[Added 6-6-1983 by Ord. No. 86-83]

§ 124-39. Definition. [Amended 12-16-1985 by Ord. No. 174-85; 5-1-1989 by Ord. No. 49-89; 2-20-1996 by Ord. No. 18-96; 12-20-1999 by Ord. No. 99-187; Amended 6-20-2005 by Ord. No. 05-40; Amended 4-7-08 by Ord. No. 16-2008; Amended 8-18-10 by Ord. No. 10-39; Amended 11-22-2013 by No. Ord. 13-87; Amended 12-17-2014 by Ord. No. 14-71; Amended 1-6-2017 by Ord. No. 16-105; Amended 12-5-2018 by Ord. No. 18-116; Amended 1-8-2020 by Ord. No. 20-04]

Wherever the term "officers and employees" is used in this article, said term shall be deemed to include only the positions set forth in sections 1 and 2 below or their equivalents, except where specified to the contrary. Should any of the below enumerated positions become part of a collective negotiation unit, said position shall be deleted from this section. The provisions of this article shall be applicable to the officers and employees to the extent allowable under law.

- 1. The positions (elected and management appointed) to be included in this Section 1 are designated as follows:
 - A. 1st Assistant Corporation Counsel
 - B. 1st Deputy Commissioner
 - C. Assessor
 - D. Assistant Corporation Counsel (2)
 - E. City Clerk
 - F. City Engineer
 - G. Comptroller
 - H. Commissioner of Parks
 - I. Corporation Counsel
 - J. Deputy City Clerk
 - K. Director of Economic Development
 - L. Director of Planning, Housing and Community Development
 - M. Commissioner of Public Works

- N. Executive Assistant to the Mayor
- O. Mayor
- P. Personnel & Safety Director
- Q. Secretary to Corporation Counsel
- R. Secretary to the Mayor
- S. City Treasurer

Salary increases for officers and employees listed in this Section 1, except for the Mayor, are pursuant to §124-40, *Salary Increases*, below

Salary increases for the Mayor are pursuant to §92-12, *Salary established annually*.

- 2. The positions (management tested) to be included in this Section 2 are designated as follows:
 - A. Administrative Assistant (6)
 - B. Assistant Director of Economic Development
 - C. Assistant Director of Parks & Recreation
 - D. Assistant Police Chief (2)
 - E. Assistant Director of Planning, Housing & Community Development
 - F. Economic Development Specialist Financial Analyst
 - G. Fire Chief
 - H. Legal Typist
 - I. Payroll Supervisor
 - J. Police Chief
 - K. Program Assistant (confidential)
 - L. Purchasing Agent
 - M. Risk Assistant/Paralegal
 - N. Staff Accountant
 - O. Superintendent of City Streets
 - P. Supervisor of Building, Inspection & Construction
 - Q. Water and Sewer Superintendent
 - R. Assistant Director of Personnel & Safety
 - S. Assistant City Engineer
 - T. Assistant Comptroller
 - U. Financial Payroll Specialist
 - V. Information Technology Manager
 - W. Assistant to the Mayor for Youth and Neighborhood Affairs
 - X. Project Analyst
 - Y. Manager/HUD Administration and Housing
 - Z. Payroll Assistant
 - AA. Assistant Purchasing Agent
 - BB. Assistant Supervisor of Building Construction & Code Enforcement
 - CC. Administrative Assistant (from the Bureau of Police, 2020 salary-\$42,000)

Salary increases for officers and employees listed in this Section 2, except the Police Chief, Fire Chief, and Assistant Police Chiefs, are pursuant to Permanent Ordinance No. 05-40, to wit: (i) That the Mayor is authorized to provide annual salary increases to positions contained in this in Section 2 on parity with those received by represented CSEA employees; (ii) In no year shall the annual salary increase provided for in this Section 2 be paid out until a collective bargaining agreement has been fully executed by and between the City of Binghamton and the CSEA for that year; and (iii) No retroactive payment shall be issued to the positions listed in this Section 2 until after or contemporaneous with the date upon which retroactive payments are issued to the members of the CSEA.

Salary increases for the Police Chief, Fire Chief, and Assistant Police Chiefs are pursuant to § 124-40, *Salary increases*, below.

§ 124-39. A, Standard work day [Added 12-7-2011 by Ord. No. 11-47; Amended 11-20-2013 by No. Ord. 13-87; Amended 1-6-2017 by Ord. No. 16-105; Amended 1-8-2020 by No. Ord. 20-04]

The standard work day for “officers and employees” as defined in §124-39 above, is seven (7) hours per day, not including one (1) hour for lunch, five days per week; except the standard work day for the following positions is eight (8) hours per day, not including one (1) hour for lunch, five days per week: Commissioner of Public Works, City Engineer, 1st Deputy DPW Commissioner, Supervisor of Building, Inspection & Construction, Administrative Assistant (to Commissioner of Public Works), Fire Chief, Police Chief, Assistant Police Chief(s), Superintendent of City Streets, and Comptroller, Assistant Comptroller, Staff Accountant, Assessor, Information Technology Manager, City Treasurer, Commissioner of Parks, Assistant Director of Personnel & Safety, Assistant City Engineer, Assistant to the Mayor for Youth and Neighborhood Affairs, Administrative Assistant (from the Bureau of Police, 2020 salary-\$42,000). (See Permanent Resolution 11-19, adopted March 19, 2011; Permanent Resolution 13-87, Adopted November 20, 2013; Permanent Ordinance 16-105, Adopted December 21, 2016; Permanent Ordinance 18-91, Adopted October 17, 2018; Permanent Ordinance 20-04 Adopted January 8, 2020)

§ 124-40. Salary increases. [Amended 12-21-1992 by Ord. No. 92-122; Amended 4-7-08 by Ord. No. 16-2008; Amended 8-18-10 by Ord. No. 10-39]

- A. Officers and employees, other than elected officials, may be awarded annual salary increases from an annual salary increase pool, The annual salary increase pool shall be the current annual salary of eligible officers and employees multiplied by the average rate increase received by the City’s collective bargaining units for that year; provided, however, that any settlement imposed by an arbitration panel shall not be included in the average. If less than three bargaining units are settled in a particular year, then the annual salary increase pool shall be the current annual salary of eligible officers and employees multiplied by the average New York consumer price index as determined by the U.S. Department of Labor for the preceding twelve (12) month average as of October 1. When at least three bargaining units are settled thereafter, the annual salary increase pool will be adjusted accordingly. Only current or retired officers and employees will be eligible for retroactive pay adjustments. The City Council of the City of Binghamton may provide, by ordinance, for a rate increase in excess of that provided for above, for any position listed in § 124-39. This section does not include officers and employees covered under Permanent Ordinance No. 05-40. An increase in salary will not increase longevity pay, if any. This section is effective immediately.
- B. Except as provided in Subsection C below, using the average annual salary increase received by all the City's collective bargaining units, the administration, the Mayor, and his or her administrative staff may provide any amount of increase to eligible officers and employees based either on cost of living and/or merit or a combination of the two so long as the maximum amount of annual salary increases does not exceed the pool so established herein.
- C. Increases for City Clerk and Assistant City Clerk. [Added 6-20-2005 by Ord. No. 05-38]
 - (1) The Common Council shall determine whether the City Clerk and/or the Assistant City Clerk should receive an annual salary increase and the amount of said increases if any are provided for.
 - (2) It shall be the responsibility of the Employees Committee of the Common Council to forward to the Council as a whole its recommendation as to whether there should be an increase in the salary of either the City Clerk or the Assistant City Clerk, along with the

percentage of any increase for the next fiscal year, by the first work session of August in the preceding fiscal year.

- (3) The recommendation of the Employees Committee may or may not be adopted by the Common Council by a majority vote of its members for a resolution stating the percentage of any increases for either position at a regularly scheduled meeting no later than the first regularly scheduled meeting in September.
- (4) If such a resolution is adopted, a copy of the resolution shall be forwarded to the Mayor of the City of Binghamton for his or her consideration in the preparation of the proposed budget for the next fiscal year.

D. In accordance with any annual salary increase provided to any officer and employee, the department supervisor shall advise said employee or officer of that portion which is deemed cost of living versus that portion which is deemed a merit increase based on the prior year's job performance. In addition, supervising personnel should provide annual evaluations of job performance to each and every officer and employee eligible pursuant to this section.

E. Longevity. Beginning with the first pay period in 2009, the City will include longevity pay in the "regular rate of pay." Longevity will be calculated as of the anniversary date of employment. The City will use the following longevity payment amounts:

15-20 years of service	\$500
21-25 years of service	\$750
26-29 years of service	\$1,000
30+ years of service	\$1,250

F. Compensation for Assistant Police Chiefs (up to two positions). Effective July 10, 2010, Assistant Police Chiefs are officers and employees not covered by a collective bargaining agreement and will receive salary and benefits as follows:

- (1) Base salary of \$74,635 and "other compensation" consistent with General Municipal Law § 207-m, as may be amended from time to time.
- (2) Increases to base salary and "other compensation" consistent with General Municipal Law § 207-m, as may be amended from time to time; to wit as of July 10, 2010, the Assistant Police Chiefs will receive at least the same dollar amount increase in base salary and increases in "other compensation" as a permanent full-time police officer who is a member of a negotiating unit and who is the highest ranking subordinate to the Assistant Police Chiefs, *i.e.*, a Captain, in such unit. The Assistant Chiefs will be eligible for overtime as may be directed by the Commissioner of Public Safety (the Mayor) or the Police Chief.

G. Compensation for the Police Chief. Effective January 1, 2006, the Police Chief will receive salary and benefits as follows:

- (1) Base salary of \$85,715 and "other compensation" as provided in General Municipal Law § 207-m, as may be amended from time to time.
- (2) Increases to base salary and "other compensation" as provided in General Municipal Law § 207-m, as may be amended from time to time; except as of July 10, 2010, the Police Chief will receive at least the same dollar amount increase in base salary increase as an Assistant Police Chief would have received if an Assistant Police Chief received the same percentage increase as a permanent full-time police officer who is a member of a negotiating unit and who is the highest ranking subordinate to the Assistant Chief, *i.e.*, a Captain, in such unit.

H. Compensation for the Fire Chief. Effective January 1, 2006, the Fire Chief will receive the salary and benefits as follows:

- (1) Base salary of \$85,715 and “other compensation” as provided in General Municipal Law § 207-m, as may be amended from time to time.
- (2) Same base salary increases as the Police Chief as provided in paragraph G above. The Fire Chiefs “other compensation” consistent with General Municipal Law § 207-m based on the same benefits and obligations as a permanent full-time firefighter who is a member of a negotiating unit and who is the highest ranking subordinate to the Fire Chief, *i.e.*, an Assistant Chief. Notwithstanding the foregoing, if the negotiating unit in the Police Bureau does not have a contract for more than one calendar year, the Fire Chief will receive a two (2%) percent increase in base salary per year pending settlement of the collecting bargaining agreement with the negotiating unit in the Police Bureau, at which time there will be a reconciliation and the Fire Chief will be paid the additional amount due and owing or will refund any overpayment to the City.

I. Intermunicipal agreements to share costs and services. Notwithstanding any provision herein, the City may contract to share costs and services with other municipalities or other public entities as may be permitted under the General Municipal Law. Such intermunicipal agreements may include certain positions, including Police Chief, Assistant Police Chiefs, and Fire Chief. Any additional compensation paid to any officer or employee under an intermunicipal agreement will not be included in any of the interrelated calculations in paragraphs F, G, and H above.

§ 124-41. Annual leave credits [Amended 11-20-2013, by No. O13-87].

Officers and employees shall receive annual leave credits as provided for in § 124-17 of the Code of the City of Binghamton, except that an employee shall carry over up to ten (10) days unused leave credits to the next calendar year, and with written consent of the Mayor, may carry over up to an additional five (5) days unused leave credit to the next calendar year.

§ 124-42. Personal leave.

Officers and employees shall receive five personal leave days per year, to be used whenever needed. Personal leave shall not be cumulative and shall be used within the calendar year.

§ 124-43. Advancement of leave time. [Added 9-17-1990 by Ord. No. 96-90]

Officers and employees not covered by collective bargaining agreement shall be authorized to advance leave time of up to 30 days for unforeseen major illness requiring surgery and/or hospitalization. Such leave time shall be repaid from subsequent accruals of leave time within three years, at 10 days per year or a prorated amount based upon the total number of days advanced. Should the employee terminate employment prior to repaying the leave time, the final pay of said employee shall be adjusted accordingly and a repayment shall be made to the City. Final rules and regulations of this leave plan shall be promulgated by the Comptroller of the City of Binghamton in order to ensure uniform application of the plan.

§ 124-44. Health insurance and disability benefits. [Amended 2-20-1996 by Ord. No. 18-96; 11-21-2002 by Ord. No. 02-133; Amended 12-17-07 by Ord. No. 07-58; Amended 4-7-08 by Ord. No. 08-16; Amended 12-1-08 by Ord. No. 08-40; Amended 2-3-10 by Ord. No. 10-8; Amended 3-17-10 by Ord. No. 10-11; Amended 12-7-2011 by Ord. No. 11-46; Amended 11-6-2013 by Ord. No. 13-81; Amended 1-6-2017 by Ord. No. 16-105; Amended 12-06-2017 by Ord. No. 17-82; Amended 11-20-2018 by Ord. No. 18-105; Amended 12-5-2018 by Ord. No. 18-118; Amended 11-6-2019 by Ord. No. 19-117]

A. Payment schedule for health insurance premiums.

- (1) The Comptroller of the City of Binghamton, as directed by the Mayor, may pay up to the following percentage of the cost of the health insurance premiums for non-union-represented officers and employees (as defined in § 124-39):

Traditional Plan	PPO	High Deductible	Fiscal Year
84%	85%	n/a	2014
84%	85%	n/a	2015
83%	85%	n/a	2016
83%	85%	85%	2017
83%	84%	85%	2018
82%	83%	85%	2019
81%	82%	84%	2020

- (2) The Comptroller of the City of Binghamton, as directed by the Mayor, may pay up to 85% of the cost of health insurance premiums for the Blue Cross/Blue Shield—PPO-B Plan for all non-union-represented officers and employees hired after February 3, 2010. In the event the Blue Cross/Blue Shield—PPO-B Plan is discontinued, this section shall apply to the equivalent replacement policy.
 - (3) In order to qualify for continued health insurance coverage at time of retirement from the City, all non-union represented officers and employees must have ten (10) years of full time service with the City; provided however, any officer or employee hired on or after January 1, 2009, must have twenty (20) years of full time service with the City before and/or after January 1, 2009. For purposes of determining eligibility, an officer or employee who was employed by the City prior to January 1, 2009, with a break in service of more than one year, will be considered to be “hired” as of the re-hire date. All elected officials must have been elected to two consecutive terms in the City and have twenty (20) years of service credit recognized by the New York State and Local Retirement System. All non-union-represented elected officials, officers, and employees shall make the required contribution toward health insurance premiums in accordance with Section 1 above and Section 4 below.
 - (4) The Mayor of the City of Binghamton shall be required to contribute to the cost of his or her health insurance in an amount to the highest contribution then being made by City bargaining unit employees for the same insurance.
 - (5) Part-time employees who are scheduled to work at least 25 hours per week for the full calendar year may enroll in the City’s Blue Cross/Blue Shield—PPO-B Plan for health insurance, provided the employees pays 50% of the premiums. In the event the Blue Cross/Blue Shield—PPO-B Plan is discontinued; this section shall apply to the equivalent replacement policy
- B. The City shall provide a buy-out option of the City-provided health insurance to the active officers/employees as defined in § 124-39. Final rules and regulations of this buy-out option shall be promulgated by the Comptroller of the City of Binghamton in order to ensure uniform application of the plan.
- C. The City will provide long-term disability insurance for active officers and employees as defined in § 124-39.
- D. If an active City employee dies, then in addition to any other state, federal, or contractual rights the employee’s surviving spouse or dependants may have, the City of Binghamton agrees to pay the same percentage of health insurance premiums under COBRA that the City was paying for the employee’s health insurance for the first three months and to pay fifty percent (50%) of the health insurance premiums under COBRA for the next three months.

§ 124-45. Separation benefits. [Added 12-16-1985 by Ord. No. 174-85; Amended 4-7-08 by Ord. No. 16-2008; Amended 12-4-2013 by Ord. 13-94]

- A. Employees who have 10 years of service within the City of Binghamton shall be credited on January 1 with their entire annual leave entitlement and shall not be required to earn same throughout the year.
- B. Officers and employees with at least ten (10) years of continuous service with the City of Binghamton will be entitled to a payment equivalent to two-thirds (2/3) of accumulated and unused sick leave up to a maximum of one hundred and fifty (150) days (e.g. an employee with 150 accumulated sick days would be entitled to receive a payment equivalent to 100 days). A Mayor who serves two consecutive four year terms with the City of Binghamton will be entitled to a payment equivalent to one-half (1/2) of accumulated and unused sick leave up to a maximum of seventy-six (76) days (e.g. a Mayor with 76 accumulated sick days would be entitled to receive a payment equivalent of 38 days).

§ 124-46. Sick leave.

Officers and employees shall continue to accumulate sick leave, pursuant to § 124-18 of this chapter.

§ 124-46.1 Parking.

Employees with an annual base salary of less than \$30,000 will be eligible for parking at the State Street Parking Ramp at \$15 per month.

ARTICLE IX, Grievance Procedure

§ 124-47. Definitions.

As used in this article, the following terms shall have the following meanings:

DAYS -- All days other than Saturdays, Sundays and legal holidays. Saturdays, Sundays and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given within the terms of this article.

DEPARTMENT -- Any office, department, board, commission or other agency of the government of the City.

EMPLOYEE -- Any person directly employed and compensated by the City, except persons employed in the legislative or judicial branch thereof.

GRIEVANCE -- Any claimed violation, misinterpretation or inequitable application of the existing laws, rules, procedures, regulations, administrative orders or work rules of the City or a department thereof, which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees, or supervision of employees; provided, however, that such term shall not include any matter involving an employee's rate of compensation, retirement benefits, disciplinary proceeding or any other matter which is otherwise reviewable pursuant to law or any rule or regulation having the force and effect of law.

SUPERVISOR -- An employee or officer on a higher level of authority above the employee in the department wherein the grievance exists and who assigns and supervises the employee's work and approves his or her time record or evaluates his or her work performance.

§ 124-48. Right to present grievance; representation.

Every employee of the City shall have the right to present his or her grievance in accordance with the procedures provided herein, free from interference, coercion, restraint, discrimination or reprisal, and shall have the right to be represented by a person of his or her own choosing at all stages of the grievance procedure.

§ 124-49. Initial presentation of grievance.

- A. Presentation to department head. An employee who claims to have a grievance shall present his or her grievance to the head of his or her department, orally, within two days after the grievance occurs.

- B. Discussion, investigation of grievance. The department head shall discuss the grievance with the employee, shall make such investigation as he or she deems appropriate and shall consult with his or her superiors to such extent as he or she deems appropriate, all on an informal basis.
- C. Decision of department head. Within three days after presentation of the grievance to him or her, the department head shall make his or her decision and communicate the same to the employee presenting the grievance, and to the employee's representative, if any.

§ 124-50. Grievance Board.

- A. Established; function. A Grievance Board consisting of three members is hereby established to hear appeals from decisions of department heads on grievances.
- B. Appointment of members. The members of this Board shall be appointed by the Mayor to serve at the pleasure of the Mayor.
- C. Conduct of hearings. A hearing on any matter before the Grievance Board may be conducted by any one or more members of the Board, designated by the Board to act on its behalf; provided, however, that if less than the full Board presides at such a hearing, the member or members thereof conducting such hearing shall render a report thereon to the full Board and the full Board shall thereupon make its report.
- D. Vote necessary to determine official report, action. Two concurring votes shall be necessary to determine any official report or action of the Grievance Board.
- E. Funds, supplies, etc. Necessary funds, supplies, facilities and personnel to implement the operation of the Grievance Board shall be provided by the City Council.
- F. Rules, regulations. The Grievance Board may make and amend rules and regulations for the conduct of its proceedings not inconsistent with the provisions of this article. A complete and up-to-date set of such rules and amendments shall be kept on file in the City Clerk's office.

§ 124-51. Appeals to Grievance Board.

- A. Procedural requirements. An employee may appeal from the decision of the department head within 15 days after notice of such decision. The appeal shall be taken by submitting to the Grievance Board a written statement signed by the employee taking the appeal, containing:
 - (1) The name, residence address, and department of employment of the employee presenting the grievance.
 - (2) The name, residence address, and department of employment of each other employee or official involved in the grievance.
 - (3) The name and address of the employee's representative, if any, and his or her department of employment if he or she be a fellow employee.
 - (4) A concise statement of the nature of the grievance, the facts relating to it, and the proceedings and decisions on the grievance up to the time of the appeal.
 - (5) A request for a review of the decision of the department head.
- B. Statement of facts. The Grievance Board may request the department head to submit a written statement of facts, including a summary of the record of the hearing, if there was a hearing, and the original or a true copy of any other record or document used by the department head in making his or her decision. Such written statement shall be submitted within three days after request by the Grievance Board.

- C. Hearing to be held; notice thereof. The Grievance Board shall hold a hearing within 10 days after receiving the written request for review. It shall give at least three days' notice of the time and place of such hearing to the employee, the employee's representative, if any, and the department head, all of whom shall be entitled to be present at the hearing. The hearing on the appeal may be held in public or in private as determined by the Grievance Board.
- D. Introduction of new evidence, testimony, etc. New evidence, testimony or arguments, as well as any documents, exhibits or other information submitted to the department head at the hearing held by him or her may be introduced at the hearing by the employee, by the department head or upon the request of the Grievance Board.
- E. Adjournment of hearing. The hearing may be adjourned from time to time by the Grievance Board if in its judgment such adjournment is necessary in order to obtain material evidence. The total of all such adjournments, however, shall not exceed 10 days, except that adjournments consented to by both the employee and the department head shall not be counted in determining the total days of adjournments as herein limited.
- F. Formal rules of evidence. The Grievance Board shall not be bound by formal rules of evidence.
- G. Written summary of hearings. A written summary shall be kept of each hearing held by the Grievance Board.
- H. Reports of Board. The Grievance Board shall make its report in writing within five days after the close of the hearing. It shall immediately file its report and the written summary of the proceedings with the City Clerk and shall at the same time send a copy of its report to the employee, the employee's representative, if any, the department head, the Mayor, and the local civil service commission if appropriate. The report shall include a statement of the Board's findings of fact, conclusions and advisory recommendations. The report of the Grievance Board shall be final.

ARTICLE X, Affirmative Action [Added 1-21-1985 by Ord. No. 9-1985]

§ 124-52. "Protected class members" defined. [Amended 3-17-10 by Local Law 1-2010]

The term "protected class member(s)" when used in this article shall include and be limited to: African Americans, Hispanics, Asian or Pacific Islanders, American Indians or Alaskan Natives, Vietnam-era veterans, disabled veterans, older Americans, the disabled, and women seeking nontraditional employment.

§ 124-53. Policy.

The policy of the City of Binghamton is to provide fair and equal employment opportunities for both employees and applicants for employment on the basis of individual merit and fitness as ascertained through fair and practical methods of selection and promotion without regard to race, color, creed, national origin, religion, marital status, sex, age or physical handicap or other non-merit-related factors. Through the application of sound management techniques and the use of merit principles, the City shall utilize available statistical data which reflects job market conditions, population conditions and the availability of persons possessing requisite skills within the Binghamton area in order to strive for the alleviation of disparity in the employment of minorities and protected class members in the Binghamton municipal government work force. It shall be the goal of the City of Binghamton to increase minority representation in City employment to 5% of the total work force.

§ 124-54. Objectives.

The City of Binghamton is fully committed to a policy of fairness and equity for all present and prospective employees and affirms that the City shall provide every person the opportunity to achieve maximum potential

as an employee and, if applicable, as a protected class member. To accomplish this objective, the City of Binghamton shall affirmatively attempt to:

- A. Encourage and assist all persons without regard to race, color, creed, national origin, religion, marital status, sex, age or physical handicap to qualify for employment and promotion solely on the basis of merit and fitness; and
- B. Redress imbalances in representation or under-utilization in classifications with disproportionate numbers of one sex or race which are caused by artificial barriers of attitude or custom; and
- C. Achieve the goal of full participation of minorities in all levels of municipal employment which might reasonably be expected in proportion to the number of such persons in the area work force utilizing merit and fitness for appointment as required by the Constitution and laws of New York; and
- D. Obtain compliance with both the spirit and letter of the law guaranteeing equal opportunity and freedom from discrimination in any terms or conditions of employment; and
- E. Establish and maintain within the workplace professional relationships free from reference to race, color, creed, national origin, religion, marital status, sex, age or physical handicap at all levels of City employment.

§ 124-55. Adoption and review of affirmative action plan.

- A. Pursuant to the authority of the Mayor as the appointing officer and chief executive officer of the City of Binghamton, the Mayor is hereby authorized, empowered and directed to promulgate, establish, implement and enforce rules and regulations designed to effectuate the policies and objectives of the City of Binghamton for equal employment opportunity. Said rules and regulations shall be known as the "Affirmative Action Plan." Said plan shall be consistent with and in accordance with the policy and objective established in this article.
- B. Said affirmative action plan shall be promulgated and be put into effect within 60 days of the effective date of this article (January 21, 1985). A copy of said affirmative action plan shall be filed with the City Clerk and shall be so noted in the minutes of the regular meeting of this Council held subsequent to such filing.
- C. The Council reserves the right to review said affirmative action plan when submitted and return to the Mayor for redrafting any parts of the plan which are found by the Council as a whole to be inconsistent with the policy and objectives established herein.

Part 4, Compensation of Appointed Officers and Employees [Adopted 10-5-1970 (Sub-Part XXII of the 1970 Code)]

ARTICLE XI, Increases

§ 124-56. Increase authorized.

The Council of the City of Binghamton shall have the power and authority to increase the salary or compensation of any appointed City officers or employees at any time during any fiscal year of the City, either before or after the appointment of any such appointed City officers or employees and whether or not such salary or compensation shall previously have been fixed or provided for in the budget of said City for said fiscal year. Any such increase which the Council of the City of Binghamton may make after the adoption of the budget for any fiscal year of the City and which shall become effective during said fiscal year may be paid from any available funds or accounts.

§ 124-57. Effect on state law.

This Part 4 shall supersede the provisions of § 25 of the General City Law and shall also supersede § 74 of the Second Class Cities Law to the extent that said sections are inconsistent with this Part 4.

Part 5, Reimbursement of Fees and Expenses

ARTICLE XII, Travel Expense Payments [Adopted 10-5-1970 (Sub-Part XXVII of the 1970 Code)]

§ 124-58. Authorization to advance payments; limitation on amount.

The Comptroller and City Treasurer of the City of Binghamton are authorized and empowered to make advance lump sum travel expense payments to any City officer or City employee to finance trips by such officer or City employee outside the City of Binghamton. No lump sum travel expense payment to any City officer or City employee for any one trip outside the City of Binghamton shall exceed the sum of \$500. As used herein the term "trips" shall mean and include travel on City business and attendance at any convention, conference or school authorized by § 77-b of the General Municipal Law.

§ 124-59. Written authorization required; exception.

No lump sum travel expense payment shall be made unless prior written authorization therefor shall be given by the Mayor of the City of Binghamton and by the department head exercising supervision over the City officer or City employee to receive such payment. This section shall not apply to the City Council.

§ 124-60. Statement of expenses.

Within five days after any City officer or City employee receiving such a lump sum payment shall have returned to the City following completion of his or her trip or within 30 days after the payment of the advance to the City officer or City employee, whichever shall occur first, such City officer or City employee shall file with the City Comptroller a written statement setting forth in detail any and all actual and necessary expenses of travel, meals, lodging and registration or tuition fees, if any, and such City officer or City employee shall immediately refund to the City the difference, if any, between the advance lump sum payment and the actual and necessary travel expenses of such City officer or City employee.

ARTICLE XIII, Attorney Registration Fee [Adopted 12-18-1989 by L.L. No. 2-1990 (Sub-Part LXXI of the 1970 Code)]

§ 124-61. Comptroller authorized to make payment.

The Comptroller of the City of Binghamton is authorized to pay the biennial attorney registration fee required by § 468-A of the New York State Judiciary Law for all attorneys who serve as employees of the City of Binghamton.

Chapter 127, PROCUREMENT POLICY

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Supersession of Statute [Adopted 5-19-1980 by L.L. No. 4-1980 (Sub-Part XLVIII of the 1970 Code)]

§ 127-1. State law superseded.

Those parts of § 120 of the Second Class Cities Law which are inconsistent with § 103 of the General Municipal Law are hereby superseded and as superseded are abolished.

ARTICLE II, Policies and Procedures [Adopted 9-21-1992 by Ord. No. 85-92 (Ch. 2, §§ 2-247 through 2-256, of the 1970 Code); amended in its entirety 4-17-1995 by Ord. No. 95-121]

§ 127-2. Basic guidelines for quoting.

Basic guidelines for quoting are as follows:

A. All purchases of commodities:

<u>Amount of Purchase</u>	<u>Payment Method/Quote Required</u>
Up to \$50	Petty cash
Over \$50 to \$1,000	Discretion of the purchasing agent
Over \$1,000 to \$5,000	Telephone quote: 3 vendor minimum if available, approval by purchasing agent
Over \$5,000 to \$9,999	Written/fax quote: 3 vendor minimum if available and approval of Board of Contract and Supply
\$10,000 and over	Formal bid

B. All public works contracts:

<u>Amount of Purchase</u>	<u>Payment Method/Quote Required</u>
Up to \$5,000	The recommendation of the using department and approval of the purchasing agent, after 3 telephone proposals if available
Over \$5,000 to \$19,999	Written/fax quote: 3 vendor minimum if available and approval of Board of Contract and Supply

§ 127-3. Determination of process to be used.

In determining which process is to be used (bid or quote), purchases shall be evaluated to determine cumulative dollar amounts expected in a given fiscal year. When necessary, canvassing of using departments will determine the annual value of the commodity. Past history can be taken into consideration when evaluating annual commodity costs. If the bid limit is expected to be exceeded, bidding shall take place. This decision shall rest with the purchasing agent. All quotes shall be sequentially numbered and the document filed in the City Purchasing Department. The quote number shall be reflected on the purchase document. If there are several comparable but separate purchases for the same or various locations in a reasonable and foreseeable time frame and the expected cumulative total is \$3,000 or more, there must be a written quote. Comparable purchases generally mean purchases that could be accomplished by one vendor.

§ 127-4. Methods of procurement not covered by bidding.

Most purchases that fall in the stated dollar categories will be quoted by means of telephone quotes, written/fax quotes or requests for proposals. Due to past history or general knowledge, some purchases may be placed directly since the dollars saved will not offset the time expended to quote.

§ 127-5. Documentation.

All quotes (written or telephone) shall be documented on existing purchasing quote forms and sequentially filed in the respective year's files. All purchases resulting from the same quote shall have a quote number referenced on the purchase order or voucher to create an audit trail. All awards from quotes shall be made to the lowest responsible and responsive bidder if possible. In no event shall purchase orders, contracts or other forms of obligations be enacted without certification from the chief fiscal officer that funds are available for that purpose.

§ 127-6. Exceptions to lowest price (award).

- A. From time to time procurement may be made by other than the lowest price quoted if, in the opinion of the department head, purchasing agent and Comptroller, the best interests of the City would be served. The reasons could be unusual delivery requirements, minimum quantities, location of vendor, commodity not available in a timely manner, a product with known defects being offered, incompatibility of a part to existing machinery, unfamiliarity with the facility or machinery, electrical or plumbing requirements, unique skills required, etc. In all such cases, the purchase records will document the reasons.
- B. If the required number of quotes set forth in § 127-2A and B are not available, the purchasing agent or the Board of Contract and Supply will provide written documentation of attempts to obtain said quotes. Such information will be included in the Board of Contract and Supply minutes, where applicable.

§ 127-7. Exceptions to City bidding.

- A. Where emergency conditions exist which could or would result in personal injury, loss of property or affect public or employee health, the Board of Contract and Supply may waive the above requirements with written cause; provided, however, that prudent actions be taken to secure the least total cost method of completing the project, consistent with the nature of the emergency.
- B. Cooperatively bid or intermunicipal cooperation agreements with Broome County, the City school district, New York State or other municipal corporations where the City participates through a competitive bid process do not require bids.
- C. Surplus and secondhand purchases from other governments do not require bids.
- D. When there is only one possible source from which to procure goods and/or services, thus indicating there is no possibility of competition, the following will be shown:
 - (1) Unique benefits of the item needed.
 - (2) No other product/service can compare.
 - (3) Cost is reasonable as compared to product offered.
 - (4) There is no competing source.
- E. Whenever the method of procurement of any commodity is not covered by the bidding process a preference shall be given to businesses or sources located within the City of Binghamton, however, such preference maybe overcome if it would not serve the best interests of the City of Binghamton. Such reasons could be unusual delivery requirements, minimum quantities, location of vendor, commodity not available in a timely manner, a product with known defects being offered, incompatibility of a part to existing machinery, unfamiliarity with the facility or machinery, electrical

or plumbing requirements, unique skills required, etc. In all such cases, the purchase records will document the reasons. [Added 12-19-2005 by Ord. No. 05-88]

§ 127-8. Mandated sources.

Mandated procurement sources shall be investigated when products offered are requested by using departments. These sources include Department of Correction, Industries for the Blind of New York State, and the New York State Industries for the Disabled.

§ 127-9. Insurance.

All agreements for insurance coverage will be investigated by the City. If competition is available in the market, requests for proposals will be issued, proposals will be evaluated and an award made. If no competition is available, a contract will be negotiated between the City and the respective carrier.

§ 127-10. True leases.

Regulations regarding true leases are as follows:

- A. Prices will be obtained through the use of price quoting when possible. Evaluation of services and prices shall determine the successful vendor.
- B. Disposal sites for the City refuse/yard waste and similar purposes will be considered leases for purposes of this section.

§ 127-11. Professional services and consultants. [Amended 11-16-1998 by Ord. No. 98-145; Amended 6-15-09 by Ord. No. 22-2009; Amended 2-12-16 by Ord. No. 16-05]

The following shall apply to contracts for professional services and consultants:

- A. Services covered and selection criteria.
 - (1) Professional services are services requiring special or technical skill, training or expertise. The firm or company must be chosen on the basis of accountability, reliability, responsibility, skill, education and training, judgment, integrity and, in necessary cases, highly specialized expertise as demonstrated by successful experiences in the provision of services of a closely related nature. These qualifications are not necessarily found in the individual or company that offers the lowest price, and the nature of these services is such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the City shall take into consideration the following guidelines:
 - (a) Whether the services are subject to state or local licensing or other professional certification requirements.
 - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
 - (c) Whether the services require a personal relationship between the individual and municipal officials.
 - (2) Professional (or technical) services shall include but not be limited to the following:
 - (a) Services of an attorney or physician.
 - (b) Services of an engineer, architect or land surveyor.
 - (c) Securing insurance coverage and/or services of an insurance broker.
 - (d) Services of a certified public accountant.
 - (e) Investment management services.
 - (f) Printing services involving extensive writing, editing or artwork.
 - (g) Management of municipally owned property.
 - (h) Inspection services by a licensed or certified technical discipline.

- (i) Computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- (3) Professional services shall not include the following:
 - (a) Predemolition surveys for demolition of City-owned facilities.
 - (b) Routine testing of material used in construction of City facilities.
 - (c) Computer services, including setting up, installing and servicing City computer systems.

B. Policy.

- (1) It shall be the policy of the City to give preference to qualified local firms whose principal offices are located within the County of Broome. Where special expertise, not available within the county, is required, a team or joint venture approach may be encouraged where an out-of-town firm with particular expertise works with a local firm; when there is no significant element of the project outside of the discipline of the required special expertise, the joint venture approach will not be required for an out-of-town firm to be selected.
- (2) It shall be the policy of the City to utilize the services of the various qualified local firms, when results of evaluations of selection criteria and proposed fees for similar projects are consistently relatively equal, on an impartial basis.
- (3) It shall also be the policy of the City to openly announce requirements for professional services which exceed \$10,000 and to negotiate contracts for same on the basis of demonstrated competence and qualifications for the type of professional services required, and at fair and reasonable prices.

C. Thresholds for contract award.

<u>Amount of Contract</u>	<u>Contract Specifications</u>
\$0 to \$10,000	Contract negotiated by administration; rate must be competitive; contract awarded by Board of Contract and Supply
Over \$10,000	Awarded by the City Council pursuant to procedures below
Greater than \$10,000	Awarded by the City Council pursuant to procedures below; request for proposals required

- (1) City Council must approve any contracts for professional services exceeding \$10,000; provided, however, that during any calendar year where the cumulative amount of professional service contracts awarded by the Board of Contract and Supply equals \$60,000 or more, the threshold drops to \$1,000 for City Council approval of additional contract, unless otherwise permitted.
- (2) Solicitations of proposals for professional services by publication of an official notice in the City's designated newspaper of record, with mailing to interested firms on request, will be required where the cost is reasonably expected to exceed \$10,000.

D. Additional procedures for engineering, architectural and surveying services. Procedures for quality-based selection of engineering, architectural and survey services are as follows:

- (1) Solicitation of qualification statements for professional services by publication of an official notice in the City's designated newspaper of record, with mailing to interested firms, on request, for fees expected to exceed \$10,000.
- (2) The request for qualifications from consulting firms shall include the minimum qualifications desired, a description and nature of the project, a projected schedule and project budget. No proposal fee is to be requested or accepted from any firm.
- (3) Qualification statements shall be submitted to the Board of Contract and Supply by the required date and time. Qualification statements received shall be recorded in the minutes of

- the next regularly scheduled Board meeting and the proposals shall be forwarded to the City Engineer. The submissions shall be handled as follows in Subsection E(4) through (11).
- (4) The City Engineer shall assemble a review committee of three to five individuals. The review committee shall consist of at least the City Engineer, the Chairman of the City's Public Works Committee and the client department head or designee. In addition, the committee may select two more individuals who may be helpful in reviewing the qualifications and selecting the best-qualified firm for the project.
 - (5) Each committee person shall review the qualifications statement of each firm and rate them using the following criteria:
 - (a) Qualifications of individuals designated to work on the project.
 - (b) Past performance and experience of the firm on projects similar in type and magnitude.
 - (c) Familiarity with project location and area.
 - (d) Approach to project.
 - (e) Resources available to the firm to perform the work.
 - (6) The committee will then short-list the firms to the three most qualified.
 - (7) The short-listed firms shall then be invited in for an interview before the committee. The interview shall consist of a brief presentation and questions and answers.
 - (8) Following the interview, the committee shall meet and rank the firms from highest qualified to least qualified.
 - (9) The ranking of the firms shall then be submitted to City Council's Public Works Committee for review and approval.
 - (10) After approval, the City Engineer and the client department shall enter into negotiations with the No. 1 ranked firm on the exact scope of the work. Once the scope of work has been negotiated, then the consultant shall present the detailed fee schedule. If the fee is not acceptable, then the scope of work shall be renegotiated.
 - (11) If the City and the consultant cannot reach an agreement on the scope of work and fees, then negotiations shall be terminated and negotiations with the second-ranked firm will begin.

E. Exceptions.

- (1) The above procedures will apply except as otherwise provided in § 201 of Second Class Cities Law, Permanent Ordinance No. 85-72 regarding self-insurance and expenses incurred in the issuance of bonds, notes or other debt instruments when the City Council has authorized the power to issue bonds and notes to the chief fiscal officer; golf professional; and confidential legal or appraisal services are required by the Corporation Counsel's office.
- (2) When the professional services desired are to update or expand on existing plans, specifications, design, software maintenance and other professionally produced documents where there is no possibility of price competition or continuity of services is deemed in the best interest of the City, the City shall negotiate a reasonable price for the extension of the existing work.

Chapter 131, PUBLIC ASSISTANCE
[Amended 3-17-10 by Local Law 1-2010]

§ 131. Reserved

Chapter 132, PUBLIC PROPERTY

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Drug-free zones -- See Ch. 46.
Infrastructure development program -- See Ch. 76.
Curfew -- See Ch. 211.
Use of rights-of-way -- See Ch. 327.
Streets and sidewalks -- See Ch. 355.

ARTICLE I, Removal of Graffiti [Adopted 3-1-2004 by Ord. No. 04-14]

§ 132-1. Recording and removal.

The City of Binghamton, by and through its Department of Public Works, shall cause to be recorded, and then immediately removed, any and all graffiti on City-owned property.

§ 132-2. Time frame for removal.

The City of Binghamton, by and through its Department of Public Works, shall record and remove said graffiti within 72 hours after the graffiti is reported to the Public Works Department.

§ 132-3. Duty of City personnel to report graffiti.

City personnel observing graffiti on public property shall report its location to the Public Works Department.

§ 132-4. Removal required.

The Public Works Department shall remove the graffiti, taking it off or covering it up so that it can no longer be viewed.

Chapter 136, REAL ESTATE SALES, PUBLIC

[HISTORY: Adopted by the City Council of the City of Binghamton 10-6-1980 by L.L. No. 9-1980 (Sub-Part LI of the 1970 Code). Amendments noted where applicable.]

§ 136-1. State law superseded.

Section 23(2)(b) of the General City Law is superseded insofar as it is inconsistent with the provisions of this chapter.

§ 136-2. Authorized; approvals required.

Whenever the City Council shall determine, by ordinance approved by the vote of 3/4 of all the members of said Council, that City real estate owned by the City is no longer needed for City purposes, it may direct that said City real estate shall be sold to a particular purchaser for a stipulated sum determined by it as a fair price for the same without the necessity of competitive bidding and upon such other terms and conditions as it may determine appropriate. Any such sale of City real estate shall not be valid or take effect unless made as aforesaid and subsequently approved by resolution of the Board of Estimate and Apportionment, and also approved by the Mayor.

Chapter 144, TERMS OF OFFICE

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies -- See Ch. 124.

ARTICLE I, City Clerk [Adopted 10-5-1970 (Sub-Part XXIX of the 1970 Code); Amended 1-7-08 by Ord. No. 2-2008]

§ 144-1. Term to be four years.

The term of office of the City Clerk and Deputy City Clerk of the City of Binghamton shall be four years, unless sooner removed by City Council.

§ 144-2. Provisions superseded.

This article shall amend and supersede the provisions of § 36(3) of the Optional City Government Law (Laws of 1914, Chapter 444, as amended), § 32 of the Second Class Cities Law, and § 12 of the Supplemental Charter of the City of Binghamton (Laws of 1917, Chapter 668, as amended) to the extent that the same are inconsistent herewith.

ARTICLE II, Assessor [Adopted 10-5-1970 (Sub-Part XXX of the 1970 Code)]

§ 144-3. Appointment and term of Assessor. [Amended 1-22-08 by Ord. No. 3-2008]

Notwithstanding any provision of the Charter or Code of the City of Binghamton to the contrary, the appointment and term of the Assessor will comply with New York State Real Property Tax law Article 3, as same may be amended from time to time.

§ 144-4. Provisions superseded.

This article shall amend and supersede the provisions of § 43 of the Optional City Government Law (Laws of 1914, Chapter 444, as amended), § 13 of the Second Class Cities Law, and § C-12 of the Supplemental Charter of the City of Binghamton (Laws of 1917, Chapter 668, as amended) to the extent that the same are inconsistent herewith.

Chapter 148, CITY TREASURER

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part X of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies -- See Ch. 124.

§ 148-1. Office created; powers and duties.

There is hereby created the office and position of City Treasurer of the City of Binghamton with all of the powers and duties prescribed, imposed and conferred upon the Treasurer by the Second Class Cities Law, the Supplemental Charter of the City of Binghamton, the Optional City Government Law, the General Municipal Law and all other laws and ordinances of the City of Binghamton applicable thereto.

§ 148-2. Effective date.

This chapter shall take effect February 1, 1953.

Chapter 152, VECTOR CONTROL

**[HISTORY: Adopted by the City Council of the City of Binghamton 6-23-2004 by Ord. No. 04-65.
Amendments noted where applicable.]**

§ 152-1. Annual plan required.

The Commissioner of Public Works is hereby directed to develop and implement an annual, ongoing plan to alleviate those environmental conditions that contribute to the spreading of the West Nile virus.

§ 152-2. Coordination with county.

The Commissioner or his or her designee shall meet regularly with the Broome County Health Department to coordinate development and implementation of the plan.

§ 152-3. Tire disposal.

The plan shall include the periodic disposal, during the spring and summer months, of used tires, either by special collection or by designated dropoff, at no cost to residents.

§ 152-4. Monitoring and maintenance of public areas.

The plan shall also direct that the appropriate division(s) of the Department of Public Works monitor public areas (such as parks or City-owned vacant lots) where water collects and stagnates, drain the collected water, and take appropriate measures to prevent water from accumulating in the future.

§ 152-5. Council approval required.

The plan must be presented to City Council and approved by a majority of the Council each year.

Chapter 160, ADULT ENTERTAINMENT

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Curfew -- See Ch. 211.

ARTICLE I, Sale to Minors [Adopted 10-4-1982 by Ord. No. 133-82 (Ch. 14, Art. II, §§ 14-23 through 14-25, of the 1970 Code)]

§ 160-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

HARMFUL TO MINORS -- That quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

- A. Predominantly appeals to the prurient, shameful or morbid interest of minors;
- B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- C. Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for minors.

KNOWINGLY -- Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both, of:

- A. The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and
- B. The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

MINOR -- A person less than 17 years of age.

SADOMASOCHISTIC ABUSE -- Actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT -- Actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

SEXUAL EXCITEMENT -- The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEXUALLY EXPLICIT NUDITY -- A state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

§ 160-2. Unlawful acts.

- A. It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
 - (1) Any picture, photograph, drawing, sculpture, motion-picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
 - (2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in Subsection A(1) of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

- B. It shall be unlawful for any person knowingly to sell to a minor an admission ticket or pass, or knowingly to admit a minor to premises whereon there is exhibited a motion picture show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by minors not admitted to any such premises.
- C. It shall be unlawful for any minor falsely to represent to any person mentioned in Subsection A or B hereof, or to his agent, that such minor is 17 years of age or older, with the intent to procure any material set forth in Subsection A, or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- D. It shall be unlawful for any person knowingly to make a false representation to any person mentioned in Subsection A or B hereof, or to his agent, that he is the parent or guardian of any minor, or that any minor is 17 years of age or older, with the intent to procure any material set forth in Subsection A or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- E. It shall be unlawful for any person knowingly to exhibit, expose or display in public at newsstands or any other business or commercial establishment frequented by minors where minors are or may be invited as part of the general public:
 - (1) Any picture, photograph, drawing, sculpture, motion-picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse which is harmful to minors; or
 - (2) A book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in Subsection E(1) of this subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

§ 160-3. Exceptions.

Nothing contained in this article shall be construed to apply to:

- A. The purchase, distribution, exhibition or loan of any work of art, book, magazine, or other printed or manuscript material by any accredited museum, library, school or institution of higher learning.
- B. The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.
- C. Persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this article when such possession, participation, distribution or conduct occurs in the course of law enforcement activities, or in the course of bona fide scientific, educational, or comparable research or study, or like circumstances of justification.

Chapter 163, ADVERTISING

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 14, § 14-11, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 355.

§ 163-1. Posting and distributing bills, notices and advertising matter. [Amended 12-4-2006 by L.L. No. 2-2006]

Handbills or printed circulars may be left within any building. No person shall post or cause to be posted any bill, card or advertisement, other than legal notices, upon any telephone, telegraph or electric pole in the City, or upon any building or fence, except by permission of the owner of said building or fence.

§ 163-2. Painting on sidewalks.

No person shall paint, print or write or cause to be painted, printed or written on any sidewalk any words, figures, pictures or advertising device of any character.

Chapter 167, ALARM SYSTEMS

[HISTORY: Adopted by the City Council of the City of Binghamton 12-4-1989 by Ord. No. 156-89 (Ch. 12, Art. VIII, §§ 12-208 through 12-215, of the 1970 Code), effective 1-1-1990. Amendments noted where applicable.]

§ 167-1. Definitions. [Amended 6-17-1991 by Ord. No. 58-91; 7-6-1992 by Ord. No. 53-92]

As used in this chapter, the following terms shall have the following meanings:

ALARM SYSTEM -- A device or an assembly of equipment which emits an audible sound, which is intended to alert emergency agencies by automatically dialing an emergency agency, or which contacts an alarm company thereby causing the alarm company to contact an emergency agency or which is directly connected to any City department.

ALARM USER -- Any person who owns, leases or uses an alarm system within the City of Binghamton.

AVOIDABLE ALARM -- The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system, or of his employees or agents, or through any other cause which indicates that an emergency situation exists requiring response within the City when, in fact, an emergency situation does not exist. An avoidable alarm also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. "Avoidable alarm" does not include alarms activated by violent conditions of nature such as hurricanes, tornadoes, earthquakes or any other similar cause beyond the control of the user of the alarm system. Activation of an alarm system under any circumstances under which the activator reasonably believes that an emergency situation exists is not an avoidable alarm. Notwithstanding any language to the contrary, the defective installation of an alarm system, the failure to repair or cause to be repaired an alarm system or the use of defective equipment in connection with an alarm system shall not constitute an extraordinary circumstance beyond the reasonable control of the alarm user.

CITY -- The City of Binghamton.

EMERGENCY AGENCY -- Any police department, fire department or other law enforcement agency or ambulance company (public or private) or other agency summoned to respond to an emergency situation and any public safety answering point serving the City of Binghamton.

LICENSING AUTHORITY -- The City of Binghamton through its City Clerk.

NOTICE ADDRESS -- The address which an alarm user designates on the application for a license as the address to which notices are to be sent.

PERSON -- Any person, firm, partnership, corporation, association, company or organization of any kind.

§ 167-2. License required; authority to grant licenses; license applications. [Amended 7-6-1992 by Ord. No. 53-92]

- A. Required. It shall be unlawful for an alarm user to operate, own or maintain a fire or police alarm device or devices, or system of fire or police alarm devices, as defined by the terms of this chapter, without first obtaining a license as hereunder provided.
- B. Authority to grant licenses. The licensing authority is hereby authorized to grant a revocable license to any alarm user to own, lease, operate, maintain, install or modify a fire or police alarm device.
- C. Applications for licenses.
 - (1) Applications for licenses shall be made as follows: An alarm user in the City utilizing a fire or police alarm device, or system of fire or police alarm devices, shall apply to the licensing authority for a license to own or otherwise have such device on his or her or its premises. The application shall contain provisions relating to the device or system of devices installed or to be installed on the premises. Application for licenses for fire or police alarm devices existing in premises on the effective date of this chapter must be made to the licensing authority within 30 days of the effective date. No such device may be installed on the premises of the owner or lessee, and no presently existing fire or police alarm device

complying with the provisions of this chapter shall be modified after the effective date of this chapter prior to the licensing authority's having issued a license to such owner or lessee. Such license need not be obtained on an annual basis but shall be obtained each time a device or system is to be installed or modified.

- (2) Confidentiality. The information required on the license application shall be treated as confidential and shall not be made available to members of the general public. The City finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where an alarm system is located. The information on a license application shall be used by the City only for public safety purposes.

§ 167-3. License fees. [Amended 7-6-1992 by Ord. No. 53-92]

Annual license fees shall be as set from time to time (See Exhibit J) by the City Council.

§ 167-4. Avoidable alarm charges. [Amended 6-17-1991 by Ord. No. 58-91; Amended 12-4-2006 by L.L. No. 2-2006]

- A. Each alarm user and police alarm user shall pay to the City a charge for each and every avoidable alarm to which the City responds, in each calendar year, as follows:
 - (1) First two avoidable alarms each calendar year: No charge.
 - (2) Third avoidable alarm each calendar year: \$25.
 - (3) Each additional false alarm: \$50.
- B. The Commissioner of the Department of Public Works shall notify the fire alarm user of any avoidable alarm charges by mail. In the case of police alarms, the Chief of Police or his representative shall notify the alarm user of any avoidable alarm charges by mail. Within 30 days of such notice the alarm user may appeal to the Mayor by showing proof to demonstrate that the alarm was not an avoidable alarm. The Mayor shall have 10 business days to determine the appeal.
- C. Should the alarm user fail to pay any and all alarm charges within the 30 days of receipt of notice or receipt of appeal denial, whichever is later, the Commissioner of Public Works or the Police Chief, as the case may be, shall certify to the City Treasurer the amount of the penalties; and said penalties shall become a lien upon the property, shall be included in the next tax bill rendered to the owner unless paid before, and shall be collected in the same manner as other taxes against the property.
- D. Additionally, should the alarm user fail to pay any and all charges within 30 days of receipt of notice or receipt of appeal denial, whichever is later, the Commissioner of Public Works, or the Chief of Police as the case may be, shall notify the City Clerk to suspend the alarm user's license. Such license shall not be reinstated until all such charges are paid in full.
- E. All penalties collected for avoidable fire alarm charges in any fiscal year shall be added to the fire alarm repair account (A3020.4447) in the following fiscal year. All penalties collected for avoidable police alarm charges in any fiscal year shall be added to A1520.A (police fees-alarm revenues) in the following fiscal year.

§ 167-5. Penalties for offenses. [Amended 6-17-1991 by Ord. No. 58-91; 7-6-1992 by Ord. No. 53-92]

Any alarm user who fails to comply with all licensing provisions set forth herein shall be in violation of this chapter and subject to a penalty as set forth in Chapter 1, General Provisions, § 1-4, General penalty. However, if a license is obtained within five business days of the citation, such penalties shall be waived.

§ 167-6. Applicability.

The provisions and requirements of this chapter shall apply to all persons who are alarm users on the effective date of this chapter and to all persons who subsequently become alarm users.

Chapter 170, ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Open Containers in Public Places [Adopted by L.L. No. 2-1978 (Sub-Part XLIII of the 1970 Code)]

§ 170-1. Legislative intent. [Amended 12-4-2006 by L.L. No. 2-2006]

It is the intent of the City of Binghamton as an exercise of its police power to promote the general health, safety and welfare of the residents of the City by enacting this article since it is the finding of the City Council that the possession of open containers of alcoholic beverages by persons on certain public lands, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the City in that such possession contributes to the development of unsanitary conditions and the creation of a nuisance.

§ 170-2. Definitions.

For the purposes of this article, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.

ALCOHOLIC BEVERAGE -- Includes alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CITY -- The incorporated City of Binghamton.

CONTAINER -- Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any public highway, street, sidewalk, park, playground or parking area.

§ 170-3. Prohibition.

No person shall have in his possession any open container containing any alcoholic beverage on any public land within the City.

§ 170-4. Exceptions. [Amended 12-4-2006 by L.L. No. 2-2006]

The foregoing prohibition shall not apply when a permit or license has been issued by the City of Binghamton or other appropriate agency for the public use of any public highway, street, sidewalk, park, playground, or parking area for any authorized function, including, but not limited to, fairs, parades, block parties and carnivals.

§ 170-5. Applicability.

This article shall apply to all persons on public lands in the City except as provided in § 170-4 above and shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the City in violation of § 1237 of the Vehicle and Traffic Law of the State of New York.

§ 170-6. Penalties for offenses. [Amended 5-21-07 by Ord. No. 14-2007; Amended 2-3-10 by Ord. No. 7-2010]

Any person who violates this article shall be subject to penalties as set forth in Chapter 1, General Provisions, § 1-4, General Penalty.

ARTICLE II, Consumption and Possession in Public Places [Adopted 4-18-1983 by Ord. No. 48-83 (Ch. 14, Art. III, §§ 14-36 through 14-39, of the 1970 Code)]

§ 170-7. Legislative intent.

It is the intention of the City of Binghamton as an exercise of its police power to promote the general health, safety and welfare of the residents of the City by adopting this article. This Council has found and determined that the possession of open containers of alcoholic beverages by persons under circumstances evincing an intent to consume the contents of such open containers on certain public lands and the consumption of alcoholic beverages on certain public lands, except under controlled conditions, is detrimental to the health,

safety and welfare of the residents of the City. Such possession and consumption contribute to the development of unsanitary conditions, disorderly gatherings and the creation of nuisances.

§ 170-8. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.

ALCOHOLIC BEVERAGE -- Includes alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CONTAINER -- Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any public highway, street, sidewalk, park, playground, parking area, school property or municipal parking ramp.

§ 170-9. Prohibitions.

- A. No person shall have in his possession any open container containing any alcoholic beverage on any public land within the City under circumstances evincing an intent to consume the contents of said container upon any such public land.

- B. No person shall consume any alcoholic beverage on any public land within the City.

§ 170-10. Exceptions. [Amended 12-4-2006 by L.L. No. 2-2006; Amended 2-4-08 by Ord. No. 12-2008]

The above prohibitions shall not apply if the City Clerk has issued a Miscellaneous Activity Permit, with a statement of intent to serve alcohol, for use of a designated public highway, street, sidewalk, park, playground, or parking area; and, if necessary, the applicant has approval from the New York State Liquor Authority.

Chapter 173, AMUSEMENTS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 3, §§ 3-5 and 3-6, of the 1970 Code). Amendments noted where applicable.]

§ 173-1. Carnivals, road shows and similar exhibitions prohibited; exceptions.

No person shall at any time within the City exhibit or conduct or cause or procure to be exhibited or conducted out of doors, in tents or in any other temporary structure, any carnival, road show or similar exhibition or performance or any show, exhibition, performance, concession or refreshment stand in conjunction therewith; provided, however, that this section shall not apply to a circus or wild west show or to amateur performances or exhibitions.

§ 173-2. Circuses, theatricals and similar exhibitions or performances.

- A. License required; fees; exceptions. No person shall conduct for gain or profit any circus, theatrical, musical, sporting event, bout, contest, performance, exhibition, or other performance, exhibition or other public entertainment or any performance, concert or exhibition of curiosities, natural or artificial, without first obtaining a license from the City Clerk. Any person seeking a license under the provisions of this section shall pay to the City Clerk a license fee as set from time to time by the City Council. The foregoing provision shall not apply to performances, concerts, exhibitions or those for beneficial purposes conducted by any educational, religious, charitable, and nonprofit organizations exempt from taxation pursuant to the tax laws of the federal or state governments; however, such organizations shall file a petition with the Mayor, acting as the Commissioner of Public Safety, at least five days prior to the date of performance. [Amended 12-4-2006 by L.L. No. 2-2006]
- B. Revocation of license. Any license issued pursuant to the provisions of this section may be revoked at any time by the Chief of Police if, in his or her opinion, such performance or exhibition is improper or objectionable.

Chapter 178, ANIMALS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 292.

Parks and recreation -- See Ch. 301.

Zoning -- See Ch. 410.

ARTICLE I, Livestock and Fowl at Large; Injury by Vehicles [Adopted 10-5-1970 (Ch. 4, Art. I, §§ 4-1 through 4-4, of the 1970 Code)]

§ 178-1. Livestock prohibited at large.

No cattle, beast of burden, goat, sheep or swine shall be permitted to run at large in any street, public place or unenclosed private grounds.

§ 178-2. Fowl prohibited at large.

It shall be unlawful for any person to suffer or permit any chicken, duck, goose, turkey or other fowl owned or controlled by him or her to run at large or to go upon the premises of another person without the consent of such person.

§ 178-3. Animals on public streets to be harnessed.

No person shall drive or permit to be driven or lead or permit to be led any animal or animals over, through or upon any public street without having the same in harness or securely fastened by ropes.

§ 178-4. Animals injured by motor vehicles.

Every person operating a motor vehicle or motorcycle in the City, who shall strike and injure a dog, cat or other domestic animal, is required to stop and report the matter to the owner or to the Police Department of the City.

ARTICLE II, Control of Dogs [Adopted 6-2-1980 by Ord. No. 129-80 (Ch. 4, Art. II, §§ 4-15 through 4-34, of the 1970 Code)]

§ 178-5. Legislative intent; authority.

- A. The purpose of this article is to preserve the public peace and good order in the City of Binghamton and to contribute to the public welfare and good order of its people by enforcing certain regulations and restrictions on the activity of dogs that are consistent with the rights and privileges of the owners of the dogs and the rights and privileges of other citizens of the City of Binghamton.
- B. This article is adopted pursuant to the authority of § 124 of the Agriculture and Markets Law of the State of New York.

§ 178-6. Enforcement agencies. [Added 10-19-1987 by Ord. No. 120-87]

- A. The controlling of dogs within the City of Binghamton is hereby recognized as a vital public health and safety obligation of the City. This article shall primarily be enforced by the duly appointed Dog Control Officers of the City of Binghamton with the full assistance and cooperation of the members of the Bureau of Police.
- B. During those hours of the day when no Dog Control Officer is on duty the Bureau of Police shall be responsible for the enforcement of this article.

§ 178-7. Definitions. [Amended 10-19-1987 by Ord. No. 120-87]

As used and intended in this article and for the purpose hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

AT LARGE -- As applied to a dog, shall designate and describe each dog at all times when it is off the premises of the owner or is on the premises of another without his or her consent.

CITY -- Designates the area within the corporate limits of the City of Binghamton.

CONFINED -- As applied to a dog, shall mean that such animal is securely confined, restrained and kept in a humane manner on the owner's premises either within a building, kennel or wire or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place or, if the dog is being transported by the owners, that it is securely confined in a crate or other container, or so constrained in a vehicle, that it cannot escape therefrom.

DANGEROUS -- Designates or applies to any dog which, without just cause, bites, attacks or chases or snaps at or otherwise threatens to attack any person or attacks or wounds a dog or other domestic animal, or which displays any other fierce, vicious or dangerous propensity, or any dog found by a court of competent jurisdiction to be a vicious dog.

DOG -- Any member of the species *Canis familiaris*.

GUARD DOG -- Any dog which has been trained to attack persons independently or upon oral command and is utilized for the purpose of protecting and guarding its owner and/or the property within which such dog is located.

LAW ENFORCEMENT AGENT -- Includes Dog Control Officers, police officers, peace officers acting pursuant to special duties or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the City to assist in the enforcement of this article.

LEASH -- A chain, rope, leather strap or cord or sufficient tether that will humanely bind the dog directly to the owner or keeper and prevent such dog from moving free of the owner's or keeper's immediate control.

OWNER -- Any person who harbors or keeps any dog. If the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

PUBLIC NUISANCE -- As applied to a dog, shall describe, designate or apply to:

- A. Every dog which seriously or habitually disturbs the neighborhood by barking or howling, or making any other disturbing noises; or
- B. Every dog which chases any person or bicycle, automobile or other vehicle upon any public highway or way, or in any public place; or
- C. Every dog which causes damage or destruction to property other than upon the premises of the owner, or the person harboring such dog; or
- D. Every dog which strews or disperses garbage or refuse which is lawfully set out for collection; or
- E. Every dog which is a dangerous dog pursuant to § 121 of the Agriculture and Markets Law but not found vicious as defined above in this section.

RECREATIONAL AREAS -- Any real property owned by the City of Binghamton which is used for recreational purposes by the public, including but not limited to parks, playgrounds or swimming pool facilities.

SCHOOL PREMISES -- Designates and applies to any real property situated within the City of Binghamton which is used for educational purposes or purposes incidental thereto, regardless of whether title to the same is vested in the City of Binghamton, a school district within the City of Binghamton or a religious or private corporation or association.

SIDEWALK -- Any walkway along the margin of a street or highway, designed and prepared for the use of pedestrians, encompassing the area between the front line of any abutting property and the curb or, where there is no curb, the line where the street begins.

VICIOUS DOG

A. Shall mean and include:

- (1) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of human beings or domestic animals. The propensity to be vicious shall be "known" if the owner has any notice that the dog has, on any occasion, inflicted bites or attacked a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approached any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places or lawfully on private property;
- (2) Any dog which attacks a human being or domestic animal without provocation; or
- (3) Any dog owned or harbored primarily or in part for the purposes of dog fighting or any dog trained in dog fighting.

B. No dog shall be deemed vicious if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

§ 178-8. Owner's responsibility.

The owner of every dog which is at any time kept, brought or comes into the City shall be held responsible for the strict observance by such dog and with respect to such dog of all the rules and regulations contained in this article at all times when such animal is within the City.

§ 178-9. Dogs in heat.

The owner of every female dog must effectively confine such at all times during every period which such dog is in heat. For purposes of this section only, "confine" shall mean to place the dog in an enclosure so as to prevent male dogs from having access to such dog in heat.

§ 178-10. Dogs to be controlled; leash required, and off-leash areas. [Amended 10-19-1987 by Ord. No. 120-87; 6-2-1997 by Ord. No. 81-97; Amended 2-8-2012 by Ord. No. 12-9]

- A. No person who owns a dog shall permit such dog to be at large in the City of Binghamton, Broome County, New York, including parks and recreation areas, unless such dog is humanely restrained by an adequate collar and an adequate leash no longer than eight feet, other than when on the premises of the person owning, keeping or harboring or having custody or control of such dog or upon the premises of another with the knowledge and approval of the owners of said premise. Provided, however, that vicious dogs shall be leashed or confined at all times regardless of the consent of any person.
- B. Dogs may be allowed to run at large in designated off-leash area as may be approved from time to time by the Mayor and City Council. Upon approval of a designated off-leash area, the Director of Parks and Recreation shall have the authority to establish such rules and regulations as reasonably necessary for the operation of such designated off-leash area, including, but not limited to:
 - (1) Dogs in designated off-leash areas must be accompanied by their owner, be under vocal control, and not cause a public nuisance, safety hazard or harass people, other dogs or wildlife.
 - (2) All dogs in an off-leash area must be licensed and must display valid license tags attached to the dog collar. Vicious dogs, as defined in § 178-14.A below, are not permitted to use the

designated off-leash areas. Except as specifically provided herein, all other applicable provisions of this chapter shall be also apply in designated off-leash areas.

- (3) Any persons with a dog or other pet in his or her possession or under his or her control in any designated off-leash area shall be responsible and liable for the conduct of the animal, shall carry equipment for removing feces, and shall places feces deposited by such animal in an appropriate receptacle.
- (4) Any person with a dog or other pet in his or her possession or under his or her control in any designated off-leash area must comply with all rules and regulations.

C. Any violation of these requirements may result in (i) enforcement and fines as provided in §§ 178-16, 178-17, and 178-18 below, and (ii) the Director of Parks and Recreation may ban dogs and other pets, or a specific dog or other pet, from any designated off-leash area.

§ 178-11. Dogs on school premises. [Amended 2-8-2012 by Ord. No. 12-9]

It shall be unlawful for any dog to be at large on any school premises or the sidewalks adjacent thereto unless said dog is on a leash.

§ 178-12. Guard dogs; posting of warning sign. [Amended 10-19-1987 by Ord. No. 120-87]

Any person keeping a guard dog as defined in this article shall conspicuously post a sign with an appropriate symbol which the public and children that the premises are patrolled by a guard dog or dogs.

§ 178-13. Abandoned dogs. [Amended 10-19-1987 by Ord. No. 120-87; 9-20-1999 by Ord. No. 99-136]

A. Definitions. As used and intended in this section and for purposes hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

ABANDONED

- (1) Any dog left unattended for a period of three or more days will be deemed to be abandoned by its owners/caretakers; or
- (2) Any unattended dog found, at any time, under circumstances which evidence an intent by the dog's owner/caretaker to not return.

DOG(S) -- Any member of the species *Canis familiaris*.

LAW ENFORCEMENT AGENT -- Includes Dog Control Officers (wardens), police officers, peace officers acting pursuant to special duties or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the City to assist in the enforcement of this article.

PROPERTY OWNER -- Any person who, alone or jointly or with others, or any entity which:

- (1) Shall have legal title (including through a land contract) to any dwelling unit, with or without accompanying possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit as either owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner according to the definition provided shall be bound to comply with the provisions of this section to the same extent were he or she the owner.

TENANT -- Any person/organization or corporation who or which makes payment, in cash or in kind, to occupy another's property and, for purposes of this section, is the owner of a dog(s).

- B. Any dog at large which does not display any current license or other means of identification or which fails to exhibit any evidence of having had administered to it a current rabies vaccination shall be considered an abandoned dog and may be summarily impounded by a law enforcement agent.
- C. It shall be unlawful and a violation of this section for any tenant/landlord of any property located within the City of Binghamton to abandon any dog on any property located within Binghamton City limits.
- D. Owners of property(ies) from which City of Binghamton law enforcement agents (dog wardens) are tasked with removing abandoned dogs pursuant to this section shall be issued a court appearance ticket and, if found guilty of this offense, shall be fined the mandatory sum of \$250 per dog. Nothing herein shall be construed to limit or impair, in any way, the property owner's right to collect any monetary sum imposed, from the dog's(s') respective owner(s).
- E. Any actions taken by the appropriate law enforcement agents reasonably necessary to effectuate their duties in the removal and placement of abandoned dogs shall not give rise to any civil action against them, other than for wanton, outrageous, intentional, tortuous acts.

§ 178-14. Vicious dogs. [Amended 10-19-1987 by Ord. No. 120-87; 2-18-1997 by Ord. No. 8-97]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

COMMISSIONER -- The Mayor or any agent designated by him or her for purposes of enforcing this section.

DOMESTIC ANIMAL -- Include dogs and all other household animals, including but not limited to those defined in Chapter 410, Zoning.

LAW ENFORCEMENT AGENT -- Includes a police officer or Dog Control Officer acting pursuant to his or her special duties.

LICENSING AUTHORITY -- The City Clerk for the City of Binghamton.

MENACING -- The display by a dog of a disposition, determination, or intent to attack or inflict injury or harm to a human being or other domestic animal.

OWNER -- Any person, partnership, firm, corporation or employee thereof, or other legal entity, having a possessory or property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any dog to remain on premises owned or occupied by him or her or it. If the owner or keeper of the vicious dog is a minor, the parent or guardian of that minor shall be responsible for compliance with the provisions of this section.

UNPROVOKED -- That the dog was not hit, kicked or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched or squeezed by a person.

VICIOUS DOG

- (1) Includes:

- (a) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of human beings or domestic animals. The propensity to be vicious shall be "known" if the owner has any notice that the dog has on any occasion inflicted bites or attacked a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approached any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places, or of persons lawfully on private property.
- (b) Any dog which attacks a human being or domestic animal without provocation.
- (c) Any dog owned or harbored primarily or in part for the purposes of dog fighting or any dog trained in dog fighting.
- (d) Any dog that would be a "vicious dog" pursuant to § 121 of the Agriculture and Markets Law of the State of New York.

- (2) Exclusions.
 - (a) No dog shall be deemed vicious if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.
 - (b) Dogs owned or used by the Police Department, performing police functions, shall be excluded from this definition.

B. Regulations pertaining to vicious dogs.

- (1) No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go unconfined on the premises of such person. A vicious dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of said person. Such pen or dog run area must, as a minimum, have either sides six feet high or a secured top. If the pen, fence or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one foot. The structure must be constructed of chain-linked fencing or other material of such strength and construction that the dog cannot chew through or break out of the enclosure. Any gates or entrances to the structure must be of similar construction and the entire structure must be so designed so that the dog cannot get out. The area of enclosure shall be no less than 225 square feet per dog, with no less than 15 feet per side.
- (2) No person owning or harboring or having the care of the vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.
- (3) The owner(s) shall, at his or her own expense, have the licensing number assigned to such dog, or such other number as the licensing authority shall determine, tattooed upon such vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by the City. The Dog Control Officers may, in their discretion, designate the particular location of said tattoo. The Commissioner may require that an identification chip be placed upon the dog in place of a tattoo. The Commissioner shall designate the location of said chip.
- (4) Warning signs.
 - (a) The owner shall display a sign of uniform size, design and color, approved by the Commissioner, on the premises warning that there is a vicious dog on the property. This sign shall be visible and capable of being read from the public highway or street and conspicuously display a symbol warning children of the presence of a vicious dog. These signs shall be of such material and construction so as not to fade or become illegible due to exposure to the elements.
 - (b) This provision requiring warning signs shall be enforced independently of all other provisions of the City Code of Binghamton pertaining to the posting of signs for the purpose of this chapter only.
 - (c) No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.
- (5) No person shall possess with intent to sell, offer for sale, breed, or buy or attempt to buy within the City any vicious dog.
- (6) Any person owning, possessing, or harboring a vicious dog, shall, at all times, exercise due care in safeguarding the public from attack by such animal.
- (7) If any vicious dog shall cause injury to a person or domestic animal or damage to property, while out of or within the control of the owner of such vicious dog, or while off the property of the owner whether or not such vicious dog was on a leash and securely muzzled, or whether the vicious dog escaped without the fault of the owner, the owner shall be liable to the person it grieved thereby for all damages sustained, to be recovered in a civil action. It

shall be presumed as a matter of law that the owning, keeping or harboring of such vicious dog in violation of this section is a nuisance.

- C. Licensing of vicious animals. Any dog or other animal that is a vicious animal as defined herein must obtain a special license from the City of Binghamton. The requirements of this license are following:
- (1) An application fee as set from time to time by the City Council, in addition to the regular required license fee.
 - (2) Proof of insurance for the compensation of people and property injured or damaged as a result of the actions of this vicious animal in an amount not less than \$100,000 in a form satisfactory to the Corporation Counsel.
 - (3) An owner, whose dog or other animal has been found to be vicious, shall have 14 days from said determination to obtain a special license and requisite insurance.
 - (4) Failure to comply with this section shall result in the immediate seizure of said animal by the Dog Control Officer or police officer and destruction of said vicious animal at an appropriate facility.
- D. Enforcement.
- (1) In the event that a law enforcement agent or Corporation Counsel has probable cause to believe that a vicious dog is being harbored or cared for in violation of Subsection B, the law enforcement agent or Corporation Counsel may petition the Commissioner to order the seizure and impoundment of the vicious dog pending a hearing. In the event that a law enforcement agent or Dog Control Officer has probable cause to believe that a vicious dog is being harbored or housed in violation of Subsection B and presents a clear and present danger to persons or domestic animals, the law enforcement agent may seize and impound the vicious dog immediately and shall, within 72 hours, seek an order of impoundment from the Commissioner.
 - (2) The Commissioner shall have the authority to make a determination that a dog is vicious as defined in Subsection A upon the written complaint of any law enforcement agent or the Corporation Counsel in a form approved by the Commissioner. The Commissioner shall make such determination after a hearing, written notice of which shall be given to the complainant and to the owner of the dog, where the owner's address can be reasonably ascertained by the Commissioner. The hearing shall be held no less than 10 days nor more than 20 days after such notice is mailed or served upon the owner of the dog. At such hearing, all interested persons shall have the opportunity to present evidence on the issue of the dog's viciousness. If, after the hearing, the Commissioner determines that the dog is vicious, he or she may order one or more of the following:
 - (a) The Commissioner may order that the vicious dog be humanely euthanized.
 - (b) The Commissioner can order the dog returned to the owner with the requirement that the owner apply for a special use permit pursuant to Subsection B(3) of this chapter. Each dog registered pursuant to Subsection B(3) shall also be required to adhere to the regulations set forth in Subsection B.
 - (c) In the event that the owner of a vicious dog violates any order of the Commissioner's prescribed at the hearing, such owner's dog may be confiscated and impounded by the proper authorities upon the order of the Commissioner.
- E. Excused behavior. No dog shall be declared vicious pursuant to this chapter if the owner shall prove that the threat, injury, or damage caused by such dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, its owner and/or household members, or has in the past been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime; nor shall a dog be declared vicious if the dog was responding solely to pain or injury, or was protecting itself, while on its owner's property.

F. Penalties.

- (1) Whoever violates this section shall be guilty of a misdemeanor and subject to a fine of up to \$1,000 or imprisonment for up to 120 days, or both.
- (2) Any vicious dog may be ordered destroyed when, in the Commissioner's judgment, such vicious dog represents a continuing threat of serious harm to human beings or other domestic animals. In making said determination, the Commissioner should consider the owner's conduct in complying with the provisions of this section.
- (3) Any person found guilty of violating this section shall pay all expenses, including but not limited to medical expenses and lost wages of victims of said vicious dogs and any shelter, food and veterinary expenses necessitated by the seizure of any dog pursuant to this section and such other expenses as may be required for the destruction of such dog.

G. Provisions supplemental to Agriculture and Markets Law.

- (1) The provisions of this section shall not supersede but rather shall be supplementary to the provisions of law contained in Article VII of the New York State Agriculture and Markets Law, and any other applicable ordinance, rule, or regulation.
- (2) Remedies. Any person aggrieved by a decision of the hearing officer may appeal said decision through Article 78.

§ 178-15. Barking dogs.

No person shall keep or harbor a dog which by loud, frequent or habitual barking, yelping or howling shall disturb or annoy any person other than the owner thereof.

§ 178-16. Enforcement. [Amended 10-19-1987 by Ord. No. 120-87; Amended 2-8-12 by Ord. No. 12-9]

- A. The provisions of this article shall be enforced by any appropriate law enforcement agent.
- B. Any enforcement agency may serve any process related to any proceeding, whether criminal or civil in nature, and including an appearance ticket undertaken in accordance with Article 7 of the New York State Agriculture and Markets Law and this article.
- C. Enforcement agents may seize, in accordance with law, any dog found to be in violation of any provision of §178-9, 178010, 178-11, or 178-12, subject to the owner's right of redemption as set forth below.

§ 178-17. Redemption of seized dogs. [Amended 10-19-1987 by Ord. No. 120-87; 11-6-2000 by Ord. No. 00-133]

- A. Every dog seized shall be properly fed and cared for until disposition thereof as herein provided and in accordance with the applicable provisions of the Agriculture and Markets Law of the State of New York.
- B. Every dog seized shall receive a DHLP-Parvo and rabies vaccine upon its confinement in the animal shelter.
- C. Every dog seized shall be treated in a humane manner.
- D. If the dog seized bears a license tag, or is otherwise identifiable, the Dog Warden shall ascertain the owner of the dog and shall, within 24 hours, notify the owner or an adult member of his or her family, either by personal service or by certified mail, return receipt requested, that the dog has been seized and will be sold or destroyed pursuant to § 118 of the Agriculture and Markets Law unless redeemed as herein provided.

- E. The owner of an unlicensed dog so seized may redeem the dog within three days. The owner of a dog bearing a license tag may redeem the dog within seven days. To redeem a dog, the owner must furnish proof that the dog has been licensed pursuant to the Agriculture and Markets Law and must pay impoundment fees as set from time to time by the City Council, as well as any veterinary expenses necessitated by the seizure or incurred in the course of humanely caring for the dog in accordance with law.
- F. All monies shall be paid directly to the dog shelter housing the seized dog.

§ 178-18. Appearance tickets; fines for violation. [Amended 9-20-1982 by Ord. No. 15-82; 10-19-1987 by Ord. No. 120-87; 5-21-2001 by Ord. No. 01-58]

- A. Issuance. Pursuant to the provisions of § 124(2)(c) of the Agriculture and Markets Law, an appearance ticket may be issued for any violation of this article, by a proper law enforcement agent.
- B. Plea of guilty. A person charged with a violation of any provision of this article may appear in Binghamton City Court to enter a plea to said charge. Alternatively, he or she may submit to City court, in person or by duly authorized agent or by registered mail, a statement:
 - (1) That he or she waives arraignment in open court and the aid of counsel; and
 - (2) That he or she pleads guilty to the offense charged; and
 - (3) That he or she elects and requests that the charge be disposed of and the fine or penalty be fixed by the City Court; and
 - (4) Of any explanation that he or she desires to make concerning the offense charged; and
 - (5) That all statements are made under penalty of perjury.
- C. Disposition of guilty pleas. Persons pleading guilty by mail shall not send payment for any fine or penalty until the judge ascertains the amount of such fine. Thereupon, the judge may proceed as though the defendant had been convicted upon plea of guilty in open court. If upon receipt of the aforesaid statement the judge shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the judge at a stated time and place to answer the charge, which shall thereafter be disposed of pursuant to the applicable provisions of law.
- D. Plea of not guilty. If a person charged with a violation denies any part of all of the violation as charged in the appearance ticket, he or she may so indicate on the ticket and return it to the City court, together with security in the amount set by City Court.
- E. Fines.
 - (1) Except for violations of § 178-10, entitled "Dogs to be controlled; leash required," and § 178-14, entitled "Vicious dogs," any violation of this article shall be punishable as determined by the court in accordance with the below schedule:
 - (a) For a first offense: see fee schedule.
 - (b) For the second offense within the preceding five years: see fee schedule.
 - (c) For a third offense within the preceding five years: see fee schedule or imprisonment for not more than 15 days, or both.
 - (2) Violations of § 178-10, regarding the leash requirement, shall be punishable as determined by the court in accordance with the below schedule:
 - (a) For the first offense: see fee schedule.
 - (b) For the second offense within the prior five years: see fee schedule and 20 hours of community service dedicated to humane animal treatment.
 - (c) For the third offense within the prior five years: see fee schedule and 40 hours of community service dedicated to humane animal treatment.

§ 178-19. Proceedings to determine nuisance or dangerous dogs. [Amended 10-19-1987 by Ord. No. 120-87]

- A. Any person may make a written complaint under oath or affirmation to a Judge of the Binghamton City Court alleging that a specified dog is a public nuisance or dangerous.
- B. Upon receiving such a complaint, the Judge shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any enforcement officer directing said officer to seize such dog and hold the same pending a hearing on the complaint.
- C. Whether or not the Judge finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint.
- D. If the City Court Judge finds that the complaint is duly established, he or she shall determine and declare such dog to be:
 - (1) A public nuisance;
 - (2) Dangerous; or
 - (3) Dangerous and vicious.
- E. Dogs found to be either dangerous or a public nuisance shall either be humanely destroyed pursuant to law or ordered confined upon such conditions as are established by the court.
- F. Dogs which are found to be vicious shall be governed by the provisions of § 178-14 of this article.

§ 178-20. Humane treatment of dogs. [Amended 10-19-1987 by Ord. No. 120-87]

It shall be unlawful for any person in the City to torture or torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a dog. This provision may be enforced by any person filing a written complaint with the appropriate law enforcement agent. The owner thereof shall be notified in writing via appearance ticket, by personal service or by certified mail, return receipt requested, of the alleged violation; and the matter shall be referred to City Court for a hearing and determination.

§ 178-21. Compensation for dogs destroyed.

The owner, harbinger or possessor of any dog destroyed under any provision of this article shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of the dog.

§ 178-22. Seeing-Eye dogs. [Amended 10-19-1987 by Ord. No. 120-87]

This article shall not apply to any Seeing-Eye dog during such times that such dog is performing the functions for which it is trained. Said dog may be determined, however, to be dangerous or vicious if the behavior of said dog is within the standards set forth above in § 178-7.

§ 178-23. Veterinary fees. [Added 10-19-1987 by Ord. No. 120-87]

In addition to the payment of the impoundment fee specified above at § 178-17E, any person redeeming an impounded dog shall be liable for the payment of all veterinary expenses necessitated by the seizure and subsequent impoundment of such dog. Proof of payment of such expenses shall be required by the City Clerk prior to the release of such dog.

§ 178-24. Records to be maintained. [Added 10-19-1987 by Ord. No. 120-87]

In accordance with the regulations of the Department of Agriculture and Markets, the Dog Control Officers shall maintain records of all seizures, impoundments, euthanizations and violations of this article in the office of the City Clerk.

ARTICLE III, Disposal of Canine Waste [Adopted 10-5-1987 by L.L. No. 7-1987 (Sub-Part LXVII of the 1970 Code), effective 12-1-1987]

§ 178-25. Restrictions.

It shall be unlawful for any dog owner or person having possession, custody or control of any dog to allow such dog to defecate on public or private property over the objection of the owner of such property.

§ 178-26. Duty to remove.

It shall be the duty of each dog owner or person having possession, custody or control of a dog to remove any feces left by his or her dog on any sidewalk, gutter, street, grassy area between the street and sidewalk, park, school yard or other public property and to dispose of the same in a safe and sanitary manner.

§ 178-27. Penalties for offenses; enforcement.

Any violation of this article shall constitute a violation punishable by a fine or a civil penalty in accordance with Chapter 1, General Provisions, § 1-4, General penalty. For the purposes of enforcing the provisions of this section, appearance tickets may be issued by police officers, dog control officers, code inspectors and by any persons authorized to issue tickets for parking violations.

§ 178-28. Exemptions.

The provisions of this article shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability, as defined in Subdivision 21 of § 292 of the Executive Law.

ARTICLE IV, Licensing of Dogs [Adopted 7-5-1994 by L.L. No. 3-1994 (Sub-Part LXXXIII of the 1970 Code)]

§ 178-29. License required. [Amended 12-4-2006 by L.L. No. 2-2006]

The owner of any dog located within the City of Binghamton shall be required to make application to the Binghamton City Clerk for a dog license in accordance with the requirements of Agriculture and Markets Law § 109.

§ 178-30. Fees. [Amended 6-17-02 by L.L. No. 02-2; Amended 12-4-06 by L.L. No. 06-2; Amended 10-6-10 by Ord. No. 10-46; Amended 10-6-10 by Ord. No. 10-47]

- A. Required fees shall be paid to the Binghamton City Clerk in the month that the dog is required to be licensed or, in the case of an older dog, the month in which the dog is obtained by the owner. Fees for dog licenses obtained by residents moving to the City of Binghamton from another municipality within Broome County, having a current dog license in that former municipality, shall receive a dog license from the City of Binghamton at no charge until the expiration of the previously issued license.
- B. The fee for licensing said dogs shall be as follows: a fee of \$15.00 per license for altered dogs shall be assessed, and a fee of \$25.00 per license for unaltered dogs shall be assessed.

§ 178-31. Proof of vaccination and sterilization.

Proof of neutering or spaying, if dog has been neutered or spayed, plus mandatory rabies vaccination certificates for each dog must be presented at the time of licensing or renewal.

§ 178-32. Violations; penalties for offenses. [Amended 10-6-10 by Ord. No. 10-48]

Failure to comply with the provisions of this article is a violation and punishable by a fine of \$25, except that where the person was found to have violated this article within the preceding five years, the fine will be \$50 and where the person was found to have committed two or more such violations within the preceding five

years, it shall be punishable by a fine of \$100 or imprisonment for not more than 15 days, or both. A late fee of \$5 will be assessed per license for dog licenses renewed after their expiration date.

ARTICLE V, Seizure of Unlicensed Dogs [Adopted 9-6-1994 by L.L. No. 4-1994 (Sub-Part LXXXIV of the 1970 Code)]

§ 178-33. Authority; notification of seizure required.

- A. The City of Binghamton Dog Control Officers are hereby authorized, pursuant to New York State Agriculture and Markets Law § 118, to seize:
 - (1) Any dog which is not identified and which is not on the owner's premises; and
 - (2) Any dog which is not licensed and/or identified whether on or off the owner's premises, except that the Dog Control Officer may not enter the owner's dwelling.
- B. The Dog Control Officer must attempt to notify the owner that the dog is being seized. If personal notification cannot be accomplished the Dog Control Officer will leave a written notice of the seizure at the owner's dwelling.

§ 178-34. Identified and unidentified dog defined.

"Identified dog" shall mean any dog carrying an identification tag as provided in Article IV, Licensing of Dogs, of this chapter. Any licensed dog not wearing an identification tag as provided in Article IV of this chapter shall be deemed an unidentified dog.

§ 178-35. Redemption.

Each dog which is not identified, whether or not licensed, may be redeemed by its owner, provided that such owner produces the following proof:

- A. That the dog has been licensed;
- B. Proof of rabies vaccination; and
- C. A spay/neuter certificate where applicable.

§ 178-36. Fees.

The owner of each dog will be required to pay fees as set from time to time by the City Council before redeeming the dog.

ARTICLE VI, Quarantine of Dogs [Adopted 10-3-1994 by L.L. No. 5-1994 (Sub-Part LXXXV of the 1970 Code)]

§ 178-37. Confinement.

If any dog has bitten any person or is suspected of having bitten any person, the Animal Control Officer and/or police officer shall cause such dog to be confined or isolated for a period of time not to exceed 10 days.

§ 178-38. Rabid dogs.

If a dog, for any reason, is suspected of being infected with rabies, the Animal Control Officer and/or police officer shall cause such dog to be confined or isolated for a period of time not to exceed 10 days.

§ 178-39. Determination of ownership.

"Owner" shall be defined as any person who harbors or keeps any dog. If the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

§ 178-40. Quarantine areas and conditions.

Confinement of the animal may be accomplished at an animal shelter, a private veterinary hospital, or at the owner's dwelling. The place of confinement and the conditions of such confinement shall be determined by the Animal Control Officer and/or police officer. The owner of the dog shall be liable for any charges incurred in relation to the confinement.

§ 178-41. Inspection of place of confinement.

The City of Binghamton, or the owner of the dog, may request a review of the conditions and place of the confinement. The City Clerk, or department head currently in charge of dog control and licensing, will review the confinement and render a decision. This decision will be final.

§ 178-42. Penalties for offenses.

If an owner of a dog does not confine the dog pursuant to the instructions of the Dog Control Officer and/or police officer, the owner shall be guilty of a Class B misdemeanor and subject to a fine not to exceed \$2,000 and/or six months in jail, and the dog shall be immediately seized by the Dog Control Officer and/or police officer.

Chapter 181, APPEARANCE TICKETS

[HISTORY: Adopted by the City Council of the City of Binghamton by L.L. No. 6-1979 (Sub-Part XLV of the 1970 Code). Amendments noted where applicable.]

§ 181-1. Officials authorized to issue. [Amended by L.L. No. 8-1989; Amended 12-4-2006 by L.L. No. 2-2006]

Pursuant to and in accordance with the provisions of the Municipal Home Rule Law § 10(4)(a) and Criminal Procedure Law Article 150, the following public servants of the City of Binghamton are hereby authorized to issue and serve appearance tickets for the following violations of statutes of the State of New York and local laws, ordinances and codes of the City of Binghamton:

- A. Code Inspectors and Director of Code Enforcement: Housing and Property Maintenance and Rehabilitation Code of the City of Binghamton; Garbage, Rubbish, Refuse and Litter Ordinance of the City of Binghamton; all other laws of the State of New York and laws, ordinances and codes of the City of Binghamton which said Code Inspectors and Director of Code Enforcement are authorized to enforce.
- B. Supervisor of Buildings, Construction and Zoning Enforcement Officer and Building Inspector: Building Code and Zoning Ordinance of the City of Binghamton; State of New York Building Construction Code; all other laws of the State of New York and laws, ordinances and codes of the City of Binghamton which the Supervisor of Buildings, Construction and Zoning Enforcement Officer and Building Inspector are authorized to enforce.
- C. Plumbing Inspector: Plumbing Code of the City of Binghamton; all other laws of the State of New York and laws, ordinances and codes of the City of Binghamton which the Plumbing Inspector is authorized to enforce.
- D. City Engineer, Assistant City Engineer and Assistant Engineers: Chapter 355, Streets and Sidewalks, Article IV, Maintenance, construction and Excavation Within Rights-of-Way, of the Code of the City of Binghamton.
- E. Fire Marshal, Assistant Fire Marshal, Fire Marshal's Office Inspectors: Chapter 235, Fire Prevention, of the Code of the City of Binghamton; the New York State Fire Prevention and Building Code (Title 9, Subtitle S, Chapter I of the NYCRR); and the Multiple Residence Law, as it relates to fires and fire prevention.

§ 181-2. Manner of service. [Amended 12-4-2006 by L.L. No. 2-2006]

An appearance ticket may be served personally or may be posted on the offender's known legal residence.

Chapter 184, AUCTIONS AND AUCTIONEERS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 12, §§ 12-16 through 12-36, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Collateral loan brokers -- See Ch. 275, Art. II.
- Secondhand dealers -- See Ch. 275, Art. III.
- Transient retail merchants -- See Ch. 331, Art. I.
- Going-out-of-business sales -- See Ch. 331, Art. II.

§ 184-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PERSONAL PROPERTY -- All goods, wares, merchandise, commodities, compounds, things, chattels, jewelry, and all other personal property of whatever form or nature, but does not include real property.

PUBLIC AUCTION -- Any public offer to sell personal property to the highest bidder or to the person offering to pay the highest price therefor, and shall be without qualifications or reservations, unless at the time of the offer of each article or parcel and before any bids are asked thereon a minimum price therefor be publicly stated.

SALE AT PUBLIC AUCTION -- Includes judicial sales, sales by public officers in the manner prescribed by law, sales pursuant to statute to satisfy any lien on the property sold, resales pursuant to statute or property retaken under a conditional sale contract.

§ 184-2. Public auctioneer to conduct auction; license required.

No sale at public auction of any personal property, as defined in this chapter, shall be held within the City unless such sale be directly conducted by an auctioneer licensed pursuant to the provisions of this chapter.

§ 184-3. Application for auctioneer's license.

Every applicant for a license as auctioneer, pursuant to this chapter, shall present to the City Clerk a written application signed and duly verified by him or her. Such application shall contain the following information:

- A. Applicant's full name, age, residence by street, number and place, present occupation.
- B. Whether applicant is a citizen of the United States and a resident of the State of New York.
- C. Applicant's qualifications, including education and business engaged in during the past five years.
- D. Where and when applicant has been previously licensed as an auctioneer.
- E. Whether any previous license as an auctioneer was cancelled or revoked.
- F. Such further facts as may be required by the City Clerk to show the good character, competency and integrity of the applicant.

§ 184-4. Bond required for auctioneer's license.

The applicant for an auctioneer's license to be issued under the provisions of this chapter shall present to the City Clerk with his application for such license a bond to the City executed by a duly authorized surety company in the penalty of \$5,000, conditioned that he or she will faithfully observe the laws of the State of New York, and the ordinances of the City, then in effect or thereafter enacted, and that he or she will faithfully perform his or her duties as such auctioneer and render such accounts and pay such debts as may be required of him or her by law. Such bond shall be approved by the Corporation Counsel.

§ 184-5. Issuance of auctioneer's license.

Upon the City Clerk being satisfied of the good character, competency and integrity of the applicant for an auctioneer's license, and upon payment of the license fee as provided in § 184-6 of this chapter, the Clerk shall issue to the applicant an auctioneer's license, authorizing him or her to conduct auction sales in the City as provided by law and by this chapter.

§ 184-6. Term of auctioneer's license; fee; transferability.

Each auctioneer's license issued pursuant to this chapter shall expire on the 31st day of December following the date of issuance of such license. The fee for such license shall be payable to the City Clerk in an amount set from time to time by resolution of the City Council. An auctioneer's license shall not be assignable or transferable.

§ 184-7. Permit required for sales at public auction.

No person shall sell, dispose of or offer for sale at public auction or cause to be sold, disposed of or offered for sale at public auction within the City any personal property except used household furniture and effects purchased from or sold on account of a householder who has actually used such furniture and effects in his or her household in the City, or livestock, without a permit by the City Council to hold such sale, which permit shall fix the time of commencement and the duration of such sale.

§ 184-8. Permit fee.

The fee for a permit to conduct a sale at public auction shall be payable to the City Clerk before the granting of the permit in an amount set from time to time by resolution of the City Council.

§ 184-9. Application for permit to hold public auction.

- A. Required. Any person intending to sell at public auction any personal property as defined in this chapter within the City except used household furniture and effects purchased from or sold on account of a householder who has actually used such furniture and effects in his or her household in the City of Binghamton, or livestock, shall make application to the City Council for a permit to hold such sale at public auction and if such permit be granted, the sale may be conducted as provided in this chapter.
- B. Form, contents of application; time for filing.
 - (1) Such permit application shall be in writing and shall be verified, and must be filed with the City Clerk not less than 15 days before the time for the commencement of any such sale.
 - (2) The application shall contain the following information:
 - (a) The name and address of the applicant.
 - (b) The name and address of the public auctioneer.
 - (c) The street and number of the premises in which it is proposed to conduct such sale.
 - (d) The length of time for which it is desired to conduct such sale.
 - (e) The place or places within the City at which, for the two years last preceding the filing of said application, the applicant has continuously conducted his or her business.
- C. Verification of application. Such permit application shall be verified by the applicant if he or she is an individual, or if the applicant be a partnership, by one of the partners, or if such applicant be a corporation, by an officer of such corporation.

§ 184-10. Inventory to accompany permit application.

There shall be attached to the application for a permit to conduct a sale at public auction, a written, sworn inventory of the personal property to be offered for sale, specifying as to each item the quantity, quality, kind and grade, and the material of which it is composed, with a distinctive number for each item; and that each

and every article contained in said inventory is a part of the stock of goods of said person and has been a part of the stock of goods of said person for a period of at least 90 days prior to the date of the filing of the application, and that no property purchased, procured or placed in stock specifically for such public auction is included therein.

§ 184-11. Review of property specified in inventory.

The City Council, before issuing a permit to conduct a sale at public auction, shall have the right, either personally or by such person or persons duly authorized by it, to examine the personal property specified in the inventory of items to be offered for sale to determine whether said inventory correctly sets forth the items to be sold.

§ 184-12. Qualifications of person to sell property.

No permit shall be issued to any person to conduct a sale at public auction unless each and every article contained in the inventory of the property to be sold has been a part of the stock of goods of said person for a period of at least 90 days prior to the date of the filing of the application with the City Clerk, and unless he or she shall have been for a period of at least two years preceding the date of the filing of such application continuously engaged in business in the City, in dealing in the same kind of personal property as is to be offered for sale at such public auction.

§ 184-13. Term of sale permit.

No permit shall be issued to conduct a sale at public auction for a longer period than 15 consecutive days, Sundays and legal holidays excepted, at any one place in the City, and a period of at least 12 months must have elapsed after the conclusion of any auction sale conducted either before or after the enactment of the ordinance from which this article is derived before another permit shall be issued to the same applicant, or to any person for sale to be conducted at the same place, except that the City Council in its discretion may extend such period of 15 days for an additional period of 15 days, which shall run consecutively from the date of the expiration of the first fifteen-day period, Sundays and legal holidays excepted.

§ 184-14. Revocation of auctioneer's license and permit to conduct sale; notice and hearing; fees not to be refunded.

- A. The Mayor may revoke any license granted to a public auctioneer or any permit for the conduct of any sale at public auction, issued pursuant to the provisions of this chapter, if he shall have cause to believe that the holder of such auctioneer's license and/or permit to conduct such sale is violating any statute of the State of New York relative to auctions and auctioneers, or any provision of this chapter. A conviction by a court of competent jurisdiction of such offense or recovery upon a bond pursuant to the provisions of this chapter shall be conclusive evidence of such violation.
- B. The Mayor may, upon the complaint of any person, cause notice to be served upon the holder of such auctioneer's license, and/or holder of such permit to conduct a sale, specifying the grounds of complaint or reason assigned for the revocation of such auctioneer's license and/or permit to conduct a sale, which notice shall fix a time and place at which the Mayor shall hear the evidence of the person making such complaint and such other evidence as may be presented to him or her or be in his or her possession, and the holder of such auctioneer's license and/or the holder of such permit to conduct a sale shall have an opportunity to be heard in his or her own defense. If the Mayor shall believe that sufficient grounds therefor exist, the Mayor shall revoke such auctioneer's license and/or such permit to conduct a sale.
- C. Whenever any auctioneer's license and/or permit to conduct a sale at public auction is so revoked, no refund of any unearned portion of the fee for such license and/or permit shall be made to the holder thereof.

§ 184-15. Hours during which sale may be conducted.

Sales at public auction shall be held only between the hours of 8:00 a.m. and 6:00 p.m., and at no time within the hours beginning at 6:00 p.m. and ending at 8:00 a.m.

§ 184-16. Limit of sale.

It shall be unlawful for any auctioneer or any other person, through such auctioneer, to sell, dispose of or offer to sell or dispose of any personal property as defined in this chapter, at a sale at public auction which has not been included and described in the inventory filed with the application for a permit to hold such sale.

§ 184-17. Private sales and sales of articles not listed in inventory.

- A. During the time when and while an auction sale is being conducted, no sales of any property, whether or not it be a part of the inventoried property, shall be permitted within the same room or in any room opening therefrom by private sale or otherwise than by public auction sale.
- B. No property not included in the inventory filed as required in § 184-10 shall be sold or offered for public auction or private sale in the same room or in a room opening therefrom during the time that such auction sale is being conducted .

§ 184-18. Tagging of articles offered for sale.

There shall be attached securely to each article to be offered for sale a tag or label, upon which shall be plainly written or printed in the English language a true and correct statement of the kind and quality of the material or substance of which such article is made or composed and the distinctive number of such articles on the itemized inventory filed with the City Clerk; if said article be one of those commonly classed as jewelry or articles commonly carried by persons engaged in the jewelry business, the tag shall state the percentage or carat of purity of such material; in case the article be plated or overlaid, a true statement of the kind of plate and the percentage of purity thereof, and the kind of material or metal under the plating; if the article be one commonly known as precious, semiprecious, synthetic or imitation stones, the true names, weight, quality and color of said stones; if watches or clocks, the true name of the manufacturers; the number of jewels and adjustments, the country of manufacture; and if any of such articles, or part thereof, be used or secondhand, the length of time the same has been in use and in a conspicuous place on said tag the words "secondhand" or "used." Said tag in each and every case shall remain upon the article and be delivered with the article to the purchaser.

§ 184-19. Article to be sold to highest bidder.

When any article or combination of articles is offered for sale at public auction, unless the auctioneer states a minimum price therefor before any bid or offer is asked, the article or combination of articles shall be sold to the person whose bid or offer is the highest offered if there be more than one bid or offer therefor.

§ 184-20. Acts prohibited during sales.

No auctioneer or any other person shall:

- A. Misrepresentation. Make any false representations as to the character, quality, or condition, value or ownership of any property offered for sale, or falsely represent that such property is in whole or in part bankrupt or insolvent stock or damaged goods or goods saved from fire.
- B. Substitution. Substitute any other article for the article sold to a bidder.
- C. Withdrawal of articles, etc. Bid in or withdraw from sale any article after receiving a second bid therefor, or receive any bid from a person not a bona fide bidder at such sale, or any person acting as a "capper," "booster" or "shiller."

- D. Noise to attract public. Employ or permit to be employed any bellperson, crier, instrument of music or means of attracting the attention of passersby other than a sign or flag.
- E. Entertainment of bidders. Conduct a sale where entertainment for the prospective bidders is provided on the premises where the sale is conducted.
- F. Items not in inventory. Offer for sale or sell any article or property not included in the inventory filed as provided in § 84-10 of this chapter.
- G. Compliance with chapter. Open or conduct any public auction sale until all the provisions of this chapter have been complied with and a permit for such sale has been obtained from the City Council of the City.

§ 184-21. Daily reports of sales.

At or before 10:00 a.m. during the continuation of an auction sale, the person conducting the same shall file or cause to be filed with the City Clerk a complete list of the articles sold at such sale on the previous day and the true price received for each article sold, attaching to such record an affidavit that the same is a true and correct statement of all sales made on such previous day and that no other articles were sold on said day. Such daily reports shall be kept on file by the City Clerk and shall be open for public inspection.

Chapter 189, BINGO AND GAMES OF CHANCE

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Bingo [Adopted 10-5-1970 (Ch. 3, Art. II, §§ 3-17 through 3-26, of the 1970 Code)]

§ 189-1. Conduct of game authorized; license required.

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the City, subject to the provisions of this article, Article 14-H of the General Municipal Law, and Article 19-B of the Executive Law.

§ 189-2. Conduct of game and leasing of premises restricted.

No person, firm, association, corporation or organization, other than a licensee under the provisions of Article 14-H of the General Municipal Law, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.

§ 189-3. Conduct of game on leased premises restricted.

No bingo game shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

§ 189-4. Purchases from unlicensed suppliers.

No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.

§ 189-5. Use of proceeds.

The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

§ 189-6. Maximum prizes. [Amended 12-4-2006 by L.L. No. 2-2006]

- A. No prize shall exceed the sum or value of \$1,000 in any single game of bingo.
- B. No series of prizes on any one bingo occasion shall aggregate more than \$3,000.

§ 189-7. Managers to be members of organization.

No person except a bona fide member of an organization licensed pursuant to the provisions of this article shall participate in the management or operation of a bingo game.

§ 189-8. Compensation of managers.

No person shall receive any remuneration for participating in the management or operation of any game of bingo.

§ 189-9. Violations to constitute misdemeanor.

The unauthorized conduct of a bingo game and any willful violation of any provision of this article shall constitute and be punishable as a misdemeanor.

§ 189-10. Conduct of games on Sunday authorized. [Added 8-16-1976 by Ord. No. 176-76; Amended 3-17-10 by Local Law 1-2010]

- A. Pursuant to the provisions of § 485 of the General Municipal Law, bingo games are hereby authorized in the City of Binghamton on Sundays.
- B. Those parties presently holding a valid license must file a written application for bingo games on Sunday.

ARTICLE II, Games of Chance [Adopted 4-3-1989 by L.L. No. 9-1989, approved at referendum 11-7-1989 (Sub-Part LXX of the 1970 Code)]

§ 189-11. Conduct of games authorized.

It shall hereinafter be lawful for any authorized organization, upon obtaining a license therefor, to conduct games of chance within the City of Binghamton, subject to the provisions of Article 9-A of the General Municipal Law and subject to the provisions and rules governing such games of chance as set forth by the New York State Racing and Wagering Board.

§ 189-12. Definitions.

The words and terms used in this article shall have the same meaning as such words and terms are used in Article 9-A of the General Municipal Law, unless otherwise provided herein, or the context requires a different meaning:

CITY -- The City of Binghamton.

OFFICER -- The Chief Law Enforcement Officer of the City of Binghamton.

§ 189-13. Games of chance defined.

"Games of chance" shall mean and include only the games known as "merchandise wheels" and "belljars" and such other specific games as may be authorized by the State Racing and Wagering Board in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols, determined by chance, but not including games commonly known as "bingo" or "lotto" which are controlled under Article 14-H of the General Municipal Law and also not including "slot machines," "policy or number games" and "lottery" as defined in § 225.00 of the Penal Law. No game of chance shall involve wagering of money by one player against another player.

§ 189-14. Authorized organization defined.

"Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization, or bona fide organization of veterans or volunteer fire fighters, which by its charter, certificate of incorporation, constitution or act of the Legislature shall have among its dominant purposes one or more of the lawful purposes as defined in Article 9-A of the General Municipal Law, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in Article 9-A for a period of three years immediately prior to applying for a license under this article. No organization shall be deemed an authorized organization which is formed primarily for the purpose of conducting games of chance and which does not devote at least 75% of its activities to other than conducting games of chance. No political party shall be deemed an authorized organization.

§ 189-15. Use of proceeds; prize limits; management personnel.

The net proceeds of any game conducted under this article shall be exclusively devoted to the lawful purposes of the authorized organization conducting the games or meetings. No single prize for any game of chance shall exceed \$250. No series of prizes on any one occasion shall aggregate more than \$1,000. No person except a bona fide member of the authorized organization conducting the game shall participate in the

management or operation of such game. No person shall receive any remuneration for participating in the management or operation of any such game.

§ 189-16. Conduct of games on Sunday authorized. [Amended by L.L. No. 9-1991]

Games of chance authorized pursuant to this article may be conducted on Sunday, pursuant to the provisions of § 195 of the General Municipal Law of the State of New York.

Chapter 192, BOATING AND WATERWAYS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

- Bonfires -- See Ch. 235, § 235-12.
- Parks and recreation -- See Ch. 301.
- Solid waste -- See Ch. 350.

ARTICLE I, Watercraft on Susquehanna River [Adopted 9-6-2005 by Ord. No. 05-65 (Ch. 3, § 3-7 of the 1970 Code)]

§ 192-1. Operation restrictions.

No person shall at any time operate a boat, kayak, canoe or other watercraft within 600 feet above, nor 20 feet below, Rock Bottom Dam on the Susquehanna River, except in such places as are designated for that purpose, which places, when and if designated, shall be under the control and supervision of the Department of Parks and Recreation.

§ 192-2. Portaging authorized.

Nothing in this article shall be read to prohibit those operating a boat, kayak, canoe or other watercraft on the Susquehanna River from portaging around that portion of the river they are prohibited from navigating by this article.

§ 192-3. Penalties for offenses; restitution; recovery of damages.

- A. Any person found guilty of violating or assisting in the violation of any provisions of this article shall be guilty of a violation and liable for a fine not exceeding \$500 or imprisonment for a period of not more than 15 days, or both.
- B. Any person found guilty of willfully, intentionally, and/or purposefully violating or assisting in the violation of any provisions of this article shall be guilty of a violation and liable for a fine not exceeding \$1,500 or imprisonment for a period of not more than 15 days, or both, and restitution shall be required to the City of Binghamton for the cost of any rescue from any City agency pursuant to Subsection C.
- C. Restitution.
 - (1) In addition to any other penalty provided by this section, a judge may, at the time of sentencing, make restitution to the City of Binghamton for the cost of any rescue a condition of any sentence for any person convicted of violating this article. If such restitution is ordered, except for good cause shown, it shall be paid within 30 days of the date of the sentence.
 - (2) Willful failure to comply with such restitution order shall result in a term of imprisonment not to exceed 15 days, or community service not to exceed 100 hours, or both such imprisonment and community service.
- D. Nothing in this section shall be interpreted so as to diminish any other lawful remedy to recover for damages.

§ 192-4. Warning signs.

- A. Signs shall be posted at, on or near the Tompkins Street Bridge warning those operating a boat, kayak, canoe or other watercraft on the Susquehanna River that they are approaching both the Rock Bottom Bridge pilings and the Rock Bottom Dam and informing them of the prohibition of this article.

- B. Signs and/or buoys shall also be placed at a point 600 feet above the dam warning that entry into that portion of the river is prohibited.
- C.
- D. Signs shall also be placed at on both banks of the Susquehanna River below Rock Bottom Dam warning that it is illegal for any person to operate a boat, kayak, canoe or other watercraft within 20 feet below Rock Bottom Dam.

ARTICLE II, Activities on Rivers and Riverbanks [Adopted 12-5-2005 by Ord. No. 05-85 (Ch. 14, Art. IV, §§ 14-40 through 14-45, of the 1970 Code)]

§ 192-5. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BATHE or BATHING -- To be totally or partially immersed in water for the purposes of swimming and/or for the purpose of cleansing one's body.

CAMP or CAMPING -- To erect, place, pitch or position any tent or temporary shelter, canopy or similar type device in or upon municipal property, including but not limited to the riverbanks.

DEBRIS -- See "garbage" and "litter."

GARBAGE -- Any waste accumulation of animal, vegetable, fruit or similar organic matter that attends the preparation, use, dealing in or storage of meat, fish, fowl, fruit or vegetable; metal containers, paper cartons or other containers that have contained food materials and beverages; discarded paper, rubber, cloth, leather, as well as inorganic waste such as glass, porcelain or other similar waste materials that ordinarily accumulate around a home, business or industry.

LITTER -- Any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be classified as debris, garbage or junk.

OPEN FIRE -- The burning or causing to be burned, or aiding and/or assisting in the burning, of any dry vegetation, leaves, trash, garbage, paper or other combustible material, for the purpose of disposal in any street, lot or parcel of land (either public or private) within the City of Binghamton limits.

PUBLIC PLACE -- Any place to which the public or a substantial group of persons has access, and includes but is not limited to the riverbanks, highways, pedestrian malls, streets, sidewalks, alleys, parking areas, municipal parking ramps, garages, other transportation facilities, pools, places of amusement, parks, playgrounds, together with hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

PUBLIC PROPERTY -- Any real property owned by the City of Binghamton, including but not limited to parks, playgrounds or property along the Susquehanna River and Chenango River.

RIVERBANK -- Any area within 150 feet of the edge of the water of either the Susquehanna River or the Chenango River within the boundaries of the City of Binghamton.

SWIMMING -- To move through the water while floating in the water propelled by means of the movement of the legs and/or arms. Swimming should be distinguished from wading for the purposes of fishing.

§ 192-6. Damage to trees and plants on riverbanks.

No person shall cut, injure, destroy or damage or appropriate to themselves trees, shrubs, or other plants or any portion thereof growing on any publicly owned portion of the riverbanks.

§ 192-7. Fishing and hunting; molesting wildlife.

- A. Fishing in those portions of the Susquehanna River and Chenango River located within the City is regulated solely by the New York State Department of Environmental Conservation regulations, and nothing in this article shall be construed to prohibit those authorized by the State of New York from fishing in the rivers.
- B. No person shall hunt, pursue with dogs, trap or in any other way molest any bird or animal, or rob or molest a bird's nest or take the eggs of any bird on the public property within the riverbank area.

§ 192-8. Fires, bonfires and cooking fires.

- A. No person shall burn or cause to be burned, or aid or assist in the burning of, any dry vegetation, leaves, trash, garbage, paper or other combustible material upon any riverbank in the City of Binghamton, except that it shall not be unlawful to start and maintain fires in any receptacle constructed and provided by the Parks Department for such purposes and solely for the purposes of cooking food.
- B. Any fire maintained pursuant to this section shall be under the care and direction of a person over the age of 18 years from the time it is kindled until the time it is extinguished.
- C. Charcoal shall be the only manner of fuel used by the public for maintaining fires pursuant to this section.
- D. The use of propane or similar fuels is prohibited without prior consent of the Fire Marshal, and such consent should only be given for special events at the sole discretion of the Fire Marshal. Open burning for recreational purposes (bonfires) shall be permitted only for organization-sponsored events and restricted to those meeting all of the requirements of the "open fire application" from the Fire Marshal's office. No fire shall be ignited prior to an on-site inspection and written approval from the City of Binghamton, including approval of the Fire Marshal in compliance with § 235-12 of the Code of the City of Binghamton.

§ 192-9. Disposal of garbage; burning of garbage prohibited.

Garbage shall be disposed of only in those containers that are appropriately and conspicuously marked for such purposes. At no time shall there be any burning of garbage by members of the public using the riverbank area.

§ 192-10. Littering in waters and on riverbanks.

- A. No person shall drop, deposit, dump or leave behind any rubbish, garbage, lawn refuse, ashes, papers, cardboard, metal cans or other metallic substances, bottles, glassware or any other refuse, waste material or other unwanted material of any kind on the riverbanks, except that any such materials resulting from picnics or other permitted activities shall be disposed of in compliance with § 192-9 of this article.
- B. No person shall, either within or outside a riverbank area, discharge into, throw, cast, lay, drop or leave in a river, brook, stream, reservoir, storm sewer or drain that flows into either the Susquehanna or Chenango River any substance, matter or thing, either liquid or solid, which may or shall result in the pollution of said river, brook, stream or reservoir or interfere with the conservation of the natural resources of the City of Binghamton's waterways, or endanger the health, safety or well-being of persons utilizing the riverbanks area; nor shall any person permit any rubbish, garbage, lawn refuse, ashes, papers, cardboard, metal cans or other metallic substances, bottles, glassware or any other refuse, waste material, litter or other unwanted material of any kind or other matter or thing, either liquid or solid, which may or shall result in the pollution of said river, brook, stream or reservoir, to be deposited upon such lands in such a manner that the same may fall into the river or be carried into the river in times of flood or high water.
- C. The provisions of Chapter 350, Solid Waste, of the Code of the City of Binghamton shall apply on the riverbanks.

§ 192-11. Urination and defecation.

No person shall urinate or defecate on the riverbank or in the rivers except in a restroom facility provided for that purpose.

§ 192-12. Bathing or swimming in Susquehanna and Chenango Rivers.

- A. No person shall at any time swim in the Susquehanna River or the Chenango River, within the limits of the City, except in places designated for such purpose and under the control and supervision of the Parks Department.
- B. No person shall at any time bathe in the Susquehanna River or the Chenango River, within the limits of the City.
- C. Nothing in this section shall be construed to prohibit persons authorized by the State of New York to fish from wading in the Susquehanna River or the Chenango River within the limits of the City of Binghamton.

§ 192-13. Camping on riverbanks.

No person shall be permitted to erect, place, pitch or position any tent or temporary shelter, canopy or similar type device within the riverbank area.

§ 192-14. Sleeping on riverbanks.

- A. No person shall sleep on any riverbank between the hour of 9:00 p.m. and 9:00 a.m. or at any time when the temperature has dropped below 40° F. as read at the Broome County Airport.
- B. No person shall swing, occupy or use any hammock thereon except in such portions thereof as may be designated by the Parks Department for such purpose.

§ 192-15. Enforcement; penalties for offenses.

- A. Upon witnessing or observing any violation of this article an appearance ticket returnable in City Court may be issued by any police officer or other City official authorized to issue appearance tickets pursuant to Chapter 181, Appearance Tickets, of the Code of the City of Binghamton.
- B. Any person violating any of the provisions of this article as defined herein shall be guilty of a violation and, upon conviction thereof, shall be liable for a fine as set forth in Chapter 1, General Provisions, § 1-4, General penalty.
- C. Any person willfully and purposefully violating any of the provisions of this article as defined herein shall be guilty of a violation and, upon conviction thereof, shall be liable for a fine not less than \$150 nor exceeding \$150 or imprisonment not exceeding 15 days, or to both such fine and imprisonment.
- D. It shall be presumed that after an initial conviction for the violation of any provision of this chapter any second or any additional violation of that specific provision was willful and purposeful.

Chapter 200, BUILDING CONSTRUCTION

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 5 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Designation of historic buildings or landmarks -- See Ch. 18, Arts. VI and XII.

Alarm systems -- See Ch. 167.

Unsafe buildings -- See Ch. 203.

Fire prevention -- See Ch. 235.

Plumbing -- See Ch. 310.

Zoning -- See Ch. 410.

ARTICLE I, Applicability of State Code; Numbering of Buildings; Sheds and Fences; Inspections; Demolition

§ 200-1. Applicability of State Building Code. [Amended 12-4-2006 by L.L. No. 2-2006]

The City Council hereby accepts the applicability of the Building, Fire, Property Maintenance, Residential, Plumbing, Fuel Gas, Mechanical and Energy Codes of New York State for the City of Binghamton in accordance with the provisions of § 374-a of the Executive Law of the State of New York.

§ 200-2. Numbering of buildings. [Amended 7-7-1975 by Ord. No. 121-75]

- A. Generally. All stores, hotels, shops, buildings, dwellings and structures of any kind within the City shall be regularly and conspicuously numbered, according to the present numerical division of lots, making due allowance for vacant lots at the same rate of subdivision. The owner or owners of any such store, hotel, shop, building, dwelling or structure shall place such numbers in a prominent place thereon.
- B. Expense, direction and control of numbering; notice to number; failure to obey notice. All numbering of buildings shall be done at the expense of the owners of the property, but under the direction and control of the Code Enforcement Office, which shall, when deemed expedient by that office, give notice in person or by mail to every owner or occupant of property to be numbered, to number the premises and the manner of doing the same, and if said owner or occupant neglects or refuses to obey such notice within 10 days thereafter, the person so neglecting or refusing to do so shall be guilty of a violation and shall be punished as provided in § 1-4 of this Code.

§ 200-3. Shed or fence restrictions.

The erection of a shed or fence in such a manner as unnecessarily to vex or annoy an adjoining proprietor or for the purpose of vexing or annoying such adjoining proprietor shall be unlawful.

§ 200-4. Inspection of premises prior to occupancy or lease by City. [Amended 3-1-1971 by Ord. No. 45-71; Amended 12-4-2006 by L.L. No. 2-2006]

- A. No lease of real property shall be executed on behalf of the City of Binghamton, as landlord or tenant, until a written report of inspection has been received by the Mayor and members of Council from the Department of Building and Construction, the Bureau of Code Enforcement, the Bureau of Fire, the Plumbing Inspector and the Electrical Inspector, certifying that the premises comply with the respective codes, rules and regulations enforced by each of the aforesaid bureaus and inspectors.
- B. Notwithstanding Subsection A herein, in the event that the premises to be leased are deficient, but by the terms of leasing it is provided that said deficiencies would be corrected by way of repairs or renovations prior to occupancy, then the lease may be entered into by the City. However, prior to

occupancy of the premises under the lease, the inspections and certification set forth in Subsection A herein shall be made.

- C. In the event that the inspections prior to leasing under Subsection A or prior to occupancy under Subsection B above reveal any deficiencies in the premises, then the leasing or occupancy by the City of Binghamton as landlord or tenant shall not be effective unless said deficiencies are corrected.

§ 200-5. Demolition permits. [Added 7-10-1998 by Ord. No. 98-100; 12-4-2006 by L.L. No. 2-2006]
No demolition permit for any building or structure constructed prior to December 31, 1940, shall be issued until after a determination has been made by the Commission on Architecture and Urban Design that the building or structure does not meet the criteria and/or qualifications and/or definitions of a local, state or national landmark. This section shall not apply to those buildings and structures which have been determined to be a danger to the health, safety or welfare of the public in that they have been determined to have sustained damage and to be beyond repair in accordance with Chapter 203, Unsafe Buildings, of the Code of the City of Binghamton.

ARTICLE II, Building Code Administration [Added 12-4-2006 by L.L. No. 4-2006]

§ 200-6. Purpose and intent.

This article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the "Uniform Code") and the State Energy Conservation Construction Code (the "Energy Code") in this City. This article is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other sections of this article, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this article.

§ 200-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUILDING PERMIT -- A permit issued pursuant to § 200-9 of this article. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this article.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE -- A certificate issued pursuant to § 200-12B of this article.

CITY -- The City of Binghamton.

CODE ENFORCEMENT OFFICER -- The Code Enforcement Officer appointed pursuant to § 200-8B of this article.

CODE ENFORCEMENT PERSONNEL -- Shall include the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER -- An order issued by the Code Enforcement Officer pursuant to § 200-20A of this article.

ENERGY CODE -- The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR -- An inspector appointed pursuant to § 200-8D of this article.

OPERATING PERMIT -- A permit issued pursuant to § 200-15 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

PERMIT HOLDER -- The person to whom a building permit has been issued.

PERSON -- Shall include an individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER -- An order issued pursuant to § 200-11 of this article.

TEMPORARY CERTIFICATE -- A certificate issued pursuant to § 200-12D of this article.

UNIFORM CODE -- The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

§ 200-8. Code Enforcement Officer and Inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this article. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this article;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 200-20A (Violations) of this article;
 - (7) To maintain records;
 - (8) To collect fees as set by the City Council of this City;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with the Corporation Counsel, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.
- B. The Code Enforcement Officer shall be appointed by the Mayor of this City. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, a certified individual shall be appointed by the Mayor to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article. Any such Acting Code Enforcement Officer shall have current New York State code enforcement certification.
- D. One or more inspectors may be appointed by the Mayor of this City to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require

for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the City Council of this City.

§ 200-9. Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, demolition, or the extension of electrical, plumbing or HVAC systems of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
 - (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
 - (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion-picture, television and theater stage sets and scenery;
 - (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (8) Installation of partitions or movable cases less than five feet nine inches in height;
 - (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (11) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this

section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
 - (2) The Tax Map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any affected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer

determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
 - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
 - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 200-21 (Fees) of this article must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 200-10. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
 - (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 200-21 (Fees) of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 200-11. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall:
- (1) Be in writing;
 - (2) Be dated and signed by the Code Enforcement Officer;
 - (3) State the reason or reasons for issuance; and
 - (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 200-20 (Violations; penalties for offenses) of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 200-12. Certificates of occupancy/certificates of compliance.

- A. Certificates of occupancy/certificates of compliance required. A certificate of occupancy/certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or

portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy/certificate of compliance.

- B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:
- (1) A written statement of structural observations and/or a final report of special inspections; and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy/certificates of compliance. A certificate of occupancy/certificate of compliance shall contain the following information:
- (1) The building permit number, if any;
 - (2) The date of issuance of the building permit, if any;
 - (3) The name, address and Tax Map number of the property;
 - (4) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (9) Any special conditions imposed in connection with the issuance of the building permit; and
 - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy/certificate of compliance and the date of issuance.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy/certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 200-21 (Fees) of this article must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance or for a temporary certificate.

§ 200-13. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this City shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent, any fire the origin of which has been traced to the electrical system of any buildings or structures, and any emergency response involving carbon monoxide detector activation.

§ 200-14. Unsafe buildings and structures.

Unsafe structures and equipment in this City shall be identified and addressed in accordance with the procedures established by the Uniform Fire Prevention and Building Code or Chapter 203, Unsafe Buildings, of the Code of the City of Binghamton, as now in effect or as hereafter amended from time to time.

§ 200-15. Operating permits.

- A. Operation permits required.
 - (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR § 1225.1;
 - (b) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;
 - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the City Council of this City;
 - (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 200-21 (Fees) of this article must be paid at the time submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 200-16. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories, other than facilities covered by OFPC, shall be performed at least once every 12 months.
 - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) of this subsection, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this subsection, shall be performed at least once every 24 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon: (1) the request of the owner of the property to be inspected or an authorized agent of such owner; (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

- C. OFPC inspections. Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:
- (1) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (2) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and
 - (4) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A(3) of this section.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 200-21 (Fees) of this article must be paid prior to or at the time each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 200-17. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this article, or any other local law, ordinance or regulation adopted for administration and enforcement by the Code Enforcement Officer. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 200-20 (Violations; penalties for offenses) of this article;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 200-18. Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:
 - (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;

- (3) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by §§ 200-9 through 200-17, inclusive, of this article; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 200-19. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the City Council of this City a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 200-18 (Recordkeeping) of this article and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this City, on a form prescribed by the Secretary of State, a report of the activities of this City relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this City is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this City in connection with administration and enforcement of the Uniform Code.

§ 200-20. Violations; penalties for offenses.

- A. Compliance orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this article. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this article; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this article which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- B. Appearance tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code and any other local City law.
- C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this article, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this City.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this City, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of this City, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the City Council of this City.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 200-11 (Stop-work orders) of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 200-11 (Stop-work orders) of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 200-21. Fees.

A fee schedule shall be established by resolution of the City Council of this City. Such fee schedule may thereafter be amended from time to time by like resolution (See Exhibit J). The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.

§ 200-22. Intermunicipal agreements.

The City Council of this City may, by resolution, authorize the Mayor of this City to enter into an agreement, in the name of this City, with other governments to carry out the terms of this article, provided that such

agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

Chapter 203, BUILDINGS, UNSAFE

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part XXXII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Powers of Superintendent of Buildings as to removal or repair of dangerous buildings -- See Charter, § C-232.
Building construction -- See Ch. 200.
Electrical standards -- See Ch. 225.
Fire prevention -- See Ch. 235.
Plumbing -- See Ch. 310.

§ 203-1. Repair or removal required.

Pursuant to and in accordance with the provisions of § 20, Subdivision 35, of the General City Law of the State of New York, the repair or removal of any building or structure within the City of Binghamton that, from any cause, endangers the health, safety, or welfare of the public, is hereby compelled, in accordance with the procedures set forth herein.

§ 203-2. Procedure for repair or removal. [Amended by L.L. No. 1-1990]

- A. Authorities to supervise. All determinations relative to this procedure shall be made jointly by the Supervisor of the Division of Building Inspection and Construction (hereinafter referred to as "Supervisor"), the Code Enforcement Director (hereinafter referred to as "Director"), the Corporation Counsel (hereinafter referred to as "Counsel"), and, in cases involving fire, the Fire Marshal (hereinafter referred to as the "Marshal"). The above-named individuals shall meet within one business day of any incident or fire which results in a damaged building.
- B. Inspection; report of dangerous condition. The Director, the Supervisor, and, in case of a fire, the Marshal shall each inspect the property and provide a report of their findings. The final determination of condition by the Director, Supervisor, Marshal and Counsel shall be in writing, based upon the various reports.
- C. Service of notice of dangerous condition. If the Director, Supervisor, Marshal and Counsel shall find said building or structure endangers the health, safety or welfare of the public, there shall be served upon the owner, and all persons having legal interest in such property or structure, either personally or by registered/certified mail, addressed to his or her last known address as shown by the records of the Department of Assessment of the City of Binghamton or the Office of the Treasurer of the City of Binghamton and/or in the office of the County Clerk of Broome County, a notice containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order of the Counsel requiring the same to be repaired or removed. If the service is by registered or certified mail, a copy of such notice shall be posted on the premises in a conspicuous location.
- D. Time within which repair/removal to be made. The order shall provide for repair or removal based upon the following time table:
 - (1) Imminent danger: Any building or structure which is an imminent danger to life or safety as a result of structural instability, fire, explosion or other hazardous situations shall be repaired/removed in compliance with the terms of Charter § C-232.
 - (2) Totally destroyed building: Any property which is deemed to have sustained damage in an amount greater than 50% shall be deemed to be beyond repair. In such a case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel and that within 30 days the building and

all debris be removed. The order shall further provide that said building shall not be occupied pending removal. [Amended 12-4-2006 by L.L. No. 2-2006]

- (3) Damaged, possibly repairable: Any property which is deemed to have sustained damage in an amount greater than 25% but no more than 50% shall be deemed to be possibly repairable. In such a case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel. The order shall further provide that within 30 days of the order, the property owner shall either remove the building and debris or commence repairs pursuant to a plan submitted to and deemed acceptable by the Director, Supervisor, Marshal and Counsel. The order shall additionally provide that the building shall not be occupied until and unless repairs are made pursuant to a plan, as set forth above, and until and unless consent for occupation is granted by the Director, Supervisor, Marshal and Counsel. [Amended 12-4-2006 by L.L. No. 2-2006]
 - (4) Repairable structure: Any property which is deemed to have sustained damage of 25% or less shall be deemed to be repairable. In such a case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel and that within 45 days repairs be commenced pursuant to a plan submitted to and deemed acceptable by the Director, Supervisor, Marshal and Counsel. The order shall additionally provide that the building shall not be occupied until and unless repairs are made pursuant to a plan, as set forth above, and until and unless consent for occupation is granted by the Director, Supervisor, Marshal and Counsel. [Amended 12-4-2006 by L.L. No. 2-2006]
- E. Filing of notice. The Corporation Counsel shall file a copy of the notice provided for under § 203-2C hereof in the Office of the County Clerk of the County of Broome within seven days after service under Subsection C is complete. Such notice shall be filed by such Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise provided in this subsection. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Corporation Counsel of the City of Binghamton. The Clerk of the County of Broome shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.
- F. Hearing; notice. There shall be a hearing before the Director, Supervisor, Marshal and Counsel, notice of which and the time and place thereof shall be specified in the notice to repair or remove, served upon the owner and such persons having an interest in the property or structure as is herein prescribed.
- G. Removal by City. In the event that the owner fails or refuses to repair or remove such building or structure within the time provided, the City of Binghamton, with the approval of the Common Council of the City of Binghamton, may enter upon such property and cause the same to be removed. This procedure shall not be required prior to action by the City pursuant to Subsection D(1).
- H. Recovery of costs and expenses. All costs and expenses incurred by the City of Binghamton in connection with the proceedings to secure, repair or remove such building or structure, including the cost of actually removing the same, shall be assessed against the land on which such building or structure is located. Said assessment shall be and shall constitute a lien upon the land so affected. The City of Binghamton may bring and maintain an action as upon contract for such assessment, or to foreclose such lien or liens. As an alternative to the maintenance of any such action, the Council of the City of Binghamton may annually cause a statement to be prepared setting forth the amount of each lien or any such assessment in arrears, the real property affected thereby and the name of the

person in whose name such real property is assessed. Such statement shall be presented to the Council of the City of Binghamton on or before October 20 of each year. The Common Council of the City of Binghamton shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as the City of Binghamton taxes, and such amounts shall be set forth in a separate column in the annual tax rolls of the City of Binghamton. The amounts so levied shall be collected and enforced in the same manner and at the same time as is provided by law for the collection and enforcement of the City of Binghamton taxes.

- I. Applicability. The provisions of this section shall be applicable to all properties within the City of Binghamton for which a formal repair and removal proceeding pursuant to prior provisions of the Charter and Code has not yet been commenced.

Chapter 211, CURFEW

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 14, § 14-4, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Sale or distribution of adult materials to minors -- See Ch. 160, Art. I.

Parks and recreation -- See Ch. 301.

§ 211-1. Hours; exceptions. [Amended 12-4-2006 by L.L. No. 2-2006]

It shall be unlawful for any person under 16 years of age to be or remain in or upon any of the streets, alleys or public places in the City between the hours of 11:00 p.m. and 6:00 a.m., unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or is in the performance of an errand or duty directed by said parent, guardian or other person having the care and custody of such minor person, or whose employment makes it necessary to be upon said street, alleys or public places during the nighttime after said specified hours; provided that this exception shall not apply when the minor person shall be playing or unnecessarily loitering in or upon any such street, alley or public place, whether alone or accompanied by a parent, guardian or any person or persons whomsoever.

§ 211-2. Parents' responsibility.

It shall be unlawful for any parent, guardian, or other person, having the legal care and custody of any person under 16 years of age, to allow or permit any such child, ward or other person under such age, while in his or her legal custody, to go or be in or upon any of the streets, alleys or public places in said City within the time prohibited in § 211-1 of this chapter, unless there exists a reasonable necessity therefor.

§ 211-3. Duty of police. [Amended 12-4-2006 by L.L. No. 2-2006]

Each member of the police force, while on duty, is hereby authorized to arrest any person willfully violating the provisions of § 211-1 of this chapter and detain such person for a reasonable time. No child or minor person arrested under the provisions of this section shall be placed in confinement other than being detained in some private room at police headquarters until the parents, guardian or other person having legal control and custody of such child or minor person shall have been personally notified of such arrest, at which point the minor should be released to the custody of his or her parent, guardian or other person having legal control and custody of such child or minor person.

§ 211-4. Duty of City Court Judge.

It shall be the duty of the Judge of the City Court, upon the arrest of any child or minor person where the parents or guardians have refused to become responsible for said child or minor person for violation of the provisions of § 211-1 of this chapter, to inquire into the facts of said arrest and the condition and circumstances of such child or minor person, and if it shall appear that such child or minor person, for want of proper parental care, is growing up in mendicancy or vagrancy, or is incorrigible, cause the proper proceedings to be had and taken as authorized and provided by law in such cases.

Chapter 220, DISORDERLY CONDUCT

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 14, §§ 14-7 and 14-8, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Loitering -- See Ch. 279.

Streets and sidewalks -- See Ch. 355.

§ 220-1. Injury to public property prohibited.

It shall be unlawful for any person to willfully and unlawfully cut, injure, deface or tarnish any public building, bridge, sign, fence, tree, awning, useful or ornamental improvement or any public work in the City; or willfully and unlawfully to break any windows or window glass in any private or public building or place of worship in the City, or the glass of any public lamp; or to aid, abet or assist therein.

§ 220-2. Interfering with public work.

- A. Generally. No person shall unlawfully hinder, obstruct, or delay any person employed by the City in constructing or repairing any public work.
- B. Removal, etc., of barricades and lights. No person shall tear down, carry away, remove or in any manner interfere with any barricade or lights placed upon, around or about any excavation, street improvement or obstruction in a street so placed by a City employee, owner or contractor to protect the public or to prevent injury to public work.

Chapter 225, ELECTRICAL STANDARDS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 7 of the 1970 Code); amended in its entirety 5-3-2004 by Ord. No. 04-55. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Board, commission and committee procedures -- See Ch. 16.

Building construction -- See Ch. 200.

Fire prevention -- See Ch. 235.

Housing and property maintenance -- See Ch. 265.

Plumbing -- See Ch. 310.

ARTICLE I, General Provisions

§ 225-1. Purpose and intent.

The purpose of this chapter is to provide for the protection of life and property through ensuring the proper installation, maintenance and repair of electrical wiring in the City of Binghamton. The provisions contained herein shall constitute the rules regulating person or persons engaged in the work of electrical installation, repair and/or maintenance in the City of Binghamton.

§ 225-2. Definitions.

As used in this chapter, the following terms shall have the following meanings unless the context requires otherwise:

APPRENTICE -- A person engaged in electrical work under the direct supervision of a master or journeyman electrician.

BOARD -- The Board of Electrical Examiners of the City, established by this chapter.

INSPECTOR -- The person or persons authorized and required by this chapter to make electrical inspections within the City.

JOURNEYMAN ELECTRICIAN -- A person having a valid license issued by the City of Binghamton, experienced, and doing any work in connection with the installation, erection, alteration, extension or repair of electrical wiring, apparatus, fixtures, devices, appliances, excluding portable appliances as hereinafter defined, and equipment for light, heat or power purposes or for signaling systems operating on 50 volts or more.

MASTER ELECTRICIAN -- Any person who has a valid license issued by the City of Binghamton and engages in or carries on the business of installing, erecting, altering or repairing electrical wiring, apparatus, fixtures, devices, appliances, excluding portable appliances as hereinafter defined, and equipment utilized or designed for the utilization of electricity for light, heat or power purposes or for signaling systems operating on 50 volts or more, and any person who performs or supervises the performance of work done in connection with the installation, erection, alteration, extension or repair of electrical wiring, apparatus, fixtures, devices, appliances, excluding portable appliances as hereinafter defined, and equipment for light, heat or power purposes or for signaling systems operating on 50 volts or more, and any person who contracts to do any of the foregoing.

PORTABLE APPLIANCE -- An appliance capable of being readily moved where established practice or the conditions of use make it necessary or convenient for it to be detachable from its source of electric current by means of flexible cord and attachment plug.

WORKING MASTER ELECTRICIAN -- Any person who has a valid license issued by the City of Binghamton and performs the work as described as a journeyman and master electrician. Any holder of a master electrician license and journeyman's electrician license shall become a holder of a working master electrician license.

§ 225-3. Enforcement.

- A. Any duly authorized City of Binghamton employees of the Office of Buildings and Construction, Code Enforcement/Fire Marshal Office, shall enforce the regulations of this chapter, with aid and assistance, where necessary, from the Police Department.
- B. The Corporation Counsel of the City shall act as counsel and legal adviser to the Board of Electrical Examiners created by this chapter and it shall be his or her duty to prosecute violations of this chapter upon complaint of the Inspector or the Board.

§ 225-4. Installation standards.

All installations of electrical work, all extensions thereto and all alterations thereof within the City shall be in conformity with the provisions of this chapter and of any other law, or of any ordinance, local law, New York State Uniform Fire Prevention and Building Code, or building code of the City pertaining thereto, and shall also be in conformity with approved standards for safety to life and property. In every case where no specific type or class of material or no specific standards are prescribed by law, conformity with the regulations and requirements contained in the National Electrical Code as approved by the American Standards Association shall be prima facie evidence of conformity with approved standards for safety to life and property.

§ 225-5. Exceptions to applicability of provisions.

The provisions of this chapter shall not apply to:

- A. Persons engaged solely in selling, servicing or repairing portable appliances, or engaged solely in repairing or replacing heating elements, brushes, motors or parts thereof, fans, worn or burnt out parts and switches and flexible cords attached to or part of portable appliances, or engaged solely in the attachment of portable appliances to existing circuits when no joining or splicing of electrical conductors is required.
- B. The installation, maintenance or repair of elevators.
- C. Any work involved in the manufacture, assembly, test or repair of electrical machinery, portable or fixed appliances, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing and repairing as its principal business.
- D. The work in connection with the erection, construction, maintenance or repair of lines and facilities for the generation, transmission and distribution of electricity from the source of supply to the service connection on the premises where used, by public service companies as defined by the Transportation Corporations Law of this state or municipal plants authorized to generate or sell electricity.
- E. The work of such companies or plants in installing, maintaining and repairing on the consumer's premises of service connections, meters and other apparatus and appliances remaining the property of such companies or plants after installation.
- F. Emergency repairs or wiring and appliances on consumer's premises necessary for the protection of life or property.
- G. The work of companies incorporated for the transmission of intelligence by electricity in installing, maintaining or repairing wires, apparatus or fixtures or other appliances.

§ 225-6. Permits; penalties for failure to obtain permit.

- A. Permit required; display. It shall be a violation of this chapter for any person to install, alter or repair, or cause to be installed, altered or repaired, any electrical wiring in the City until such time as proper application has been filed with the Superintendent of Building Inspection of the City and a permit has been obtained from the Superintendent. Such permit shall be conspicuously displayed upon the exterior of the premises whereon such installation, alteration or repair is to be performed.
- B. Notwithstanding any other restrictions, the owner-occupant or intended owner-occupant of residential real property shall make application for an electrical permit to make alterations or repairs to the electrical system on said real property consisting of one, two or three dwelling units without being required to obtain a license as a master electrician for said electrical work. This provision shall in no way authorize a person to perform electrical work outside of property owned by said person or on property containing more than three dwelling units, mixed use, or nonresidential property. Electrical work shall be limited to electrical wiring within the dwelling units, excluding service entrance cable and electrical panel, to accessory structures (i.e., garages and pools), and exterior fixtures located on such property, excluding electrical service entrance cable and electrical panel. The electrical work shall be subject to inspection by the City of Binghamton Electrical Inspector or his or her successor or designee.
- C. No permit shall be issued to any person unless he or she is the holder of a license as a master electrician under this chapter or is exempted from such license requirement pursuant to Subsection B of this section. All property owners and/or master electricians must obtain a permit prior to commencement of any electrical work authorized pursuant to this section. Failure to obtain such permit shall result in a minimum fine of \$100 up to \$500 for the first violation, and a minimum fine of \$500 up to \$1,000 for the second violation. Any person who fails to comply three or more times in a five-year period shall be guilty of a misdemeanor and liable for a fine of \$2,000 or to imprisonment for a period not to exceed six months or both.
- D. Inspection of work performed by owner-occupant.
 - (1) All work performed by persons described in Subsection B shall be inspected by the City's Electrical Inspector, its designee or successor. If said work does not meet all applicable electrical and safety codes, the person shall be informed of the violations by the Inspector, and the person shall then remedy all violations within 10 days.
 - (2) If the work performed by a person pursuant to Subsection B does not meet all applicable codes after two inspections, the owner must hire a City of Binghamton licensed master electrician, licensed pursuant to this chapter, and pay a fee for any additional required inspections. Fees for electrical inspections shall be established by the duly authorized appointee of the electrical inspection agency of the City of Binghamton.
- E. If a property owner knowingly violates any section of this chapter or knowingly hires a person to perform work covered by this chapter, who is not licensed pursuant to this chapter, said owner shall be subject to a minimum fine of \$500 and a maximum fine of \$1,500.
- F. To obtain an electrical permit the master electrician shall submit a City of Binghamton electrical permit application and an electrical inspection request form to the designated inspection agency. Also to be submitted is proof of New York Worker's Compensation Insurance or a New York Worker's Compensation waiver form, and a certificate of contractor's liability insurance for products and completed operations per each occurrence and \$500,000 for bodily and property damage annual aggregate.

§ 225-7. Inspections.

- A. Authority of inspectors. The Chief Inspector, duly appointed as the representative of the designated inspection agency and authorized and required, as such representative, to make electrical inspections within the City or within an area which includes the City, and each of his or her duly appointed deputy and assistant inspectors are hereby authorized and deputized, as agents of the City, to make inspections and reinspections of all electrical installations within the City and all extensions thereto and alterations thereof and to approve or disapprove the same.
- B. Prohibited interests of inspectors. No inspector shall engage in the business of master electrician, either directly or indirectly, nor shall he or she have any financial interest in or connection with any person conducting such business.
- C. Inspector's right of entry; authority to disconnect service. The inspector shall have the right during reasonable hours to enter any building or dwelling in the discharge of his or her official duties, or for the purpose of making any inspection, reinspection or test of the installation of electric wiring, devices, permanently set appliances and equipment contained therein, and shall have the authority to order any wire to be cut or disconnected in cases of emergency where necessary for the safety of life or property, or where such wire may interfere with the work of the Fire Department. He or she is also authorized to order the discontinuance of electrical service to any electrical wiring, devices, permanently set appliances or equipment found to be dangerous to life or property because they are defective or defectively installed, until they have been made safe and have been approved by him or her.
- D. Inspection after fire or explosion. It shall be the duty of the inspector to make an inspection of any premises wherein a fire or explosion occurred, and for such purposes it shall be the duty of the Chief of the Fire Department of the City, within 24 hours after such occurrence, to report or cause to be reported, to the office of the designated board from which such inspector operates, the address or location of such premises and to furnish such other information and assistance with respect thereto as such inspector may require.
- E. Periodic reinspection. The inspector shall periodically make a thorough reinspection of the installation of all electric wiring, devices, permanently set appliances and equipment now or hereafter installed within the City and within the scope of this chapter, and when any such installation is found to be in a dangerous or unsafe condition, the person owning, using or operating the same shall be notified in writing and shall make the necessary repairs or changes required to place the same in safe condition and have such work completed within 15 days or such longer time as may be specified by the inspector in such notice.

§ 225-8. Connection to installations.

- A. Approval required. It shall be unlawful for any person to make connection from a source of electrical energy to any electrical wiring, devices, permanently set appliances or equipment for the installation, extension or alteration of which a permit is required by law, until a certificate of approval or a permit has been issued authorizing such connection and the use of such wiring, devices, appliances or equipment.
- B. Application to make reconnection. It shall be unlawful for any person to make connection from a source of electrical energy to any electrical wiring, devices, permanently set appliances or equipment which has been disconnected or ordered to be disconnected by the inspector or the use of which has been ordered by the inspector to be discontinued, until a certificate of approval has been issued by him or her authorizing the reconnection and use of such wiring, devices, appliances or equipment.

§ 225-9. Liability for damage.

This chapter shall not be construed to relieve from nor lessen the responsibility of any person owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the City be deemed to have assumed any such liability by reason of any inspection made or license issued pursuant to this chapter.

§ 225-10. Penalties for offenses.

Any person who shall, directly or indirectly, engage in or work at the business of master electrician or journeyman electrician in the City without a master electrician's license, working master electrician's license, or journeyman electrician's license or who shall violate any of the provisions of this chapter or of any rule or regulation made pursuant thereto or who, having had his or her license suspended or revoked, shall continue to engage in or work at the business of master or journeyman electrician, as the case may be, shall be guilty of an offense and, upon conviction thereof, shall be punished as provided in § 1-4 of this Code.

§ 225-11. Disposition of moneys derived from operation of chapter.

All fees, fines and penalties derived by the Board of Electrical Examiners from the operation of this chapter shall be turned over by the Board to the City Treasurer or other fiscal officer of the City exercising corresponding functions within 10 days after they are received, and such moneys shall be paid by such City Treasurer into the general fund of the City and shall be available for use for any lawful City purpose.

ARTICLE II, Board of Electrical Examiners

§ 225-12. Board established; composition.

- A. There is hereby established in and for the City of Binghamton a board to be known as the "Board of Electrical Examiners of the City of Binghamton." This Board shall consist of five persons who shall be residents of the City of Binghamton and who shall be appointed by the Mayor. One of such members shall be a staff member of the Division of Buildings and Construction of the City of Binghamton, who will act as Chairperson; one shall be a master electrician who has had at least five years' experience in electrical contracting and construction work and who employs one or more journeyman electricians; one shall be a journeyman electrician who has had at least five years' practical experience in electrical construction work; one shall be the Fire Marshal of the City of Binghamton; and one shall be a person not engaged in any of the above-mentioned occupations of the other members of the Board.
- B. The representative of the designated inspection agency of the City of Binghamton shall be an ex-officio member of the Board and shall be a non-voting member.

§ 225-13. Terms of office; removal.

Members shall be appointed to the Board for a term of three years and at the pleasure of the Mayor. Any member who misses three consecutive meetings without just cause shall automatically be replaced by the Mayor.

§ 225-14. Filling of vacancies.

A vacancy occurring in the membership of the Board from any cause shall be filled by the Mayor for the unexpired term of the member whose office has become vacant.

§ 225-15. Compensation of members. [Amended 10-17-2012 by Ord. No. 12-66]

Staff members of the City of Binghamton shall receive no additional compensation for services rendered as a consultant, member, or Chairperson of the Board pursuant to this Chapter. Each member of the Board of Electrical Examiners, who is not a staff member of the City of Binghamton, shall be paid an annual stipend of four hundred (\$400.00) dollars.

§ 225-16. Quorum.

A majority of the Board shall constitute a quorum for the transaction of business.

§ 225-17. Power and duties.

The Board shall have the following powers and duties in addition to those elsewhere prescribed in this chapter:

- A. Meetings: to hold at least one meeting in each month and as many other meetings at such other times as, in the opinion of the Chairperson or a majority of the Board, are necessary or desirable for the efficient discharge of the business of the Board.
- B. Examination and certification of license applicants: to examine the qualifications and determine the fitness of applicants for licenses under this chapter and determine and set examination fees.
- C. Recommendations for granting and issuance of licenses: to recommend to the City Clerk the granting and issuance of licenses as master electricians to applicants possessing or whose representatives possess the requisite qualifications; to recommend the granting and issuance of licenses as journeyman electricians to applicants possessing the requisite qualifications.
- D. Suspension and revocation of licenses: to suspend or revoke licenses for cause as prescribed in § 225-31 and to notify the City Clerk of such suspensions and revocations.
- E. Imposition and collection of fines: to impose and collect fines for violations as prescribed in § 225-31.
- F. Records: to keep records of all its meetings and proceedings and of all licenses issued, suspended or revoked by it and to make such records available for public inspection.
- G. Manual of rules and regulations: to prepare a manual of its rules and regulations for the conduct of examinations and to furnish copies thereof to persons desiring the same upon payment of a fee as set from time to time by the City Council.
- H. Adoption of rules and regulations: to adopt such rules and regulations as may be necessary, not inconsistent with the provisions of this chapter, with respect to the form and content of applications for licenses, the reception thereof, the investigation and examination of applicants and their qualifications, the conduct of the meetings and the business of the Board and the other matters incidental or appropriate to the powers and duties of the Board as prescribed by this chapter and for the proper administration and enforcement of the provisions of this chapter, and to amend or repeal any of such rules and regulations, by a majority vote, at any special or regular meeting, upon notice of at least 30 days to each member thereof.
- I. Filing of rules and regulations: to file a copy of all its rules and regulations and of all changes therein, duly certified by the Secretary, with the City Clerk, immediately upon the adoption thereof, which copy shall be available for public inspection during the regular business hours of the day.

§ 225-18. Review of Board actions.

Any action of the Board may be reviewed by any person aggrieved thereby in any court of competent jurisdiction by a proceeding instituted under the provisions of Article 78 of the Civil Practice Law and Rules.

ARTICLE III, Examination and Licensing of Electricians

§ 225-19. License required.

- A. Master electrician. No person shall hereafter engage in, carry on or conduct the business of master electrician or do, offer, undertake or contract to perform the work of a master electrician within the City or hold himself or herself out to the public, directly or indirectly, as being able to do so unless licensed as a master electrician or working master electrician therefor pursuant to this article.
 - (1) The working master or master electrician who conducts himself or herself in the business of electrical contracting and employs apprentice electricians shall show proof that he or she is in compliance with the New York State Department of Labor apprenticeship program where applicable. This section shall take effect one year from approval of this chapter.
- B. A working master electrician is a person who is duly licensed by the City of Binghamton and is a holder of a master and journeyman's license and chooses to obtain a single license to perform electrical work in the City of Binghamton.
- C. Journeyman electrician. No person shall hereafter engage in, undertake, perform the work of a journeyman electrician or agree to do or perform such work within the City, or hold himself or herself out to the public, directly or indirectly, as being able to do so unless licensed therefor pursuant to this article, and no person shall directly or indirectly hire, employ, engage, or suffer or permit any person to do the work of a journeyman electrician unless such person is licensed as a journeyman electrician pursuant to this article.
- D. Apprentice electrician. No person shall hereafter hold himself or herself out to the public, directly or indirectly, as being able to do so unless registered in a New York State approved apprenticeship training program or has successfully had completed the apprenticeship program, therefor pursuant to this article, and no person shall directly or indirectly hire, employ, engage, or suffer or permit any person to do the work of an apprentice electrician unless such person is registered as an apprentice electrician pursuant to this article.
- E. Verification of licenses. It shall be responsibility of the Electrical Inspector or any City official as stated in § 225-3A to verify that any person(s) performing electrical work within the City (other than property owners authorized pursuant to § 225-5) are duly licensed to perform such work according to the provisions of this chapter. If proof of proper licensing is not shown to the inspector or City official, the electrical work on the project shall be stopped until such time as properly licensed electricians are available to complete the project, and the person performing the work without a valid license shall be subject to a minimum fine of \$100 and a maximum fine of \$1,500. In addition, the owner of the premises where the work was being performed, the Electrical Inspector, and the appropriate City of Binghamton official shall notify in writing that the person or persons performing the electrical work on said premises were unable to show proof of proper licensing, and the electrical work on said premises is to be discontinued until a properly licensed electrician is retained to perform the work.

§ 225-20. Term; renewal; fees.

The Board of Electrical Examiners may issue licenses under this article as follows (See Exhibit J for Fee Schedule):

- A. Working master electrician license, Class A.
 - (1) A Working Master Electrician License, Class A, shall authorize the licensee to engage in the business and perform work of a master and journeyman electrician within the City of Binghamton for a period ending the 30th day of April the next following year of its issuance.

- (2) To obtain a working master electrician's license the applicant shall be a holder of a master and journeyman's license.
- (3) The fee for such license shall be as set from time to time by the City Council.
- (4) Such a license may be renewed annually on or before the expiration thereof for periods of one year upon payment of an annual renewal fee as set from time to time by the City Council.

B. Master electrician's license, Class B.

- (1) A master electrician's license, Class B, shall authorize the licensee to engage in the business of master electrician within the City for a period ending the 30th day of April next following the date of its issuance.
- (2) The fee for such license shall be as set from time to time by the City Council.
- (3) Such a license may be renewed annually on or before the expiration thereof for periods of one year upon payment of an annual renewal fee as set from time to time by the City Council.

C. Master electrician's license, Class C.

- (1) A master electrician's license, Class C, shall authorize the licensee to engage in the business of master electrician in the City, but only for the purpose of undertaking, performing and completing a single continuous job or installation at one location or property.
 - (a) The fee for such license shall be as set from time to time by the City Council for a period of one year from the date of issue.
 - (b) Such a license may be renewed on or before the expiration thereof for a period of time necessary to complete the job for which it is issued, at a renewal fee as set from time to time by the City Council.
 - (c) A Class C master electrician's license shall only be issued to a person holding a current master electrician's license from a municipality whose licensing program is recognized by the City of Binghamton Examining Board.
 - (d) The Class C master electrician is permitted to supervise the electrical work for which the Class C license was issued. The Class C master electrician is required to be on the job at all times when electrical work is being done.
 - (e) A City of Binghamton licensed journeyman or a Class B journeyman may supervise the electrical work in lieu of a Class C master electrician.

D. Journeyman electrician's license: A journeyman electrician's license shall authorize the licensee to perform only the work of a journeyman electrician within the City for a period ending the 30th day of April next following the date of its issuance. The fee for such license shall be as set from time to time by the City Council.

E. Journeyman electrician's license, Class B.

- (1) A journeyman's electrician's license, Class B, shall authorize the licensee to perform only the work of a journeyman electrician in the City, but only for the purpose of working on a single continuous job or installation at one location or property. Only one Class B license can be issued within a twelve-month period.
- (2) The fee for such license shall be as set from time to time by the City Council for a period of one year from the date of issuance.
- (3) Such a license may be renewed on or before the expiration thereof for a period of time necessary to complete the job for which it was issued, at a renewal fee as set from time to time by the City Council.

- (4) A Class B license shall only be issued to a journeyman or master electrician duly licensed from a municipality whose licensing program is recognized by the City of Binghamton, or to an individual who has successfully completed a state-approved electrical apprenticeship program recognized by the City of Binghamton Examining Board.

§ 225-21. Failure to renew license.

- A. Every licensee who fails to renew his or her license prior to the expiration thereof shall pay an additional fee as set from time to time by the City Council for each year or part thereof, together with the license fee prescribed in this section for each year the license is not renewed, upon the renewal of the license (See Exhibit J). Prior to issuance of a license, the applicant must bring his or her license current for all back years. If the license has not been renewed for over five years, § 225-20B may apply. The maximum renewal fee shall not exceed the cost associated with the maximum fee required by this section.
- B. Every licensee who fails to renew a Class A or Class B master electrician's license and/or a journeyman's electrician license for five consecutive years must thereafter qualify for an original license hereunder and comply with all the requirements hereof relative thereto; except that the applicant may submit in writing to the Board a request to renew the expired license. Included in the request shall be notarized statements from owners of the electrical businesses in which the applicant was employed. These statements shall include but not be limited to the following:
 - (1) Description of the type of business in which the applicant worked.
 - (2) Detailed description of the work performed by the applicant.
 - (3) Length of time in which the applicant was employed.
 - (4) Any other information reasonably necessary for the Board to render a decision.
- C. Upon review of the information submitted the Board shall render a decision to either grant the renewal or require the person making the request to retest.

§ 225-22. Applications for licenses.

- A. Master electricians. Every person desiring a license as a master electrician under this article shall make application therefor to the Board of Electrical Examiners in such form and detail as the Board may prescribe. Such application shall state, among other things, the name and place of business of the applicant, the class of license applied for and the name of the representative of the applicant who will take the examination for the license and who will act as the supervisor of the work to be done under the license, if granted. If an applicant for a master electrician's license Class A or B is a corporation, any officer of the corporation may be designated as the representative of the applicant for such purposes, provided that such person is a stockholder of such corporation in a minimum amount of 25%. Verification shall be submitted to the Board for review and approval.
- B. Journeyman electrician. Every person desiring a license as journeyman electrician under this article shall make application therefor to the Board of Electrical Examiners in such form and detail as the Board may prescribe. Such application shall state, among other things, the name and residence address of the applicant, the name and business address of the employer of the applicant and the nature and extent of the experience of the applicant in work as a journeyman electrician.
- C. Examination fee to accompany application. Unless examination shall have been waived by the Board of Electrical Examiners under § 225-23C, each application for a license shall be accompanied by a

check or money order for the examination fees as set from time to time by the City Council (See Exhibit J).

§ 225-23. Examinations.

- A. Generally. Examinations shall be in writing. A complete record of every examination given shall be kept on file until three years after the date of the examination. Examinations shall be offered at least two times per year. The Board of Electrical Examiners may, in its discretion, authorize no more than two additional examinations per year if the Board determines that a sufficient number of eligible candidates warrants the additional offering of said examination. In no event shall the examination be offered twice during any three-month period. The results of each such examination shall be announced by the Board not later than 30 days from the date of such examination.
- B. Presentation for examination. The applicant or, in the case of those applying for licenses as master electricians, the designated representative of the applicant shall present himself or herself for examination at the time and place specified in a notice to be given by the Board of Electrical Examiners.
- C. Waiver of examination. Notwithstanding any other provision of this section, where an applicant for a master electrician's license, Class C, establishes to the Board's satisfaction that he or she holds a current license from another state or political subdivision thereof or from the State of New York or any political subdivision thereof, which license was issued on the basis of a qualifying examination, the Board shall have the power to waive the written examination, at its discretion.
- D. Re-examination. An applicant or the representative of an applicant who has failed in his or her first examination shall not be eligible for reexamination until three months from the date of such failure; one who fails twice or more shall not be eligible for further reexamination until at least six months have elapsed from the date of such second or subsequent failure. Any person who fails two consecutive examinations shall retake both parts of the examination when eligible. The re-examination fee shall be the same as the initial examination fee.
- E. All persons who have passed either the master or journeyman's examination must obtain their license within one year of the notification that the applicant has passed the examination. Failure to obtain the license will forfeit the right to the license and the applicant will be required to re-exam.

§ 225-24. Qualifications for master electrician's license.

No license as a master electrician shall be granted to any person unless the designated representative shall prove to the satisfaction of the Board of Electrical Examiners that he or she has or will establish a place for the regular transaction of business; is a competent electrician and qualified to do electrical contracting, construction and installation work and electrical wiring; has a working knowledge of electricity and the natural laws, properties and functions of electricity and of appliances, apparatus, materials and devices for electric light, heat, power and signaling purposes used and required in such work, combined with a practical working knowledge of the requirements and provisions of this chapter and the rules and regulations of the Board and the laws of the state, if any, and of the City for installation of electrical wiring, devices, appliances and equipment and of the provisions thereof requiring permits therefor. Proof of competency shall be that the applicant is a holder of a duly authorized City of Binghamton journeyman's license for the minimum of two years. The Board may waive this requirement at its discretion upon review of the application from a duly licensed master electrician from another state or political subdivision thereof or from the State of New York or any political subdivision thereof.

§ 225-25. Qualifications for journeyman electrician's license.

- A. No license as a journeyman electrician shall be granted to any person unless he or she has shown proof of the required hours (9,000 or 8,250) and has successfully completed an approved apprenticeship program and working under the direct supervision of a licensed electrician and furthermore shall prove to the satisfaction of the Board of Electrical Examiners that he or she is a competent electrician and qualified to do electrical repairing and maintenance work; has a working knowledge of electricity and the natural laws, properties and functions of electricity and of appliances, apparatus, materials and devices for electric light, heat, power and signaling purposes, combined with a practical working knowledge of the requirements and provisions of the National Electrical Code and a knowledge of the provisions of this chapter and the rules and regulations of the Board and the laws of the state, if any, and of the City for the repair and maintenance of electrical wiring, devices, appliances and equipment.
- B. The applicant must submit proof of the total number of hours as determined by the Board of on-the-job training over a five-year period under a duly licensed electrician as recognized by a governing agency recognized by the Board, with supervision documented, or submit proof of enrollment in and subsequent completion of an approved electrical apprenticeship program, before applying to take the journeyman's examination. Documentation or any other information deemed necessary by the Board shall be provided showing proof of the above, and all such proof shall be notarized.

§ 225-26. Signing and issuance of licenses.

Licenses shall be signed by the Chairperson of the Board of Electrical Examiners and the City Clerk and shall be issued by the City Clerk after due certification by the Board.

§ 225-27. Records of issuance, suspension and revocation of licenses.

In addition to the records kept by the Board of Electrical Examiners as provided in § 225-17F, it shall be the concurrent duty of the City Clerk to keep and maintain records of all licenses issued, suspended or revoked and to make such records available for public inspection.

§ 225-28. Minimum age of applicant; refusal of license for felony convictions.

No license shall be granted to any person who is less than 21 years of age. The Board of Electrical Examiners may, in its discretion, refuse the issuance or renewal of a license to a person who has been convicted of a felony, cognizable as such by the laws of the State of New York or the United States of America.

§ 225-29. Restrictions upon licenses.

- A. Assignment; transfer. No license issued hereunder shall be assigned or transferable.
- B. Identification of licensee. Each license as a master electrician issued hereunder shall specify the name of the person licensed, who shall be known as the "holder of the license," and such person shall be designated in the license as the supervisor of all work to be done under the license.
- C. Designation of supervisor. The person designated as the supervisor may be the holder of the license or, if the holder is a firm or partnership, may be a member thereof or, if the holder is a corporation, may be an officer of the corporation, provided that he or she has the requisite qualifications of stock ownership herein prescribed therefor, or, if a person in the employ of the holder of the license, must be a master electrician as set forth herein and have the requisite stock ownership as herein prescribed.

- D. Supervisor for more than one license prohibited. The same person shall not be designated as the supervisor in two or more licenses issued to different holders.
- E. Termination of supervisor's employment. In the event that the business association of the supervisor with, or the employment of the supervisor by, the holder of the license shall terminate, the holder shall notify the Board of Electrical Examiners of such fact forthwith and shall promptly designate another person as the representative of the holder who shall submit himself or herself for examination to the Board when notified so to do. If no such new designation is made within 30 days after the termination of the association or employment of the former supervisor, the license of the holder shall become null and void on the 30th day following such termination.
- F. Numbering; form; color. All licenses shall be numbered in the order in which they are issued and shall be in such form and of such color and shall contain such information as may be prescribed by the Board of Electrical Examiners.
- G. Display. Each license shall at all times be kept conspicuously displayed in the place of business or employment, as the case may be, of the licensee.

§ 225-30. Additional requirements for Class A licensed master electricians.

- A. A certificate shall be issued by the Board and City of Binghamton and signed by the City Clerk and the Chairperson of the Board. Specifications for the certificate shall be determined by the Board.
- B. Certificate; penalty. Any person to whom such certificate has been issued who shall loan, rent, sell or transfer the same to another person, whether such person is entitled to receive a similar plate or sign or not, or otherwise willfully violates the provisions of this section shall be punishable by the Board of Electrical Examiners by a fine not exceeding \$500 for the first offense, and not less than \$750 nor more than \$1,000 for a subsequent offense, and in addition thereto shall forfeit his or her license hereunder.

§ 225-31. Suspension and revocation of licenses; fines.

- A. Any license issued hereunder may be suspended or revoked, in the discretion of the Board of Electrical Examiners, after hearing, upon due notice held, upon charges given to the licensee and an opportunity to be heard in his or her defense, in person and/or by attorney, if the Board is satisfied that the holder of such license or any of his or her or its officers or employees willfully, or by reason of incompetence, has violated any provision of this chapter or of any other law, or of any ordinance, local law or the Building Code of the City governing electrical work or requiring permits therefor, or any requirements contained in the rules and regulations of the National Board of Fire Underwriters, known as the "National Electrical Code."
- B. The Board of Electrical Examiners may, in lieu of suspending or revoking a license hereunder, impose a fine not exceeding \$50 for the first offense, and not less than \$100 nor more than \$500 for a subsequent offense, and may suspend the license until such fine is paid.

Chapter 226, ELEVATORS

[HISTORY: Adopted by the Council of the City of Binghamton 1-5-11 by L.L. 11-2]

§ 226-1. General provisions.

Equipment covered by this chapter:

- A. All conveyances as defined by this Chapter, and their related, mechanisms, enclosures, and appurtenances, required for proper operation.

§ 226-2. Applicability.

This chapter covers the operation, inspection, testing, maintenance, alteration, and repair of all listed equipment, its associated parts, and its hoistways, when located in or adjacent to a building or structure where governed by Building Code of New York State. All new installations are handled by the City of Binghamton Department of Building and Construction.

§ 226-3. Purpose and exceptions.

The purpose of this chapter is to provide for the health and safety of the general public and to protect the public welfare.

- A. The provisions of this Chapter do not cover non-commercial buildings and structures as defined by one and two family homes by the Residential Building Code of New York State.
- B. The provisions of this Chapter do not cover buildings and structures that are not under the jurisdiction of the New York State Department of State.
- C. The provisions of this chapter are not intended to prevent the use of systems, means, methods or devices of equivalent or superior quality, strength, fire resistance, ASME A17.1 Code effectiveness, durability and safety to those prescribed by the A17.1 Code, provided that there is technical documentation to demonstrate the equivalency of such system, method or device and provided said documentation is approved by the New York State Department of State Codes Division. Whereas:
 - (1) The specific requirements of the ASME A17.1 and ASME A18.1 Codes and Standards may be modified by the New York State Department of State Codes Division upon technical documentation or physical performance verification to allow alternative arrangements that will assure safety equivalent to that which would be provided by conformance to the corresponding requirements of the ASME A17.1 and ASME A18.1 Codes and Standards.

§ 226-4. Definitions.

- A. Specific Definitions regarding materials, means, methods, devices, and systems defined by the current Building Code of New York State, and its current reference standards are hereby adopted as if included herein.
- B. Definitions. Except as otherwise expressly provided, the following words, wherever used in this chapter, shall have the following meanings:

ADMINISTRATOR: the City of Binghamton Fire Marshall, who shall also be the Elevator Board Chairman

ALTERATION —Any Change to equipment, including its parts, components, and/or subsystems, other than maintenance, repair, or replacement.

ASME A17.1 ELEVATOR AND ESCALATOR SAFETY CODE: The Currently adopted reference standard produced by the American Society of Mechanical Engineers, in conjunction with the American National Standard Institute, as adopted by the New York State Department of State. (See Title 19, NYCRR of the Codes of New York State.) [New York State Uniform Fire Prevention and Building Code.]

ASME A18.1 SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY CHAIR LIFTS: The Currently adopted reference standard produced by the American Society of Mechanical Engineers, in conjunction with the American National Standard Institute, as adopted by the New York State Department of State. (See Title 19, NYCRR of the Codes of New York State.) [New York State Uniform Fire Prevention and Building Code.]

AUTHORITY HAVING JURISDICTION -- The New York State Department of State Codes Division.

BOARD -- The Conveyance Safety Review Board described in § 226-6 of this chapter.

CERTIFICATE OF INSPECTION -- A document issued by the Fire Marshall to a property owner that indicates that the conveyance on the premises complies with the provisions of this chapter. Documentation shall be posted in a location visible to the general public.

CERTIFICATION-- A written document, duly issued by the Conveyance Safety Board verifying the qualifications of an individual.

CONVEYANCE -- Any equipment listed in the Building Code of New York State's currently referenced edition of the ASME A17. 1 Elevator / Escalator Safety Code and ASME A18.1 Safety standard for platform lifts and stairway chairlifts. Including but not limited to any elevator, dumbwaiter, escalator, moving walk, platform lift, or stairway chairlift, except where expressly excluded by said standards for equipment as being "not covered."

ELEVATOR SERVICE CONTRACTOR -- Any individual person, who possesses an elevator installer's license in accordance with the provisions of § 226-8 and who is engaged in the business of constructing, maintaining, and repairing conveyances covered by this chapter and as defined by the current New York State Building Code State reference edition of ASME A17.1 and A18.1.

DORMANT CONVEYANCE – An elevator, escalator, dumbwaiter, material lift, platform lift, or stairway lift whose power lines have been locked by the Owner and sealed by the City of Binghamton at the mainline disconnect switch is allowed to remain out of service for a period of not more than 2 years. Upon expiration of the 2-year period the conveyance shall be placed in an Out Of Service condition as defined by this chapter, or shall be returned to normal service after being certified by a Licensed Inspector indicating no violations.

DUMBWAITER -- A hoisting or lowering mechanism, equipped with a car of limited size which moves in guide rails and serves two or more landing that is used exclusively for carrying materials, and as classified by the current New York State Building Code referenced edition of ASME A17.1 Elevator and Escalator Safety Code.

ELEVATOR -- A hoisting or lowering mechanism, equipped with a car, which moves within guides and serves two or more landings and as classified by the current New York State Building Code referenced edition of ASME A17.1 Elevator and Escalator Safety Code.

ESCALATOR -- A power-driven, inclined, continuous stairway used for raising or lowering passengers, and as classified by the current New York State Building Code referenced edition of ASME A17.1 Elevator and Escalator Safety Code.

EXISTING INSTALLATION -- An installation that has been completed or an ongoing construction project located in the City of Binghamton having previously obtained a building permit, prior to the effective date of this chapter.

INSPECTOR'S LICENSE -- A document which is issued to an individual who holds a current QEI certification from an ASME approved certifying agency and for whom has been authorized by the Conveyance Safety Board to conduct conveyance inspections as defined by this chapter.

INSTALLATION -- A complete elevator, dumbwaiter, escalator, material lift, moving walk, platform lift, or stairlift, includes its hoistway, hoistway enclosures and related construction and all machinery and equipment necessary for its operation.

ELEVATOR SERVICE CONTRACTOR'S LICENSE -- A written document which is issued to an individual who has proven his/her qualifications and ability through experience and has been authorized by the Conveyance Safety Board to engaged in the business of maintaining and repairing of conveyance equipment as defined by this chapter and the current Building Code of New York State referenced editions of ASME A17.1 and ASME A18.1 within any structure, including private residences. Fees as set by the Fire Marshall, with approval from the Conveyance Safety Board, shall be paid for said license on an annual basis.

LICENSE -- A written document, duly issued by the Conveyance Safety Board authorizing an individual to carry on the business of altering, servicing, repairing, maintaining or performing inspections of conveyances, as permitted or limited by this chapter.

LICENSEE – An individual holder of license authorized by Conveyance Safety Board.

MATERIAL LIFT – A hoisting and lowering mechanism normally classified as an elevator, equipped with a car which moves within a guide system installed at an angle of greater than 70 degrees from the horizontal, serving two or more landings, for the purpose of transporting materials, and as classified by the current New York State Building Code referenced edition of ASME A17.1 Elevator and Escalator Safety Code. Material Lifts as defined by ASME B.20.1 shall meet the standards therein described and are not included within the scope of this chapter.

MOVING WALK -- A type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to this direction of motion and is uninterrupted and as classified by the current New York State Building Code referenced edition of ASME A17.1 Elevator and Escalator Safety Code.

NEW INSTALLATION -- Any installation not classified as an existing installation by definition, or an existing elevator, dumbwaiter, escalator, material lift, platform lift, stairway lift, or moving walk moved to a new location and for which a building permit has not been previously issued, revoked, or expired.

OUT OF SERVICE CONVEYANCE Any elevator, escalator, or dumbwaiter, material lift, platform lift, or stairway lift whose power lines have been disconnected from the mainline disconnect switch and as follows:

- (1) Roped Elevators, dumbwaiters, or material lift whose hoist ropes have all been removed and whose car and counterweight rests at the bottom of the shaftway and whose shaftway doors are permanently barricaded or sealed from the hoistway side.
- (2) Escalator or Moving walk: whose entrances have been permanently barricaded.
- (3) Hydraulic elevator, dumbwaiter or material lift whose operating fluids have been removed from the system whose pressure piping has been disassembled and a section removed the premises, and whose shaftway doors are permanently barricaded or sealed from the hoistway side.
- (4) Out of Service conveyances shall be required to be returned to service after being registered and meeting the requirements of inspection of new construction.

PENETRATE A FLOOR -- To pass through or pierce the floor in such a way that the opening has a continuous perimeter and is provided only to allow the equipment to pass through the floor.

QUALIFIED ELEVATOR INSPECTOR (QEI) – An individual certified in accordance with the ASME QEI-1, Standard for the Qualification of Elevator Inspectors holding a current QEI certificate issued by an ASME approved certifying agency.

REFERENCED STANDARDS -- A specification, code, rule, guide, standard, or procedure specifically listed in The Building Code of New York State Chapter 35 and those documents additionally referenced by consequence of those therein. Compliance with the applicable provisions of a referenced standard shall constitute compliance with this chapter and the Codes of New York State except where specifically exempted by judicial or legislative precedence.

REPAIR – Reconditioning or renewal of parts, components, and/or subsystems, necessary to keep equipment in compliance with the applicable Code requirements, which may require testing by a certified conveyance inspector as defined by the current New York State Building Code referenced edition of ASME A17.1 and A18.1.

STOP WORK ORDER—A document issued by the Fire Marshall to a Licensee effectively suspending a permit.

§ 226-5. License required.

- A. No individual shall construct, alter, replace, maintain, dismantle any conveyance contained within buildings or structures within the City of Binghamton unless an maintainer's license has been issued as described herein or except for individuals working under the direct supervision of a licensee

pursuant to this chapter.

- (1) EXCEPTION: A licensed elevator service contractor is not required for removing or dismantling conveyances that have previously met the standard of “Dormant Conveyance” as defined by this chapter and that have been designated as such by the Fire Marshall.
- B. No individual shall inspect any conveyance within buildings or structures, including but not limited to private residences covered by this chapter, within the City of Binghamton or structurally a part thereof unless an inspector's license has been issued as described herein.
- (1) EXCEPTION: Non-required Inspections performed by individuals or businesses, which have not been certified by the City of Binghamton are acceptable, but they shall not be recognized as certified by the City of Binghamton.
- C. It is not permitted for any single conveyance acceptance inspection to be performed by the same individual licensed inspector as the individual licensed to install, alter, repair, or maintain that conveyance.

§ 226-6. Conveyance Safety Board

A. Members

- (1) There is hereby created the Conveyance Safety Board hereafter referred to as the “Board” consisting of five members.
- (2) The Board shall consist of three permanent Board members: the Fire Marshall, the Director of Building and Construction, and the City Engineer.
- (3) The Fire Marshall shall serve as Chairperson of the Board and shall appoint the two remaining members of the Board for a term of three years. One member shall be representative from the elevator industry and one member shall be the owner of a building that contains an elevator and is located within the City of Binghamton. These remaining two members shall not be precluded from serving consecutive terms.

B. Voting

- (1) In the event where a vote is required, a Quorum of three members is required in order to use Board powers, except where specific powers are granted to the Fire Marshall by this chapter.

C. Meetings of the Board

- (1) The Board shall meet and organize within 10 days after the appointment of its members and at such meeting shall elect one Secretary of the Board to serve during the term to be fixed by the Board.
- (2) The Board shall regularly meet quarterly at a time and place fixed by it to conduct the regular business of the Board. Regular business shall include but is not limited to, the consideration or approvals of licenses and certifications, and appeals for licenses, certifications, or permits, and for the transaction of other such business for which a quorum of the board is required.
- (3) The Board shall meet in special circumstances and at other such times as deemed reasonable in meetings. Special Meetings shall meet at a time and place to be fixed by it. Any Board member or the Mayor may call a Special Board Meeting with 15 days notice to the Board.
- (4) Any appointed Board Member absent for more than two consecutive meetings; either Regular or Special within a 9 month period, may be removed after a hearing before the Mayor.

D. Powers of the Board

- (1) The Board shall be authorized to consult with licensed design professionals, qualified organizations, and recognized experts concerned with the specific codes, rules, standards, regulations, or qualifications which govern conveyances, as defined by this chapter. The

Board shall be authorized to recommend the amendments of applicable legislation, when appropriate, to legislators.

- (2) The Board shall not have the authority to grant exceptions and variances from the literal requirements of applicable codes and standards, and regulations; except in cases where such exceptions or variance would not jeopardize the public safety.
- (3) The Board shall set standards for qualifications of applicants for Licenses as set for in this code. The Board shall also have to power to accept or reject applications submitted by potential Licensees.

§ 226-7. Application for Elevator Service Contractor and Qualified Elevator Inspector

- A. Elevator Service Contractor: An individual wishing to engage in the business of maintenance or repair of any conveyances as defined by the current New York State referenced edition of AME A17.1 and ASME A18.1 within the City of Binghamton shall make application for a license to maintain or repair conveyances to the Fire Marshall on a form provided by the City of Binghamton.
- B. Elevator Service Contractor License Applications shall contain the following:
 - (1) The name, residence and business address of the applicant. If a Limited Liability Company, an individual member's name and local address where service of process can be made. All correspondence between the applicant and the Fire Marshall will be made to the address provided on the application.
 - (2) Verifiable proof of experience.
 - (3) Satisfactory evidence that the applicant is covered by general liability, personal injury, and property damage insurance.
 - (4) Signed copy of the Ethics Pledge that is provided by the Fire Marshall.
- C. Inspector: Any individual wishing to engage in the business of conveyance inspections as defined by the current New York State referenced editions of ASME A17.1 and ASME A18.1 within the City of Binghamton upon proof of a current QEI-1 certification shall make application for a certification to the Fire Marshall on a form provided by the City of Binghamton
- D. Inspector License applications shall contain information for the following provisions:
 - (1) The name, residence and business address of the applicant. . (Note all correspondence between the applicant and the Fire Marshall will be made to this address.)
 - (2) Proof of Current QEI-1 certification.
 - (3) Satisfactory evidence that the applicant is or will be covered by general liability, personal injury, property damage and errors and omissions insurance.
 - (4) Signed copy of The Ethics Pledge on a form provided by the Fire Marshall.
- E. Inspectors are not permitted to hold an Installer's License and an Inspector's License concurrently.

§ 226-8. Qualifications of elevator inspectors and elevator service contractors.

- A. Qualifications of Inspectors. No inspector's certification shall be granted to any person, unless he/she shall prove to the satisfaction of the Conveyance Safety Board, that the individual meets the current
 - (1) ASME QEI-1 Standards for the Qualifications of Elevator Inspectors, and as follows:
 - (2) Proof of Insurance as established by the Fire Marshall shall be required prior to issuing any license or renewal.
 - (3) Advance payment of all application fees as established by the Fire Marshall, with approval of

the Conveyance Safety Board.

- (4) Renewal applications shall be automatically approved, when accompanied by proof that the individual has maintained a current QEI certification, proof of required insurance, and paid all fees.
 - (5) Renewal applications will not be approved in cases where the Conveyance Safety Board has authorized a current suspension or revocation of the applicant's license.
 - (6) The Elevator Board shall grant all inspector certifications to be issued for a period of one year.
- B. Qualifications of Elevator Service Contractors. No license shall be granted to any person, unless he/she shall prove to the satisfaction of the Conveyance Safety Board that the individual meets the qualifications and abilities described as follows:
- (1) Not less than seven years (1,750 hours/year) verified work experience in the construction, maintenance, and repair of conveyances as defined by this Chapter and ASME A17.1
 - (2) Proof of Insurance as established by the Fire Marshall shall be required prior to issuing any certification or renewal.
 - (3) Advance payment of all application fees as established by the Fire Marshall, with the approval of the Conveyance Safety Board.
 - (4) Renewal applications will be automatically approved, when accompanied by proof that the individual has maintained an active conveyance business within the City of Binghamton, proof or required insurance, and paid all fees
 - (5) Renewal applications will not be approved in cases where the Conveyance Safety Board has authorized a current suspension or revocation of the applicant's license.
 - (6) The Conveyance Safety Board shall grant all Elevator Service Contractor licenses to be issued for a period of three years.

§ 226-9. Suspension and revocation of licenses.

- A. A license or certification issued pursuant to this chapter may be suspended or revoked by the Conveyance Safety Board upon verification that any one or more of the following reasons exist:
- (1) Any false statement as to material matter in the application.
 - (2) Fraud, misrepresentation or bribery in securing a license or certification.
 - (3) Violation of any provisions of this chapter.
 - (4) Violation of the Ethics Pledge
 - (5) Performance of work for which the individual is not duly licensed or certified.
 - (6) Performance of work without a Permit.

§ 226-10. Hearing on charges, decisions.

No license or certification shall be suspended or revoked until after a hearing before the Conveyance Safety Board upon notice to the licensee of at least 10 days at the last known address appearing on the license or certification, served by registered mail. The notice shall state the date, hour and place of hearing and set forth a statement of facts constituting the grounds for the charges against the licensee or certified individual. The Conveyance Safety Board may issue fines, or suspend or revoke the license or certification, or may dismiss the proceeding. Suspension or Revocation of any licensee shall be equivalent to constitute a revocation of any Permit, which was previously obtained by said licensee, and shall require the City of Binghamton to issue an immediate Stop Work Order for any work being performed under said Permit.

§ 226-11. Appeals.

Any person whose license or certification is revoked, suspended, or denied may appeal within thirty (30) days of such determination pursuant to Article 78 of the Civil Practice Law to the Supreme Court.

§ 226-12. Registration of conveyances.

Within 30 days after the date of the appointment of the Conveyance Safety Board the owner of every existing conveyance as defined by this code shall register with the Fire Marshall each conveyance as defined in this code including every elevator, dumbwaiter, escalator, moving walk, material lift, platform lift, and stair chair lift located in any building or structure under the scope of The Building Code of New York State. Registration shall be made on a form approved by the Fire Marshall. Conveyances whose installations are ongoing prior to the appointment of the Conveyance Safety Board shall be registered within not more than seven working days from the date of acceptance inspection which indicates that there are no violations.

§ 226-13. Compliance with the Codes of New York State.

- A. It shall be the responsibility of property owners and individuals licensed or certified, as described by this chapter, to ensure that installation, service, operation and maintenance of elevators is in accordance with the provisions contained in the New York State Uniform Fire Prevention and Building Code, and the provisions of this chapter.
- B. Whenever a provision in this chapter is found to be inconsistent with any provision of the applicable State, Federal laws, codes or regulations, judicial or legislative precedence shall prevail
- C. The provisions of this chapter shall not apply to buildings and structures as covered by Residential Code of New York State.

§ 226-14. Permits.

- A. No conveyance as defined by this chapter shall be constructed or installed within buildings or structures within the City of Binghamton, unless a Building permit has been obtained by the Department of Building and Construction, as established by Chapter 200 of this Code. Electrical work will also require a Building permit. Refer to Section 225 of the City of Binghamton Code of Ordinances
- B. Permits for repair are not required unless inspection and testing of components or component assemblies is required by the current New York State referenced editions of ASME A17.1 and ASME A18.1 as applicable.
- C. Dormant Conveyance permits shall be required for any conveyance that is placed out of service for a period not to exceed two (2) years. See § 226-23.

§ 226-15. Periodic inspections and registrations.

- A. New Installations: Certificate of Inspection required.
 - (1) Prior to any conveyance being used, a certificate of inspection must be obtained from the Fire Marshall by the property owner. It shall be the responsibility of the Owner to complete and submit first-time registration application(s) on a form approved by the City of Binghamton for new installations. The Certificate of Inspection shall not be issued prior to submission of an acceptance inspection report by a Licensed Inspector indicating no violations.
- B. Periodic Inspections: All existing conveyances as defined in this chapter located in any building or structure shall be Inspected Periodically by an individual with a current Inspector License at the frequency not less than that determined by the City of Binghamton. Subsequent to inspection, the Licensed Inspector shall prepare an Inspection report on a form approved by the City of Binghamton which shall be promptly forwarded to the City of Binghamton. Inspection Fees shall be

paid directly to the inspector. Upon receipt by the Fire Marshall of an Inspection Report indicating no violations, a Certificate of Operation shall be issued to the property owner for a period to expire six (6) months from the expiration date of the previous inspection.

- C. Repairs: After inspection by the Qualified Elevator Inspector, if repairs are necessary they shall be performed by the Licensed Elevator Service Contractor. Written proof of repair shall be submitted by the Licensed Elevator Service Contractor to the Fire Marshalls office prior to the issuance of a Certificate of Inspection.
- D. Certificate of Inspection for each conveyance shall be displayed on that conveyance, or in a publicly conspicuous location approved by the City of Binghamton.
- E. Conveyances which are not inspected prior to the expiration date of the Certificate of Inspection may be removed from service by the Fire Marshall by placing a seal upon the elevator disconnect.

§ 226-16. Insurance requirements.

- A. Any person, firm or corporation who shall install, service, repair, replace or maintain any conveyance contained within buildings or structures within the City of Binghamton shall submit to the Fire Marshall proof of insurance policy or certified copy thereof, issued by an insurance company authorized to do business in the State of New York to:
 - (1) Provide general liability coverage of at least \$1,000,000 for injury or death of any one person, and \$1,000,000 for injury or death of any number of persons in any one occurrence, with the coverage of at least \$500,000 for property damage in any one occurrence and, the statutory workers' compensation insurance coverage.
- B. Any person, firm or corporation who shall inspect any conveyance contained within buildings or structures within the City of Binghamton shall submit to the Fire Marshall proof of insurance or certified copy thereof, issued by an insurance company authorized to do business in the State of New York to:
 - (1) Provide general liability coverage of at least \$1,000,000 for injury or death of any one person, \$1,000,000 for injury or death of any number of persons in any one occurrence, with the coverage of at least \$500,000 for property damage in any one occurrence, and the statutory workers compensation insurance coverage.
 - (2) Provide an errors and omissions policy in the amount of \$1,000,000.
- C. Such policies, or duly certified copies thereof, or an appropriate certificate of insurance, approved as to form by the Corporation Counsel and as to sufficiency by the Comptroller shall be delivered to the Fire Marshall before or at the time of the issuance of a license or certificate. In the event of any material alteration or cancellation of any policy, at least 10 days' notice thereof shall be given to the Fire Marshall. Licensees or Certificate holders whose policies lapse shall have their licenses or certifications suspended until proof of appropriate insurance is made.

§ 226-17. Enforcement.

It shall be the duty of the City of Binghamton to develop an enforcement program that will ensure compliance with the regulations and requirements referenced in this code. This will include but will not be limited to identification of property locations which are subject to said regulations and requirements; issuing notifications to violating property owners or operators, and assist in development of public awareness programs during the initial licensing period subsequent to enactment of this chapter and as warranted thereafter.

§ 226-18. Liability.

This chapter shall not be construed to relieve or lessen the responsibility or liability of any person, firm or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, repairing or inspecting any conveyance covered by this chapter for damages to person or property caused by any defect therein, nor does the City of Binghamton assume any such liability or responsibility therefore or any liability to any person for whatever reason whatsoever by the adoption of this chapter or any acts, errors, or omissions arising hereunder.

§ 226-19. Penalties for offenses.

Any licensee or certified individual, who shall violate any of the provisions of this Article, upon conviction thereof, shall be subject to penalties as set forth in Chapter 1, General Provisions, §1-4, General Penalty.

§ 226-20. Retroactive provisions.

- A. Except as amended below, the provisions of this chapter are not retroactive, so that existing conveyances and their associated mechanisms shall be required to comply with the applicable code at the date of its installation and any subsequent alteration except as subsequently required by the New York State Department of State Codes Division, State, Federal Law, or Judicial precedent.
- B. Currently Enacted Retroactive Legislation:
 - (1) Where indicated by the current Fire Code of New York State and the Property Maintenance Code of New York State retroactive provisions shall apply.

§ 226-21. Maintenance of firefighter service test logs.

- A. All conveyances within City of Binghamton that are provided with firefighter service shall be tested monthly to verify correct operation. A written record of tests shall be maintained by the property owner in the elevator machine room in a location accessible to the City of Binghamton.
- B. In the event of failures, notification to the Fire Marshall shall be made in writing within 24 hours.

§ 226-22. Emergency Operation Keys.

Emergency Operation Keys shall be made available to the Fire Service by the Owner at a location and fashion determined by the Conveyance Safety Board.

§ 226-23. Dormant Conveyance.

- A. A conveyance owner may apply for Dormant Permit for existing Conveyances. Dormancy shall be as defined by this chapter, and shall be certified as such by the Fire Marshall.
- B. The Fire Marshall shall make provisions to verify continued dormancy periodically, but not less than annually. Dormant conveyances, which are returned to service, shall be required to obtain a certification of inspection by a Licensed Inspector indicating no violations.
- C. Dormant Conveyance whose permit expires and for which a current inspection certificate is not obtained shall be placed permanently Out of Service as defined in this Code.

§ 226-24. Out of Service Conveyance.

- A. A conveyance owner may remove existing Conveyances from Service as defined by this Code, and shall be certified as such by the Fire Marshall.
- B. Previously Out of Service Conveyance shall be required to meet the standards of alteration as defined

by current Building Code of New York State and its current referenced standards of ASME A17.1 and ASME A17.2 prior to returning to service. Maintenance of existing elevators and conveyances in commercial occupancies:

- (1) Conveyances shall be maintained to be in compliance with this code and the current Property Maintenance Code of New York State and its currently referenced editions of ASME A17.1 and ASME A18.1.
- (2) The responsibility for maintenance, testing, inspection, and proper function of conveyances and their ancillary systems, mechanisms, and devices shall remain that of the property Owner's.

Chapter 227, EROSION CONTROL

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention -- See Ch. 240.

Subdivision of land -- See Ch. 360.

Zoning -- See Ch. 410.

Part 1, Filling, Grading and Terracing

ARTICLE I, General Provisions [Adopted 9-16-1986 by Ord. No. 96-86 (Ch. 9, Art. IV, §§ 9-53 through 9-57, of the 1970 Code); Amended 12-21-2011 by Ord. No. 11-51]

§ 227-1. Findings of fact.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing street bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will mitigate the adverse effects of erosion and sedimentation from development.
- J. Impervious surfaces and stormwater runoff contribute to the area's frequent floods, as indicated by FEMA's determination to expand the boundaries of the 100-year Flood Plain.
- K. Stormwater runoff flows into a combined sewer system in over 30% of the City, adding to the likelihood of untreated sewage flowing into the Susquehanna and Chenango rivers during storm events. Combined sewers normally flow to the Joint Sewage Treatment Plant, adding to the high

quantity of water needed to be treated and exacerbating capacity issues in an already overburdened system during wet weather conditions.

§ 227-2. Purpose.

The purpose of this Chapter is to establish minimum erosion and stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 227-1 hereof. This Chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels.
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.
- G. Promote an urban landscape with more green infrastructure in order to manage stormwater more effectively, and to use trees to minimize the urban heat island effect, create more sustainable plant and animal habitat, and improve the overall quality of life.
- H. Make the connection between green infrastructure, aesthetically pleasing landscaping and increase property values.
- I. Promote the reestablishment of vegetation in urban areas to improve aesthetics, health, and biodiversity.

§ 227-3. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the City Council of the City of Binghamton has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the City of Binghamton and for the protection and enhancement of its physical environment. The City Council of the City of Binghamton may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 227-4. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AGRICULTURAL ACTIVITY—The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the construction of new structures associated with agricultural activities.

APPLICANT—A property owner or agent of a property owner who has filed an application for a land development activity.

BEST MANAGEMENT PRACTICES (BMPs)—Structural devices, measures, or programs used to reduce pollution in stormwater runoff. BMPs manage the quantity and improve the quality of development runoff.

BIORETENTION—An integrated stormwater management practice that uses the chemical, biological, and physical properties of plants, microbes and soils to remove or retain pollutants from stormwater. Bioretention areas may or may not have an underdrain.

BIORETENTION AREAS—Shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses, and/or other herbaceous plants.

BIOSWALE—Vegetated, curbless, depressed filter strip planted with native grasses and shrubs designed to retain and temporarily store water, often used to control parking lot runoff.

BUILDING—Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CATCH BASIN (DRAIN INLET)—A structure which allows the entry of surface runoff into a storm sewer by connection to the storm sewer.

CHANNEL—A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING—Any activity that removes the vegetative surface cover.

DEDICATION—The deliberate appropriation of property by its owner for general public use.

DEPARTMENT—The New York State Department of Environmental Conservation.

STORMWATER DESIGN MANUAL—The New York State Stormwater Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DETENTION STRUCTURE—A permanent stormwater management structure the primary purpose of which is to temporarily store stormwater runoff. A detention structure may be dry during non-storm events or may have a permanent pool of water.

DEVELOPER—A person who undertakes land development activities.

EROSION CONTROL MANUAL—The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the “Blue Book”.

FIRST FLUSH—The delivery of a disproportionately large load of pollutants during the early part of storms due to the rapid runoff of accumulated pollutants, The first flush is defined as the runoff generated from the first ½ inch of runoff from the entire site from land which has been made less pervious than the pre-development conditions through land grading and/or construction/development activities.

GRADING—Excavation or fill of material, including the resulting conditions thereof.

GRASS CHANNEL—An open vegetated channel used to convey runoff and to provide treatment by filtering out pollutants and sediments.

GREEN GUTTER—Narrow strip of pervious soils and landscaping along streets or sidewalks, or along the perimeters of a parking lot, usually contained within curbing with curb cuts. Designed to infiltrate runoff from the impervious surface adjacent to it. Similar to bioswale but used in tighter settings.

GREEN INFRASTRUCTURE—An approach to wet weather management that uses natural systems like vegetation to filter and control runoff.

GREENROOF, VEGETATED ROOFTOP—A layer of planting medium and vegetation, with a waterproof membrane and drainage system, integrated into the roof of a building in order to capture rainwater, reduce building energy consumption, and/or provide habitat or recreational amenity.

IMPERVIOUS SURFACE—Any surface from which most water runs off, including, but not limited to, paved streets, graveled or paved areas such as driveways, parking areas, packed earth material, walkways, roof surfaces, and patios.

INFILTRATION—The process of percolating water into the subsoil.

LAND DEVELOPMENT ACTIVITY—Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even through multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER—The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT—A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION—Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PARKING, ANCILLARY—A parking area which is ancillary to the principal use not situated on the same lot as such parking area, which is not operated as a separate commercial enterprise available to the public at large and which is created to provide part of the required parking for the principal use.

PARKING AREA, PUBLIC—A parking area that is not accessory to a principal use and is operated as a separate commercial enterprise available to the public at large.

PARKING SPACE, OFF-STREET—A paved or surfaced space available for the parking of one motor vehicle on a transient basis and non located on an existing street or street right-of-way.

PERVIOUS PAVEMENT—Aggregate surfaces that allow water to infiltrate or pass through them, such as porous asphalt, porous concrete, and porous interlocking pavers.

PHASING—Developing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the development of the next.

POLLUTANT OF CONCERN—Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

RAIN BARREL—A temporary storage device connected to a roof downspout, typically including a hose attachment to allow for reuse of rooftop runoff.

RAIN GARDEN—A bioretention area that management and treats small volumes of runoff using a conditioned planting soil bed and planting materials to filter water, usually appropriate in residential settings.

RETENTION—The amount of precipitation on a drainage area that does not escape as runoff. It is the difference between total precipitation and total runoff.

RECHARGE—The replenishment of underground water reserves.

SEDIMENT—Solid material, both mineral and organic, that is in suspension, is being transported, or has been removed from its site of origin by erosion.

SEDIMENT CONTROL—Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS—Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, and critical environmental areas designated by the City.

SEPARATE STORMWATER SYSTEM—Stormwater and sanitary sewage collection facilities that convey, treat, and discharge stormwater and sewage in separated catchbasins, pipelines, treatment facilities, outfalls, and other facilities, and do not combine stormwater and sewage in the same facilities.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-01-01—A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbances of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS CP-02-02—A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION—The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER—An order issued which requires that all construction activity on a site be stopped immediately.

STORMWATER—The discharge of water from the surface of land resulting from precipitation or snow or ice melt, including surface runoff, groundwater flows, percolation and seepage.

STORMWATER HOTSPOT—A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT—The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY—One or a series of stormwater management practices installed, stabilized, and operated for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER—An employee or officer designated by the City of Binghamton to accept, review, and approve stormwater pollution prevention plans and urban runoff reduction plans and inspect stormwater management practices and infrastructure.

STORMWATER MANAGEMENT PRACTICES (SMPs)—Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER PLANTER—A structural container with soil and plants built to collect and slow runoff.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)—A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF—Flow on the surface of the ground, resulting from precipitation.

STRIPPING—Any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.

SURFACE WATERS OF THE STATE OF NEW YORK—Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

SWALE—An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff.

TEN YEAR STORM EVENT—The frequency at which a particular amount of rainfall in a given duration (from 30 minutes to 24 hours) is expected to “return”, on average. A ten year storm event has on average a 10% chance of recurrence in a given year. National Weather Service reports that the ten (10) year, one-hour storm in Broome County consists of approximately 1.7 inches of precipitation and the ten (10) year, 24 hour storm consists of approximately 4 inches of precipitation.

TREE BOX FILTER—In-ground containers typically containing street trees in urban area. Runoff is directed to the tree box, where it is filtered by vegetation and soil before entering a catch basin.

WATERCOURSE—A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERSHED—A region or area contributing stormwater ultimately to a particular watercourse or body of water.

WATERWAY—A channel that directs surface runoff to a watercourse or to the public storm drain.

VEGETATED OPEN CHANNELS—Also known as swales, grass channels, and biofilters for the conveyance, retention, infiltration and filtration of stormwater runoff.

ARTICLE II. Filling, Grading, Terracing, and Drainage Work [Adopted 9-16-1986 by Ord. No. 96-86 (Ch. 9, Art. IV, §§ 9-53 through 9-57, of the 1970 Code); Amended 12-21-2011 by Ord. No. 11-51]

§ 227-5. Permit required; completion of work.

- A. No person shall commence any filling, grading, terracing, or drainage work, without first obtaining a permit from the Office of Building and Construction, on any site which requires the transportation of:
 - (1) Clean fill to the site or which moves existing soil on the site exceeding a total of 50 cubic yards within any parcel of land or contiguous area
 - (2) Clean fill to the site or which moves existing soil on the site creating a slope of 10% or greater on a portion of, or the entire area of, any parcel of land or contiguous area.
- B. An application for a permit shall be made in writing to the Building Inspector, who shall immediately refer the application to the City Engineer for review.
- C. Such application, in triplicate, shall be accompanied by a detailed statement of proposed work and the purpose thereof and in addition shall include the following:
 - (1) Three sets of maps and plans with specifications showing the site(s) location of proposed filling, grading, terracing, or drainage work. Such plans shall be prepared by and shall bear the seal of a licensed engineer or surveyor and such plans shall show the following:
 - (a) The name and address of the applicant, specifying, in the case of any unincorporated association, the names and addresses of each member thereof, and, in the case of any corporation, the names and addresses of each officer and director thereof.
 - (b) If the applicant conducts business under a trade name or if the applicant is a partnership, the application for a permit must be accompanied by a copy of the trade name.
 - (c) Street address, if any, and Tax Map number.
 - (d) Property location showing all buildings, roads, watercourses or drainage areas and abutting property owners within 100 feet of the boundaries of the plot and designation of the one-hundred-year floodplain and floodway, if applicable
 - (e) Estimated minimum quantity of and detailed description of fill material.
 - (f) Existing topography and proposed final contours of existing and final elevations.
 - (g) Details of any drainage system proposed to be installed and maintained, designed to provide for proper surface drainage during and after completion of work.
 - (h) Details of soil preparation and/or revegetation or of other methods of soil erosion control.
 - (i) A completed SEQR Environmental Assessment Form (EAF), Parts I, II, and III.
 - (j) Location of any watercourse or DEC regulated wetlands.
 - (2) A fee to cover the cost of the permit and inspections as set from time to time by the City Council (See Exhibit J).
- D. The City Engineer shall, within 15 business days of receipt of said request, direct the Building Inspector to issue or deny the permit in accordance with this Article and in connection therewith may establish the amount of any performance bound. The City Engineer may impose such conditions or requirements as he or she deems necessary and proper to assure faithful compliance with this Article.
- E. Upon completion of the work allowed by permit, the permittee shall grade the property to the level of adjoining properties, where applicable. Excess material shall either be removed from the premises

or leveled and covered with sufficient topsoil and seeded and shall be reseeded as often as necessary until the area is stabilized.

- F. At the completion of the filling, grading, terracing, or drainage work, the permittee shall notify the Building Inspector, who shall make a field inspection to issue a certificate of compliance, and upon such issuance, any bond required to have been posted shall thereupon be released.

§ 227-6. Expiration of permit; additional permits required.

- A. Permits issued pursuant to this Article shall expire six months from the date of issuance. Any remaining filling, grading, terracing, or drainage work shall not be completed without application and issuance of a new permit.
- B. Exceptions. This permit shall be required for filling operations in addition to a duly issued building permit.

§ 227-7. Storage of fill material.

No person, owner, agent, or occupant of a lot or premises upon which a building may exist or of a vacant lot shall place clean fill for the purpose of storage without exercising every precaution to protect such fill from the elements and prevent erosion and/or runoff. Under no circumstances shall clean fill be stored for more than two months.

§ 227-8. Penalties for offenses.

- A. Any person violating any provision of this Article shall be guilty of a violation, punishable by a fine not exceeding \$150 or by imprisonment for a period of not more than 15 days, or both.
- B. The violation of any provision of this Article for the third or more time in a two-year period shall be a violation punishable by a fine of not less than \$500 nor exceeding \$1,500 or by imprisonment for a period of not more than 15 days, or both.
- C. Each notice of violation shall constitute a separate violation.

ARTICLE III. Stormwater Control [Amended 12-21-2011 by Ord. No. 11-51; Amended 6-20-2012 by Ord. No. 12-41]

§ 227-9. Stormwater Pollution Prevention Plans.

- A. Stormwater pollution prevention plan requirement. No building, grading, or demolition permit shall be issued for a Land Development Activity as defined in this Chapter until the Stormwater Management Officer has approved a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications as set forth in the New York State Pollution 9 December 6, 2011 Discharge Elimination System (SPDES) General Permit for Construction Activities (GP-00-10-001) and associated documents, including the New York Standards for Specifications for Erosion and Sediment Control and the New York State Stormwater management Design Manual which are herein incorporated by reference, as well as specifications set forth in Chapter 227-10, *Urban Runoff Reduction Plans*, Part C, *Standards and Specifications*.

- B. Plan certification. The SWPPP shall be prepared by a New York State licensed landscape architect, certified professional in stormwater erosion and sediment control, or New York State licensed professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this Chapter.

§ 227-10. Urban Runoff Reduction Plans.

- A. Applicability. Projects not requiring a SWPPP and an Erosion and Sedimentation Control Plan pursuant to § 227-9 and meeting the following thresholds shall require an Urban Runoff Reduction Plan:
- (1) New or additions of any ancillary parking area or public off-street parking area of any size and containing any number of parking areas.
 - (2) New off-street parking and/or loading areas located on the same lot as the primary use it serves, including driveways and maneuvering aisles, containing 20 or more parking spaces or covering 5,000 square feet or more of site area, whichever is less. Additions of existing off-street parking and/or loading areas located on the same lot as the primary use it serves, including driveways and maneuvering aisles, resulting in or involving 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less.
 - (3) Commercial, Mixed Use, Multi-Family Residential involving 3 or more dwelling units, and/or Industrial projects creating, replacing, or adding 1,000 square feet or more of impervious surface area including associated off-street parking and loading areas.
 - (4) Single-family or Two-family Residential project creating, replacing, or adding 2,500 square feet or more of impervious surface area including associated off-street parking areas.
 - (5) Any project creating, replacing, or adding new impervious surface area located within the Federal Emergency Management Agency's (FEMA) Special Flood Hazard Area.
 - (6) Land subdivisions involving less than one (1) acre of land.
- B. Procedures for Consideration and Submittal Requirements.
- (1) Urban Runoff Reduction Plans for projects requiring approval of a zoning application pursuant to Chapter 410, Zoning. In addition to the procedures contained in Subsection B(2), whenever a construction project subject to § 227-10 also requires an application for a Series A or B Site Plan Approval, an Area or Use Variance, and/or a Special Use Permit a preliminary Urban Runoff Reduction Plan shall be submitted along with said application for review by the Planning Department, Zoning Board of Appeals or Planning Commission of the City of Binghamton.

Two full-sized copies, drawn to scale at not less than 1" = 30', and an electronic PDF copy sent via email or provided via approved storage device to be retained by the City, of the preliminary Urban Runoff Reduction Plan incorporating green infrastructure techniques shall be submitted to, and accepted by, the Planning Department along with any required zoning application. The preliminary plan shall include the following information:

- (a) A description of each proposed post-construction stormwater management measure.
- (b) A preliminary comparison of post-development stormwater runoff conditions with predevelopment conditions.
- (c) Dimensions and material specifications for each proposed post-construction stormwater management practice, including size, species and location of all proposed landscaping.
- (d) Any other information that the Planning Department deems necessary to determine preliminary compliance with this Chapter.

The Planning Department shall review the preliminary Urban Runoff Reduction Plan and determine if the Plan includes adequate stormwater management measures to meet the minimum requirements of this Chapter. If the Planning Department determines that the Plan fails to achieve the minimum requirements of this Chapter, the Applicant shall revise the Plan with such modifications and additions as may be required by the Planning Department.

Final approval of a zoning application that includes a preliminary Urban Runoff Reduction Plan shall not constitute final approval of the Urban Runoff Reduction Plan. After approval of the zoning application an Urban Runoff Reduction Plan shall be submitted and considered pursuant to Subsection B(2). As set forth in Section B(2), the Stormwater Management Officer, or his or her designee, shall have final authorizing approval of all Urban Runoff Reduction Plans.

- (2) Urban Runoff Reduction Plan. Prior to the issuance of a grading, building, and/or demolition permit for any construction project subject to § 227-10, including those subject to B(1), an Urban Runoff Reduction Plan incorporating green infrastructure techniques shall be submitted to the Building Department for review and approval by the Stormwater Management Officer, or his or her designee. Upon submittal, the Building Department shall refer the Plan immediately to the Stormwater Management Officer, or his or her designee. Within 30 business days of receiving the Plan, the Stormwater Management Officer shall approve, require revisions to, or disapprove the Plan. Prior to approval or denial of a Plan, the Stormwater Management Officer may require that the applicant make revisions to the Plan as may be necessary to comply with the provisions of this Section. Approved Plans shall be referred back to the Building Department, who shall issue the Plan to the applicant concurrent with other necessary permits pertinent to site alteration and construction. Any Plan disapproved by the Stormwater Management Officer must be revised by the applicant and resubmitted for approval in order for the project to proceed. No building, grading, and/or demolition permit shall be issued until an Urban Runoff Reduction Plan has been approved by the Stormwater Management Officer.

In addition to building permit submittal requirements, two full-sized copies, drawn to scale at not less than 1" = 30', and an electronic PDF copy sent via email or provided via approved storage device to be retained by the City, of the preliminary Urban Runoff Reduction Plan incorporating green infrastructure techniques shall be submitted to, and accepted by, the Department of Building and Construction, along with a building and/or demolition permit associated with any construction project subject to § 227-10.

The Plan shall be certified by a licensed landscape architect or licensed engineer and shall include the following information:

- (a) A site map/construction drawing(s) specifying the location(s), size(s), and length(s) of each post-construction stormwater management practice.
- (b) A description of each post-construction stormwater management measure.
- (c) Dimensions, material specifications, and installation details for each post-construction stormwater management practice, includes size, species and location of all proposed landscaping and existing landscaping to be retained.
- (d) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.
- (e) A description of waste materials, if any, expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

- (f) Permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control.
- (g) A comparison of post-development stormwater runoff conditions with predevelopment conditions.
- (h) A maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- (i) Maintenance easements, if required by the Stormwater Management Officer, to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (j) An inspection and maintenance agreement, if required by the Stormwater Management Officer, binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section D.
- (k) Any other information which may be required by the Stormwater Management Officer.

C. Standards and Specifications. Urban Runoff Reduction Plans shall be designed in accordance with the standards set forth in the New York State Stormwater management Design Manual to retain a Ten (10) Year, 24-Hour Storm event. Runoff Reduction shall be achieved through incorporation of green infrastructure, post-construction stormwater management measures, and best management practices (BMPs) designed to increase permeable areas and to reduce pollution.

A waiver may be granted if it can be demonstrated that incorporation of design elements necessary to retain a Ten (10) Year, 24-Hour Storm event such as those set forth in subsection C are physically or economically impossible due to topographic, soil or physical conditions of the site, excluding irreconcilable conflicts with other City requirements. A committee comprised of the Storm water Management Officer, Director of Planning, Director of Economic Development, Building & Construction Superintendent and the Chairperson of the Public Works Committee of City Council or their designee can grant a waiver with a majority vote.

Urban Runoff Reduction Plans shall include green infrastructure designed to reduce stormwater runoff. The following green infrastructure and stormwater management features are recommended, with the exception of subsection (3)(a) which shall be required where applicable:

- (1) Increase permeable areas:
 - (a) Conserve natural areas and existing vegetation, use natural drainage, detention ponds, grass channels, or infiltration pits so that runoff may collect and seep into the ground and reduce or prevent off-site flows.
 - (b) Catch and divert runoff into rain gardens, bioswales, bioretention areas, stormwater planters, tree box filters, vegetated filter strips and swales, stormwater planters, gravel beds and French drains.
 - (c) Construct driveways, parking areas and walkways from pervious materials, such as pavers, grasscrete, porous asphalt and porous concrete, to allow increased percolation of runoff into the ground.
 - (d) Install green roofs and green gutters.
- (2) Minimize the amount of runoff directed to impermeable areas and/or maximize storm water storage for reuse:
 - (a) Install and orient rain gutters into permeable areas so that runoff will penetrate into the ground instead of flowing off-site.
 - (b) Modify grades of property to divert flow to on-site permeable areas.
 - (c) Use sediment traps to intercept runoff from drainage areas and hold or slowly release the runoff, with sediments held in the trap for later removal.

- (d) Use retention structures or design rooftops to store runoff. Utilize rain barrels, subsurface areas, or cisterns for storm runoff either for reuse or to enable release of runoff at predetermined times or rates to minimize the peak discharge into storm drains.
 - (e) Design curbs, berms, or similar barriers with cuts and openings to allow stormwater to flow into permeable or landscaped areas and to avoid isolation of permeable or landscaped areas.
 - (f) Install separate stormwater systems.
- (3) Reduce parking area run-off and pollution.
- (a) All off-street parking areas shall have the capability to contain four (4) inches of precipitation in a 24 hour period. Options to meet this requirement include use of vegetated filter strips, bioswales, rain gardens, tree box filters, stormwater planters and pervious pavement to capture and percolate runoff.
 - (b) Direct runoff toward permeable areas.
 - (c) Design curbs, berms, or similar barriers with cuts and openings to allow stormwater to flow into permeable or landscaped areas and to avoid isolation of permeable or landscaped areas.
 - (d) Construct off-street parking areas from pervious materials.
 - (e) Use of oil and water separators or clarifiers to remove petroleum-based contaminants and other pollutants.

D. Maintenance and repair of stormwater facilities.

- (1) Maintenance easement(s). Prior to approval of an Urban Runoff Reduction Plan, if required by the Stormwater Management Officer, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City of Binghamton to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Corporation Counsel for the City of Binghamton.
- (2) Maintenance after construction. The owner or operator of permanent stormwater management practices (SMPs) installed in accordance with this Chapter shall be responsible for the operation and maintenance of such facilities to achieve the goals of this Chapter. Proper operation and maintenance shall include, at a minimum, the following:
 - (a) A preventative/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Chapter.
 - (b) Written procedures for training personnel in the operation and maintenance of the facilities.
 - (c) Discharge from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations.
- (3) Maintenance agreements. When required by the Stormwater Management Officer, the City of Binghamton shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to issuance of any permits. The City of Binghamton, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this Chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

- E. General provisions. The provisions of Chapter 227-10 shall not supersede any other applicable City of Binghamton Codes, Ordinances, or General Laws. All green infrastructure and stormwater treatment techniques shall comply with any other applicable City of Binghamton Codes, Ordinances, or General Laws.

ARTICLE IV, Administration and Enforcement [Amended 12-21-2011 by Ord. No. 11-51]

§ 227-11. Construction inspections.

- A. Erosion and sediment control inspection. The City of Binghamton Stormwater Management Officer may require such inspections as necessary to determine compliance with this Chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Chapter and the stormwater pollution prevention plan (SWPPP) as approved.
- (1) To obtain inspections, the applicant shall notify the City of Binghamton enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:
 - (a) Start of construction.
 - (b) Instillation of sediment and erosion control measures.
 - (c) Completion of site clearing.
 - (d) Completion of rough grading.
 - (e) Completion of final grading
 - (f) Close of the construction season.
 - (g) Completion of final landscaping.
 - (h) Successful establishment of landscaping in public areas.
 - (2) In any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.
- B. Stormwater management practice inspections. The City of Binghamton Stormwater Management Officer or his/her designee is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- C. Inspection of stormwater facilities after project completion inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of a state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

- D. Submission of reports. The City of Binghamton Stormwater Management Officer may require monitoring and reporting as are necessary to determine compliance with this Chapter.
- E. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the City of Binghamton the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C.

§ 227-12. Performance guarantees; recordkeeping.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the City of Binghamton in its approval of the stormwater pollution prevention plan, the City of Binghamton may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City of Binghamton as the beneficiary. The security shall be in an amount to be determined by the City of Binghamton based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City of Binghamton, provided that such period shall not be less than one year from the accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the City of Binghamton. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City of Binghamton with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the City of Binghamton may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. The City of Binghamton may require entities subject to this Chapter to maintain records demonstrating compliance with this Chapter.

§ 227-13. Enforcement; penalties for offenses.

- A. Notice of violation. When the City of Binghamton determines that a land development activity is not being carried out in accordance with the requirements of this Chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
 - (1) The name and address of the landowner, developer or applicant.
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring.
 - (3) A statement specifying the nature of the violation.
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this Chapter and a time schedule for the completion of such remedial action.

- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 calendar days of service of notice of violation.
- B. Stop-work orders.
- (1) The City of Binghamton may issue a stop-work order for violations of this Chapter.
 - (2) Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the City of Binghamton confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this Chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this Chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Binghamton may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 227-14. Fees for services.

The City of Binghamton may require any person undertaking land development activities regulated by this Chapter to pay reasonable costs at prevailing rates for review and inspections of SWPPPs, Urban Runoff Reduction Plans, or SMP maintenance performed by the City of Binghamton or performed by a third party for the City of Binghamton.

Chapter 227.A,
PROHIBITION OF ILLICIT DISCHARGES, ACTIVITIES AND
CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS
[HISTORY: Adopted by the City Council of the City of Binghamton as L.L. No. 07-5 on 7-2-2007]
GENERAL REFERENCES
Erosion Control—See Ch. 227

§ 227-A.1. Purpose/intent. [Amended 3-17-10 by Local Law 1-2010]

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the City of Binghamton through the regulation of non-stormwater discharges to the municipal separate storm sewer systems (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with the requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- E. To promote awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 227-A.2. Definitions. [Amended 3-17-10 by Local Law 1-2010]

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

- A. Best Management Practices (BMPs). Schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- B. Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- C. Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- D. Department. The New York State Department of Environmental Conservation.

- E. Design professional. New York State licensed professional engineer or licensed architect.
- F. Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quality, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- G. Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
 - (1) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- H. Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 6 of this law.
- I. Individual Sewage Treatment System. A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.
- J. Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- K. MS4. Municipal Separate Storm Sewer System
- L. Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains)
 - (1) Owned or operated by the City of Binghamton;
 - (2) Designed or used for collecting or conveying stormwater;
 - (3) Which is not a combined sewer; and
 - (4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2
- M. Municipality. The City of Binghamton.
- N. Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- O. Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

- P. Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.
- Q. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- R. Special Conditions.
- (1) Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has be reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
 - (2) 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
 - (3) Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
 - (4) The condition in the municipality's MS4 permit that applies if a TMDL is approved int eh future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If and MS3 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- S. State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.
- T. Stormwater. Rainwater, surface runoff, snowmelt and drainage.
- U. Stormwater management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the City of Binghamton to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
- V. 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

W. TMDL. Total Maximum Daily Load.

X. Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

Y. Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 227-A.3. Applicability. [Amended 3-17-10 by Local Law 1-2010]

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 227-A.4. Responsibility for administration. [Amended 3-17-10 by Local Law 1-2010]

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

§ 227-A.5. Severability. [Amended 3-17-10 by Local Law 1-2010]

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this law.

§ 227-A.6. Discharge Prohibitions. [Amended 3-17-10 by Local Law 1-2010]

A. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.
- (3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under and SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

§ 277-A.7. Prohibition against failing individual sewage treatment systems. [Amended 3-17-10 by Local Law 1-2010]

No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

§ 277-A.8. Prohibition against activities contaminating stormwater. [Amended 3-17-10 by Local Law 1-2010]

- A. Activities that are subject to the requirements of this section are those types of activities that:
 - (1) Cause or contribute to a violation of the municipality's MS4 SPDES permit
 - (2) Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.
- B. Such activities include failing individual sewage treatment systems as defined in Section 7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engage in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

§ 277-A.9. Requirement to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices. [Amended 3-17-10 by Local Law 1-2010]

- A. Best Management Practices. Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
 - (1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
 - (2) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 8, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4

Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section

B. Individual Sewage Treatment Systems—Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants. Where the individual sewage treatment systems are contributing to the municipality's being subject to the Special Conditions as defined in section 2 of this local law, the owner or operator of such individual sewage treatment systems shall be required to:

- (1) Maintain and operate individual sewage treatment systems as follows:
 - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
 - (b) Avoid the use of septic tank additives.
 - (c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
 - (d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.

- (2) Repair or replace individual sewage treatment systems as follows:
 - (a) In accordance with 10NYCRR Appendix 75A to the maximum extent practicable.
 - (b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
 - [1] Relocating or extending an absorption area to a location not previously approved for such.
 - [2] Installation of a new subsurface treatment system at the same location.
 - [3] Use of alternate system or innovative system design or technology.
 - (c) A written certification of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

§ 227-A.10. Suspension of Access to MS4; Illicit discharges in emergency situations. [Amended 3-17-10 by Local Law 1-2010]

- A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits

an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

§ 227-A.11. Industrial or construction activity discharges. [Amended 3-17-10 by Local Law 1-2010]

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

§ 227-A.12. Access and monitoring of discharges. [Amended 3-17-10 by Local Law 1-2010]

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.
- B. Access to Facilities.
 - (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
 - (3) The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (5) Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
 - (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 227-A.13. Notification of spills. [Amended 3-17-10 by Local Law 1-2010]

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice

addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 227-A.14. Enforcement. [Amended 3-17-10 by Local Law 1-2010]

- A. Notice of Violation. When a municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The elimination of illicit connections or discharges;
 - (2) That violating discharges, practices, or operations shall cease and desist;
 - (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (4) The performance of monitoring, analyses, and reporting
 - (5) Payment of a fine; and
 - (6) The implementation of source control of treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollar nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 227-A.15. Appeal of notice of violation. [Amended 3-17-10 by Local Law 1-2010]

Any person receiving a Notice of Violation may appeal the determination of the SMO to City Council within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

§ 227-A.16. Corrective measures after appeal. [Amended 3-17-10 by Local Law 1-2010]

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

- B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 227-A.17. Injunctive relief. [Amended 3-17-10 by Local Law 1-2010]

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 227-A.18. Alternative remedies. [Amended 3-17-10 by Local Law 1-2010]

- A. Where a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:
- (1) The violation was unintentional.
 - (2) The violator has no history of previous violations of this Law.
 - (3) Environmental damage was minimal.
 - (4) Violator acted quickly to remedy violation.
 - (5) Violator cooperated in investigation and resolution
- B. Alternative remedies may consist of one or more of the following:
- (1) Attendance at compliance workshops
 - (2) Storm drain stenciling or storm drain marking
 - (3) River, stream or creek cleanup activities

§ 227-A.19. Violations deemed a public nuisance. [Amended 3-17-10 by Local Law 1-2010]

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 227-A.20. Remedies not exclusive. [Amended 3-17-10 by Local Law 1-2010]

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

§ 227-A.21. Adoption of law. [Amended 3-17-10 by Local Law 1-2010]

This law shall be in full force and effect 7 days after its final passage and adoption. All prior laws and parts of law in conflict with this law are hereby repealed.

Chapter 229, FIREARMS AND FIREWORKS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 14, § 14-6, of the 1970 Code). Amendments noted where applicable.]

§ 229-1. Discharge of firearms within City limits prohibited.

No person shall fire, discharge or set off or cause or procure to be fired, discharged or set off within the City any cannon, percussion, air or other gun, pistol, squib, rocket, firecracker, gunpowder, fireworks, or any other explosive combustible.

§ 229-2. Fireworks authorized.

This chapter shall not prohibit a fireworks exhibition by any organization or association if permission therefor has been granted as provided in § 405.00 of the Penal Law.

Chapter 235, FIRE PREVENTION

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 8 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Fire Department -- See Ch. 67.
- Fire insurance proceeds -- See Ch. 71.
- Alarm systems -- See Ch. 167.
- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Electrical standards -- See Ch. 225.
- Firearms and fireworks -- See Ch. 229.
- Housing and property maintenance -- See Ch. 265.
- Public assembly -- See Ch. 318.

ARTICLE I, In General

§ 235-1. Use of fire apparatus outside City limits.

- A. Generally. No Fire Department apparatus shall be taken beyond the territorial limits of the City to assist at a fire or for any other purpose, except by order of the Chief or Acting Chief of the Fire Department, and subject to the restrictions and conditions hereinafter set forth.
- B. Conditions governing use of apparatus outside City. The Chief or Acting Chief of the Fire Department is authorized, in his or her discretion, to aid in the extinguishing of fires in another city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution, or on property immediately adjacent to the City, in which there is a possibility of fire spreading within the City limits, under the following conditions:
 - (1) A request from the city or incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory, or public institution must come only from such person or persons as may be duly designated by the governing body of such city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution, and such designee must be agreed to by the Chief of the Fire Department of the City, and a copy of such designation must be filed in the office of the Chief of the Fire Department of the City, except that as to the territory embraced within the limits of Fire Protection District No. 1 of the Town of Dickinson, no one need be designated to request aid, and the extension of such aid is authorized when coming from any inhabitant of such district.
 - (2) Calls may be responded to only by such apparatus which, in the judgment of the Fire Chief, can be safely sent without unduly impairing the fire apparatus or service within the City, and when highways and weather conditions are favorable.
 - (3) The city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution requesting assistance must pay the charge of apparatus and service hereinafter provided, unless there exists a mutual aid agreement.
 - (4) The city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution must compensate the City for any loss or damage to such apparatus while answering such call, working at such fire or returning from such call, and shall be responsible to the members of the Fire Department for any injuries suffered or incurred by them by responding to such call while working at such fire or returning therefrom.

- C. Payment for service, damages, expenses, etc. Unless there exists a mutual aid agreement, every city, incorporated village, town, fire district, fire protection district, fire alarm district, hamlet, territory or public institution requesting the service of the Fire Department of the City shall pay for such service any loss or damage to the fire apparatus of the City, together with the expense incurred in the operation of such fire apparatus and equipment in connection with such call.

§ 235-2. Authority to blockade streets at fires; breaking through blockade prohibited.

The engineer in charge of any fire may, when deemed necessary by him or her to ensure the efficient working of the persons or apparatus under his or her control, blockade any street or part of a street or other place, and no person shall break through or attempt to break through such blockade.

§ 235-3. Conduct at scene of fire.

Each and every person, whether a fire fighter or not, present at a fire shall conduct himself or herself in an orderly manner, without noise or disturbance, and shall promptly obey any order he or she may receive from the chief engineer or his or her assistants.

§ 235-4. Injury to fire implements or apparatus.

Any person who shall enter any place where any fire implements or apparatus may be with intent to injure the same or who shall willfully injure any such implements or apparatus or who shall remove any portion thereof or who shall willfully do any damage to any enginehouse or other place where fire apparatus is kept or stored, or to any fixtures, articles, furniture or ornaments in or about any such house or place, shall, on conviction, be punished as provided in § 1-4 of this Code.

§ 235-5. False fire alarms.

It shall be unlawful for any person to intentionally give or cause to be given a false alarm of fire.

§ 235-6. Obstructing fire hydrants.

No person shall leave an automobile or vehicle of any description standing within 15 feet of any fire hydrant in the City.

§ 235-7. Accumulations creating fire hazards.

No person, on being the owner or in control or management or charged with the control or management of any premises in the City shall suffer or permit the growth, accumulation or deposit thereon of any idle, wild, uncultivated or noxious weeds, thistles, brush, briars, brambles, leaves, waste, wastepaper, boxes, shavings or any filthy or highly inflammable materials, rubbish, garbage, dirt or leaves whereby said premises are or may be or become or liable to become, unsanitary, or whereby the fire hazard, danger or risk is or may be increased, or whereby the life, health or safety of another or others is or may be endangered or injuriously affected or whereby the premises of another or the enjoyment thereof are or may be injured, damaged, interfered with or prejudiced.

§ 235-8. Storage and accumulation of combustible materials.

- A. Excelsior, similar materials. No person shall keep, or suffer to be kept, any excelsior or other materials of a combustible nature used for packing within any building unless the same shall be kept in a covered metal container.
- B. Oily wastes, rags. No person shall keep, or permit to be kept, on any premises, any oily waste or oily rags unless at all times when not actually in use such oily waste and oily rags shall be kept in a metal can with a self-closing cover and riveted joints, standing on metal legs which raise the bottom of the container at least five inches above the floor.

- C. Rubbish, empty boxes, barrels. No person shall allow to remain in any cellar or basement any accumulation of rubbish, empty boxes, barrels or other light combustible materials which, in the judgment of the Fire Marshal, presents a fire hazard.
- D. Hay, straw, etc. No hay, straw or other combustible materials shall be deposited within 15 feet of any place where fire exists or ashes are stored, unless such combustibles be in a closed and secure building; nor shall any hay, straw, excelsior, packing boxes, wastepaper or other combustible material be kept, stored or thrown out in any public or private street, alleyway, court or yard contiguous to any building.

§ 235-9. Use of lamps and lanterns near combustible materials.

No person shall have in his or her possession in any barn, stable, shop or other building in the City where hay, straw or shavings or other combustible substances shall be stored, kept or deposited any lighted or burning lamp, candle, torch or light unless the same shall be enclosed in a safe lantern, and kept so enclosed during all the time such lighted or burning thing shall be in such building; nor shall a person have in his or her possession in any such place any lighted pipe, cigarette or cigar.

§ 235-10. Disposal of cigars and cigarettes.

No person shall cast, throw or place any lighted cigar, cigarette or any burning fragment or portion of the same, or the burning contents of any pipe, upon any bridge or fence in the City or through any sidewalk grating, or the window of any building or into any accumulation of inflammable material, wherever located.

§ 235-11. Depositories for ashes.

All permanent depositories for ashes shall be built of brick, stone, or other fireproof material, and no ashes shall be kept or deposited by any owner, occupant or other person nor shall any owner or occupant suffer or permit ashes to be kept or deposited in or adjacent to any building or part of any building constructed of wood, except in securely closed metallic containers.

§ 235-12. Open burning and bonfires. [Amended 7-20-09 by Ord. No. 24-2009]

- A. No person shall burn or cause to be burned or aid or assist in the burning of any material for any purpose, other than those listed in Subsection B below, in any street, lot or parcel of land (either public or private), within the City of Binghamton limits.
- B. Exceptions to Subsection A are as follows:
 - (1) Residential outdoor cooking. Open burning is permitted for residential outdoor cooking when the fire is limited to the minimal size necessary and contained in a device designed for that purpose. Fuel for residential outdoor cooking is limited to charcoal, LP gas, natural gas, or seasoned or flavored wood chips commercially sold for the purpose of barbeques. Outdoor cooking of any kind is prohibited on balconies, covered porches and covered patios in any multiple dwelling home.
 - (2) Recreational. Open burning for recreational purposes (bonfires) shall be permitted only for organization-sponsored events and restricted to those meeting all of the requirements from the Fire Marshal's office. No fire shall be ignited prior to the issuance of an "open burning operating permit" from the Fire Marshal's office.
 - (3) Commercial. Open burning for commercial purposes in the City of Binghamton shall be permitted only upon obtaining an "open burning operating permit" from the Fire marshal's office. No fire shall be ignited prior to the issuance of an "open burning operating permit" from the Fire Marshal's office. "Commercial purposes" shall not include activities with a Pushcart Permit.

- (4) Fires set by the Fire Bureau for the instruction and training of firefighting personnel or for the elimination of a fire hazard.

§ 235-13. Fire escapes.

All dwelling houses now erected or that may hereafter be erected, more than two stories in height, occupied or built to be occupied by two or more families on any floor above the first, and all buildings now erected, or that may hereafter be erected, more than three stories in height, occupied or used as a hotel, lodging house or boardinghouse, having more than 10 guest rooms, and every apartment house, office building, hospital, asylum or institution for the care or treatment of individuals and every building in whole or in part occupied or used as a school, or place of instruction or assembly, shall be provided with good and sufficient fire escapes, either outside iron fire escapes, enclosed fireproof stairways or automatic safety devices operated from the outside of such building or buildings with steel cables, as a means of egress in case of fire, or with what in the judgment of the Fire Marshal or other delegated officer of the Department of Public Safety shall be deemed a good and sufficient means of egress in case of fire.

§ 235-14. Required fire safety equipment for hotels.

All hotels within the meaning of § 30 of the Liquor Tax Law of the State of New York shall be equipped with an electric fire alarm system with one or more bells and signal stations on each floor and of a type of construction in accordance with the Code of the National Association of Underwriters. All exit doors shall swing outward and be provided with night latches, or other suitable fastenings, that can be easily opened from the inside without a key. Exit signs and red lights shall be placed to indicate all exit doors. At least one three-gallon liquid fire extinguisher must be provided for every 2,000 square feet or fraction thereof of floor surface on each floor, such extinguishers to be hung on the wall in convenient places; such extinguishers must be recharged at least once a year. All stairways shall be provided with hand rails on both sides of the stairs. EN

§ 235-15. Storage and transportation of high explosives.

No person shall keep or store any dynamite, nitroglycerine, giant powder or other explosive other than gunpowder in any building or on any premises within the City limits; nor shall any of the above explosives be transported through the City or used within the City except upon written permission from the Deputy Commissioner of Public Safety, which permit must specify the precautions to be observed in such transportation or use. Nothing herein contained shall preclude the transportation of explosives by common carriers in railroad cars, subject to the rules and regulations governing such carriers.

§ 235-16. Storage of gunpowder.

No person shall keep or store in excess of one pound of gunpowder in any building or on any premises within the City limits, without written permission of the Deputy Commissioner of Public Safety, who is authorized to permit the keeping of not more than five pounds in closed metal canisters in a store or wareroom away from artificial heat or light, or the keeping of not more than 50 pounds of gunpowder, if in a magazine made of fireproof material, or of wood covered with sheet iron; said magazine to be mounted on wheels and kept locked except when necessarily opened for use by authorized persons, and not more than 1,000 blasting caps in a similar, but separate, magazine. Such magazine shall be conspicuously labeled in red letters at least four inches high, "EXPLOSIVES," and located within the building on the floor nearest the street level and within 10 feet of the street entrance.

§ 235-17. Fireworks. [Amended 8-1-1994 by Ord. No. 84-94]

- A. No person within the City of Binghamton shall, without an approved permit application on file with the Binghamton City Clerk and the Fire Marshal, possess, fire, discharge or set off, or cause, or procure to be fired, discharged, or set off within the City, any cannon, percussion, air or other pistol, skyrocket, Roman candle, mortar, firecracker, gunpowder, sparkler, or any other explosive combustible.

- B. Any person who shall possess, use, explode, or cause to explode any fireworks, without a permit obtained pursuant to the ordinances of the City of Binghamton and to § 405 of the New York State Penal Law, shall be guilty of a violation.

§ 235-18. Fireworks displays. [Added 8-1-1994 by Ord. No. 85-94; amended 5-15-1995 by Ord. No. 95-138; 5-19-2003 by Ord. No. 03-49]

- A. Permit application; regulations. The City of Binghamton's permit application for the use and discharge of fireworks shall be amended to include the following regulations:
- (1) The maximum diameter size shell allowable in the City of Binghamton will be determined by the Fire Marshal's site evaluation. (NFPA 1123/NYS Penal Law Article 405).
 - (2) The actual point at which the fireworks are to be fired shall have a distance separation of 70 feet per inch of mortar diameter (of the largest shell to be fired) from any spectator, dwelling, automobile parking, or public highway, and at least 50 feet from the nearest aboveground telephone transmission lines, trees, or other overhead obstructions. The actual point at which the fireworks are to be fired shall also be at least 200 feet from the nearest active railroad and 1,000 feet from any hospital.
 - (3) Only experienced operators shall handle explosives and load mortar tubes. At least two experienced operators of at least 21 years of age will be provided for each fireworks display. Assistants shall be at least 18 years of age.
 - (4) Fireworks delivered to the display site shall not be left unattended.
 - (5) Shells shall be inspected upon delivery by an experienced operator. Any shells having tears, leaks, broken fuses or showing signs of having been wet shall not be fired.
 - (6) Mortars shall be positioned so that the shell's trajectory is directed away from spectators. Under no circumstances shall mortars be angled toward the spectator viewing area.
 - (7) PVC pipe shall not be used for mortar tubes. Mortar tubes shall conform to requirements set forth in NFPA 1123.
 - (8) Security barriers shall be provided by the sponsor and erected around the discharge area to prevent spectators or any other unauthorized person from entering the discharge site. Smoking will not be allowed within this secure area when fireworks are present. The Fire Marshal shall determine the size of the area to be fenced. Only persons in active charge of the firing shall be allowed in the fenced area.
 - (9) No fireworks display shall be held during any period in which the wind reaches a velocity of more than 30 miles per hour. No fireworks display shall be held during any heavy rain.
 - (10) Standby fire apparatus.
 - (a) The sponsor of the display shall arrange for standby fire apparatus for protection down range. The operators shall provide (at discharge site) one 10# A-B-C fire extinguisher for every 200 shells fired at the discharge area.
 - (b) The City of Binghamton Fire Bureau, as the fire bureau of jurisdiction, shall provide the standby fire apparatus required by this section, and a fee as set from time to time by the City Council shall be paid to the City Clerk at the time of the submission of the application to reimburse the City of Binghamton for the cost of providing this apparatus and personnel (See Exhibit J).
 - (11) Before leaving the site, the entire site shall be inspected for the purpose of locating any unexploded shells. If conditions do not permit a thorough inspection immediately following the display, the operator shall ensure that the entire site is reinspected early the following morning.
 - (12) Upon receipt of such application, at least 30 days in advance of the date for this display, the Fire Marshal shall make or cause to be made an inspection of the site of the proposed display, for the purpose of determining whether provisions of these regulations are complied with for the particular display. An additional inspection will be made the night of the event,

after set-up, to assure compliance with all above stated regulations and §§ 270 and 405 of the New York State Penal Law and NFPA 1123 in its entirety.

- B. Hours prohibited; exception. No fireworks shall be discharged within the City after 10:00 p.m. on weeknights. This subsection shall not apply to fireworks displays that are scheduled on Fridays, Saturdays, or holidays.

§ 235-19. Indoor use of pyrotechnics. [Added 11-17-2003 by Ord. No. 03-119]

- A. New York State Penal Law §§ 405.10 through 405.18, as amended, are effective in the City of Binghamton and have been since November 1, 2003.
- B. Pursuant to New York State Penal Law § 405(1)(O), the City of Binghamton hereby establishes the City Clerk as its designated agent authorized to issue indoor pyrotechnic use permits.
- C. Said agent for the City shall issue or deny permits for indoor pyrotechnic use in accordance with the standards codified within New York State Penal Law §§ 405.10 through 405.18, as amended.
- D. Said permit shall also be subject to approval by the Fire Marshal in consultation with the Corporation Counsel of the City.
- E. Fees.
 - (1) The filing fee for the permit application and the permit fee shall be as set from time to time by the City Council.
 - (2) The permit fee includes the cost of posting one fire fighter/Fire Marshal at the location of the indoor pyrotechnic event as required by New York State Penal Law §§ 405.10 through 405.18.
 - (3) Should the Fire Marshal require the presence of a fire suppression apparatus (fire truck) at the indoor pyrotechnic event, the permit fee shall be as set from time to time by the City Council See Exhibit J).

§ 235-20. Inflammable volatiles. [Amended 3-7-1988 by Ord. No. 22-88]

- A. Permit required for storage and handling; inspections. Any person now handling or storing or proposing in the future to handle or store inflammable volatiles in excess of the quantity of five gallons shall make written application to the Deputy Commissioner of Public Safety, and the Fire Marshal shall forthwith make an inspection of the premises used or proposed to be used, as the case may be, for such sale or storage, and the means of distribution, and if the conditions, surroundings and arrangements are such that the intent of this chapter can be observed then he or she shall issue a permit that such sale, storage, or distribution may be conducted. Before any new installation is covered from sight, a notification in writing shall be given the Fire Marshal, who shall, within 48 hours after the receipt of such notification, inspect the installation and give his or her written approval or disapproval. Upon the failure of the Fire Marshal to inspect, within the specified time, the installation may be covered, but shall be subject to inspection at the expense of the City.
- B. Storage in underground tanks. No person shall keep or store within the fire limits of the City any gasoline, benzene, naphtha, ether, benzole, or any other inflammable volatile of like character, in greater quantity than five gallons, except as provided in Subsection D, unless in a properly constructed underground tank, which if within the building shall be buried not less than three feet below the level of the basement floor, or encased in concrete to the satisfaction of the State Board of Fire Insurance Underwriters, or if without the building and within 10 feet thereof, buried not less than two feet below the surface of the ground, which in all cases shall be drawn from the aforesaid tanks by approved safety pumps, and all piping shall be so arranged as to drain back to the tank.
- C. Storage in aboveground tanks.
 - (1) Inflammable volatiles not to exceed five gallons may be kept within any building in a tightly closed container, except as provided in Subsection D, and outside storage may be had in properly constructed tanks, which tank or tanks have the following total capacities and are

located at the following given distances from any building or property line which may be built upon:

<u>Size of Tank (gallons)</u>	<u>Distance from Building or Property Line (feet)</u>
Not exceeding 60	30
More than 60 and not more than 300	40
More than 300 and not more than 1,000	50
More than 1,000 and not more than 10,000	100
More than 10,000 and not more than 30,000	150
More than 30,000 and not more than 100,000	200

- (2) The above measurement capacities are based on level ground, and in no case shall a tank be so placed at such an elevation that it will endanger the surrounding property by leakage, and if said tank be at an appreciable elevation about the surrounding property, proper precautions must be taken by embanking or ditching to prevent such flow; nor shall any tank be so placed as to drain into any watercourse or canal.

- D. Use in connection with garages. No volatile inflammable liquid shall be kept or carried in open vessels in a garage, and no volatile inflammable liquid shall be drawn except into approved safety cans of a capacity not exceeding five gallons each, and then, with the exception of liquids with flashpoint above 30 ° F., only for the purpose of immediately filling the tanks of automobiles contained in a garage. In lieu of the above safety cans, approved portable filling tanks, not to exceed 60 gallons in capacity, may be used for transporting volatile inflammable liquid to and from the storage tanks for filling and charging the automobile. The portable tanks shall be supported on rubber-tired wheels, and liquids must be drawn by means of a tightfitting pump. Hose attachments must not exceed 10 feet in length equipped at the end with a shutoff valve. No volatile inflammable liquid shall be allowed to run upon the floor or to fall or pass into the drainage system of a garage, nor shall any such liquid be put into or removed from the tanks of a vehicle while any light or fire on the same is burning.
- E. Use near open flame or fire. Inflammable liquids shall not be drawn or handled in the presence of an open flame or fire, but may be drawn and handled when lighting is by incandescent electric lamps with vaporproof globes and keyless sockets, and the installation otherwise fully in compliance with all the requirements of the National Electric Code, and said rules and regulations are hereby made a part of this chapter as affecting all electrical equipments. Smoking shall be prohibited, and signs to this effect shall be posted wherever inflammable volatiles are stored or handled.

§ 235-21. Storage of kerosene, camphene and turpentine.

No person shall keep, or suffer to be kept, without the written consent of the Deputy Commissioner of Public Safety, in any building or other structure, owned, occupied or controlled by him or her, any larger quantity of kerosene, camphene, or turpentine, either or all, than 10 barrels, nor shall any larger quantity of such substances be kept in any one place without like consent.

§ 235-22. Storage, installation, maintenance and use of fuel oil.

No oil-burning equipment or fuel oil storage shall be installed, maintained or used for the burning of fuel oil in any building or structure within the City, except in compliance with the rules and regulations of the National Board of Fire Underwriters, and the rules and regulations are hereby made a part of the requirements of this chapter. Before the installation of any such equipment shall be made, a permit for same shall be secured as required in § 235-20A insofar as it relates to the granting of permission and inspection by the Deputy Commissioner of Public Safety, or his or her authorized representative.

§ 235-23. Periodic inspections. [Amended 12-4-2006 by L.L. No. 2-2006; Amended 12-9-09 by Ord. No. 40-2009]

It shall be the duty of the Deputy Commissioner of Public Safety, to cause an inspection by the Fire Marshal or other delegated officer of premises within the City, as hereinafter specified, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire or endanger human life or any violation of the provisions or intent of this chapter.

- A. All buildings within the fire limits used for manufacturing or mercantile purposes shall be inspected at least once every 24 months from the date of the last inspection
- B. All buildings outside the fire limits used for manufacturing or mercantile purposes shall be inspected at least once every 24 months from the date of the last inspection.
- C. All buildings used or intended to be used for the exhibition of motion pictures shall be inspected at least four times a year.
- D. All buildings used or intended to be used as a hotel within the meaning of § 30 of the Liquor Tax Law of the State of New York shall be inspected at least once every twelve months from the date of the last inspection.
- E. Such other buildings as may come to the attention of the Deputy Commissioner of Public Safety, by reason of complaint or otherwise, and in which he or she may have reason to believe improper condition exists.
- F. All alleyways and open courts within the fire limits where accumulations of rubbish are likely to be found shall be inspected as often as may be deemed necessary.

§ 235-24. Revenue recovery program for emergency services provided by Fire Department. [Added 8-21-1995 by Ord. No. 189-95]

The City, through its Fire Department, is directed to examine and implement a revenue recovery program to recover fees for the delivery of such pre-hospital emergency medical care and ambulance service to be provided by the Binghamton Fire Department. The revenue recovery program shall be established pursuant to New York State regulations.

§ 235-25. Notices of intention to claim against insurance proceeds on fire-damaged buildings. EN [Added 9-3-1996 by Ord. No. 140-96]

The City Treasurer of the City of Binghamton is hereby authorized to file a notice of intention to claim against insurance proceeds with the State Superintendent of Insurance.

§ 235-26. Sprinklers. [Added 12-1-1997 by Ord. No. 97-162]

- A. If a commercial building or facility ceases to operate and/or is no longer occupied on a daily basis, the existing sprinkler system shall be maintained and operating as long as any flammable, combustible or hazardous materials remain located on the premises.
- B. If a commercial building or facility is no longer in operation on a daily basis, and production/storage materials are still located on the premises, in addition to Subsection A above, adequate aisle space, a minimum of six feet in width at all times, shall be maintained to allow free passage throughout the building.

- C. If a commercial building or facility is no longer in operation on a daily basis and is not heated from October 1 to May 1 each year, prior to October 1 the sprinkler system shall be serviced and drained, including adequate capping of all Fire Department connections, by a qualified contractor to prevent damage to the system due to low temperature and to allow the system to be operated or otherwise activated by Fire Department or other emergency personnel in case of fire or other threat to the building or facility. In addition, the sprinkler system shall also be inspected and maintained on a regular basis to ensure that the sprinkler system, including all Fire Department connections, will be available for use in the event of a fire. The owner of the building or facility shall contact the City of Binghamton Fire Marshal's office in writing, by certified mail, return receipt requested, of his or her intention to deactivate any sprinkler system. Said deactivation shall not occur without the prior express written permission of the City of Binghamton Fire Marshal's office.
- D. The owner(s) of any unoccupied or abandoned building shall file information with the City of Binghamton Fire Department Fire Marshal's office that shall include the name(s), address(es) and telephone number(s) of person(s) authorized to act on behalf of the owner(s) of the building. This information shall be supplemented or corrected immediately upon any changes due to authorization, name(s), address(es) and/or telephone number(s).

ARTICLE II, Bureau of Fire Prevention

§ 235-27. Establishment; supervision.

A Bureau of Fire Prevention in the Fire Department of the City is hereby established, which shall be operated under the supervision of the Chief of the Fire Department.

§ 235-28. Duties of officers.

- A. Enumerated. It shall be the duties of the officers of the Bureau of Fire Prevention to enforce all laws and ordinances of the state and City covering the following:
 - (1) The prevention of fires.
 - (2) The storage and use of explosives and flammables.
 - (3) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment.
 - (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit 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 time to time for any purpose.
 - (6) The investigation of the cause, origin and circumstances of fires.
- B. Additional duties. The officers of the Bureau of Fire Prevention shall have such other powers and perform such other duties as are set forth in other sections of this article, and as may be conferred and imposed from time to time by law.

§ 235-29. Enforcement of fire prevention regulations. [Added by L.L. No. 8-1989]

Notwithstanding the provisions of Chapter 265, § 265-21, of the Code of the City of Binghamton, enforcement of violations of the New York State Fire Prevention and Building Code, the Multiple Residence Law and the City Code by the Fire Marshal's office shall be commenced by issuance of an appearance ticket without the necessity of compliance with the procedure set forth for code enforcement in Chapter 265.

§ 235-30. Duty of Chief to recommend ordinances and amendments.

It shall be the duty of the Chief of the Fire Department to investigate and to recommend to the City Council such ordinances or amendments to existing ordinances as he or she may deem necessary for safeguarding life and property against fire.

§ 235-31. Authority of Chief to delegate powers and duties.

The Chief of the Fire Department may delegate any of his or her powers or duties under this article to the Fire Marshal.

§ 235-32. Preparation of instructions and forms.

The Chief of the Fire Department shall prepare instructions for the Fire Marshal and his or her assistants and forms for their use in the reports required by this article.

§ 235-33. Right of access to buildings and premises.

The Chief of the Fire Department, the Fire Marshal or any assistant inspector may at all reasonable hours enter any building or premises within his or her jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this article, he or she or they may deem necessary to be made.

§ 235-34. Investigation of fires.

The Bureau of Fire Prevention shall investigate the cause, origin and circumstances of every fire occurring in the City by which property has been destroyed or damaged, and, as far as possible, shall determine whether the fire is the result of carelessness or design. Such investigation shall be begun immediately upon the occurrence of such a fire by the assistant in whose district the fire occurs, and if it appears to the officer making such an investigation that such fire is of suspicious origin, the Chief of the Fire Department shall be immediately notified of the fact; he or she shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

§ 235-35. Reports of fires.

- A. Required. Every fire shall be reported in writing to the Bureau of Fire Prevention within two days after the occurrence of the same, by the officer in whose jurisdiction such a fire has occurred.
- B. Form; contents. Such report shall be in such form as shall be prescribed by the Chief of the Fire Department, and shall contain a statement of all facts relating to the cause, origin and circumstances of such fire, the extent of the damage thereof, and the insurance upon such property, and such other information as may be required.

§ 235-36. Handling of flammables and explosives; investigation of storage.

Before licenses may be issued for the keeping, storage, use, manufacture, sale, handling, transportation or other disposition of highly flammable materials and rubbish, crude petroleum or any of its products, gun or blasting powder, dynamite or explosives of any kind, including fireworks, fire crackers and signaling explosives, the Chief of the Fire Department, the Fire Marshal or his or her assistants shall inspect and approve the receptacles, vehicles, buildings or storage places to be used for any such purposes.

§ 235-37. Inspection of hazardous processes, installations, fire alarms and sprinkler systems.

The Chief of the Fire Department, Fire Marshal or an assistant specially designated thereto shall inspect, as often as may be necessary, but not less than four times a year, all specially hazardous manufacturing processes, storages or installations of acetylene or other gases, chemicals, oils, explosives and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

§ 235-38. Inspection of buildings and premises for hazardous conditions.

- A. Duty. It shall be the duty of the Chief of the Fire Bureau to inspect or cause to be inspected by the Office of Fire Prevention or by the Fire Bureau officers and members, as often as may be necessary, but not less than twice a year in outlying districts and four times a year in the closely built portions of the City, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of the provisions or intent of any ordinance of the City affecting the fire hazard.
[Amended 12-4-2006 by L.L. No. 2-2006]
- B. Order to correct condition. Whenever any inspector shall find in any building, or upon any premises or other place, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulation of wastepaper, boxes, shavings or any highly flammable materials especially liable to fire, and which is so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings, subject to appeal within 48 hours to the Chief of the Fire Department, as provided in § 235-39B of this article.
- C. Service of order. The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises or, in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the person a copy of the order or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address.
- D. Failure to comply with order. Any owner or occupant failing to comply with such order within a reasonable period after the service of the order shall be liable to a penalty as provided in § 1-4 of this Code.

§ 235-39. Inspection of premises and buildings susceptible to fire.

- A. Duty; order. The Chief of the Fire Department or inspectors of the Bureau of Fire Prevention, upon the complaint of any person or whenever he or she or they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure which, for want of repairs, lack of or insufficient equipment or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property or the occupants thereof, and whenever such officer shall find in any building combustible or explosive matter or flammable conditions dangerous to the safety of such building or the occupants thereof, he or she or they shall order such dangerous conditions or materials to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or building.
- B. Appeal of Fire Marshal's or inspector's order. If such order is made by the Fire Marshal or any of his or her assistant inspectors, such owner or occupant may, within 48 hours, appeal to the Chief of the Fire Department, who shall, within five days, review such order and file his or her decision thereon, and unless by his or her authority the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in said order or decision of the Chief of the Fire Department.

- C. Appeal from Chief's order. Any owner or occupant may, within five days after the making or affirming of any such order by the Chief of the Fire Department, file his or her petition with the City Court praying a review of such order, and it shall be the duty of such court to hear the same within not less than five days nor more than 10 days from the time the petition is filed, and to make such order in the premises as right and justice may require, and such decision shall be final. Such parties so appealing to the City Court shall file with said Court within two days a bond in an amount to be fixed by the Court, to be approved by the Court, conditioned to pay all the costs of such appeal in case such appellant fails to sustain his or her appeal or the same be dismissed for any cause.

§ 235-40. Duties of Fire Department with respect to unsafe buildings. [Added 9-6-1977 by Ord. No. 203-77]

The Chief of the Fire Department shall make a report in writing to the Building Inspector and the Director of Code Enforcement of all buildings or structures which are, may be or are suspected to be unsafe buildings or which create a serious hazard to the health and safety or inadequately protect the health or safety of the occupants or of the public as set forth in § 265-10 of Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton. Such reports shall be delivered to the Building Inspector and the Director of Code Enforcement within 24 hours of the notice of discovery by any employee of the Fire Department.

§ 235-41. Duty of Corporation Counsel to assist in investigation of suspicious fires.

The Corporation Counsel, upon request of the Bureau of Fire Prevention, shall assist the inspectors in the investigation of any fire which in their opinion is of suspicious origin.

§ 235-42. Fire drills in schools; school doors and exits to be unlocked during school hours. [Amended 12-4-2006 by L.L. No. 2-2006]

It shall be the duty of the Chief of the Fire Department to require teachers of public, private or parochial schools and educational institutions to have 12 fire drills each school year and to keep all doors and exits unlocked during school hours.

§ 235-43. Records of fires.

The Chief of the Fire Department shall keep in the office of the Bureau of Fire Prevention a record of all fires and of all the facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance and, if so, in what amount. Such record shall be made daily from the reports made by the inspectors under the provisions of this article. All such records shall be public.

§ 235-44. Annual report by Bureau; recommended amendments. [Amended 12-4-2006 by L.L. No. 2-2006]

The annual report of the Bureau of Fire Prevention shall be made on or before the 15th day of April and be transmitted to the City Council. Such report shall contain all proceedings under this article, with such statistics as the Chief of the Fire Department may wish to include therein; the Chief of the Fire Department shall also recommend any amendments to this article which, in his or her judgment, shall be desirable.

§ 235-45. Compressed and liquefied flammable gases. [Added 5-6-1974 by Ord. No. 65-74]

- A. Applicability of section. This section shall apply to the use, storage and handling of compressed or liquefied petroleum or other flammable gases.
- B. Permits required. An application for a permit accompanied by plans shall be made to the Fire Marshal for all systems connected to liquefied petroleum or other compressed flammable gas container or containers.

- C. Manufacture, filling or recharging. No person, firm or corporation shall engage in the manufacture or compression of compressed or liquefied flammable gas for any purpose or the business of filling, charging or recharging any containers with compressed or liquefied petroleum gases within the City of Binghamton, except that filling, charging or recharging containers may be done when permits as required under Subsection B have been duly issued.
- D. Installation of systems. No person, firm or corporation shall install liquefied petroleum or other type of compressed flammable gas systems or equipment used in connection with such systems unless the person actually doing the work of installing such systems has been trained in proper handling and operating procedures.
- E. Odorization. All compressed or liquefied flammable gases shall be effectively odorized by an approved agent of such character as to positively indicate the presence of gas down to concentrations in air of not over 1/5 the lower limit of flammability.
- F. Containers required. Only approved cylinders which are acceptable for distribution in the City and are marked to the effect that they comply with the United States Department of Transportation (DOT) (formerly ICC) cylinder specifications shall be considered suitable for use in any compressed system for lighting, cooking, or any other purpose.
- G. Empty cylinders; protection of cylinders. When cylinders are empty or not in use, outlet valves shall be kept tightly closed. Cylinders shall be protected against mechanical injury, extreme heat, accumulation of ice and snow, or tampering at all times.
- H. Changing cylinders. Valves shall be arranged so that the changing of cylinders may be accomplished without shutting down the system, and the system shall be provided with shut-off valves to the building. Every system shall be provided with a means of shutting off the gas supply to the building, outside the building.
- I. Location of cylinders.
 - (1) Cylinders and regulating equipment shall be located outside buildings in well-ventilated steel cabinets or otherwise protected from tampering or exposure to the weather. The discharge from the safety reliefs shall be located at least five feet away from any opening which is below the level of such discharges.
 - (2) Readily ignitable material such as rubbish, weeds, and long dry grass shall not be within 10 feet of any container.
- J. Storage limits. The Chief of the Fire Department or the Fire Marshal may restrict the storage of compressed or liquefied petroleum flammable gases inside the City of Binghamton to any amount which they deem safe.
- K. National Fire Codes. The National Fire Protection Association standards, as amended from time to time, for the handling, installation and pertinent equipment for the use and handling of compressed flammable gases in the City of Binghamton shall be accepted as necessary requirements in this section.
- L. Tank trucks and trailers forbidden. No person shall fill, load or unload any tank truck or trailer with compressed or liquefied flammable gas, inside the City of Binghamton, and no truck or trailer containing such gas shall make any stops inside the City but shall go without stopping to the outside of the City limits after entering the City; except that a person may perform the aforementioned acts and a truck or trailer may make stops as aforesaid if a written permit has been obtained from the Fire Marshal as set forth hereinabove at Subsection B.

M. Buildings under construction or undergoing major renovation.

- (1) Containers may be used in buildings or structures under construction or undergoing major renovation when such buildings are not occupied by the public.
- (2) Containers, equipment, piping and appliances shall comply with Subsections F and G.
- (3) Application for a permit and installation shall be in accordance with Subsections B and C.
- (4) Storage limits shall comply with Subsection J.

N. Retroactivity. Existing installations for the storage or use of compressed flammable or liquefied petroleum gas in compliance with the provisions of this section at the time of installation may be continued in use, provided that such continued use does not constitute a distinct hazard to life or adjoining property.

O. Protection against tampering. Suitable devices which can be locked in place shall be provided. Such devices, when in place, shall effectively prevent unauthorized operation of any of the container appurtenances, system valves or equipment.

ARTICLE III, Tents and Other Structures Used as Places of Assembly

§ 235-46. Occupancy load of places of assembly. [Added 5-20-1974 by Ord. No. 77-74]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

OCCUPANCY LOAD -- The maximum number of persons allowed to occupy a place of assembly at any one time.

PLACES OF ASSEMBLY -- Include, but are not limited to, buildings or portions of buildings in which the primary or intended occupancy or use is the assembly for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, sports, or similar purposes.

B. Occupancy loads. The occupancy loads for a place of assembly shall be in accordance with the New York State Fire Code. [Amended 12-4-2006 by L.L. No. 2-2006]

C. Enforcement of section provisions. The Chief of the Fire Department of the City of Binghamton and his or her duly authorized representatives shall enforce the regulations of this section with the aid and assistance, where necessary, of the Department of Police.

D. Establishment and posting of occupancy load.

- (1) The Chief of the Fire Department or his or her designee shall establish the occupancy load for each place of assembly in the City.
- (2) Each place of assembly, including each room thereof, shall have a sign indicating its occupancy load posted in a conspicuous place. Such signs shall be approved by the Chief of the Fire Department or his or her designee and shall be maintained in a legible manner by the owner of the place of assembly or his or her authorized agent.
- (3) Upon completion of the construction or remodeling of any place of assembly and before permitting the use thereof by any persons, the owner, manager or other person having authority or control over such place of assembly shall contact the Fire Department and request an inspection for the purpose of establishing the occupancy load of such place of assembly. The Fire Chief or his or her designee shall forthwith make such an inspection. No persons shall be permitted to use or occupy any new or remodeled place of assembly until an inspection has been made pursuant to this subsection and an occupancy load has been established for and posted in such place of assembly.

- E. Restrictions on occupancy.
 - (1) No place of assembly shall be occupied by a number of persons greater than its occupancy load.
 - (2) No owner, manager or any other person having authority or control over any place of assembly shall permit such place of assembly to exceed its occupancy load.

- F. Inspection and enforcement.
 - (1) The following persons are hereby authorized to enter onto and make inspections, at any time, of places of assembly to determine whether the requirements of this section are being complied with: the Fire Chief and the Police Chief and their respective designees.
 - (2) If such an inspector determines that a place of assembly exceeds its occupancy load, he or she may order the immediate removal of all persons from such place of assembly, or he or she may order the removal of a sufficient number of persons so that the occupancy load is not exceeded.
 - (3) Any person ordered to remove himself or herself from a place of assembly in accordance with the above subsection shall do so immediately, and failure to do so shall constitute a violation of this section.
 - (4) The owner, manager and any other person having authority or control over a place of assembly shall assist the inspector in removing persons from the place of assembly as aforesaid. Failure to do so shall constitute a violation of this section.

§ 235-47. Permit to erect and maintain tents required.

It shall be unlawful for any person to erect or maintain within the City any tent or canvas covered structure having a capacity of more than 250 persons, with the intent that such structure shall be used for a place of assembly, in violation of the limitations and requirements of a permit issued pursuant to this article or without first having secured a permit so to do.

§ 235-48. Application for permit to erect and maintain.

- A. Application for a permit required herein shall be made to the Chief of the Bureau of Fire.

- B. Each application shall be accompanied by a diagram drawn to scale which shall clearly indicate:
 - (1) The seating arrangement.
 - (2) The aisles.
 - (3) The structural details and calculations of the seats and supports.
 - (4) The location of all electric wiring.
 - (5) The location of all exits.
 - (6) The location of all fire equipment within the structure and the specifications of such equipment.
 - (7) The location, insofar as feasible, of adjacent structures and obstructions which might hinder the free egress of persons from the exits.

- C. Each application shall specify:
 - (1) Whether any open flame is intended to be used within the structure and, if so, what precautions are to be taken to render it safe.
 - (2) The name of the person, firm or corporation to use the structure.
 - (3) The location of the principal place of business of such person, firm or corporation.
 - (4) The names and addresses of the officers of such firm or corporation.
 - (5) The length of time the structure is expected to be used for the purpose applied for.
 - (6) The hours of the day or night during which such structure will be used as a place of assembly.

- (7) The formula of the solution to be used for flameproof.
- (8) What provisions have been made for sanitation facilities for persons using the premises on which such structure is to be erected or is maintained.
- (9) Such other relevant information as the Deputy Commissioner of Public Safety, may require.

§ 235-49. Insurance required.

The applicant for a permit to be issued hereunder, before such permit is granted, shall furnish evidence to the City Clerk that a public liability insurance policy in amounts of not less than \$50,000 for one person and \$100,000 for any one accident, shall be in force and effect at the time such carnival or circus is to operate in the City. Said policy shall be approved by the Corporation Counsel.

§ 235-50. Prerequisites to issuance of permit to erect and maintain.

No tent or canvas-covered structure for use as a place of assembly shall be erected or maintained and no permit shall be issued unless:

- A. The plans and specifications of the structures required to be submitted with the application are approved by the Building Inspector.
- B. Provisions are made for:
 - (1) Adequate aisles and exits properly lighted and marked.
 - (2) Lighted and unobstructed passageways to areas well away from the tent structure.
 - (3) Sufficient first aid fire appliances approved by the Board of Fire Underwriters to be distributed throughout with operating personnel familiar with the operation of such equipment available and assigned during the use of such structure for a place of assembly.
 - (4) An employee at each entrance to require the extinguishment of cigarettes and cigars and other smoking material, upon entering, and sufficient "No Smoking" signs visible at all times.
 - (5) The proper safeguarding of any use of open flame or its use prohibited.
 - (6) Straw or dry grass and combustible trash to be cleared from the structure.
 - (7) Proper facilities for the calling of the Fire Department.
 - (8) Such special fire equipment of the City to attend at such structure during its use as a place of assembly as the Fire Chief may decide necessary for proper fire protection.
 - (9) The attendance of such special police officers to be appointed by the Chief of Police as he or she may decide necessary for the control of the persons in the assembly, to prevent overcrowding, obstruction of aisles and exits, and such other control as may be necessary to render the occupation of such structure by the public safe, such officers to be employed at the expense of the permittee.
 - (10) Announcement to the persons in the assembly of the fact that smoking within the structure is prohibited.
 - (11) The tent and canvas parts of the structure, and all combustible decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, trees and moss to be rendered flameproof.
- C. The Chief of the Bureau of Fire finds that such structure will not constitute a fire hazard and be dangerous to persons and property when used for the purpose specified in the application.
- D. The county health officer approves of the provisions made for sanitation facilities on and near the premises on which the structure is maintained or is to be maintained.

§ 235-51. Attendance of City fire equipment at location of structure; deposit required.

If the Chief of the Bureau of Fire decides that the attendance of fire equipment at the location of the structure during the use of such structure as a place of assembly is necessary for the safety of persons and property, the Chief of the Bureau of Fire shall require that the applicant deposit with the City Clerk a sum equal to the reasonable value of the use of said equipment and the furnishing of the necessary personnel for such time as required, in order to reimburse the City for such expense.

§ 235-52. Issuance of permit to erect and maintain.

- A. If the Chief of the Bureau of Fire finds that the provisions of § 235-50 are complied with, or will be complied with for the erection of the structure, he or she shall issue a permit to erect or maintain such structure, conditioned upon such reasonable limitations and requirements as he or she may deem necessary for the safety of persons and property.
- B. Such permit shall specify the limitations and requirements under which it is granted, including the provisions of § 235-50B.

§ 235-53. Inspection upon completion of structure.

Upon the completion of such structure, it shall not be used as a place of assembly until the Chief of the Bureau of Fire has inspected the entire premises upon which the structure is located.

§ 235-54. Permit to occupy.

- A. Required. It shall be unlawful for any person to cause or permit the occupancy of such a structure as a place of assembly without the issuance of a permit to occupy by the Chief of the Bureau of Fire.
- B. Issuance. If the Chief of the Bureau of Fire finds that all of the limitations and requirements of the permit to erect and maintain and this article have been complied with and that the structure has been erected in accordance with the plans and specifications submitted with the application, he or she shall grant a permit to occupy such premises.
- C. Revocation. The permit to occupy provided for herein may be revoked at any time by the Chief of the Bureau of Fire, upon a finding by him or her that such structure, or the premises on which it is located, is being maintained in violation of any of the provisions of the permit granted herein, or any of the provisions of this article, or in such a manner as to constitute a fire hazard.
- D. Appeals. Any person whose permit to occupy shall have been revoked may, within 10 days after receipt of a notice thereof, appeal to the City Council for a hearing thereon; and the decision of the Council in this regard shall be final. If no appeal is taken within 10 days, the action of the Chief of the Bureau of Fire shall be final.

§ 235-55. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$100, or more than \$500, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

Chapter 240, FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the City Council of the City of Binghamton 4-20-1987 by L.L. No. 5-1987 (Sub-Part LXVI of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Erosion control -- See Ch. 225.

Subdivision of land -- See Ch. 360.

Zoning -- See Ch. 410.

§ 240-1. Statutory authorization and purpose.

- A. Findings. The City Council of the City of Binghamton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Binghamton and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.
- B. Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
- (1) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
 - (4) Control filling, grading, dredging and other development which may increase erosion or flood damages;
 - (5) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
 - (6) Qualify for and maintain participation in the National Flood Insurance Program.
- C. Objectives. The objectives of this chapter are to:
- (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (7) Provide that developers are notified that property is in an area of special flood hazard; and
 - (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 240-2. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. As used in this chapters, the following terms shall have the meanings indicated:

APPEAL -- A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING -- A designated AO or VO Zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD -- The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD -- The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT -- That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL -- A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING -- A structure built for support, shelter, or enclosure for occupancy or storage.

CELLAR -- The same meaning as "basement."

COASTAL HIGH HAZARD AREA -- The area subject to high velocity waters, including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING -- A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) -- An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's flood insurance study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) -- An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) -- An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY -- The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters;
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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 water and sanitary facilities, structures and their contents.

FLOODWAY -- The same meaning as "regulatory floodway."

FLOOR -- The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE -- A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

HIGHEST ADJACENT GRADE -- The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR -- Lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure solely for parking of vehicles, building access, or storage in an area other than a basement 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 designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL -- For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME -- The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) -- As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION -- Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD -- Has the same meaning as "base flood."

PRINCIPALLY ABOVE GROUND -- At least 51% of the actual cash value of the structure, excluding land value, is above ground.

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a flood insurance study or by other agencies as provided in § 240-4C(2) of this chapter.

SAND DUNES -- Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION -- The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

STRUCTURE -- A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
 - (1) Before the improvement or repair is started; or
 - (2) If the structure has been damaged and is being restored, before the damage occurred.

- B. For the purposes of this definition, substantial improvement is considered to commence 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 structure. The term does not, however, include either:
 - (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a state inventory of historic places.

VARIANCE -- A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 240-3. General provisions.

- A. Lands to which this chapter applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Binghamton.
- B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Binghamton, of Broome County, New York," dated June 1, 1977, with accompanying flood insurance rate maps and flood boundary-floodway maps, is hereby adopted and declared to be a part of this chapter. The flood insurance study and maps are on file at the Division of Building and Construction.
- C. Interpretation, conflict with other laws.
 - (1) This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
 - (2) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
- D. Severability. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
- E. Penalties for noncompliance. No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Binghamton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under § 24-6 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.
- F. Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Binghamton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 240-4. Administration [Amended 3-6-2019 by Ord. No 19-28].

- A. Designation of the local administrator. The Director of Planning is hereby appointed as the local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. [Last amended 3-6-2019 by Ord. No 19-28]
- B. Establishment of development permit. A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 240-3B. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (1) Application stage. The following information is required, where applicable:
 - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 240-5A(3)(a);
 - (d) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 240-5B; and
 - (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - (2) Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- C. Duties and responsibilities of the local administrator. Duties of the local administrator shall include, but not be limited to:
- (1) Permit application review.
 - (a) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (b) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (c) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

- [1] If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - [2] If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (d) Review all development permits for compliance with the provisions of § 240-5A(5), Encroachments.
- (2) Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 240-3B, Basis for establishing the areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 240-5A(4)(d) in order to administer § 240-5B, Specific standards, and § 240-5C, Floodways.
- (3) Information to be obtained and maintained.
 - (a) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (b) For all new or substantially improved floodproofed structures:
 - [1] Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - [2] Maintain the floodproofing certifications required in § 240-5A and B.
 - (c) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances when granted and certificates of compliance.
- (4) Alteration of watercourses.
 - (a) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpretation of FIRM boundaries. The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions. Base flood elevation data established pursuant to § 240-3B and/or § 240-4C(2), when available, shall be used to accurately delineate the area of special flood hazards. The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.
- (6) Stop-work orders.
 - (a) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 240-3E of this chapter.
 - (b) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 240-3E of this chapter.
- (7) Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the

development is in compliance with the requirements of either the development permit or the approved variance.

(8) Certificate of compliance.

- (a) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (b) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.
- (c) All certifications shall be based upon the inspections conducted subject to § 240-4C(7) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 240-5. Provisions for flood hazard reduction.

A. General standards. In all areas of special flood hazards the following standards are required:

(1) Anchoring.

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (b) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Construction materials and methods.

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities.

- (a) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters; and
- (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;

- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.
- (5) Encroachments.
- (a) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 240-4C(1)(c), regarding permit application review. This may require the submission of additional technical data to assist in the determination.
 - (b) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 240-4C(2) or § 240-5A(4)(d) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
 - (c) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 240-4C(2), the requirements of § 240-5C, Floodways, shall apply.

B. Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 240-3B, Basis for establishing the areas of special flood hazards, and § 240-4C(2), Use of other base flood data, the following standards are required:

- (1) Residential construction. New construction and substantial improvements of any resident structure shall:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
 - (b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.
 - (b) If the structure is to be floodproofed:
 - [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
 - (c) The local administrator shall maintain on record a copy of all such certificates noted in this subsection.
 - (3) Construction standards for areas of special flood hazards without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 240-4C(2) or two feet above the highest adjacent grade where no elevation data is available.
 - (a) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (b) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or openings, provided they permit the automatic entry and exit of floodwaters.
- C. Floodways. Located within areas of special flood hazard are areas designated as floodways (see definition in § 240-2). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is

available for a particular site as provided by §§ 240-3B and 240-4C(2), all encroachments, including fill, new construction, substantial improvements, and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 240-6. Variance procedure.

A. Appeals Board.

- (1) The Zoning Board of Appeals as established by City of Binghamton shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Zoning Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of § 240-6A(4) and the purposes of this chapter, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing

structures constructed below the base flood level, provided Items (a) through (l) in § 240-6A(4) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this subsection.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met;
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 250,
PROHIBITION OF GAS AND PETROLEUM EXPLORATION AND
EXTRACTION ACTIVITIES, UNDERGROUND STORAGE OF NATURAL
GAS, AND DISPOSAL OF NATURAL GAS OR PETROLEUM
EXTRACTION, EXPLORATION, AND PRODUCTION WASTES
[HISTORY: Adopted by the Council of the City of Binghamton on 12-21-2011 by Permanent Local
Law 11-006; Expired as of 12-31-2013]

§ 250-1. [Reserved]

§ 250-2. [Reserved]

§ 250-3. [Reserved]

§ 250-4. [Reserved]

§ 250-5. [Reserved]

§ 250-6. [Reserved]

§ 250-7. [Reserved]

§ 250-8. [Reserved]

§ 250-9. [Reserved]

§ 250-10. [Reserved]

§ 250-11. [Reserved]

§ 250-12. [Reserved]

§ 250-13. [Reserved]

§ 250-14. [Reserved]

§ 250-15. [Reserved]

§ 250-16. [Reserved]

Chapter 253, GOLF AND GOLF COURSES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation -- See Ch. 301.

ARTICLE I, Miniature Golf Courses and Driving Ranges [Adopted 10-5-1970 (Ch. 3, §§ 3-51 through 3-57, of the 1970 Code)]

§ 253-1. License required.

No person shall, within the limits of the City, construct, erect, maintain or operate any miniature golf course or driving range by whatever name the same may be designated without having obtained a license to carry on such business.

§ 253-2. Council permission required for issuance of license.

No license shall be issued under the provisions of this article until permission therefor is granted by the City Council.

§ 253-3. License fee.

Any person to whom permission required by § 253-1 is granted shall pay an annual license fee in an amount as set from time to time by resolution of the City Council (See Exhibit J).

§ 253-4. Construction of courses and ranges on premises approved by Planning Commission.

No miniature golf course or driving range shall be located, constructed, erected or maintained except upon premises which are approved by the Planning Commission.

§ 253-5. Use of licensed locations required.

No person licensed pursuant to this article shall carry on such business in any other place than the one designated in said license.

§ 253-6. Hours of operation.

Businesses licensed pursuant to this article shall not be conducted on Sunday before 2:00 p.m., nor shall such business be conducted between 12:00 midnight and 7:00 a.m. upon weekdays.

§ 253-7. Conduct of business after revocation of license prohibited.

It shall be unlawful for any person to continue to carry on the business for which a license is required hereunder after revocation of such license.

ARTICLE II, Ely Park Golf Course [Adopted 3-20-1972 by Ord. No. 46-72 (Ch. 15, §§ 15-22 and 15-23, of the 1970 Code); amended in its entirety 4-15-1991 by Ord. No. 43-91]

§ 253-8. Rules regulating play; fees; hours of operation; revocation of permits or memberships. [Last amended 6-5-2000 by Ord. No. 00-48]

The following rules and regulations shall apply to Ely Park Golf Course:

- A. Each person desiring to play must register with the starter and pay the greens or annual membership fee as hereinafter provided with eighteen-hole limit. The golf course shall open at 7:00 a.m. on Saturdays, Sundays and holidays and shall open at 8:00 a.m. on all other days.
- B. Rates for memberships, play and services shall be in amounts as set from time to time by resolution of the City Council (See Exhibit J).

- C. For purposes of this section only, a resident is a person who either resides within the limits of the City of Binghamton, or owns real property subject to City property taxes, within the City of Binghamton, and a nonresident is anyone who does not qualify as a resident.
- D. Senior citizen rates will apply only upon the presentation of a validated senior citizen's identification card, including but not limited to a picture identification driver's license.
- E. The Deputy Commissioner of Public Works for Parks and Recreation shall have the power and authority to revoke the permit or membership of any player violating any rules or regulations in effect regulating play. A revocation of a permit or membership does not entitle the player to receive the return of any or all of his greens fee or membership fees.

§ 253-9. Fees for privately owned golf carts.

- A. Seasonal golf cart fees. Each person desiring to use a privately owned golf cart at the Ely Park Golf Course must first apply for and obtain a seasonal permit and pass from the club professional, subject to the approval of the Director of Parks and Recreation.
- B. Permit application: Each person seeking a seasonal permit and pass for the use of a privately owned golf cart must make an application to the club professional containing the following information:
 - (1) The type of golf cart to be used by applicant.
 - (2) The name and address of the applicant.
 - (3) A certificate of insurance showing that the applicant has obtained minimum liability insurance in the amount of \$300,000.
 - (4) Such other information as may be required by the club professional.
- C. Additional restrictions.
 - (1) All seasonal permit and pass applications must be approved by the Director of Parks and Recreation.
 - (2) Each applicant for a seasonal permit and pass must agree to abide by the following restrictions:
 - (a) No overnight storage on the Ely Park premises shall be allowed at any time.
 - (b) Liability insurance must be kept in force for the duration of the permit.
 - (c) All gas, oil and repair of the vehicle must be the responsibility of the owner and must be accomplished off the premises.
 - (d) The owner of the cart shall not allow the use of the cart by other golfers unless said owner is with them.
 - (e) No off-season storage will be permitted.
 - (f) The permission granted herein is conditioned upon the owner of a registered golf cart reimbursing the City for any injury or damage to any City property that may arise directly or indirectly from said operation of golf carts at Ely Park. The owner shall save harmless and indemnify the City of Binghamton of and from any and all claims, actions, damages and all liability arising directly or indirectly from said golf cart operation of any name and nature which may arise hereafter or be incurred by the City of Binghamton as a consequence of the giving of such permission pursuant to this section.
 - (3) Violation of any of the above restrictions shall be cause for the termination of this permit and the forfeiture of all fees paid pursuant to this section.

D. Annual fee. An annual fee for the use of private golf carts shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J).

ARTICLE III, Concession Privileges at Ely Park Golf Course [Adopted 4-3-1972 by Ord. No. 53-72 (Ch. 15, §§ 15-40 through 15-50, of the 1970 Code); amended in its entirety 12-16-1974 by Ord. No. 279-74]

§ 253-10. Privileges to be disposed of at public auction; term. [Amended 3-17-1995 by Ord. No. 32-75]

The concession privileges at Ely Park Golf Course in the City of Binghamton shall be disposed of by the City Clerk to the highest bidder at public auction, as required by law. Said bids shall be for a three-year concession period commencing on the first day of February of the year that said bid is awarded and shall expire on the 31st day of January, in the year of the expiration of the three-year period.

§ 253-11. Commodities which may be sold.

The concession privileges shall be limited to the sale of cigars, cigarettes, tobacco, coffee, popcorn, peanuts, fruit, soft drinks, ice cream, candy, sandwiches, hot and cold meals, magazines, newspapers, beer, spirituous wines and liquors, and such other commodities as are incident to the business of and on sale at restaurants, except that the concession privilege shall not include the privilege of operating any coin-operated juke box, musical instrument or instrumentality.

§ 253-12. Hours of operation.

The concession privileges shall be operated only during such days and hours as permitted by law.

§ 253-13. Rules and regulations governing conduct and operation.

The concession privilege shall be conducted and operated under and subject to the rules and regulations therefor, including the maximum prices to be charged and the hours which said concession shall be operated, as will or may be stipulated by the Commissioner of Parks of the City of Binghamton.

§ 253-14. Responsibility of operator for damages and loss to property.

The operator of said concession privilege shall be responsible for all damage or loss to any property entrusted to his care, subject to reasonable wear and tear.

§ 253-15. Liability insurance required.

The successful bidder therefor at such public auction shall be required to give public liability insurance, naming the City of Binghamton as a party insured against personal injuries in the limits of \$100,000 for one accident and \$300,000 for more than one accident, which policy shall also provide coverage for products liability in the limits of \$50,000 and \$100,000.

§ 253-16. Deposit to guarantee amount of bid.

The City Clerk of the City of Binghamton shall be directed and empowered to require the successful bidder at such public auction to deposit with the City Clerk 10% of the highest actual bid as a guarantee that the bidder will pay to the City of Binghamton the amount of such bid. Such deposit of guarantee shall be forfeited by the successful bidder should he or she fail to comply with the provisions set forth in § 253-17

§ 253-17. Balance of bid and delivery of insurance policies required prior to assumption of rights and privileges.

The successful bidder at said public auction shall be required to pay to the City Clerk the balance of the amount of his or her bid, and to deliver the aforementioned insurance policies to the City Clerk before assuming any of the rights or privileges obtained under such bid, and not later than 10 days after said auction.

§ 253-18. Authority of Mayor to enter into contract with successful bidder.

The Mayor shall be and he or she hereby is authorized to enter into a contract on behalf of the City of Binghamton, with the successful bidder, for said privilege, in accordance with this article. Said contract shall contain such other provisions, not inconsistent herewith, as the Mayor may deem for the best interests of the City.

§ 253-19. Established upset bid.

The established upset bid, for the three-year concession period, shall be \$2,000 plus an upset percentage of at least 5% of gross sales.

§ 253-20. Qualifications of successful bidder.

The successful bidder shall be a citizen of the United States of America and shall meet all of the requirements deemed necessary by the New York State Liquor Authority for applicants of on-premises restaurant liquor licenses.

Chapter 256, GRAFFITI

[HISTORY: Adopted by the City Council of the City of Binghamton as L.L. No. 07-4 on 7-2-2007]

§ 256-1. Legislative findings, purposes and considerations.

It is hereby declared and found that the use of aerosol spray paint cans, broad-tipped indelible markers and other marking devices for writing of graffiti on public and private property, buildings and other structures is harmful to the general public and violative of the public health, peace, safety and welfare of the people of the City of Binghamton.

§ 256-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

“Broad-tipped indelible marker” shall mean any felt tip marker or similar implement containing a fluid or coloring matter that is not water soluble and which has a flat or angled writing surface of ½ inch or greater.

“Deface” shall mean to mar the face or surface of, disfigure, injure or spoil the appearance of.

“Graffiti” shall mean the etching, painting, covering, drawing upon or otherwise placing of a mark upon public or private property with intent to deface or damage such property.

“Pen” shall mean any instrument or similar implement that contains an ink fluid or similar coloring matter.

“Writing and artistic device” shall mean any crayon, pastels stick, charcoal and artistic paints.

§ 256-3. Restrictions.

- A. No person shall make graffiti, write, paint, spray or draw any word, work, inscription, design, figure or mark of any type on or otherwise mar or deface any building, public or private, or any other property, real or personal, including any church, synagogue, statue, monument, passenger or commercial vehicle, bridge, dwelling or structure of any kind, including those in the course of construction, owned by any person, firm or corporation or any public agency or instrumentality, without the express permission of the owner or operator of said property.
- B. No person shall possess any graffiti instruments such as any tool, instrument, article, substance, solution or other compound designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon or otherwise mark, under circumstances evincing an intent to use the same in order to damage such property.

§ 256-4. Removal of graffiti.

- A. It shall be the responsibility of any person owning, occupying, or in control of residential or commercial property to remove graffiti within 15 days of notification from the City of the existence of graffiti on his or her property. A reinspection fee of \$50 shall be charged if the violation is not corrected within such time period. All unpaid reinspection fees shall be assessed to the owner against the property and shall be added to the tax bill for said property.
- B. The City of Binghamton hereby recommends to the judiciary who may be involved with the handling of any violators of this chapter that their sentences include, but are not limited to, a sentence that requires said offenders to remove graffiti within the City of Binghamton under the proper supervision of a person designated by said court.

§ 256-5. Penalties for offenses.

- A. Any person who violates the provisions of § 256-3A of this chapter shall be guilty of a Class A misdemeanor punishable by a fine of not less than \$300 and not more than \$750 or imprisonment for not more than six months, or both. The court may consider a conditional discharge upon the condition that, with the consent of the owner, the defendant will restore the property so defaced to

its original condition by means of the defendant's own labor or on the condition of monetary restitution in an amount not to exceed the cost of said restoration.

- B. Any person who violates the provisions of § 256-3B of this chapter shall be guilty of a Class B misdemeanor punishable by a fine of not less than \$150 and not more than \$500 or imprisonment for not more than 90 days, or both.

§ 256-6. Civil liability.

The parent or legal guardian of any minor over the age of 10 and under the age of 18 who violates any provision of this chapter shall be held liable for any damages and/or clean-up costs that result from a violation of § 256-3A of this chapter. In addition, if the City of Binghamton removes any graffiti from City owned property pursuant to § 132-1, then the responsible party will reimburse the City for reasonable costs and expenses to remove the graffiti.

Chapter 259, HEALTH AND SANITATION

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 10 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 170.

Animals -- See Ch. 178.

Disorderly conduct -- See Ch. 220.

Parks and recreation -- See Ch. 301.

Public assembly -- See Ch. 318.

Solid waste -- See Ch. 350.

§ 259-1. Protection of foods, food products exposed for sale.

No person dealing in foods and food products liable to be consumed raw shall expose the same for sale either inside or outside of a store unless such articles of food and food products are protected from flies, dust and dirt, and all goods and food products of whatever nature, exposed for sale outside of any store, room or building, must be placed at a sufficient elevation above the street to afford their maintenance in a clean and sanitary condition.

§ 259-2. Slaughterhouses prohibited.

It shall be unlawful for any person to erect, keep or have within the limits of the City any slaughterhouse, or any house or place where animals are killed for market.

§ 259-3. Cemeteries and burial of dead.

- A. Depth of graves; disturbing coffins, graves. Every grave hereafter dug shall be of the depth of not less than five feet. In digging a grave or burying a body no other coffin or grave shall be disturbed.
- B. Funerals. All funerals shall take place between sunrise and sunset, unless otherwise permitted or directed by the county health officer.
- C. Use of grounds other than burying grounds. No person shall bury or cause to be buried in this City the body of any deceased person except in such grounds as are known and used as burying grounds, or such as shall hereafter be designated by the City Council as burying grounds, and authorized to be used as such.
- D. Vehicles prohibited on burial lots, etc. No person shall unlawfully ride or drive any horse, team, carriage, wagon or other vehicle on any burial lot or on any of the margins, footwalks or walks in any cemetery in the City.
- E. Injury, removal of trees, shrubs, etc. No person shall unlawfully tread down the grass, pluck, break, cut or remove any tree, shrub, plant, flowers or turf in or from any cemetery in the City.
- F. Use of intoxicating liquors; immoral practices. It shall be unlawful for any person to use in any burying ground in the City any spirituous or intoxicating liquors, or to resort thither with abandoned women or to be guilty of any immoral practice in such burying ground.
- G. Deposits of offensive substances. It shall be unlawful for any person to deposit any filth or unclean or offensive substance in or upon any cemetery or burying ground.

Chapter 265, HOUSING AND PROPERTY MAINTENANCE

[HISTORY: Adopted by the City Council of the City of Binghamton 12-19-1983 by Ord. No. 201-83 (Ch. 11 of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

GENERAL REFERENCES

- Alarm systems -- See Ch. 167.
- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Electrical standards -- See Ch. 225.
- Fire prevention -- See Ch. 235.
- Health and sanitation -- See Ch. 259.
- Plumbing -- See Ch. 310.
- Property and building nuisance reform -- See Ch. 315.
- Sewers -- See Ch. 339.
- Sewer use -- See Ch. 342.
- Solid waste -- See Ch. 350.
- Maintenance and use of streets and sidewalks -- See Ch. 355, Art. I.
- Zoning -- See Ch. 410.

ARTICLE I, General Standards

§ 265-1. Purpose. [Added 8-15-1988 by Ord. No. 106-88]

The purpose of this code is to establish rules, regulations and enforcement procedures for the maintenance and upkeep of existing housing and property in the City of Binghamton. The code is intended to preserve the City's existing housing stock and to protect the health, safety and welfare of the general public.

§ 265-2. Word usage; definitions. [Amended 8-15-1988 by Ord. No. 106-88; 10-4-1993 by Ord. No. 138-93; Amended 4-16-07 by Ord. No. 10A-2007; Amended 7-20-09 by Ord. No. 23-2009; Amended 6-7-2004 by Ord. No. 04-57]

The following definitions shall apply in the interpretation and enforcement of this chapter:

- A. Whenever the words "dwelling" and "dwelling unit," "rooming house," "rooming unit," "premises" and "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
- B. Whenever the phrase "any provision of this chapter" is used in this chapter, it shall be construed as though it were followed by the words "or any rule or regulation adopted pursuant thereto."
- C. Whenever the words "Code Enforcement Bureau" are used, it shall be construed to mean or be equivalent to "Director of Code Enforcement and/or Code Enforcement Inspector."
- D. As used in this chapter, the following terms shall have the meanings indicated:

ATTIC -- The space between the top of the uppermost floor construction and underside of the roof.

BASEMENT -- The portion of a building located partly underground with less than 50% of its floor-to-ceiling height below the average grade of the adjoining ground.

BOARD -- The Housing Board of Appeals.

CELLAR -- A portion of a building located partly or wholly underground with at least 50% or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DIRECTOR OF CODE ENFORCEMENT -- The Code Enforcement Officer of the City of Binghamton who is the Chief Administrator of the City of Binghamton's Code Enforcement Bureau.

DWELLING -- Any building, except for temporary housing, which is used or intended to be used for living or sleeping by human occupants.

EMERGENCY SITUATION -- Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

EXTERMINATION -- The elimination or control of insects, rodents or other pests by eliminating their harborage places or potential harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or any other recognized and legal pest elimination methods approved by the Code Enforcement Bureau.

GARBAGE -- The animal or vegetable waste resulting from handling, preparation, cooking and the consumption of food or any other organic decomposable matter.

GRASS MEDIAN -- The area of land that is located between the sidewalk and the curb of the street.

HABITABLE ROOM or HABITABLE FLOOR SPACE -- A room or an enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes. Areas that shall not be considered habitable space include bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors or public halls, closets, and storage spaces.

HEARING OFFICER -- The Mayor, Executive Assistant to the Mayor, or any member of the City administration or resident of the City of Binghamton designated in writing for that purpose by the Mayor, excluding any member of the Code Enforcement Department.

INFESTATION -- The presence, within and around a dwelling, of insects, rodents or other pests.

MULTIPLE DWELLING -- Any dwelling containing more than two dwelling units.

OCCUPANT -- Any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit, unless otherwise provided.

OPERATOR -- Any person who has charge, care or control of a building, or a part thereof, in which units are let.

OWNER -- Any person who, alone or jointly or with others (1) shall have legal title (including through a land contract) to any dwelling or dwelling unit, with or without accompanying possession thereof, or (2) shall have charge, care or control of any dwelling or dwelling unit as either owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any person thus representing the actual owner according to the definition provided shall be bound to comply with the provisions of this chapter to the same extent were he or she the owner.

PERSON -- Any responsible party, land contractee, individual, firm, corporation, association, partnership or any other similar entity.

PLUMBING -- Includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

RENTAL UNIT -- Any dwelling, dwelling unit, rooming house or rooming unit not solely occupied by the owner.

REPRISAL

- (1) The institution of unreasonable eviction proceedings or other legal remedy relating to the occupant's right of possession; or
- (2) The imposition of an unreasonable rent increase; or
- (3) The willful or negligent curtailment of services required to be given the occupant by law or agreement.

ROOMING HOUSE -- Any dwelling or that part of the dwelling containing one or more rooming units in which space is let by the owner or operator to four or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

ROOMING UNIT -- Any room or group of rooms forming a single habitable unit or intended to be used for living and sleeping. Rooming units shall not contain cooking or kitchen facilities and shall not be used for cooking and eating purposes.

RUBBISH -- Combustible or noncombustible waste material except for garbage. "Rubbish" shall include but not be limited to the residue of burning wood, coal, coke and other combustible materials such as rags, paper, cartons, boxes, wood, excelsior, tree branches, grass and dust.

STRUCTURE -- A combination of materials other than a building that forms a construction that is safe and stable and includes, among other things, stadiums, gospel or circus tents, reviewing stands, platforms, staging, observation towers, radio towers, sheds, storage bins, walls, fences and display signs.

SUPPLIED -- Paid for, furnished or provided by or under the control of the owner or operator.

TEMPORARY HOUSING -- Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities on the same premises for more than 30 consecutive days.

UNOCCUPIED HAZARD -- Any building or part thereof which remains unoccupied for a period of more than six months with either doors, windows or other openings broken, removed, partially boarded or subject to entry; or any building under construction upon which little or no construction work has been performed for a period of eight months or more and which remains open and/or subject to entry.

UNREGISTERED AND/OR UNLICENSED VEHICLES -- Any vehicle, including a tractor and trailer, without a currently valid license plate or plates or which is in either a wrecked, discarded, dismantled, inoperative or abandoned condition and is not in a condition where it may be used on a public highway. An expired inspection sticker or lack of a current inspection sticker shall be presumptive evidence that a vehicle is not in a condition capable of being used on a public highway. Vehicles capable of being driven on a public highway and offered for sale by a automobile dealer duly licensed by the State of New York Department of Motor Vehicles to sell automobiles shall not be considered unregistered and/or unlicensed vehicles when offered for sale at the dealer's place of business as stated in his application for an automobile dealers license to the Commissioner of Motor Vehicles.

§ 265-3. Inspection of dwellings.

- A. The Code Enforcement Bureau is authorized and directed to enter and inspect at all reasonable times, or at such times as may be necessary in an emergency, all dwellings, dwelling units, rooming houses or units, and premises located within the City of Binghamton both to determine whether such dwellings are in compliance with this chapter and to safeguard the health and safety of the occupants and the general public in accordance with Subsection B.
- B. The Code Enforcement Bureau shall enter and inspect a dwelling, dwelling units or premises, either upon request to and with the permission and at the convenience of the lawful owner, or upon the complaint and/or invitation of an occupant, or by an order of a judge of competent jurisdiction directing that the Code Enforcement Bureau shall have access for the purpose of making the inspection. The Code Enforcement Inspector shall, at the time of his or her inspection, leave a copy of the inspection worksheet with the resident of each specific unit so inspected. Where an immediate threat to health or safety is found in a building that affects more than one unit, a copy of the inspection worksheet shall be forwarded to the residents of the units affected.
- C. The Code Enforcement Bureau is authorized to make application to the Binghamton City Court for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner, tenant or occupant refuses or fails to allow an inspection of his or her rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all its respects comply with the applicable laws of the State of New York.
- D. Nothing in this section, except for provisions concerning emergency inspections, shall be deemed to authorize the Director of Code Enforcement or the Code Enforcement Bureau to conduct an inspection of any premises subject to this chapter without the consent of the owner, tenant or occupant of the premises or without a warrant duly issued by a court of competent jurisdiction.

§ 265-4. Enforcement. [Amended 10-15-1990 by Ord. No. 114-90; 9-5-2000 by Ord. No. 00-112; Amended 4-16-07 by Ord. No. 10A-2007]

- A. Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer determines that there are reasonable grounds to believe there has been a violation of any provision of this chapter or any rule or regulation adopted thereto, he or she shall give notice of the alleged violation to the person or persons responsible according to the procedures set forth in this chapter.

The notices shall:

- (1) Be put in writing.
- (2) Include a specific statement of the reasons why it is being issued with reference to the sections of this chapter deemed to be violated.
- (3) In an emergency situation, the Fire Marshall, Director of Code Enforcement or a Code Enforcement Officer may cause such building, structure or any part thereof to be made safe, remedy, repair or remove the dangerous condition without prior notice to the owner. For this purpose, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer or his/her designee may at once enter such building, structure, or land on which the violation stands, or abutting land or structure, with such assistance and at such cost as may be necessary. The Marshall, Director of Code Enforcement or a Code Enforcement Officer may order that adjacent structures be vacated and may protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way. The costs of making the building, structure, or any part thereof, safe, to remedy, repair, or remove the dangerous condition shall be a liability of the property owner, who will be billed for expenses incurred consistent with the provisions outlined in § 265-13J(2) of this chapter.
 - (a) Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer has determined that an emergency situation exists and causes repairs or other costs to the owner without notice, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer will give the owner written notice of the action taken and the costs thereof within three business days of the emergency situation. The owner may request a hearing before the Office of Corporation Counsel to challenge the emergency situation or the costs. The hearing shall be held within fifteen business days of receiving written demand for the same. The rules of evidence prevailing in courts of record shall not be controlling in the hearings held pursuant to this chapter. Such decision may be appealed as an administrative decision under New York Civil Practice Laws and Rules, Article 78, within thirty (30) days of such written decision by the hearing officer.
- (4) Except where major repair work is required, establish the following time limits for remedial action:
 - (a) In the case of high grass complaints pursuant to § 265-13.H of this chapter, the responsible part shall have 48 hours to correct the violation.
 - (b) In the case of violations of this chapter for which specific compliance time limitations are cited, those limitations shall apply.
 - (c) In the case of trash, litter, or garbage violations pursuant to § 265-13.h(1)(c) or § 265-13.I(5), the responsible party shall have 24 hours of the owner, property manager, or occupant receiving notice of such violations to correct the violation.
 - (d) The accumulation of snow and ice on sidewalks must be removed within 24 hours after the accumulation of such snow and ice ceases

- (e) In the case of repairs that require immediate attention, but do not constitute an “emergency situation”, the owner, property manager, or occupant shall have 24 hours from the date notice of such violation is received to commence work to correct, alleviate or eliminate the violation and 72 hours to reasonably complete such work.
 - (f) All other violations shall be repaired within five days of the owner, property manager, or occupant receiving notice of such violations except when, for good cause shown, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer grants an extension of time in writing.
- (5) The notice of violation will be served upon, or sent by mail to, the owner, property manager, or occupant, as the case may require. Notice shall be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Broome County or five days for other locations after service by first class mail to the address listed on the real property assessment, the registered property manager, if any, and to the subject real property. The City may also post violations on the City’s website for provide additional notice to owners, property managers, and occupants. However, the City’s failure to post such violations on the City’s website is not required and will not constitute a defense to any enforcement proceeding or collection of costs and expenses.
 - (6) Have a copy retained on file in the Code Enforcement Bureau for inspection by the owner, property manager, occupant, or the general public.
 - (7) Notices may also contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.
- B. Should any violations for which a person is cited fail to be corrected within the required time period, the Code Enforcement Director shall be authorized to issue an appearance ticket for such violation, returnable in City Court.

§ 265-5. Adoption of rules and regulations; applicability. [Amended 8-15-1988 by Ord. No. 106-88; 7-7-1997 by Ord. No. 88-97; 4-20-1998 by Ord. No. 98-44]

- A. The Director of Code Enforcement of the City of Binghamton shall adopt such rules and regulations as may be deemed necessary for the enforcement of the provisions of this chapter during normal working hours and at such time as may be necessary in an emergency.
- B. Within the City of Binghamton, this chapter shall apply to:
 - (1) Lots, plots or parcels of land which are vacant or upon which buildings are located and used for dwellings, mixed occupancy, commercial, industrial or storage uses, or whether occupied or vacant.
 - (2) Residential buildings, including private and multiple dwellings unless specifically excluded.
 - (3) Buildings of mixed occupancy, occupied in whole or in part.
 - (4) Commercial, industrial and storage buildings.
 - (5) Vacant residential, mixed occupancy, commercial, industrial and storage buildings.
 - (6) Residential, mixed occupancy, commercial, industrial and storage buildings which are under construction or demolition. Included here are buildings not completed but to the extent that a nuisance or practice exists or is occurring which is a disturbance to the health, safety or welfare of the general public.
 - (7) Accessory structures, accessories to dwellings, commercial, industrial or vacant buildings.
 - (8) Telephone, telegraph or electric poles in the City, fences, sidewalks and public highways.
- C. The provisions of the Plumbing Code (Chapter 310, Article II), the Fire Prevention Code (Chapter 235), the Zoning Ordinances of the City of Binghamton (Chapter 410), the Multiple Residence Law

of the State of New York, where applicable, the Electrical Code of the City of Binghamton (Chapter 225), along with the National Electrical Code, Chapter 163 of the Code of the City of Binghamton, and any other New York State or local law, ordinance or regulation issued by the proper authorities thereof shall be applicable to all installations, alterations and repairs to buildings, and materials, assemblies and equipment utilized in connection therewith, and shall be enforced through and by the procedures provided herein. All repair and construction work shall be done in a manner acceptable to the Code Enforcement Bureau.

- D. Upon motion of Corporation Counsel, and upon a finding by the Court that justice so requires, the Court may assess an appropriate fine in an amount less than \$1,000 and/or may sentence a defendant to an appropriate conditional discharge in lieu of jail.

§ 265-6. Rental registration established. [Amended 12-19-2011 by Perm. L.L. 11-4; Amended 6-6-2012 by Perm. Ord. 12-40; Amended 4-3-2013 by Perm Ord. 13-27; Amended 12-4-2013 by Ord. 13-96].

- A. Intent. In order to properly administer and inspect residential rentals in the City of Binghamton, the City hereby creates a Rental Registration Program for all “Rental Property” and “Rental Units” as defined below, except for a “Dwelling, Two-Unit,” Rental Properties (i.e. two-family houses) where one unit is occupied by the Owner.
- B. Definitions.
- (1) Whenever the words “Dwelling”, “Dwelling Unit”, “Premises” and “Structure” are used in this section, they shall be construed as though they were followed by the words “or any part thereof”.
 - (2) Whenever the phrase “any provision of this Chapter” is used in this section, it shall be construed as though it was followed by the words “or any rule or regulation adopted pursuant thereto.”
 - (3) As used in this section, the following terms shall have the following meanings:

BEDROOM – Any room or space used or intended to be used for sleeping purposes, including, but not limited to, any room with an adequate area to accommodate a bed and other furniture associated with a bedroom; privacy (e.g., a door); an emergency exit (e.g., a window); and may include a closet (a closet implies a bedroom, although lack of a closet does not preclude any room or space from being considered a bedroom if it meets the other criteria).

DWELLING or DWELLING UNIT –

- (a) A building or portion thereof which meets the following criteria:
 - [1] Designed, used or intended to be used exclusively as year-round and complete living quarters for one family or household.
 - [2] Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
 - [3] Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.
- (b) For purposes of this section a “Dwelling” includes a Dwelling, Earth Sheltered; Dwelling Manufactured Home; Dwelling Modular; Dwelling, Multi-Unit; Dwelling, One-Unit; Dwelling, Townhouse; Dwelling, Two-Unit; as those terms are defined in § 410-5.
- (c) For purposes of this section a “Dwelling” does not include a Hotel, Motel, Rooming House, Dormitory, Fraternity, Sorority, Mobile Home, Tourist Home or similar building, as those terms are defined in § 410-5.

LOCAL AUTHORIZED REPRESENTATIVE – A person (or entity) designated by the Owner to manage Real Property or Rental Unit(s). The Local Authorized Representative may be a Owner or a

third party. The Local Authorized Representative must maintain a home or business address in Broome County or a contiguous county in New York. The Local Authorized Representative shall be authorized to conduct all business related to the Rental Property or Rental Units(s) and is authorized to accept service of all notices regarding any action or proceeding.

OWNER – Any person who, alone or jointly or with others: (1) shall have legal title (including through a land contract) to any Dwelling or Dwelling unit, with or without accompanying possession thereof, or (2) shall have charge, care or control of any Dwelling or Dwelling unit as either Owner or agent of the Owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the Owner. Any person thus representing the actual Owner according to the definition provided shall be bound to comply with the provisions of this section to the same extent were he or she the Owner.

RENTAL PROPERTY – The physical structure wherein one or more Rental Units are located.

RENTAL UNIT – Any Dwelling used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes .

C. Registration required.

- (1) Every Owner of a Rental Property or Rental Unit(s) is required to register each Rental Property/Rental Unit(s) and pay all fees in accordance with this section, except, (i) the Owner of a Two-Unit Dwelling where the Owner occupies one such Dwelling Unit: (ii) the Unites States, State of New York, Broome County or the City of Binghamton, (iii) any Mortgagee in a foreclosure proceeding pending sale, unless such Mortgagee is collecting rents for the Rental Property/Rental Unit, or (iv) any property registered as a vacant property pursuant to § 265-14.
- (2) The Owner will complete and file with the City Clerk a Rental Registration Application. The Rental Registration Application shall include, but shall not be limited to, the following information for the Rental Property/Rental Unit(s):
 - (a) Street address and Tax Parcel Identification Number
 - (b) Ownership information, including the Owner's name, home or business address (post office boxes are not acceptable), telephone number, and email address. If the Owner is a general or limited partnership, limited liability company, or corporation, the Rental Registration application must include the names, home or business addresses, telephone numbers and email addresses of all of the partners, managers, members, or officers.
 - (c) Rental Property Information:
 - [1] Number of Rental Units;
 - [2] Number of bedrooms in each Rental Unit;
 - [3] Number of bathrooms in each Rental Unit;
 - (d) A statement, list or dates of any certificates of occupancy, building permits, certificates, and/or approvals in the Owners' possession authorizing the number of Rental Units, bathrooms, bedrooms and structural medications or additions at the Rental Property. The City may request copies of such documents.
 - (e) The Application will include an opportunity for the Owner to consent to a Triennial Inspection, as provided in § 265-6.I. below. If the Owner elects not to consent to such Triennial inspection, the application will advise the Owner that the City may apply for a warrant for such inspection.
 - (f) The Owner must designate a Local Authorized Representative. Notwithstanding the foregoing, any partner, manager member, or officer, listed in section "(b)" above is authorized to accept service of any notices regarding any action or proceeding.

- (3) A separate Rental Registration Application must be submitted for each Rental Property.
 - (4) Incomplete Rental Registration Applications shall not be accepted and will be returned to the Owner by the City Clerk.
- D. Fees. The Owner will pay a Rental Registration fee in the amount of fifty (\$50) dollars for up to two Rental Units and twenty-five (\$25) dollars for each additional Rental Unit. The Rental Registration fee is non-refundable. The fee for the initial inspection, see §265-6.J(6) below, shall be included in the Rental Registration Application fee
- E. Record of Rental Registration.
- (1) Upon compliance with this section and the payment of all fees, the City Clerk shall issue a Record of Rental Registration. The issuance of a Record of Rental Registration confirms that the Rental Property/Rental Unit(s) has been registered. The Record of Rental Registration shall state in bold print:

This Record of Rental Registration is subject to confirmation of all registration information with public records, a health and safety inspection, and compliance with all building and zoning laws and regulations. Upon compliance with all the foregoing, the City will issue a Certificate of Compliance. The City shall maintain a database providing such information for each Rental Property/Rental Units.

- (2) The Record of Rental Registration will be valid for three (3) years from the last day of the month it is issued. The Owner must re-apply and pay the required fee for a Record of Rental Registration every three (3) years.
 - (3) The Owner must post the Record of Rental Registration, or a photocopy thereof, in at least one common area accessible to all tenants.
- F. Confirmation, revocation and modification.
- (1) If the information in the Rental Registration Application is (i) not consistent with existing conditions (ii) not consistent with public records, (iii) the Rental Property/Rental Unit(s) do not pass a health and safety inspection, or (iv) the Rental Property/Rental Unit(s) is denied a Certificate of Compliance after review of applicable building and zoning laws and regulations, the City Clerk may revoke the Record of Rental Registration. Prior to revocation, the City will give the Owner written notice of the violation and an opportunity to cure such violation within ninety (90) days
 - (2) Notwithstanding the foregoing, nothing herein shall limit the Office of Building Construction, Zoning and Code Enforcement from issuing a notice of violation for building and zoning laws and regulations and prosecuting same pending such ninety (90) days.
 - (3) Revocation of a Record of Rental Registration shall constitute a violation of this Ordinance.
 - (4) A Record of Rental Registration or the public record may be modified if it is determined that a discrepancy between the existing conditions and the public record is a clerical error.
- G. Change of Owner information or ownership.
- (1) The Owner shall notify the City Clerk in writing if there is a change in Owner contact information or a change in the Local Authorized Representative within thirty (30) days of said change.
 - (2) The Record of Rental Registration is not transferable. If the Rental Property is transferred, the new Owner must submit a complete Rental Registration Application within thirty (30) days of the date the deed transfer is recorded with Broome County. A new Record of

Rental Registration will be issued for the term remaining on the existing Record of Rental Registration Permit.

- (3) Failure to notify the City Clerk of either a change of ownership information or change of ownership shall constitute a violation of this Ordinance.

H. Implementation, effective dates.

- (1) This section shall be effective beginning May 1, 2013, for the Urban Overlay District as described in Local Law No. 5 of 2011 Permanent No. LL11-5 adopted on December 19, 2011. Owners in the Urban Overlay District must register their Rental Property/Rental Unit(s) as required by this section on or before September 30, 2013.
- (2) This section shall be effective beginning January 1, 2014, for all other zoning districts in the City. Each Owner must register Rental Property/Rental Unit(s) as required by this section on or before such deadlines as the City Clerk may provide by dividing notices to register by zoning districts, water districts, or such other mechanism to provide for an orderly initial registration process through December 31, 2014.
- (3) Subsequent to the initial registration process as required in paragraphs (1) and (2) above, the Record of Rental Registration will be valid for three (3) years from the last day of the month it is issued and must be renewed as required by § 265-6.E.(2) above.

I. Triennial Inspection

- (1) In addition to the inspections required by § 265-3, *Inspection of Dwellings*, all Rental Property/Rental Unit(s) subject to this section are to be inspected at least once every three (3) years.
- (2) Inspections will be consistent with the NYS Uniform Fire Prevention and Building Code and will also include an inventory of Rental Units, bathrooms, bedrooms, and other improvements, alterations, or structures for comparison with public records and zoning compliance.
- (3) Nothing herein relieves an Owner from obtaining required permits or approvals for any improvements, alterations, or structures and from complying with zoning and other applicable laws. The NYS Uniform Fire Prevention and Building Code inspection is for health and safety issues only. Such inspection is not an approval of any improvements, alterations, or structures constructed without a building permit. Such inspection does not constitute compliance with the Zoning Ordinance of the City of Binghamton. Until all building and zoning issues, including compliance with functional family, are resolved no Certificate of Compliance will be issued.
- (4) Upon confirmation of consistency with public records, compliance with all health and safety, building and zoning laws and regulations, the Office of Building Construction, Zoning and Code Enforcement will issue a Certificate of Compliance.
- (5) The results of the NYS Uniform Fire Prevention and Building Code inspection and Certificates of Compliance will be maintained on a database for each Rental Property/Rental Unit(s).
- (6) The fee for the initial inspection is included in the Rental Registration fee. If a violation is noted at the initial inspection, the Owner shall have an opportunity to remedy such violation by the next inspection. If the violation is not remedied by the second inspection, then a fee in the amount of \$50 will be charged for each additional inspection. If an Owner, Local Authorized Representative, or tenants fails to appear for a scheduled inspection, then a fee in the amount of \$50 will be charged for each additional inspection. If an Owner fails to pay the

fee for additional inspections within thirty (30) days after written demand for same, then such amount shall be a lien against the Rental Property and may be collected in the same manner as real property taxes.

- J. Violations. It shall be a violation of this Ordinance (i) if the Owner fails to register any Rental Property/Rental Unit(s); (ii) a Record of Rental Registration is revoked; or (iii) the Owner fails to notify the City Clerk of any change in ownership information or ownership; then any person or entity convicted of such violation will be liable for a fine of \$250, plus payment of the fees for Rental Registration and inspection, if any, for a first offense; \$500, plus payment of the fees for Rental Registration and inspection, if any, for a second offense within one year of the first offense; and \$1,000, plus payment of the fees for Rental Registration and inspection, if any, for each offense thereafter within one year of the first offense. Each violation for each Rental Property shall constitute a separate offense.

§ 265-7. Responsibilities of owners. [Amended 8-15-1988 by Ord. No. 106-88]

No individual shall occupy as owner-occupant or let to another for occupancy any rental unit for the purpose of living unless the rental unit complies with all the applicable provisions and requirements of this chapter.

- A. The owner of a rental unit shall be responsible to keep every part of a dwelling and the lot on which it is situated in good repair, clean and free from vermin, rodents, dirt, filth, garbage and other materials dangerous to health (see § 265-15F).
- (1) No owner or operator shall cause a dwelling to be sprayed in a manner or with a substance which is inconsistent with state or federal environmental standards for pesticide use in dwellings.
 - (2) Each occupant whose dwelling is to be sprayed shall be given 48 hours' written notice of the owner's or operator's intention to spray; said notice shall set forth the brand, chemical and/or generic name of the pesticide to be used, as well as the possible consequences of said use, and the precautions which should be taken regarding children, the aged, the infirm, pregnant women, household pets, household plants, food and household goods. Warnings on labels or from manufacturers' warnings will satisfy this requirement.
- B. The owner or operator of a rental unit shall be responsible to maintain all required and supplied facilities and services and all other pieces of equipment in good repair, free from defects, in a clean and sanitary fashion, in good working condition, and operable at all times except in emergencies and for repairs.
- C. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter or supplied to be removed from or shut off from or discontinued from any occupied rental unit except for temporary interruption as may be necessary while actual repairs are in progress, or during emergencies.
- D. No owner or operator shall cause to be rented any dwelling unit for which the occupant pays for all or part of his or her utilities unless said utility service serves only the occupant's unit and is separately metered.
- E. No owner shall cause utilities to be terminated from any dwelling of two units or more unless the owner has provided each rental unit with separate utility services and meters for each such utility to be terminated.
- F. No owner or operator shall cause any utility service which is in his or her name or for which he or she is responsible to be terminated from any dwelling without first giving the occupants of each such dwelling unit notice in writing of 60 days or the duration of the lease, whichever is longer, of his or her intention to terminate service.

- G. All rental housing property owners or agents thereof not residing in said building shall have on file with the Code Enforcement Bureau the name of a person residing in Broome County who can be contacted throughout the calendar year when the owner is not available in cases of emergency.

§ 265-8. Responsibilities and protection of tenants. [Amended 8-18-1997 by Ord. No. 127-97]

In addition to any other responsibilities of occupants referred to in this chapter, the occupants shall be required to comply with these provisions:

- A. Maintenance of property in sanitary condition.
 - (1) Every occupant of a dwelling or a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit or premises which he or she occupies and controls.
 - (2) None of the responsibilities of occupants specified in this section shall relieve the owner of his or her responsibility to maintain those parts of a rental unit which are part of the permanent or semi permanent construction of the unit or dwelling in whole or in part in a clean, orderly and sanitary condition.
 - (3) The Department of Public Works shall be authorized to enter and clean the property found to be in violation of § 265-9 of this chapter or Chapter 350, Solid Waste, Article II, Littering, of this Code so as to bring it into compliance with all applicable standards and bill the cited code violator for the reasonable cost of such work.
- B. Liability for violations.
 - (1) Every occupant of a dwelling unit shall be liable for a code violation as well as for any damage caused by his or her own willful act, omission, assistance, or negligence or that of any member of his or her family, or household guests if such damage results in, or contributes to, a violation of the Code of the City of Binghamton.
 - (2) In addition to any other penalty provided by law, a judge may, at the time of sentencing, make restitution pursuant to Subsection B(1) of this section a condition of the sentence. If such restitution is ordered, except for good cause shown, it shall be paid within 30 days of the date of the sentence.
 - (3) Willful failure to comply with such restitution order shall result in a term of imprisonment not to exceed 15 days, or community service not to exceed 100 hours, or both such imprisonment and community service.
 - (4) Nothing in this section shall be interpreted so as to diminish any other lawful remedy to recover for damages.
- C. Every occupant of a dwelling unit shall keep all plumbing, cooking, electric, and all other fixtures and facilities required by this chapter in a clean and sanitary fashion and shall also be responsible for the exercise of reasonable care in the proper use and operation. This liability on the part of the occupant shall not relieve the owner by law except in cases where the defect is caused by the willful act, assistance or negligence of the occupant, any member of his or her family or household or guests.
- D. Every occupant of a dwelling unit shall be responsible to limit the occupancy of that part of the premises which he or she occupies or controls to the maximum permitted by this chapter and other ordinances. The Director of Code Enforcement shall issue a thirty-day notice to correct this situation as a prerequisite to any other enforcement provisions in this chapter.
- E. Every occupant shall keep exits from his or her dwelling unit clear and unencumbered.
- F. Reprisal against occupants.

- (1) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part shall threaten to or take reprisal against any occupant who has not committed a breach of the lease of contract of rental, for reporting in good faith of the existence of any violation of the provisions of this chapter or any other applicable laws, statutes, ordinances or regulations, or for, in good faith, availing himself or herself of any legal remedy to secure or enforce rights under his or her lease or agreement, or provided by law.
- (2) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part thereof shall threaten to or take reprisal against any occupant who lives in a dwelling or dwelling unit where the Code Enforcement Bureau has initiated action by giving notice to the owner or persons responsible for the dwelling because the Bureau believes there has been a violation of any provision of this chapter.
- (3) No owner, occupant, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part shall threaten to take reprisal against any occupant who has exercised any of his or her rights as described in this chapter.
- (4) Receipt of notice to quit the dwelling or an unreasonable rent increase without adequate cause within 120 days after the above occupant or someone in his or her behalf or for his or her benefit (including the Code Enforcement Bureau) has made a report or if the occupant himself has availed himself of remedies against the owner provided by law shall create a rebuttable presumption that the notice to the occupant is a reprisal against the occupant for making a report or complaint or for having availed himself or herself of the remedies against the owner as provided by law.
- (5) The defense of retaliatory eviction or reprisal may be raised by the occupant in any eviction action, summary proceeding or other action relating to the right of the occupant to remain in possession of the premises.

G. Payment for repairs.

- (1) Any legal occupant of a rental unit acting alone or together with other legal occupants in a rental unit may contract and pay for repairs to his or her rental unit in accordance with the provisions outlined in this section when there is a violation or violations in his or her rental unit declared either to:
 - (a) Constitute an emergency situation by the Director of Code Enforcement or hearing officer pursuant to the provisions outlined in § 265-4 of this chapter; or
 - (b) Be in violation of any applicable code enforced and actually cited by the Code Enforcement Bureau.
- (2) Any payment made for repairs shall be deductible from rent, provided the following provisions have been substantially complied with by the legal occupant or occupants or his or her or their agent:
 - (a) The owner or his or her agent has been sent notice of the emergency situation or of the appropriate violation.
 - (b) In the case of an emergency situation, the order notice has been delivered by the Code Enforcement Bureau and 24 hours have passed after written notice was delivered to the owner or his or her agent without completion of repairs or commencement of repairs of the violations by the owner.
 - (c) In the case of any other cited violation, the notice has been delivered by the Code Enforcement Bureau and the allowed reasonable time to correct the violations has passed after written notice was delivered to the owner or his or her agent without completion of repairs or commencement of repairs of the violations by the owner.
- (3) Deduction for cost of repair work and materials.

- (a) When a legal occupant or group of legal occupants do not hire an outside contractor, they may deduct cost for materials.
 - (b) If a legal occupant or a group of legal occupants hire an outside contractor to perform repairs, said legal occupants may deduct charges for materials and labor, provided that reasonable efforts are made to have the repair work done by qualified workmen at prevailing rates.
 - (c) Legal occupants must receive an itemized bill from the person, firm or corporation from whom labor or materials are purchased.
- (4) The maximum amount of money an individual legal occupant may deduct for repair work under the provisions of this section shall be \$1,000 or the sum of two months' rent, whichever is greater. The maximum amount two or more legal occupants acting together may deduct for repair work from their combined rents under the provisions of this section shall be \$3,000 or the sum of three months' rent, whichever is greater.
 - (5) No owner or agent shall be entitled to recover any amounts in damages from any person, firm, corporation or employee who attempts in good faith and acts reasonably in providing services to carry out the intention of this section except damages arising out of gross negligence.
 - (6) The remedy provided in this section shall not be exclusive, and a court may provide other relief as may be just and proper in the circumstances.
 - (7) Any agreement by a legal occupant of a rental unit waiving or modifying his or her rights set forth in this section shall be void and contrary to the provisions of this chapter.

§ 265-9. Minimum space requirements.

- A. Every dwelling unit shall contain a minimum of 150 square feet of habitable floor space for the first occupant and at least 100 additional square feet of floor space for each additional occupant.
- B. In every dwelling unit of two or more rooms, every room occupied for sleeping shall:
 - (1) For one occupant, contain a minimum of 70 square feet of floor space.
 - (2) For two or more occupants, contain a minimum of 50 square feet of floor space per occupant.
- C. Every habitable room shall have a ceiling height of at least seven feet in at least 50% of the floor area. In cases where the ceiling height is less than three feet, the floor area underneath shall not be considered in determining maximum permissible occupancy.
- D. No basement shall be used as a habitable room unless:
 - (1) The floors and walls are impervious to leakage of underground and surface water and are insulated against dampness;
 - (2) The total window area in each room is equal to at least 1/10 of the floor surface area of the room;
 - (3) The total window area is located entirely above ground;
 - (4) The window can be opened for ventilation or there is some other divide that affords adequate ventilation that has been approved by the Code Enforcement Bureau; and
 - (5) All habitable space is protected from furnaces, hot water heaters or other plumbing fixtures by the installation of structures to separate these fixtures from the habitable space.
- E. No cellar space shall be used as or considered habitable space.

F. No attic shall be used as habitable space unless it meets with the applicable provisions of the New York State Fire Prevention and Building Code.

G. In this section, each occupant 15 years of age and older shall be counted and calculated as one person; children under 15 shall be 1/2 a person; and infants up to one year shall not be counted.

§ 265-10. Fire safety and security. [Amended 8-15-1988 by Ord. No. 106-88; Amended 12-4-2006 by L.L. No. 2-2006]

A. Smoke detectors.

(1) All owner-occupied and rental units shall be equipped with a smoke detector system or other fire protections that are adequate to give the occupants reasonable notice to exit safely in the event of a fire.

(2) For the purpose of this section, "adequate" shall mean at least one UL-approved smoke detector per bedroom, one outside each sleeping area, and on all levels of the building.

B. Means of egress.

(1) All owner-occupied and rental units shall have at least one safe, unobstructed means of egress leading to safe and open space at ground level.

(2) For the purpose of this section, "safe" shall mean an egress that has an adequate number of handrails properly situated and installed, is adequately lighted, and is equipped with at least one smoke detector on each stairway landing, or more, or other fire protections that are adequate to give the occupants reasonable notice to exit safely in the event of a fire.

C. In every multiple dwelling three or more stories in height, there shall be at least two independent means of egress accessible on the same story from each apartment or suite. In lieu of a second means of egress, a sprinkler system may be installed in the public halls and stairs.

D. Every owner of every rental unit shall be responsible to ensure that each unit is safe and secure by providing a lock for each door leading directly into each unit and by providing that all first-floor and basement windows are not capable of being opened from the outside. All locks shall be attached to a door that is in good repair, and the key to the lock of a unit must be given to the occupant of the unit.

E. Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted to dwelling occupancy and containing four or fewer units shall be supplied with conveniently located light switches which control an adequate lighting system that may be turned on when needed.

F. All two-family structures three or more stories in height must have fire-retardant cellar ceilings and, in cases where the attic area is used solely as a habitable unit, have two independent means of egress. In lieu of a second means of egress, a sprinkler system may be installed in the public halls and stairs.

§ 265-11. Plumbing and water facilities.

A. Every plumbing fixture required and referred to in this chapter shall be connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code (Chapter 310, Article II) and ordinances of the City of Binghamton.

B. Every dwelling unit shall have supplied water heating fixtures which are properly installed to both hot and cold water lines and which are capable of heating water to at least 120° F. to permit an

adequate amount of water and water pressure to be drawn at every refixture in each rental and dwelling unit.

- C. Every dwelling unit shall contain amongst its rooms which afford privacy, by means of an operable door or a flush water closet, a lavatory basin, and a bathtub or shower. However, a lavatory basin may be omitted if existing structural conditions preclude installation.
- D. Every dwelling unit shall contain a kitchen sink.
- E. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good, sanitary and working condition, free from defects, leaks and obstructions.
- F. Every bathroom and water closet compartment converted or installed after the effective date of this chapter shall comply with the light and ventilation requirements for habitable rooms contained in this chapter.
- G. Every water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and to permit it to be kept clean and sanitary.

§ 265-12. Light, ventilation, electricity and heat. [Amended 9-15-1988 by Ord. No. 106-88]

- A. Every habitable room shall have a minimum of one or more windows or skylights facing directly to the outdoors that are equal to at least 1/8 of the floor surface of the room and are able to be easily opened.
- B. A window shall not be deemed to face directly outdoors or be included as contributing to the required minimum total window area whenever walls or other portions or structures face the window and are located within three feet from the window and extend to the ceiling.
- C. Every habitable room of every dwelling or rental unit shall either possess at least one electrical receptacle for every 20 linear feet of the total distance around the room as measured horizontally along the floor line of the wall type.
- D. Every outlet and fixture shall be properly installed and connected to a source of electric power in a safe manner.
 - (1) Overcurrent protection. Fuseholders for plug fuses of 30 amperes or less shall not be installed or used unless they are of the type "S" with the adaptor inserted, or of the type "S" construction. Fuses or circuit breakers shall not exceed the wire (conductor) capacity of the circuit.
 - (2) There shall be at least one lighting circuit for each 500 square feet of floor space and at least one circuit for appliances which is separate from lighting circuits. If only one lighting circuit is in existence, all new additional outlets shall be installed on a new circuit or circuits.
 - (3) Electrical fixtures, devices, wiring and systems shall be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock. Deteriorated materials and equipment shall be removed and replaced as may be required.
 - (4) Panel boards (fuse/circuit breaker boxes) shall be kept free from encumbrances and shall be accessible at all times.

- E. In every rental unit, every occupant shall have access to his or her disconnecting means and overcurrent protection at all times, including their utility meters, furnace and hot water tanks, wherever located at all times.
- F. Heating facilities.
 - (1) In the absence of a written contract or an agreement to the contrary, the owner or operator shall be responsible for supplying heating facilities which are capable of safely and adequately heating every room in every rental unit to an average minimum temperature of 68° F. when the outside street temperature is below 55° F.
 - (2) The room temperature shall be measured from at least two distinct locations in the rooms at a distance of three feet from the floor level.
 - (3) Timing devices, or the use of timing devices, which cause the temperature within a dwelling unit to fall below the minimum temperature set both in Subsection F(1) shall be prohibited.
- G. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide entry for rodents shall be supplied with a screen or another similar device to prevent their entrance.
- H. From May 1 to October, entrances to residential buildings (other than single-family owner-occupied) shall be provided with a minimum of one self-closing device or screen per room. Windows and other openings, including doors used for ventilation, shall be appropriately screened.
- I. Upon receipt of notice from utility companies that they intend to shut off service to a rented apartment(s) due to lack of payment by the landlord/property owners responsible for said service, the Code Enforcement Bureau will send a notice to the landlord/property owner advising that the discontinuance of utility service to occupied unit(s) without proper notice (see § 265-7F) is a violation of this code. Should a final notice of the intent to discontinue service be received, an appearance ticket shall be issued by the Code Enforcement Bureau to said offender. Should service be discontinued, an emergency order will then be issued.

§ 265-13. Minimum exterior and interior requirements. [Amended 9-15-1988 by Ord. No. 106-88; 10-15-1990 by Ord. No. 114-90; 6-2-1997 by Ord. No. 78-97; 12-15-2003 by Ord. No. 03-130; Amended 6-7-2004 by Ord. No. 57-2004; Amended 4-18-2005 by Ord. No. 05-25; Amended 7-17-2006 by Ord. No. 29-2006; Amended 4-16-07 by Ord. No. 10A-2007; Amended 7-20-09 by Ord. No. 23-2009]

- A. Interior surfaces.
 - (1) All interior walls, floors, ceilings and other interior surfaces, including but not limited to trims and sills, in all rental units and public areas shall be free from any defects such as serious leaning, buckling, sagging, cracks or holes that cause the surfaces to be unsanitary, unsafe, or a threat to the normal use and occupation of these areas.
 - (2) All interior surfaces shall be painted or covered with acceptable covering whenever necessary to keep the surfaces sanitary and free from any and all defects.
- B. Every foundation, floor, wall and ceiling shall be weathertight and rodentproof; shall be capable of affording privacy; and shall be kept in good repair. Ceilings, walls, floors and all public areas shall be free from any serious defects such as severe bulging or leaning, large holes, loose surface material, severe or noticeable movement under normal stress, and missing parts or other serious damage.
- C. All exterior wall structures, doors, basement hatchways, and windows shall be maintained to prevent excessive heat loss during the winter months by the installation of insulation, weather stripping, or other devices reasonably calculated to prevent excessive loss. Where excessive heat loss is

preventable by the use of other methods than permanent storm windows or factory-produced energy efficient windows, the property owner shall initiate a request to the Housing Board of Appeals. It shall be the responsibility of the property owner to demonstrate that the proposed solution shall be compliant with state fire and building codes and demonstrate sufficient insulating value without the loss of minimum ventilation and provide access to the exterior in cases of emergency. If the tenant pays for the heat, the storm windows shall be provided from October 1 to May 1.

- D. The roof structure shall be firm, weather tight and watertight.
- E. Every structure or dwelling which has a controlled method of disposal of water from roofs such as gutters and downspouts shall be maintained in good repair.
- F. Every inside and outside stair, porch and appurtenance shall be constructed and maintained to be safe to use and capable of supporting the load that normal use may place on it. Guardrails, at least 33 inches in height with openings between balusters or balustrades no greater than six inches, shall be provided on all open postings of stairs, balconies, landings and stairwells where there are four or more steps or where more than 33 inches above surrounding ground or floor level. Stairs less than 44 inches in width shall be provided with a handrail on at least one side, and if 44 inches or more in width, on both sides; said handrails shall be started at the first tread, both top and bottom, and shall have no obstruction tending to break a handhold.
- G. All exterior surfaces, including chimneys and accessory buildings, shall be repaired, painted, coated, treated, sealed, pointed, sandblasted, or chemically cleaned or sealed when the surfaces require the above-stated maintenance to prevent or retard deterioration or weathering, to avoid health or safety hazards, or to promote an attractive appearance and prevent a substantial depreciation to the integrity of the neighborhood.
- H. Residential, commercial and industrial buildings and properties, whether vacant or occupied, and accessory structures, shall be maintained in conformity with the provisions of this chapter to promote an attractive appearance, prevent a substantial depreciation to the integrity of the neighborhood, or prevent health or safety hazards.
 - (1) In order to satisfy the requirements of this section, a person must comply with the following:
 - (a) Fences and other minor construction shall be maintained in a safe, substantial and attractive condition.
 - (b) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained free of holes or other hazards and be maintained to afford safe passage under normal use.
 - (c) Yards, courts, vacant lots and grass medians shall be kept trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust and other particles from being blown about the neighborhood, such as by the planting of grass.
 - (d) Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.
 - (e) Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated. Any trees or portions located on private property and constituting a hazard to persons or property shall be trimmed or removed.

- (f) An unregistered and/or unlicensed vehicle may not be parked stored or left in the open, whether behind a fence or not, unless it is necessary for the operation of a licensed auto repair business, lawfully situated on the property where the vehicle is stored, as permitted by applicable zoning regulations and state and/or local law, or lawfully situated on the property pursuant to a special permit issued hereunder for the purpose of accommodating valid police agency removal orders issued by the City of Binghamton Police Department. But in no case shall the number of unregistered and/or unlicensed vehicles permitted in the open at a licensed auto repair business exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicle or vehicles must be relocated to a completely enclosed garage or be removed from the property.

[1] Permits.

- [a] A person or company may apply from the City Clerk for a special permit allowing that person or company to store additional vehicles on property within the City of Binghamton if such storage is at the request or order of local law enforcement or municipal request or if necessary as per any New York State insurance laws.
- [b] The City Clerk is hereby authorized to adopt reasonable rules pertinent to the granting of said permit and/or revocation of a permit granted thereunder, and is authorized to issue the permit and revoke permits.
- [c] The fee for this permit shall be as set from time to time by the City Council (See Exhibit J).

[2] Penalties for offenses.

- [a] First offense: warning ticket.
- [b] Second offense within one year of first offense: fine of \$50 per vehicle.
- [c] Third offense within one year of second offense: fine of \$75 per vehicle.
- [d] Fourth offense within one year of third offense: fine of \$100 per vehicle.
- [e] Fifth offense within one year of fourth offense: Judge's discretion.
- (g) No unsightly furniture shall be placed or stored on an outside porch, yard and/or lawn of a property for any longer than is necessary to allow for its collection by a refuse handler. Furniture is unsightly when it is shredded, worn, discarded, torn, has stuffing visibly protruding from beneath the exterior, or is attracting or housing vermin.

- (2) Subsection H(1)(a) through (g) of this section are intended to be for illustrative purposes and are not intended to be an exhaustive list.

- I. The public sidewalks abutting upon private property shall be maintained and repaired by the owner of the property in accordance with the following provisions:
- (1) The owner shall cause his or her sidewalk to be kept free of obstructions and in good repair and conditions and safe for public use.
 - (2) In the event that sidewalks become out of grade (a heave, movement or settlement greater than one inch), the owner shall bring the same into true grade.

- (3) Where the owner shall fail or neglect to repair any sidewalk or bring the same to true grade within 45 days as determined by the Code Enforcement Bureau, the sidewalk shall be repaired or brought to grade by the Department of Public Works, and a bill for the expenses incurred shall be presented to the owner and collected in accordance with §§ 91 and 92 of the Second Class Cities Law of the State of New York. The bill presented to the owner shall include all City expenses, material and contractor costs.
- (4) The accumulation of snow and ice on sidewalks must be removed within 24 hours after said accumulation ceases. In the event of noncompliance, the Code Enforcement Director may direct the Department of Public Works to clean said sidewalks, and a bill shall be presented to the owner as per Subsection I(3).
- (5) In addition, the owners of commercial properties in areas defined as business or commercial districts under Chapter 410, Zoning, of the Code of the City of Binghamton, shall be required to maintain the sidewalk(s) abutting their property free of litter, trash and garbage and shall provide trash receptacles into which their patrons may dispose of all litter, trash and/or garbage generated by the provision of services or goods to their patrons.
 - (a) For the purposes of this subsection, the terms "garbage" and "litter" shall be defined as follows:

GARBAGE -- Any accumulation of waste consisting of animal, vegetable, fruit or similar organic matter that attends the preparation, use, dealing in, storage of, or sale of meat, fish, fowl, fruit, breads, vegetables or other food products; metal containers, paper cartons or other containers that have contained food materials and beverages; discarded paper, rubber, cloth, leather, sweepings, as well as inorganic waste such as glass, porcelain or other similar waste materials that ordinarily accumulate around a home, business or industry.

LITTER -- Any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste, including, but not limited to, cigarette butts; paper products; plastic cups, containers, wrappers or other plastic debris; glass and bodily fluids or waste, human or otherwise.
 - (b) For the purpose of this subsection, the term "properly dispose" shall not include disposal of the trash by placing it in the public trash receptacles provided by the City of Binghamton.
 - (c) Because all property owners are required to keep their sidewalk free of obstructions, no receptacle required by this subsection shall be placed on the public sidewalk, except upon the issuance of a street work permit. Instead, all such receptacles shall be maintained inside the business establishment.

J. Maintenance of property.

- (1) Whenever an owner of a property fails to comply with a notice by the Code Enforcement Bureau to cut and remove grass, heavy undergrowth or accumulations of plant growth on the property which constitute physical hazards, rodent harborages or places of infestation, or garbage or trash in violation of Subsection H(1)(c) or (3), the Director of Code Enforcement may direct that the grass, heavy undergrowth or accumulations of plant growth be cut and removed or such trash and garbage be removed from the property by the Department of Public Works.
- (2) A bill for the expenses incurred, in addition to an administrative fee as set from time to time by the City Council (See Exhibit J), shall be presented to the owner of the property, personally or by mailing it to him or her at his or her last known address. If the owner fails to pay within 10 days, the Director of Code Enforcement shall certify to the City Treasurer the expenses incurred and the administrative fee, and the total amount of the expenses plus the administrative fee shall become a lien. The lien upon the property shall be included in the next tax bill rendered to the owner, unless paid before, and shall be collected in the same

manner as other taxes against the property. The bill presented to the owner shall include all City expenses, material and contractor costs.

- (3) In addition to the enforcement set forth in Subsection J(1) and (2) above, the violator may be cited by means of an appearance ticket returnable in City Court, where the imposition of further penalties pursuant to § 265-5D above may be sought.

K. Surface and subsurface water shall be directed so as not to impact adjacent buildings and properties or create ponding situations. Runoff shall not be drained over sidewalk areas.

§ 265-14. Vacant Building Registry and Maintenance. [Amended 8-15-1988 by Ord. No. 106-88; L.L. No. 1-1990; 4-16-07 by Ord. No. 07-10A; 7-2-07 by L.L. No. 3-2007]

- A. Legislative findings and purpose. It is the finding of the Common Council that vacant buildings are unsightly, unsafe, and have a negative effect on the community. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this article is to establish a program for identifying and registering vacant buildings, to set forth the responsibilities of owners of vacant buildings, and to speed the rehabilitation of vacant buildings.
- B. Definitions. Unless otherwise expressly stated, the following terms will, for the purpose of this article, have the meanings indicated in this section:

EMERGENCY SITUATION—Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants, emergency responders, and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

ENFORCEMENT OFFICER—Any duly authorizing City of Binghamton employee of the Office of Building and Construction, Code Enforcement/Fire Marshal's Office, or designated representative of Planning, Housing and Community Development.

OWNER—The person, persons, or entity shown to be the owner or owners on the records of the City of Binghamton Department of Assessment, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, other person, firm or corporation in control of the premises. Any such person will have joint and several obligations for compliance with the provisions of this article.

SECURED BY OTHER THAN NORMAL MEANS—A building secured by means other than those used in the design and approved plans for the building.

UNOCCUPIED—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 an enforcement officer. In determining whether a building is unoccupied, the Enforcement Officer may consider these factors, among others: (i) whether lawful residential or business activity has ceased; (ii) the percentage of the overall square footage of the occupied to unoccupied space or the overall number of occupied and unoccupied units; (iii) the building is substantially devoid of contents or the minimal value of fixtures or personal property in the building; (iv) the building lack utility services; (v) the building is subject to a foreclosure action; (vi) duration of vacancy; and/or (vii) the presence or reoccurrence of code violations.

UNSECURED—A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

VACANT BUILDING—A building, a portion of a building, or a structure which is any one or more of the below:

- (a) Unoccupied and unsecured;
- (b) Unoccupied and secured by other than normal means;
- (c) Unoccupied and an unsafe building as determined by an Enforcement Officer;
- (d) Unoccupied and enforcement office has issued an order to correct code violations;

- (e) Illegally occupied; or
- (f) Unoccupied for a period of time over 30 days.

C. Vacant building registration.

- (1) The owner of a vacant building will register with the Code Enforcement/Fire Marshal's Office no later than 30 days after any building becomes a "vacant building," as defined above, or not later than 30 days after being notified by an Enforcement Officer of the requirement to register. An Enforcement Office may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. Notice will be served upon, or sent by mail to, the owner, and any registered property manager, and to the property address. Notice will be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Broome County or five days for other locations after service by first class mail. The City may also post notices on the City's website to provide additional notice to the public. However, the City's failure to post such violations on the City's website will not constitute a defense to any enforcement proceeding or collection of fines.
- (2) As part of the notice to register, the Enforcement Officer may provide the owner with a written referral to the Office of Economic Development, the Binghamton local Development Corporation, and the Planning, Housing, and Urban Renewal for information outlining programs available which may be useful to implement a rehabilitation plan.
- (3) The registration will be submitted on forms provided by the Code Enforcement/Fire Marshal's Office and will include the following information:
 - (a) A description of the premises, *i.e.*, square footage, number of stories, age of the building, and most recent use of the building.
 - (b) The names, addresses, and telephone numbers of the owner or owners. If the owner is a corporation, limited liability company or partnership, the address for each director, manager, or partner, as the case may be. The address must include a street address; a post office box is not acceptable.
 - (c) If the owner does not reside in Broome County or any adjoining New York county, the name and address of the registered property manager as required by § 265-6, *Registration of rental housing units; certificates of compliance*. The address must include a street address; a post office box is not acceptable.
 - (d) The names and addresses of all known lien holders and all other parties with an ownership interest in the building. Each address must include a street address; a post office box is not acceptable.
 - (e) A name, address, and telephone number of a responsible natural person (not a corporation, partnership, or limited liability company) who can be reached at all times during business and non-business hours. The address must include a street address; a post office box is not acceptable.
 - (f) A vacant building plan as described in Subsection 4 below.
- (4) The owner will submit a vacant building plan which must meet the approval of the Code Enforcement/Fire Marshal's Office. The Code Enforcement/Fire marshal's Office will consult with the Office of Buildings and Construction, and/or the Planning, Housing and Community Development, as the case may be. The plan, at a minimum, must contain information from one of the following three proposals for the property:
 - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition.
 - (b) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided in § 265-14.D below, along with the

procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or

- (c) If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building. The rehabilitation plans will not exceed 365 days from the date of submission and will include progress benchmarks at least every four (4) months, unless the Code Enforcement/Fire Marshal's Office grants an extension for good cause shown, upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes. The building must be secured in accordance with § 265-14.D below during the rehabilitation.
- (5) The owner will comply with all applicable laws and codes. The owner will notify the Code Enforcement/Fire Marshal's Office of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Enforcement Officer.
- (6) The owner and any subsequent owner will keep the building secured and safe and the building and grounds properly maintained as provided in § 265-14.D below.
- (7) Failure of the owner or any subsequent owner to maintain the building and premises as required herein will be grounds for the City (i) to remediate the building and bill the costs of same to the owner as provided in § 265-13.J(2), *Maintenance of property*; (ii) revoke the rehabilitation plans; and (iii) the owner will be subject to fees and penalties as provided herein.
- (8) The owner will notify the Code Enforcement/Fire Marshal's Office of any transfer of ownership within fifteen (15) days of transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement/Fire Marshal's Office.
- (9) Vacant building registration fees.
 - (a) The owner of a vacant building will pay a registration fee set by City Council (See Exhibit J). The registration fee is due and payable upon registration; to wit: no later than thirty (30) days after any building becomes a "vacant building," as defined above, or no later than thirty (30) days after being notified by an Enforcement Officer of the requirement to register.
 - (b) If the building is to remain vacant pursuant to § 265-14.C.4(b) above, then the owner will also pay an annual vacant building fee (See Exhibit J) until the building is properly demolished or rehabilitated. The annual vacant building fee is due and payable together with the registration fee and on each anniversary thereafter until the building is demolished or rehabilitated.
 - (c) If the building is to be returned to a permitted use pursuant to § 265-14.C.4(c) above, the rehabilitation plan will not exceed 365 days and will include progress benchmarks at least every four (4) months, unless the Enforcement Officer grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. If the rehabilitation has not been completed or extended by the Enforcement Officer, then the owner will pay an annual vacant building fee until the building is properly demolished or rehabilitated. The annual vacant building fee is payable either on each anniversary of the payment of the registration fee in (a) above or no later than fifteen (15) days after being notified by an Enforcement Officer that the owner has failed to meet a required benchmark, whichever date is earlier, and on each anniversary thereafter until the building is demolished or rehabilitated.

- (d) If the owner of a vacant building fails to register and pay the fees in a timely manner, then the owner will be subject to the penalty set forth in § 265-14.H below.
- (e) All delinquent fees will be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner will give a purchaser written notice that the building in question is a vacant building under this section.
- (f) The vacant building registration fees and annual vacant building fees as set forth in § 265-14.C.9 above are to be delivered, by mail or in person, to the Treasurer's Office, City Hall, 38 Hawley Street, Binghamton, New York 13901. A late charge of 1 ½ % per month or any part thereof, will be assessed on any invoice which is unpaid after thirty (30) days from the date of the demand for payment or an invoice. A \$25.00 processing fee will be charged for each check returned by the bank due to insufficient funds or other reason. A replacement payment must be made in cash, money order, bank or certified check, and must include the \$25.00 fee and any applicable late charges. Invoices and any additional fees that remain unpaid will be added to the property owner's tax bill, and will include an additional penalty of \$200.00.

(10) The Code Enforcement/Fire Marshal's Office will include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

D. Maintenance.

- (1) The owner of a vacant building will take such steps and perform such acts as may be required of him or her from time to time to ensure that the building and its grounds remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building or floor area that is vacant or about to become vacant, there will be at least one access which meets the approval of the Enforcement Officer.
- (2) The owner will protect and maintain the exterior of the building as follows
 - (a) Exterior walls, including foundations, will be maintained so that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.
 - (b) Exterior doors, windows, skylights and similar opening will be maintained weather tight.
 - (c) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition
 - (d) Roofs shall be maintained in a weather tight condition.
 - (e) Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
 - (f) The coverings for windows and doors with glass may not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor will materially detract from the general appearance of the building or the neighborhood and, when possible, secured by normal means.
 - (g) The covering for broken doors and cracked or broken windows may consist of replacement glass, plexiglass, boards, plywood or similar materials finished and maintained in a manner recommended and approved by the

Enforcement Officer. The materials will be designed and of such color to blend in with the finish of the building.

- (h) Windows that are not cracked or broken may be covered with interior blinds, curtains, shades, or decorative paper.
 - (i) The premises will be kept free of insects and vermin, and will be treated if necessary.
 - (j) Any excavations, swimming pools, or other attractive nuisance must be filled in or properly closed.
- (3) In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:
- (a) Any and all first floor windows will be replaced by glass, plexiglass, an approved mural, or announcement sign. Such coverings must be maintained.
 - (b) All exterior signs, awnings and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.
- (4) The owner will protect and maintain the interior of the building as follows
- (a) Structural members will be maintained to resist and prevent deterioration.
 - (b) Unheated attics, spaces below flat roofs, and crawl spaces will be ventilated to minimize deterioration.
 - (c) Ceilings, walls, floors and stairways will be maintained in a safe and sound condition.
- (5) The owner will maintain the premises as follows:
- (a) The owner will not permit garbage and refuse to accumulate.
 - (b) Buildings and structures will be maintained free of insects, vermin and rodent harborage and infestation
 - (c) Refrigerators and similar equipment with locking mechanisms will not be discarded, abandoned or store without first removing the locking devices or the hinges of the doors.
 - (d) Junked vehicles as defined in § 265-2, equipment, or materials will not be stored at the premises.
 - (e) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors will be maintained structurally safe and smoke tight.
 - (f) If the building is to be demolished or remain vacant, then, within ten (10) days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated to avoid freezing pipes, fuel gas pipe systems must be maintained gastight, safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.
 - (g) Fuel tanks will be maintained so as not to be a hazard or will be discontinued in a manner consistent with Chapter C of the State Uniform Fire Prevention and Building Code (9 NYCRR).
 - (h) The domestic water supply system of the building will be connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies or the system will be disconnected at the main and completely drained.
 - (i) Storm water drainage systems will be maintained so as to function properly and be kept free from obstructions, leaks and defects. Sewage systems will be similarly maintained or will be sealed so as to prevent accumulation of sewage gases in buildings.

- (j) Electrical fixtures, devices, wiring and systems will be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock or service will be discontinued at the supply.
- (k) Elevators, dumbwaiters and escalators will be maintained or taken out of service, in accordance with ANSI A17.1.
- (l) The owner will provide for snow removal as required by § 265-13.I(4).
- (m) The owner will maintain yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage and infestation as required by § 265-13.H.

(6) Whenever the owner of a vacant building fails to comply with a notice from an Enforcement Officer to take steps and perform acts as are required of him or her to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of subsection 2 above, the City may, pursuant to § 265-4, *Enforcement*, enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe, secure and free from hazards to adjoining property and public. These acts will include but not be limited to removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, or removing flammable or otherwise hazardous materials and debris. A bill for the expenses incurred above will be presented to the owners of the building consistent with the provisions outlined in § 265-4 and § 265-13.J(2) of this chapter.

E. Exemptions. A building which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement/Fire Marshal Office. This request will include the following information supplied by the owner:

- (1) A description of the premises.
- (2) The reason for an exemption.
- (3) The names and addresses of the owner or owners. A post office box is not acceptable.
- (4) A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building

F. Inspections. By registering a vacant building, an owner consents to an Enforcement Officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this article. Upon the request of the Enforcement Officer, an owner will provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein, however, will diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Enforcement Officer or his or her designee in order to enable such inspection, and the Enforcement Officer will be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry without same. In the case of an emergency this section will not apply.

G. Annual reports. Once a year, the Office of Buildings and Construction or Code Enforcement/Fire Marshal's Office will send to the Mayor and to the Common Council a list of all buildings in the City declared vacant under the provisions of this article, as well as a list of all previously declared vacant buildings which are no longer subject to the provisions of this article. This information may be published on the City's website.

H. Penalties for offenses. Any person violating any provision of this Vacant Building Registry, including failure to register, any provision of Chapter 133 or of the Uniform Fire Prevention and Building Code, or providing false information to the Enforcement Officer will be subject to the following fines:

- (1) Such person will be subject to a fine of \$1,000 or imprisonment not exceeding six months, or both such fine and imprisonment
- (2) The term "person," as used in this section, will include the owner, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the building or part thereof.
- (3) Each day of violation will be deemed to constitute a separate offense.
- (4) Fines levied will constitute civil forfeitures to the City of Binghamton.

§ 265-15. Garbage and sanitation. [Amended 8-15-1988 by Ord. No. 106-88; 2-20-1990 by Ord. No. 90-19; Amended 9-5-2006 by Ord. No. 06-42]

A. Every rental unit shall have adequate rubbish and garbage storage facilities of a kind sufficient to meet the requirements of the Department of Public Works and the county health department for garbage and rubbish collection and disposal.

B. Disposal facilities; container size.

- (1) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers.
- (2) For the purposes of this chapter, a minimum of one twenty-gallon garbage container or its equivalent per dwelling unit shall be deemed to be adequate garbage disposal facilities.

C. Every occupant of a rental unit shall dispose of all his or her garbage and other organic waste in garbage disposal facilities or garbage storage containers. It shall be the owner's responsibility to supply facilities or containers for all rental units.

D. It shall be prohibited to store or accumulate garbage, debris or refuse in public halls, porches or stairways. All garbage, debris and refuse shall be disposed of in a safe and sanitary manner.

E. No refrigerator may be discarded, abandoned or stored in a place accessible to children without first removing any locking devices or the hinges of the door or the door itself.

F. Extermination of insects; rodents and other pests.

- (1) Every occupant of a dwelling containing a single rental unit shall be responsible for the extermination of any insects, rodents or other pests on the premises unless the occupant establishes that the infestation predated his or her tenancy or was caused by factors outside his or her control.
- (2) Every occupant of a dwelling in which there is more than one rental unit shall be responsible for extermination whenever his or her unit is the only one infested unless the occupant establishes that the infestation predated his or her tenancy or was caused by factors outside of his or her control.

- (3) Whenever infestation exists in two or more of the units in any dwelling, or in shared or public areas, it shall be the responsibility of the owner to exterminate when there is infestation.
- (4) A tenant shall be free from the responsibility to exterminate when the infestation is caused by the failure of the owner to maintain the dwelling in a rodentproof or reasonably insectproof condition.
- (5) If an occupant or tenant is not responsible to cure the infestation by any reason set forth above, then the owner of the building will be responsible to exterminate the infestation.
- (6) All other single-family dwellings, commercial buildings or other structures in which insects, rodents or other pests are found will be promptly exterminated by the owner, including the City, by an approved process which will not be injurious to human health and which will be implemented to limit the spread of such insects, rodents or other pests to other properties. After extermination, proper precautions will be taken to prevent reinfestation.
- (7) In the event of any violation of this section, the occupant, tenant or owner, including the City, as the case may be, will be responsible for the costs to exterminate the infestation to his or her property, as well as any other property infested as a result of the infestation of his or her property, together with penalties pursuant to § 1-4, General penalty; continuing violations, except the City will not be responsible for any fine. If the occupant, tenant or owner, as the case may be, fails or refuses to exterminate the premises after written notice to the address on the City's assessment roll and three days to cure, the City may provide for such extermination and the costs, including all litigation expenses and reasonable attorney's fees, will be a charge payable by the owner, and may be collected in either a civil proceeding before the City Court or Supreme Court; or, in the alternative, the costs may be added to and collected in the same manner as real property taxes.
- (8) Prior to the demolition of any building, the owner, including the City, or its designated contractor will conduct an inspection of the premises, when physically possible, to determine the presence of insects, rodents or other pests. If insects, rodents or other pests are identified, then the premises will be treated for such insects, rodents or other pests prior to demolition. Provided the owner takes reasonable steps to treat the premises, then the owner will not be liable for the spread of insects, rodents or other pests. However, if the owner fails or refuses to exterminate the premises after written notice to the address on the City's assessment roll and three days to cure, then City may provide for such extermination and the costs, including all litigation expenses and reasonable attorney's fees, will be a charge payable by the owner, and may be collected in either a civil proceeding before the City Court or Supreme Court; or, in the alternative, the costs may be added to and collected in the same manner as real property taxes.

G. No garbage or rubbish designated for disposal shall be placed at the curblineline earlier than the evening preceding the normal garbage collection day.

§ 265-16. Unfit dwellings.

- A. Designation by Director. Any rental unit or dwelling which is found to have any of the defects listed below may be condemned as unfit for human habitation and so designated and placarded by the Director of Code Enforcement:
 - (1) One which, by reason of its failure to comply with the foregoing requirements of this chapter, is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
 - (2) One which lacks illumination, ventilation or sanitation required by this chapter so as to protect adequately the health or safety of the occupants or of the public.
- B. Service contents. An order designating the premises as unfit for human habitation shall be served upon the owner personally or by certified mail, return receipt requested, and to all occupants

personally or by regular mail, and posted in a conspicuous place on the building. The order of designation shall set forth the reasons for the designation and specify the time, date and place of the hearing to be held on the matter. The notice to the occupants must set forth the occupants' right to be heard at the hearing, the possible consequences of the hearing, including that the building may be closed and the occupants required to vacate by a particular date, if known.

- C. Hearing. A hearing shall be held within seven days of service upon the owner to review the designation as unfit by the Director. A hearing officer shall be appointed by the Mayor to preside. The owner, occupants and any other interested parties may appear and give testimony. The hearing officer, after considering all the evidence, may sustain, modify or revoke the order of the Director designating the premises as unfit for human habitation.
- D. Decision. The decision of the hearing officer shall be in writing and mailed to all interested parties. It shall specify the reasons for sustaining, modifying or revoking the designation of the Director. Any premises condemned as unfit for human habitation, and so designated, shall be placarded and vacated within the time ordered by the hearing officer.
- E. Reoccupation. No rental unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Director of Code Enforcement stating that the defect or defects upon which the condemnation and placarding action were based have been corrected.
- F. No person shall deface or remove the placard from any rental unit which has been condemned as unfit for human habitation and placarded except as provided for in Subsection E above.

§ 265-17. Rooming houses.

- A. No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house unless it is in compliance with the provisions of this and every section of this chapter except for those § 265-12B, C and D that refer to water facilities and plumbing.
- B. Whenever upon inspection of any rooming unit or house the Code Enforcement Bureau finds that conditions or practices exist which it believes are in violation of any provision of this chapter or any other law or ordinance which is applicable, the Code Enforcement Bureau shall give notice of the violation according to the provisions outlined in § 265-4 of this chapter.
- C. Every rooming house shall have supplied water heating fixtures which are properly installed to both hot and cold water lines and which are capable of heating water to at least 120° F. to permit an adequate amount of water to be drawn at every required fixture in the rooming house.
- D. There shall be a minimum of one flush water closet, lavatory basin, and a shower supplied for each six persons or fraction residing within the rooming house, including the owner's family when they share the facilities. In rooming houses where rooms are let only to males, a maximum of 50% of the required water closets may be flush urinals. All facilities shall be accessible from common halls or passages, and facilities may not be located in the basement or cellar.
- E. All bathroom facilities shall be cleaned and disinfected at least twice per week, and all shared kitchen facilities shall be cleaned and disinfected at least once per week.

- F. The operator of every rooming house shall change supplied bed linen and towels at least once per week and prior to letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- G. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings as well as the sanitary maintenance of every other part of the entire premises in conformity with the minimum requirements of this chapter.
- H. Every provision of this chapter which applies to rooming houses shall apply to hotels except to the extent that any provision that conflicts with the laws of this state or with the lawful regulations of any state board or agency.

§ 265-18. Penalties for offenses. [Amended 8-15-1988 by Ord. No. 106-88; 10-15-1990 by Ord. No. 114-90; 7-7-1997 by Ord. No. 88-97; Amended 5-16-2005 by Ord. No. 05-31; 7-2-07 by Ord. No. 35-2007]

- A. Any person found guilty of violating or assisting in the violation of any provisions in §§ 265-16 and 265-17 of this chapter, or any person who shall have been served with a written order of the hearing officer and who shall fail to comply with the order, shall be guilty of a violation and liable for a fine not exceeding \$1,000 or by imprisonment for a period of not more than 15 days, or both.
- B. Any person found guilty of violating or assisting in the violation of any provision in §§ 265-16 and 265-17 of this chapter or any person who shall have been served with a written order of the hearing officer and who shall fail to comply for the second or more time in a two-year period shall be guilty of a misdemeanor and liable for a fine of not less than \$500 nor \$2,000 or by imprisonment for a period of not more than six months, or both.
- C. Except as provided for in §§ 265-6 of this chapter and Subsections A and B above, whenever a person has been convicted three or more times for the violation of any provision of this chapter within five years, such person shall be punished by a fine of \$1,000 and may additionally be punished by imprisonment not to exceed 15 days' incarceration, except as provided for by Subsection D.
- D. Upon motion of Corporation Counsel, and upon a finding by the Court that justice so requires, the Court may assess an appropriate fine in an amount less than \$1,000 and/or may sentence a defendant to an appropriate conditional discharge in lieu of jail.
- E. Inspection fees for multiple inspections and repeat offenders.
 - (1) Multiple inspections for one violation.
 - (a) There shall be no fee charged for an initial inspection to determine the existence of a housing maintenance code violation nor any fee for the first inspection to determine compliance with an order to correct a code violation
 - (b) In the event an appearance ticket is issued and a court date determined, there shall be no fee charged for the first inspection after the arraignment.
 - (c) For each subsequent inspection finding noncompliance a twenty-five dollar (\$25.00) inspection fee shall be charged.
 - (2) Inspection fees for repeat offenders.
 - (a) This section applies to any person receiving multiple orders to remedy or notices of violation within a twelve month period.
 - (b) This ordinance includes but is not limited to violations of the following Binghamton City Code provisions: §§ 265-7, 265-8, 265-13, and 350-18.

- (c) Any person receiving multiple orders to remedy or notices of violation within a twelve month period shall be subject to an inspection fee as set forth in the fee schedule below:
 - [1] First and Second order to remedy, notice of violation, or littering violation received: no charge
 - [2] Third order to remedy, notice of violation, or littering violation received: \$25.00 inspection fee
 - [3] Fourth or subsequent order to remedy, notice of violation, or littering violation: \$50.00 inspection fee
 - (d) In the event that an inspection does not reveal the existence of a violation, there shall be no fee charged for the inspection.
- (3) Notice and Collection of Penalties
- (a) The inspection fees prescribed above shall be billed directly to the tenant or owner, as the case may be, and a copy mailed to the owner and/or contact person/agent of the property. Inspection fees shall be increased by fifty (50) percent when not paid within thirty (30) days after initial billing, to cover administrative costs. This subsection shall not be considered the exclusive method of collecting inspection fees and shall not preclude collection by other lawful methods. If unpaid after thirty (30) days, the costs may be added to and collected in the same manner as real property taxes.
 - (b) Every notice of violation and order to correct housing code violations shall contain a clear and conspicuous explanation of the policy in this section requiring fees for inspections or a copy of this section.
 - (c) The Fire Marshall/Director of Code Enforcement, and code enforcement officers designated by the Director, may waive an inspection fee in case of error, mistake, injustice, or other good cause.

§ 265-19. Mandatory minimum penalties for specific offenses. [Added 12-4-2000 by Ord. No. 00-140; amended 4-18-2005 by Ord. No. 05-25; 7-17-2006 by Ord. No. 06-29]

- A. Notwithstanding the availability of any other remedies or the enforcement of the provisions of this Code, the penalties set forth in Subsection B herein below shall be imposed for any conviction of any of the following offenses:
 - (1) Section 265-7A.
 - (2) Section 265-8A.
 - (3) Section 265-8B.
 - (4) Section 265-13H(1)(f).
 - (5) Section 265-13H(1)(g).
 - (6) Section 265-13I(1).
 - (7) Section 265-13I(2).
 - (8) Section 265-13I(3).
 - (9) Section 265-13I(5).
 - (10) Section 265-15D.
- B. Upon conviction of any of the above-enumerated offenses, the following penalties shall be imposed:
 - (1) For a first conviction: a fine of not less than \$25.
 - (2) For a second conviction within five years: a fine of not less than \$50.
 - (3) For a third conviction within five years: a fine of not less than \$150 and/or a minimum of five days in jail.
 - (4) For a fourth conviction within five years: a fine of not less than \$500 and a minimum of five days in jail.
 - (5) For a fifth conviction within five years: a fine of not less than \$1,000 and 15 days in jail.

- C. Notwithstanding the availability of any other remedies or the enforcement of the provisions of this Code, the penalties set forth in Subsection D herein below shall be imposed for any conviction of any of the following offenses:
 - (1) Section 265-13H(1)(c).
 - (2) Section 265-13H(1)(e).
 - (3) Section 265-13I(4).

- D. Upon conviction of any of the offenses enumerated in Subsection C, the following penalties shall be imposed:
 - (1) For a first conviction of violating the sections enumerated in Subsection C, a fine of not less than \$250.
 - (2) For a second conviction of violating the sections enumerated in Subsection C within any twelve-month period, a minimum penalty of \$500.
 - (3) For a third conviction of violating the sections enumerated in Subsection C within any twelve-month period, a minimum penalty of \$1,000, and violators may additionally be punished by imprisonment not to exceed 15 days' incarceration.
 - (4) The enhanced penalties for multiple convictions within a five-year period as set forth in Subsection C of § 265-18 shall also apply to all convictions subject of Subsections C and D of this section.

- E. Nothing contained herein shall preclude the Court from, in its discretion, imposing an appropriate amount of community service in lieu of the penalties described in Subsections B and D, or in addition to said penalties. The appropriate amount of community service shall be not less than five hours per \$25 worth of the mandatory minimum fines enumerated in Subsection B hereinabove.

§ 265-20. Conflict of ordinances; severability. [Amended 10-15-1990 by Ord. No. 114-90]

- A. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City of Binghamton existing on the effective date of the ordinance from which this chapter is derived, the provision which establishes the higher standard for the promotion and protection of health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other ordinance or code of the City of Binghamton existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and the other ordinances or codes are declared to be repealed to the extent that they may be found to be in conflict with this chapter.

- B. Notwithstanding the availability of other remedies for enforcement of the provisions contained in this chapter, the Building Code (Chapter 200), Plumbing Code (Chapter 310, Article II), Fire Prevention Code (Chapter 235) and Zoning Ordinance (Chapter 410) of the City of Binghamton, and in other state and local laws, ordinances or regulations enforced by the Department, the remedies and enforcement procedures set forth in this chapter are made available to enforce the provisions of the above-enumerated codes and laws and shall be deemed cumulative to other enforcement procedures and remedies.

- C. If any section, subsection, paragraph, sentence, clause or phrase of this chapter should be declared invalid for any reason whatsoever, the decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and to this end the provisions are declared to be severable.

§ 265-21. Effective date. [Amended 10-15-1990 by Ord. No. 114-90]

The ordinance from which this chapter is derived shall take effect 45 days from the date of its adoption.

ARTICLE II, Slum Properties [Added 7-6-1999 by Ord. No. 99-111]

§ 265-22. Authorization to implement policies.

The Director of Code Enforcement Department or his or her designee is hereby authorized to implement internal policies/rules/regulations for dealing with owners of slum properties.

§ 265-23. Utilization of policies.

Said internal policies/rules/regulations should be utilized only for the purpose of securing compliance with the City of Binghamton Housing Property Maintenance and Rehabilitation Code.

§ 265-24. Proper content and form required.

All internal policies/rules/regulations should be in proper content and form to the Office of Corporation Counsel.

Chapter 275, LICENSES AND PERMITS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Advertising -- See Ch. 163.
Disorderly conduct -- See Ch. 220.
Health and sanitation -- See Ch. 259.
Peddling and soliciting -- See Ch. 307.
Public assembly -- See Ch. 318.
Use of rights-of-way -- See Ch. 324.
Sales -- See Ch. 331.

ARTICLE I, Licenses [Adopted 10-5-1970 (Ch. 12, §§ 12-1, 12-2 and 12-4 of the 1970 Code)]

§ 275-1. City Clerk to issue licenses; exception.

The City Clerk is authorized for and in behalf of the City, to grant and issue all licenses authorized by any ordinance of the City Council, except dance licenses authorized to be issued by the Chief of Police.

§ 275-2. Payment of expenses where permission is requested of Council. [Amended 10-4-1971 by Ord. No. 195-71]

In all cases where an applicant is required by law to obtain the permission of the Council of the City of Binghamton in order to perform some act or to carry on a certain activity, the applicant shall pay to the City of Binghamton a sum as set from time to time by resolution of the City Council (See Exhibit J), prior to the adoption by the Council of the necessary approval legislation. Said payment is intended to compensate the City of Binghamton for all the necessary costs incurred by the City in the introduction and adoption of the ordinance granting permission. Such payment shall be required in addition to the payment of any fees which are otherwise established for the procurement of licenses.

§ 275-3. Purchase and sale of old metal.

Pursuant to the provisions of § 60 of the General Business Law, the City Clerk will issue in the Mayor's name a license to buy and sell old metal within the City.

ARTICLE II, Collateral Loan Brokers [Adopted 10-5-1970 (Ch. 12, Art. IV, §§ 12-80 through 12-92, of the 1970 Code); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 275-4. License required.

It shall be unlawful for any person to carry on the business of collateral loan broker (formerly known as a "pawnbroker") in the City without taking out a license as hereinafter provided.

§ 275-5. Qualifications of applicant for license.

No person shall be licensed as a collateral loan broker (formerly known as a "pawnbroker") who has not been a resident of the City for at least six months next preceding the date of such license and is not of the age of 21 years and upwards.

§ 275-6. Issuance of license; fee.

The City Clerk, upon proper application being made to him or her, shall, under his or her hand and the Seal of the City, issue and deliver to any proper and suitable applicant therefor a license to conduct the business of collateral loan broker (formerly known as a "pawnbroker"), upon payment to said Clerk of a fee as set from time to time (See Exhibit J).

§ 275-7. Identification of place of business.

Any person applying for a license under the provisions of this article shall state in his or her application for such license the street and number of the building where he or she proposes to carry on such business, which street and number shall be stated in said license, and the licensee shall not be permitted to change said location to any other place without permission from the Mayor or City Council of the City.

§ 275-8. Sign required.

Every person licensed under the provisions of this article shall place or suspend in front of his or her place of business in a conspicuous manner a sign bearing his or her name and the words "Licensed Collateral Loan Broker."

§ 275-9. Recordkeeping.

Every collateral loan broker (formerly known as a "pawnbroker") licensed under the provisions of this article shall keep a book in which shall be fairly written at the time of each loan an accurate account and description of the goods, articles and things pawned, and the amount of money loaned thereon, and the time of pledging the same, and the name, residence, age, complexion, sex, style of beard, if any, height, weight and a general description of the person pawning or pledging such goods, articles or things.

§ 275-10. Records open to inspection.

The book required to be kept pursuant to § 275-9 shall at all times be open to the inspection of any and all persons holding office under and in pursuance of the Supplemental Charter of the City.

§ 275-11. Memorandum to be given.

Every collateral loan broker (formerly known as a "pawnbroker") shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things, a memorandum or note, signed by him or her containing the substance of the entry required to be made in his or her book, mentioned in § 275-9, and no charge shall be made for such entry or memorandum.

§ 275-12. Hours of operation.

It shall be unlawful for any collateral loan broker (formerly known as a "pawnbroker") to receive any goods by way of pawn or pledge, except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except on Saturdays and then only between the hours of 7:00 a.m. and 12:00 midnight, nor shall any business be transacted by collateral loan brokers (formerly known as "pawnbroskers") as such between the hours of 12:00 midnight on Saturday and 7:00 p.m. on Monday.

§ 275-13. Age requirement for clerks.

It shall be unlawful for a collateral loan broker (formerly known as a "pawnbroker") to employ any clerk or other person under the age of 16 years to take any pledge.

§ 275-14. Reports to Chief of Police.

Every person licensed as a collateral loan broker (formerly known as a "pawnbroker") under the provisions of this article shall, before 10:00 a.m. of each and every business day, report to the Chief of Police of the City, on blank forms to be furnished by the City, a description of all articles received by him or her in pawn the business day immediately preceding, together with the number of the pawn ticket issued therefor and the amount loaned thereon.

§ 275-15. Penalties for offenses.

Every person who shall be convicted of violating any of the provisions of this article shall be punished as follows:

- A. Carrying on the business of a collateral loan broker (formerly known as a "pawnbroker") without a license: \$100 per day.

- B. Violation of any other provision of this article: a fine of not less than \$25 nor more than \$100 and suspension or revocation of license.

ARTICLE III, Secondhand Dealers [Adopted 9-20-1982 by Ord. No. 124-82 (Ch. 12, §§ 12-120.1 through 12-138, of the 1970 Code)]

§ 275-16. Legislative purpose. [Added 1-24-1983 by Ord. No. 5-83]

- A. The Council of the City of Binghamton has observed that the City of Binghamton has experienced an increase in the number of house burglaries during the late 1970s and early 1980s. This Council has found and determined that the disposition of such stolen property is easily accomplished by the perpetrators of such crimes and offenses at secondhand and junk shops on a "no questions asked" basis.
- B. This Council is vested with the power to provide for the licensing and regulation of dealers in secondhand goods pursuant to § 20(13) of the General City Law and § 24(24) of the Supplemental Charter of the City of Binghamton. Said power is predicated upon the protection of the public health, safety and welfare. Accordingly, this article is enacted for the purpose of licensing dealers in secondhand goods for the protection of the public and to aid law enforcement officials in their efforts to control and reduce the incidents of crime involving stolen personal property.

§ 275-17. License required; fee.

- A. No person, either as principal, agent or employee, shall, within the corporate limits of the City of Binghamton, establish, engage in or carry on the business of a dealer in secondhand goods as defined herein, either separately or in connection with some other business, without first having obtained and paid for and having in full force and effect a license as provided by this article.
- B. The fee for licenses issued under this article shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J).

§ 275-18. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

DEALER IN SECONDHAND GOODS -- Any person engaged in the commercial exchange, purchase and/or sale of secondhand articles for any purpose and of whatever nature, including but not limited to gold or other precious metals, coins, stamps, currency and jewelry subject to the exclusions set forth below in § 275-7.

PERSON -- Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership, society or any other organization.

§ 275-19. Exclusions. [Amended 1-24-1983 by Ord. No. 5-83]

Nothing contained in this article shall be construed to apply to:

- A. Automobiles and automobile parts.
- B. The first purchase, exchange or sale in this country of any imported secondhand article.

- C. The acceptance or receipt of merchandise in a new condition as a return or exchange for a credit or refund.
- D. The first sale of merchandise which has been rebuilt, refurbished or received as a trade to offset the purchase price of new goods sold as part of the same transaction. Any such rebuilt, refurbished or trade-in merchandise shall clearly be marked and sold as such.
- E. A thrift shop as classified by the Internal Revenue Code of the United States of America thereby entitled to an exemption as an eleemosynary corporation or institution.
- F. Any exchange, purchase or sale conducted as part of any trade show, convention or exhibition.
- G. A garage sale or rummage sale conducted by a person not normally engaged in the business of conducting such sales.
- H. The conduct of any duly licensed auction.
- I. Any junk dealer licensed pursuant to Article 6 and/or Article 6-C of the New York State General Business Law.
- J. The sale or resale of clothing or apparel.
- K. Transactions between dealers.

§ 275-20. Application for license. [Amended 1-24-1983 by Ord. No. 5-83]

Any person desiring to procure a license as herein provided shall file with the City Clerk a verified application upon a blank form prepared by the City Clerk and furnished by the City. Such application shall contain the following information:

- A. Name, description and date of birth of applicant.
- B. Home address of applicant.
- C. Business address of applicant.
- D. Telephone number of business.
- E. Name of business.
- F. Type of business (i.e., firm, partnership, association, corporation, etc.):
 - (1) If a partnership, names and addresses of all partners, both general and limited.
 - (2) If a corporation or association, names and addresses of all principal officers.
- G. A statement as to whether or not the applicant, any partner or any principal officer has been convicted of any crime, or any violation of any municipal ordinance, the nature of the offense and the punishment or penalty therefor.

- H. A certificate from the Sealer of Weights and Measures of the County of Broome certifying that all weighing and measuring devices to be used by the applicant have been examined and approved pursuant to law.
- I. A statement as to whether the business is permanent or transient. Transient vendors shall be subject to the transient retail merchants tax set forth in Article I of this chapter.

§ 275-21. Combined secondhand dealers/collateral loan brokers prohibited.

It shall be unlawful for any person to operate a combined secondhand dealer/collateral loan broker shop pursuant to the provisions of § 47 of the General Business Law.

§ 275-22. Issuance of license. [Amended 1-24-1983 by Ord. No. 5-83]

- A. The City Clerk shall send a copy of the above-mentioned verified application to the Detective Division of the City of Binghamton Bureau of Police for investigation. Said Detective Division shall report its findings, if any, to the City Clerk within seven business days of the receipt and filing of said application.
- B. Upon receipt of the findings of the Detective Division, the City Clerk shall, except as set forth below, issue to the applicant a license as required by § 275-5, signed by the City Clerk or the Deputy City Clerk.
- C. In accordance with the legislative purpose of this article, no license shall be denied except when the applicant(s) and/or principal(s) of the business has been convicted in a court of competent jurisdiction within five years prior to the date of said application of any (1) offenses involving damage to or intrusion upon property; or (2) offenses involving theft; or (3) offenses involving fraud; or (4) felonies against the person involving physical injury; or (5) violations of this chapter. However, the denial of a license for any above-enumerated grounds shall be consistent with the provisions of Article 23-A of the New York State Corrections Law.
- D. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued.
- E. No license shall be issued to an applicant who does not agree to comply with all local laws, ordinances, rules and regulations of the City of Binghamton pertaining to the operation of a business or occupation.

§ 275-23. Appeal from denial of license. [Amended 1-24-1983 by Ord. No. 5-83]

- A. Any applicant refused a license by the City Clerk may apply in writing within five business days of such refusal to the Mayor for a hearing on his or her application before a hearing officer designated by the Mayor. The Mayor may, in his or her discretion, designate a City officer as permanent hearing officer for appeals under this section, or he or she may make such designations on an individual basis.
- B. Rejection of an application based upon any of the grounds set forth in § 275-10C(1) through (5) shall create a rebuttable presumption that the applicant is not entitled to receive a license hereunder. Accordingly, the burden of proof shall be upon the applicant in the hearing.
- C. The hearing officer shall explain his or her denial or approval of the application in writing to the City Clerk and the applicant within five business days of the hearing.

- D. If the hearing officer grants the application, the City Clerk shall issue the license pursuant to § 275-5 of this Code.

§ 275-24. Contents of license.

All licenses issued pursuant to this article shall state clearly the following information:

- A. The name and address of the licensee and the fee paid for the license.
- B. The name and address of the business of the licensee.
- C. The number of the license.
- D. The dates of issuance and expiration of the license.

§ 275-25. Expiration of license.

All licenses issued under the provisions of this article shall automatically expire on December 31 following the date of issuance of such licenses.

§ 275-26. Record of licenses.

It shall be the duty of the City Clerk to keep a record of all applications and of all licenses granted under the provisions of this article, giving the number and date of each license, the name and residence of the persons licensed, the amount of the license fee paid and the date of revocation of all licenses revoked.

§ 275-27. Revocation of license. [Amended 1-24-1983 by Ord. No. 5-83]

- A. The Mayor of the City of Binghamton may revoke or suspend any license issued under the provisions of this article for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business licensed under this Code.
 - (3) Any violation of the provisions of this article.
 - (4) Conviction of the licensee or any principal upon any of the grounds set forth above in § 275-10C(1) through (5) of this article during the term of the license.
 - (5) Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. When a license shall be revoked or suspended, no refund of any unearned portion of the license fee shall be made. The Mayor shall notify the City Clerk of the revocation or suspension of any license, and the reason or reasons therefor in writing shall be served by the City Clerk upon the licensee personally, or by mailing by registered mail a copy of the same to the business address given by the licensee. A copy of such notice shall be filed in the office of the City Clerk.

§ 275-28. Appeal from revocation or suspension of license. [Amended 1-24-1983 by Ord. No. 5-83]

- A. Any licensee whose license has been revoked or suspended by the City may apply in writing to the Mayor within five business days of receipt of the notice required by § 275-15B for a hearing on such revocation or suspension before a hearing officer to be designated by the Mayor. The Mayor may, in his or her discretion, designate a City officer as permanent hearing officer for appeals under this section, or he or she may make such designations on an individual basis.

- B. Such application for a hearing shall stay the effect of any order of revocation or suspension until such time as the administrative appeal has been completed.
- C. Said hearing shall be held within five business days of the receipt of the request by the Mayor.
- D. The hearing officer shall explain his or her affirmation or reversal of the revocation or suspension of the license in writing to the City Clerk, the Mayor and the licensee within five business days of the hearing.
- E. The hearing officer shall have the power to modify any revocation or suspension upon such terms are deemed equitable by him or her under the circumstances. In no event shall the hearing officer have the power to increase any penalty.
- F. Revocation or suspension of a license upon any of the grounds set forth in § 275-15A(1) through (5) shall create a rebuttable presumption that the license was properly revoked or suspended except as provided below in Subsection G. Accordingly, the burden of proof shall be upon the applicant in the hearing.
- G. Any revocation or suspension of a license upon the grounds that the licensee has been convicted of any offense involving the sale and/or possession of stolen property in relation to the place of business for which said license has been issued shall create an irrebuttable presumption that the revocation or suspension was proper, provided that an appropriate certificate of conviction has been entered as part of the record. In such cases, the hearing officer's powers shall be limited to reviewing the penalty as determined by the Mayor.

§ 275-29. License to be exhibited upon request.

Every person to whom a license has been granted hereunder, while exercising his or her license, shall exhibit said license upon request of any individual.

§ 275-30. Assignment of license prohibited.

A license issued under the provisions of this article shall not be assignable. Any holder of such a license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this article.

§ 275-31. License not to be issued to minor; exception.

No license shall be issued under the provisions of this article to a person under 18 years of age unless the parent or legal guardian of any such minor is a coapplicant with such minor for a license under this article.

§ 275-32. Issuance of duplicate license.

Whenever a license issued hereunder shall be lost or destroyed on the part of the holder or his or her agent, or employee, a duplicate in lieu thereof under the original application may be issued by the City Clerk upon the filing with him or her by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 275-33. Application when license has been refused or revoked.

No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless the applicant can show that the reason for such rejection no longer exists.

§ 275-34. Regulations applicable to licensees.

- A. Changing place of business. If any licensee shall move his or her place of business from the place designated in the license, he or she shall immediately give notice to the City Clerk and have the same endorsed on the license. No licensee shall carry on business at any other place than the one designated in the license.
- B. Cooperation with police. It shall be the duty of every licensee to cooperate with the City of Binghamton Bureau of Police in preventing the sale or exchange of stolen property. If a licensee has reason to believe that an attempt is being made to sell stolen property, he or she shall notify the Bureau of Police at once.
- C. Lost or stolen property.
 - (1) If any article shall be advertised in the newspaper designated by the City for the publication of legal notices as having been lost or stolen, and if any goods or articles answering such advertised description or any part thereof shall be in or come into the possession of any dealer in secondhand goods, upon receiving actual written or oral notice of the similarity of the description of such articles, such dealer shall immediately give information relating thereto to the police.
 - (2) No disposition of such articles shall be effected until authorization to do so shall be given to such dealer by the police.
 - (3) A dealer in secondhand goods, when notified by the police that property in his or her possession is stolen or alleged to be stolen, shall take immediate steps to secure that property; and such items shall be marked "police stop." Thereafter, such property shall not be sold or removed from the premises until notification is made to the dealer in writing by the police allowing such removal or sale. Whenever practicable, the police shall personally render such notification within 24 hours of the marking of the "police stop."
- D. Records of purchases to be kept by licensee.
 - (1) Every dealer in secondhand articles shall keep a bound book of consecutively numbered transactions, in which shall be legibly written in English, at the time of every purchase or receipt of secondhand goods from a person other than a dealer in secondhand goods, the following information:
 - (a) The date of the transaction.
 - (b) The name and address of the person from whom goods are purchased.
 - (c) Proof of identity as prescribed herein. Only the following shall be deemed acceptable evidence of identity:
 - [1] Any official document, except a social security account number card, issued by the United States government, any state, county, municipality or subdivision thereof, or any public agency or department thereof, or any public employer, which requires and bears the signature of the person to whom issued;
 - [2] Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable person to believe it to be accurate and reliable, when identification under Subsection D(1)(c)[1] of this subsection is not available.
 - (d) Proof that the seller is over 16 years of age as required by Subsection F.
 - (e) A general description of goods involved in the transaction, including distinguishing monograms or marks.
 - (2) Every dealer in secondhand goods who receives secondhand articles on consignment shall keep a record, in the above-prescribed book, describing the articles and the name and description of the person such items are received from as prescribed above in Subsection D(1).

- (3) Such records shall be kept on the business premises of the secondhand dealership or at a place so designated on the duly approved license at all times during normal business hours. Such records shall be open during normal business hours to inspection by members of the Bureau of Police or any person duly authorized in writing by the Chief of Police for such purposes, who shall exhibit such written authority to the dealer.
- E. Retention of records. All records to be kept under Subsections A through D, inclusive, shall be kept by the licensee for a period of at least two years from the date said record was made.
 - F. Restrictions on purchases from children; exceptions.
 - (1) No person licensed under this article shall receive or purchase any goods, chattels, wares or merchandise from any child under the age of 16 years. However, such purchases may be made if said child is accompanied by his or her parent or legal guardian.
 - (2) Said restrictions on children shall not apply to transactions involving the purchase or sale of stamps, currency or coins.
 - (3) It shall be no defense to a prosecution for a violation of this section that in the transaction upon which the prosecution is based, the child acted as the agent or representative of another, or that the defendant dealt with such child as the agent or representative of another.

§ 275-35. Penalties for offenses.

- A. Unlicensed dealers. Any person who, himself, or by his or her clerk, agent or employee, shall act as a dealer in secondhand goods as herein defined, without a license, or who shall violate any of the provisions of §§ 275-5 through 275-21, inclusive, of this article, or who, having had his or her license revoked, shall continue to act as a secondhand dealer shall, upon conviction, be punished as provided in § 1-4 of this Code.
- B. Violations by licensees. Notwithstanding the provisions of § 1-4 of this Code, any person, duly licensed under this article, who shall not comply with the provisions of § 275-22, Subsections A through F, inclusive, of this article, entitled "Regulations applicable to licensees," shall be subject to administrative penalties, including revocation or suspension of any such license and/or the commencement of a civil action for a penalty as provided for by § 1-4 of this Code.
- C. Injunctive relief available. In addition to the above-provided penalties and punishment, the Corporation Counsel of the City may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with the provisions of this article or to restrain by injunction offenses against this article as provided by § 42 of the Second Class Cities Law.

Chapter 279, LOITERING

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 14, § 14-10, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Amusements -- See Ch. 173.

Curfew -- See Ch. 211.

Public assembly -- See Ch. 318.

§ 279-1. Prohibited conduct. [Amended 12-4-2006 by L.L. No. 2-2006]

Lounging, loafing or idling in front or in the entrance to any place of amusement or in front of or in the entrance to any building is prohibited, and any person who fails to move when requested so to do by a police officer, owner, occupant or tenant of any building shall be deemed a violator of this provision.

Chapter 280, PROHIBITION AGAINST AGGRESSIVE SOLICITATION **[HISTORY: Adopted by the City Council of the City of Binghamton 2-20-07]**

§ 280-1. Purpose.

It is the intent of Council in enacting this Ordinance to protect persons from threatening, intimidating, or harassing behavior, to keep public places safe and attractive for use by all members of the community and to maintain and preserve public places where all of the community can interact in a peaceful manner. This legislation is also intended to provide for the free flow of pedestrian and vehicular traffic on the streets and sidewalks in the City, to promote tourism and business and preserve the quality of urban life while continuing to respect the constitutional rights of free speech for all citizens.

§ 280-2. Definitions. [Amended 3-17-10 by Local Law 1-2010]

As used in this chapter, the following terms shall have the meanings indicated:

AGGRESSIVE MANNER –

- (1) Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
- (2) Continuing to solicit from a person after the person has given a negative response to such soliciting;
- (3) Intentionally touch or causing physical contact with another person without that person's consent in the course of soliciting;
- (4) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
- (5) Using violent, profane, or threatening language or gestures toward a person solicited;
- (6) Following the person being solicited, with the intent of asking that person for money or other things of value
- (7) Speaking in a volume unreasonably loud under the circumstances;
- (8) Soliciting money from anyone who is waiting in line for entry to a building or for another purpose.

SOLICITING – Asking for money or object of value, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

PUBLIC PLACE – A place where a governmental entity has title, to which the public or a substantial group of persons has access, including but not limited to any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

FINANCIAL INSTITUTION – Includes all banks, trust companies, savings banks, savings and loan associations and credit unions, whether incorporated, chartered, organized, or licensed under the laws of New York State, or any other state in the United States or the federal government.

CHECK CASHING BUSINESS – Any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration.

AUTOMATED TELLER MACHINE – A device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

AUTOMATED TELLER MACHINE FACILITY – The area of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

§ 280-3. Prohibited acts.

- A. No person shall solicit in an aggressive manner in any public place.
- B. No person shall solicit on private or residential property without permission from the owner or other person lawfully in possession of such property.
- C. No person shall solicit within twenty feet of any entrance or exit of any financial institution or check cashing business or within twenty feet of any automated teller machine without the consent of the owner of the property or another person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
- D. No person shall solicit an operator or other occupant of a motor vehicle while such vehicle is located on any street, for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services. Provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.
- E. No person shall solicit from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying, or reserving a public parking space, or directing the operator or occupant to a public parking space.
- F. No person shall solicit while under the influence of alcohol or a controlled substance.
- G. No person shall solicit in any public transportation vehicle; or at any bus, train, or subway station or stop or in any public parking lot, garage, or structure.
- H. No person shall solicit in a group of two or more persons.
- I. No person shall solicit within six feet of an entrance to a building.
- J. No person shall solicit within twenty feet of any valid vendor location [as defined in Article III, Chapter 307-34.B of the City of Binghamton Code].
- K. No person shall solicit within twenty feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.

§ 280-4. Penalties.

Any violation of the provisions of this law constitutes a misdemeanor punishable by community service for not more than 120 days, imprisonment for not more than thirty days, and/or by a fine not to exceed five hundred dollars.

280-5. Severance.

If any section, sentence, clause, or phrase of this Law is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

Chapter 292, NOISE

[HISTORY: Adopted by the City Council of the City of Binghamton 3-7-2005 by Ord. No. 05-11 (§ 14-14 of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

GENERAL REFERENCES

Alarm systems -- See Ch. 167.

Amusements -- See Ch. 173.

Control of dogs -- See Ch. 178, Art. II.

Curfew -- See Ch. 211.

Public assembly -- See Ch. 318.

Vehicles and traffic -- See Ch. 400.

Zoning -- See Ch. 410.

§ 292-1. Title.

This chapter shall be known and may be cited as the "City of Binghamton Noise Control Ordinance."

§ 292-2. Declaration of policy.

It is hereby declared to be the public policy of the City to reduce the ambient noise level in the City, so as to preserve, protect and promote the public health, safety and welfare and the peace and quiet of the inhabitants of the City, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants and facilitate the enjoyment of the natural attractions of the City. It is the public policy of the City that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the City affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the City. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

§ 292-3. Interpretation.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall abridge the powers and responsibilities of any police department, law enforcement agency or code enforcement department to enforce the provisions of this chapter. Nothing herein shall be construed to abridge the emergency powers of any health department, code enforcement department or the right of such department to engage in any necessary or proper activities.

§ 292-4. Definitions and word usage [Amended 09-23-2015 by Ord. No 15-59]

All terminology defined herein which relates to the nature of sound and the mechanical detection and recording of sound is in conformance with the terminology of the American National Standards Institute (ANSI) or its successor body. As used in this chapter, the following terms shall have the meanings indicated:

AMBIENT NOISE -- The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-WEIGHTED SOUND LEVEL -- The sound pressure level, in decibels, as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA."

COMMERCIAL AREA -- A group of commercial facilities and the abutting public right-of-way and public spaces.

COMMERCIAL FACILITY -- Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Dining and/or drinking establishments.
- (2) Banking and other financial institutions.
- (3) Establishments for providing retail services.
- (4) Establishments for providing wholesale services.
- (5) Establishments for recreation and entertainment.
- (6) Office buildings.
- (7) Transportation.

- (8) Warehouses.
- (9) Hotels and/or motels.

COMMUNITY SERVICES FACILITY -- Any nonresidential facility used to provide services to the public, including but not limited to:

- (1) Club meeting halls, offices and facilities.
- (2) Organization offices and facilities.
- (3) Facilities for the support and practice of religion.
- (4) Private and parochial schools.

CONSTRUCTION -- Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

CONTINUOUS SOUND -- Any sound that is not impulse sound.

DBA -- The abbreviation designating the unit of sound level as measured by a sound level meter using A-weighting, also known as "DBA."

DECIBEL -- The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of the standard sound (20 micropascals); abbreviated "dB."

DEMOLITION -- Any dismantling, intentional destruction or removal of buildings or structures.

ELECTRIC GENERATION FACILITY -- Any facility which services an industrial load, the community at large or the New York State Independent System Operator (NYISO) market.

EMERGENCY -- Any occurrence or circumstance involving actual or imminent physical or property damage which demands immediate action.

EMERGENCY WARNING DEVICE -- Any sound signal device that is to warn of an emergency.

EMERGENCY WORK -- Any work or action necessary to deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way, dredging of waterways or abating life-threatening conditions.

EXTRANEIOUS SOUND -- A sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.

FREQUENCY -- The number of sound pressure oscillations per second, expressed in hertz; abbreviated "Hz."

IMPULSE SOUND -- Sound characterized by either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

INDUSTRIAL FACILITY -- Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.

MOTOR VEHICLE -- Any vehicle that is propelled other than by human or animal power.

MUFFLER -- A properly functioning sound dissipation device or system for abating the sound of escaping gases on equipment where such a device is part of the normal configuration of the equipment.

NOISE -- Any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the City of Binghamton.

NOISE DISTURBANCE -- Any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

PEAK SOUND PRESSURE LEVEL -- The maximum absolute value of the instantaneous sound pressure level during a specified time interval.

PERSON -- Any individual, association, partnership, corporation or other entity and includes any officer, employee, department or agency of the above.

PLAINLY AUDIBLE -- Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient

to verify a plainly audible sound. The noise control officer need not determine the title, specific words or the artist performing the song.

PUBLIC RIGHT-OF-WAY -- Any street, avenue, boulevard, road, highway, sidewalk or alley that is leased, owned, controlled or maintained by a governmental entity, no matter how designated.

PUBLIC SERVICE FACILITY -- Any facility and its related premises, property or equipment used to provide governmental services to the public, including but not limited to:

- (1) Maintenance centers.
- (2) Offices and buildings of agencies or instrumentalities of government.
- (3) Schools.

PUBLIC SERVICE INDUSTRIAL FACILITY -- Any facility and its related premises, property or equipment used to provide industrial governmental services to the public, including but not limited to:

- (1) Waste collection centers.
- (2) Waste recycling centers.
- (3) Water and sewage facilities.
- (4) Electric generation facility.

PUBLIC SPACE -- Any real property or structures thereof that are owned, leased or controlled by a governmental entity.

REAL PROPERTY LINE -- Either the imaginary line, including its vertical extension, that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

RESIDENTIAL AREA -- A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY -- Property used for human habitation.

SOUND -- An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL -- The weighed sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER -- Any instrument, including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

SOUND PRESSURE LEVEL -- The level of a sound measured in dB units with a sound level which has a uniform ("flat") response over the band of frequencies measured.

SOUND REPRODUCTION DEVICE -- Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, televisions, tape recorder, phonograph, loudspeaker, public-address system or any other sound-amplifying device.

SOUND SOURCE -- Any persons, animal, device, operation, process, activity or phenomenon which emits or causes sound.

UNREASONABLE NOISE -- Any sound which is defined in § 292-5B as unreasonable.

VIBRATION -- An oscillatory motion of solid bodies of deterministic or random natures described by displacement, velocity or acceleration with respect to a given reference point.

§ 292-5. Prohibited acts.

- A. Unreasonable noise prohibited. No person shall make, cause, allow or permit to be made any unreasonable noise within the geographical boundaries or the City or within those areas over which the City has jurisdiction, including the waters, rivers and riverbanks adjacent to, abutting or bordering the City.

- B. Specific acts considered to be unreasonable noise. Any of the following acts or causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities are declared to be in violation of this chapter and to constitute unreasonable noise:
- (1) No person shall operate or use or cause to be operated any loudspeaker, public-address system or similar amplification device between the hours of 11:00 p.m. and 8:00 a.m., except when used in connection with a public emergency by officers of the Police Department, Fire Department or of any municipal entity.
 - (2) Using or operating any sound reproduction device for commercial or business advertising purposes or for the purposes of attracting attention to any performance, show or sale or display of merchandise in connection with any commercial operation in front or outside any building, place or premises, or through any aperture of such building, place or premises, abutting on or adjacent to any public right-of-way, or in or upon any vehicle operated, standing or being in or on any public right-of-way, or from any stand, platform or other structure or anywhere on any public right-of-way. Nothing in this subsection is intended to prohibit sound emanating from sporting, entertainment or other public events where such devices are used.
 - (3) No animal or bird owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than 15 minutes at any time of the day or night by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.
 - (4) The shouting, yelling, calling or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensibilities.
 - (5) The shouting, yelling, crying or hooting of peddlers, hawkers and vendors.
 - (6) No person shall cause or permit the creation of any noise by means of any device or otherwise on any sidewalk, street or public place adjacent to any school, court, house of worship or public library while such facility is in use or adjacent to any hospital or nursing home at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities.
 - (7) No person shall engage in, cause or permit the loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 8:00 p.m. and 6:00 a.m. the following day in such a manner as to cause unreasonable noise across a residential real property boundary.
 - (8) No person shall cause or permit to be caused the sounding of any horn or other auditory signaling device on or in any motor vehicle except to serve as a warning of danger.
 - (9) No person shall operate or permit to be operated any tools or equipment used in construction, drilling, excavation or demolition work, between the hours of 8:00 p.m. and 8:00 a.m. the following day or any time on Sunday, except that the provisions of this subsection shall not apply to emergency work.
 - (10) No person shall cause or permit the operation of any device, vehicle, construction equipment or lawn maintenance equipment, including but not limited to any diesel engine, internal combustion engine or turbine engine, without a properly functioning muffler, in good working order and in constant operation regardless of sound level produced.
 - (11) Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.
 - (12) No person shall cause a vehicular sound reproduction system to be plainly audible at a residential property line between the hours of 8:00 p.m. and 8:00 a.m. the following day.
 - (13) No person shall cause a vehicular sound reproduction system to be plainly audible at a distance of 50 feet between the hours of 8:00 a.m. to 8:00 p.m.
 - (14) No person shall cause a portable sound system to be plainly audible at a distance of 50 feet between the hours of 8:00 a.m. and 8:00 p.m., nor may they be plainly audible to anyone

other than the operator of the sound system between the hours of 8:00 p.m. and 8:00 a.m. the following day.

C. Maximum permissible continuous sound levels. In addition to those specific prohibitions set forth in Subsection B above, the following general prohibitions regarding continuous sound levels shall apply in determining unreasonable noise:

- (1) No person shall make, cause, allow or permit the operation of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the particular continuous sound level limits set forth in Table 1 when measured at or within real property line of the receiving property, except as provided in § 292-6.
- (2) When measuring noise within a dwelling unit of a multi-dwelling-unit building, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room.
- (3) When measuring noise within the boundaries of a park located within the City of Binghamton, the source noise shall be measured at a distance of 50 feet and the source noise shall violate this section if the rhythmic tones of the source noise are plainly audible to the enforcement officer standing at a distance of 50 feet from the source noise.

D. Maximum permissible impulsive sound levels. In addition to those specific prohibitions set forth in Subsection B hereof, the following general prohibitions shall apply regarding impulsive sound levels in determining unreasonable noise:

- (1) No person shall make, cause, allow or permit the operation of any impulsive source of sound within any and all property in the City which has a peak sound pressure level in excess of 80 DBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently in any hour, the levels set forth in Table 1 shall apply.

E. Motor vehicles.

- (1) Motor vehicle sound levels and equipment shall be in compliance with provisions of any state law, including but not limited to §§ 386 and 375 of the New York State Vehicle and Traffic Law.
- (2) No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.
- (3) No person shall allow noise from an automobile alarm in excess of five minutes after it has been activated.
- (4) Taxicabs shall not use their horns to alert passengers at the address of fare location more than once and must be stopped in front of that address before doing so.
- (5) See also Subsection B(12), (13) and (14) for further motor vehicle violations.

F. Vessels and boats.

- (1) Vessel and boat sound level limits and equipment shall be in compliance with provisions of any state law, including but not limited to § 44 of the New York State Navigation Law.
- (2) No person shall operate or permit to be operated any vessel, boat, jet ski or similar machinery in any canal, channel or river at any time, at any speed and at any manner whatsoever, as to exceed a sound level of 65 DBA at the nearest shoreline or at 50 feet, whichever distance is less.

§ 292-6. Exceptions.

Regardless of the decibel limits, the provisions of this chapter shall not apply to:

- A. Sound and vibration emitted for the purpose of alerting people in an emergency.
- B. Sound and vibration emitted in the performance of correcting an emergency.
- C. Sounds created by church bells or chimes, when part of a religious observance or service.
- D. Sounds created by any government agency by the use of public warning devices.
- E. Noise from domestic power tools, lawn mowers and agriculture equipment when operated with a muffler between the hours of 8:00 a.m. and 9:00 p.m. on weekdays and 9:00 a.m. and 9:00 p.m. on weekends, provided that they produce less than 85 dBA at or within any real property line of a residential property.
- F. Noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal.
- G. Noise from an exterior burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within five minutes after it has been activated. EN
- H. Noise from construction activity, provided that all motorized equipment used in such activity is equipped, where applicable, with functioning mufflers, except as provided in Subsection B.
- I. Noise generated by municipality-sponsored concerts and special events designed to promote the health, safety or welfare of the citizens of Binghamton, as well as noise generated by events held at or within the confines of stadiums, arenas or fields designed specifically and primarily for sporting events and which are open to the public.

§ 292-7. Enforcement and administration [Amended 09-23-2015 by Ord. No 15-59]

- A. The noise control requirements established by this chapter shall be administered and enforced severally, separately and jointly by the City of Binghamton Police Department, City of Binghamton Code Enforcement Department and the City of Binghamton Public Works Department and such other employees and/or officials authorized by the Mayor. Violation of any provision of this chapter shall be cause for an appearance ticket to be issued. This chapter is complaint driven and as such requires that a violation hereunder be complained of to either the Binghamton Police Department or the Binghamton Code Enforcement Office before enforcement hereunder may occur. The complaint must describe the violation, and the complaint must provide the enforcement authority with the address of the aggrieved property. The complainant must have some legally recognized interest in the aggrieved property, i.e., including but not limited to ownership or tenancy.
- B. Qualifications. A person shall be considered qualified to take noise measurements and to enforce all portions of this chapter, who has satisfactorily completed the Community Noise Enforcement Course offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University, and the required recertification course every two years, or any other accredited course selected by the City Mayor.
- C. The City will keep at least five (5) people certified at all times.

§ 292-8. Penalties for offenses.

Any person who violates any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be subject to penalties in the following manner:

- A. Upon a first conviction: by a fine not less than \$50 and not more than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.
- B. Upon a second conviction: by a fine not less than \$100 and not more than \$1,000 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.
- C. Upon a third or subsequent conviction: by a fine not less than \$250 and not more than \$3,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.
- D. If the violation is of a continuing nature, each eight-hour period during which it occurs shall constitute an additional, separate and distinct offense.

§ 292-9. Permits and variances [Amended 09-23-2015 by Ord. No 15-59]

- A. Application for special permit. The City Clerk shall have the authority to grant special permits for limited times and purposes of this chapter. Any person seeking a special permit pursuant to this section shall file an application with the City Clerk. The application shall consist of a letter signed by the applicant and shall contain a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the permit is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Noise Permit applications need to be submitted at least 14 days prior to the date of the event. In addition, the following information shall be provided:
 - (1) The plans, specifications and any other information pertinent to the source of sound and vibration.
 - (2) The characteristics of the sound and vibration entitled by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.
 - (3) The noise abatement and control methods used to restrict the emissions of the sound and vibration.
 - (4) A time schedule for the installation of noise abatement and control devices, technology and procedures or process modifications that will be followed to restrict the emissions of sounds and vibrations.
 - (5) The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.
 - (6) A filing fee as set from time to time, which does not apply to City-authorized neighborhood block parties.
 - (7) The requested duration of the permit.
- B. Decision.
 - (1) Upon receipt by the City Clerk of all information required for the granting of the special permit, and upon receipt of the appropriate filing fee, the Clerk shall issue the permit.
 - (2) The Clerk shall not issue the permit if the requested duration of the permit is in excess of three days.
 - (3) The Clerk shall not issue the permit if a special permit was granted for the same location, for a similar event, and in favor of the same sponsor within the four weeks prior to the application under consideration.
 - (4) The Clerk shall not issue the permit if the operation of the proposed source of sound will operate in such a manner as to cause a continuous noise level in excess of 70 dB(A) across any real property boundary.

- (5) If the Clerk denies the application for a special permit for any reason, the applicant may apply to the City Council for a special variance, following the procedure established in Subsection C.
 - (6) If the City Clerk issues a permit pursuant to this provision, the permit shall be valid for the time requested, but shall be rendered invalid if the actual source of sound authorized under the issued permit, as measured by an enforcement officer, causes a continuous noise level in excess of 70 dB(A) across any real property boundary.
 - (7) Notwithstanding the foregoing, if the City Council grants a special variance for a particular event or series of events, as provided in Subsection C below, then such special variance will continue from year to year. Based on the special variance, the City Clerk may renew the permit on an annual basis upon receipt of a renewal fee as set from time to time by the City Council (See Exhibit J). The City Council may revoke the permit and special variance at any time if the permit holder fails to comply with any section of this chapter or condition of the special variance or permit. In addition, upon tender of the renewal fee, the City Clerk may, in his or her discretion, deny renewal of the permit and refer the application back to the City Council for reconsideration of the special variance.
- C. Application for special variance. The City Council shall have the authority to grant special variances for limited times and purposes of this chapter. Any person seeking a special variance pursuant to this section shall file an application with the Council. The application shall consist of a letter signed by the applicant and shall contain a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship of the applicant, on the community or on other persons. In addition, the following information shall be provided:
- (1) The plans, specifications and any other information pertinent to the source of sound and vibration.
 - (2) The characteristics of the sound and vibration emitted by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.
 - (3) The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.
 - (4) The names and addresses of all owners of contiguous land within 500 feet of the premises. The applicant in like manner shall give notice of the application by certified mail, return receipt requested, to all property owners surrounding the sound source site within a radius 500 feet from the borders of said site.
 - (5) A filing fee as set from time to time (See Exhibit J).
 - (6) The requested duration of the permit.
- D. Public hearing and decision. Upon prior reasonable public notice published in the official newspaper of the City of Binghamton and upon a public notice board designated for that purpose by the City Clerk for a minimum of 10 days, the City Council shall hold a public hearing on the special variance application. The Council, upon reviewing all input from the public hearing and obtaining any additional data or information as deemed necessary, shall then pass upon the application by resolution. The decision shall be transmitted to the City Clerk, who will advise the applicant of such decision by transmitting a copy of the special variance application to the applicant, with the decision and conditions, if any, imposed by the City Council attached.
- E. Applicant to obtain other necessary permits. This chapter does not preclude the necessity of the applicant to obtain the approval or permit required by any other agency before proceeding with the action approved under the approved special variance. No action may be initiated by the applicant until such time that other permits, as may be required, are issued.

- F. Variance to be available for inspection. The applicant or his agent shall have readily available the approved special variance at the location or site for which the variance has been issued and shall show same to any agent of the City of Binghamton whenever requested.
- G. Activity open to inspection. Activity conducted under the special variance shall be open to inspection at any time by any agent of the City of Binghamton.
- (1) In determining whether to grant or deny the application, the Council shall balance the hardship to the applicant, the community and other persons if the variance is not granted against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts if the variance is granted.
 - (2) In connection with this section, the Council shall cause the taking of sound level readings in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.
 - (3) The Council shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site, including time limits on permitted activity in the event that it shall grant any variance hereunder.

Table 1
Maximum Permissible Continuous Sound Levels by Receiving Property Category
(dBA)

Sound Source Property Category	Another Dwelling within a Multi- Dwelling-Unit Building		Residential		Commercial or Public Service Community Facility	Industrial or Public Service Community Facility	City Park
	7:00am -10:00pm	10:00pm -7:00am	7:00am -10:00pm	10:00pm -7:00am	All times	All times	8:00am -9:00pm
• Any location within a multi-dwelling -unit building	50	45	55	50	65	70	65
• Residential (or public spaces or rights-of-way)	55	50	55	50	65	70	65
• Commercial, public service, or community service facility	55	50	55	50	65	70	65
• Industrial or public service industrial facility	55	50	55	50	65	70	65

Chapter 295, NOTIFICATION OF DEFECTS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part XV of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Claims against City -- See Ch. 33.

Streets and sidewalks -- See Ch. 355.

§ 295-1. Liability of City in certain actions limited; prior notice required.

Second Class Cities Law § 244 is hereby superseded and amended in its application to the City of Binghamton, to read as follows:

§ 244. Liability of city in certain actions.

No civil action shall be maintained against the City of Binghamton for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed in consequence of the existence of ice or snow thereon, or out of repair, defective, dangerous, unsafe or obstructed in any other way or manner unless it is made to appear that written notice thereon relating to the particular time and place and condition of such street, highway, bridge, culvert, sidewalk or crosswalk was actually given to the Commissioner of Public Works at least 24 hours previous to such damage or injury and that there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of.

The City shall not be liable in a civil action for damages or injuries to person or property, or invasion of personal or property rights of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, alleged to have been caused or sustained, in whole or in part, by or because of any omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the City, or any of its agents, officers or employees, unless a notice of claim shall have been made and served in compliance with § 50-e of the General Municipal Law, nor unless an action shall be commenced thereon within one year after the happening of such accident or injury, or the occurrence of such act, omission, fault or neglect; but no action shall be commenced to recover upon or enforce any such claim against the City until the expiration of three months after the service of said notice. Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by any existing requirement or statute of limitations, nor to waive any existing limitation now applicable to any claim or cause of action against the City.

Chapter 299, OUTDOOR FURNACES

**[HISTORY: Adopted by the City Council of the City of Binghamton 2-6-2006 by L.L. No. 1-2006.
Amendments noted where applicable.]**

GENERAL REFERENCES

Fire prevention -- See Ch. 235.

Zoning -- See Ch. 410.

§ 299-1. Title and authority.

This chapter shall be known as the "City of Binghamton Outdoor Furnace Law." It is adopted pursuant to Municipal Home Rule Law § 10.

§ 299-2. Intent.

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This chapter is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the City of Binghamton.

§ 299-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FIREWOOD -- Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

OUTDOOR FURNACE -- Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

UNTREATED LUMBER -- Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

§ 299-4. Permit required.

No person shall cause, allow or maintain the use of an outdoor furnace within the City of Binghamton without first having obtained a permit from the Fire Marshal. Application for a permit shall be made to the Fire Marshal on the forms provided.

§ 299-5. Existing outdoor furnaces.

Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, provided that the owner applies for and receives a permit from the Fire Marshal within one year of such effective date; provided, however, that upon the effective date of the chapter all the provisions hereof except § 299-6B, C and D shall immediately apply to existing outdoor furnaces. All of the provisions of this chapter shall continue to apply to existing outdoor furnaces which receive permits except § 299-6B, C and D. If the owner of an existing outdoor furnace does not receive a permit within one year of the effective date of this chapter, the outdoor furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place on the site.

§ 299-6. Specific requirements.

- A. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace is prohibited.
- B. Permitted zones. Outdoor furnaces shall be permitted only in the Industrial Zoning Districts as shown on the City of Binghamton's Zoning Map.
- C. Minimum lot size. Outdoor furnaces shall be permitted only on lots of three acres or more.

- D. Setbacks. Outdoor furnaces shall be set back not less than 200 feet from the nearest lot line.
- E. Months of operation. Outdoor furnaces shall be operated only between September 1 and May 31.
- F. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.

§ 299-7. Suspension of permit.

- A. A permit issued pursuant to this chapter may be suspended as the Fire Marshal may determine to be necessary to protect the public health, safety and welfare of the residents of the City of Binghamton if any of the following conditions occurs:
 - (1) Emissions from the outdoor furnace exhibit greater than twenty-percent opacity (six-minute average), except for one continuous six-minute period per hour of not more than twenty-seven-percent opacity, which shall be determined as provided in 6 NYCRR 227-1.3(b);
 - (2) Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;
 - (3) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
 - (4) The emissions from the outdoor furnace cause damage to vegetation or property; or
 - (5) The emissions from the outdoor furnace are or may be harmful to human or animal health.
- B. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided in § 299-9 hereof.

§ 299-8. Waivers.

Where the Common Council of the City of Binghamton finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this chapter or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Common Council may impose such conditions and requirements as it deems reasonable and prudent. The Common Council may, at its discretion, hold a public hearing as part of its review. If the Common Council grants the waiver, a permit shall be issued for the outdoor furnace. If the Common Council denies the waiver, the outdoor furnace must either be brought into compliance with this chapter or removed. If the Common Council does not take any action with respect to the waiver within 60 days from its receipt of an application for waiver, the waiver shall be deemed denied.

§ 299-9. Enforcement; revocation of permit.

Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 or imprisonment for a period of not more than 10 days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than 30 days, or both. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall constitute a lien upon the real property on which the outdoor furnace is located until paid.

§ 299-10. Effect of other provisions.

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation or any other federal, state, regional or local agency. Outdoor furnaces, and any electrical, plumbing or other apparatus or device used in connection with an outdoor furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules, or regulations, the more restrictive or stringent provision or requirement shall prevail.

Chapter 301, PARKS AND RECREATION

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 15, §§ 15-3 through 15-9, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Curfew -- See Ch. 211.

Golf and golf courses -- See Ch. 253.

§ 301-1. Hours of operation; exceptions. [Amended 10-3-1988 by Ord. No. 132-88]

- A. No person, unless engaged as a participant or spectator to any public affair sanctioned by the City, shall be permitted to remain in any park or playground in the City between the hours of 9:00 p.m. and 6:00 a.m. the following morning, and any person visiting the parks and playgrounds between said hours, if requested by a police officer to leave the park or playground, shall do so as soon as possible.
- B. Notwithstanding the foregoing, the Commissioner of Parks and Recreation is authorized and empowered to permit persons to remain in any park or playground in the City subsequent to 9:00 p.m. but not later than 11:00 p.m., provided that the Commissioner shall file with the City Clerk a written order establishing such extended hours and indicating the park and playground to which said extended hours are applicable, indicating the length of time for which such extension shall apply, listing the activity or activities which may be carried on during said extended hours, and specifying the person or organization, if any, sponsoring said activity or activities.

§ 301-2. Operation of bicycles in parks.

No person shall propel or cause to be propelled any bicycle of any kind or description upon or along any street, avenue, drive or footpath of a park at a greater speed than is reasonable and prudent. Riding more than two abreast, coasting, riding with both hands off the handlebars and all fancy or trick riding on any of said streets, avenues, drives or footpaths is hereby prohibited.

§ 301-3. Greenspace at 72 Court Street [Added by Ord. No. 12-38].

The real property located at 72 Court Street, Binghamton, New York, Tax Parcel No. 160.14-4-14 (the "Green Man Green Space"), may be used as a green space for public use, including benches, picnic tables, monuments, landscaping, and fencing as may be installed by the City from time to time. The City reserves the right to sell, lease, close, relocate any structures or improvements, or to use the property for any other legal purpose at any time. The Green Man Green Space is not a park and shall not be designated as a "park" on any map or registry.

Chapter 307, PEDDLING AND SOLICITING

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

- Auctions and auctioneers -- See Ch. 184.
- Disorderly conduct -- See Ch. 220.
- Health and sanitation -- See Ch. 259.
- Collateral loan brokers -- See Ch. 275, Art. II.
- Secondhand dealers -- See Ch. 275, Art. III.
- Use of public rights-of-way -- See Ch. 324.
- Sales -- See Ch. 331.
- Vehicles and traffic -- See Ch. 400.

ARTICLE I, Lotteries [Adopted 10-5-1970 (Ch. 14, § 14-9, of the 1970 Code)]

§ 307-1. Prohibited acts.

No person shall solicit on any public highway or in any place of business, patronage for any scheme, plan or enterprise involving the distribution of any property, prize or reward by means of chance or lottery, or solicit patronage for any contest in which the disposition of property, prize or reward is dependent upon the result of the number of votes cast or secured in such contest.

ARTICLE II, Policies and Procedures [Adopted 9-15-1980 by Ord. No. 205-80 (Ch. 12, §§ 12-47 through 12-71, of the 1970 Code)]

§ 307-2. License required. [Amended 10-5-1981 by Ord. No. 183-81]

- A. Generally. It shall be unlawful for any person, within the corporate limits of the City, to act as a peddler, commercial solicitor or charitable solicitor as herein defined without first having obtained and paid for and having in force and effect a license therefor.
- B. Limited exemption. Notwithstanding the foregoing, or any other provision of this article, a nonprofit organization or a nonprofit corporation or its members may act as a peddler, provided that such nonprofit organization or nonprofit corporation or its members shall obtain from the Mayor prior written permission to sell specified goods, wares or merchandise for and on behalf of such nonprofit organization or nonprofit corporation at specified places in the City and at specified hours not to exceed a total of 48 hours in any one year.

§ 307-3. Exceptions. [Amended 10-5-1981 by Ord. No. 183-81; Amended 6-17-2015 by Ord. No. 15-36]

- A. Nothing in this article shall be held to apply to:
 - (1) Any sales conducted pursuant to statute or by order of any court.
 - (2) Home delivery of daily or weekly newspapers.
 - (3) Any person selling personal property at wholesale to dealers in such articles.
 - (4) Farmers or truck gardeners who themselves or through their employees vend, sell or dispose products of their own farms or gardens.
 - (5) Persons licensed pursuant to § 32, Article 4, of the General Business Law of the State of New York (veterans) or to § 10, Article 2, of the General City Law of the State of New York (adult blind persons).
- B. This article shall not apply so as to unlawfully interfere with interstate commerce.

§ 307-4. Definitions. [Amended 10-5-1981 by Ord. No. 183-81]

As used in this article, the following terms shall have the meanings indicated:

CHARITABLE SOLICITOR -- Includes any person intending to solicit funds or pledges for funds within the City of Binghamton by means of a door-to-door drive or direct, person-to-person fund-raising solicitation for the benefit of a charitable or religious organization.

COMMERCIAL SOLICITOR -- Includes any person, whether as owner, agent, consignee or employee and whether a resident of the City or not, temporarily traveling either by foot, wagon, cart, truck, automobile or any other type of conveyance, from place to place, house to house or from street to street, or who stands in any street, sidewalk or public place, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, except for milk, ice, newspapers, periodicals or baked goods, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of such sale or whether he or she is collecting advance payments on such sales or not.

ESTABLISHED PLACE OF BUSINESS -- Includes a building, store or vacant property in which or where the person transacts business, sells and deals in, during regular business hours, the goods, wares and merchandise he or she peddles or for which he or she solicits.

PEDDLER -- Includes any person, whether as owner, agent, consignee or employee and whether a resident of the City or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, foodstuffs, ice cream products, merchandise, meats, fish and shellfish, vegetables and fruits, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, cart, car or other vehicle or conveyance, and further provided that one who solicits orders and in a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker" and "huckster."

PERSON -- Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership, society or any other organization.

§ 307-5. License fees. [Amended 10-5-1981 by Ord. No. 183-81]

The fee for a peddler's license, commercial solicitor's license or combined peddler's and commercial solicitor's license issued under this article shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J). There shall be no fee charged for the issuance of a charitable solicitor's license pursuant to the provisions of this article.

§ 307-6. Special procedure for charitable solicitor's licenses. [Added 10-5-1981 by Ord. No. 183-81]

- A. Generally. Notwithstanding any contrary provisions of this article the following procedure shall be applicable to all applications for a charitable solicitor's license and the carrying on of charitable solicitation thereunder.
- B. Application form. Any charitable or religious organization intending to solicit funds within the City of Binghamton by means of a door-to-door drive or direct, personal solicitation shall file an application with the City Clerk to exempt persons soliciting for such organizations from the provisions of this Code generally applicable to commercial solicitors. Such application shall be verified and contain the following information:
 - (1) The full name and address of the organization and its purposes.
 - (2) The name and telephone number of the person in charge of the fund-raising activities within the City of Binghamton.
 - (3) The date or dates during which the door-to-door solicitation or fund-raising drive shall be made.

- (4) A statement showing that gifts to any such organization are entitled to tax deductions according to the provisions of the Internal Revenue Code of the United States of America. In the absence of such approval, all pertinent facts establishing the sponsoring organization as a not-for-profit charitable or religious organization shall be set forth in detail.
 - (5) A list of the officers, directors and the executive in charge of the organization, if any.
 - (6) A sample of the card or other written identification to be issued to all individual solicitors.
 - (7) Consent to the requiring of all such solicitors to carry a card or identification, as provided above in Subsection B(6).
- C. Approval of application. The City Clerk shall approve all applications received in proper form, provided that the donations are approved as tax deductible according to the provisions of the Internal Revenue Code of the United States. If such donations are not tax deductible, the City Clerk, prior to approving any such application, shall require such other information as may be reasonable or necessary in order to determine that said organization is, in fact, religious or charitable in nature and function as distinguished from a means of soliciting funds for individual pecuniary benefits of the solicitor or for commercial purposes and, further, that the funds solicited actually shall be used for the purposes of such organization.
- D. Lists of solicitors to be maintained. Any charitable or religious organization obtaining a charitable solicitor's license for the purpose of soliciting funds in the City of Binghamton shall maintain a list or file of all solicitors at its principal office, which list or file shall be made available for inspection from time to time upon the request of the City Clerk.
- E. Identification card. Every person soliciting for or on behalf of any charitable or religious organization licensed hereunder shall carry on his or her person a written identification and shall produce the same upon the request of any person. Failure to produce the same shall constitute a violation of this section.
- F. Applicability of remaining provisions. The remaining provisions of this article not in conflict with the above special procedure shall be deemed applicable to all charitable solicitor's licenses issued hereunder and to the holder of any such license.

§ 307-7. Application for license.

Any person desiring to procure a license as herein provided shall file with the City Clerk a verified application upon a blank form prepared by the City Clerk and furnished by the City. Such application shall contain the following information:

- A. Name, description and age of the applicant.
- B. Address of the applicant.
- C. A brief description of the nature of the business and the goods to be sold and in the case of products of a farm or orchard, whether produced or grown by the applicant.
- D. If employed, the name and address of the employer (for purposes of peddling or soliciting).
- E. If a vehicle is to be used, a description of same, together with a license number or other means of identification.

- F. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance of the City, the nature of the offense, and the punishment or penalty therefor.
- G. A certificate from the Sealer of Weights and Measures of the county certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
- H. If food, ice cream, fish, produce, beverages and other edible products to be consumed by the public are to be vended, sold or conveyed, a certificate or report from a physician licensed to practice medicine in this state that the applicant is free from communicable disease must be submitted. If assistants are to be used, such a certificate shall be submitted for each assistant.
- I. The length of time for which the applicant desires the license.
- J. The names, addresses and ages of any assistants who may be employed by the applicant pursuant to § 307-23 of this chapter.
- K. Such other information as may be required by the City Clerk.

§ 307-8. Time period for application; investigation by Police Department.

No person shall engage in peddling or soliciting as defined by this Code within the City until at least two business days shall have elapsed after the above-mentioned verified application to procure a license is submitted by the applicant and filed by the City Clerk. The Clerk shall send a copy of said application to the Detective Division of the Binghamton Police Department for investigation. Said Department shall report its findings, if any, to the City Clerk within the above-mentioned time period.

§ 307-9. Issuance of license.

- A. Upon receipt of the findings of the Detective Division as provided in § 307-8, the City Clerk shall, except as set forth below, issue to the applicant a license as required by § 307-3, signed by the City Clerk or the Deputy City Clerk.
- B. Except as herein provided, no license shall be refused except for a specific written reason and for the protection of the public safety, health, morals or general welfare.
- C. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued.

§ 307-10. Appeal from denial of license.

- A. Any applicant refused a license by the City Clerk may apply in writing to the Mayor for a hearing on his or her application before a hearing officer designated by the Mayor. The Mayor may, in his or her discretion, designate a City officer as permanent hearing officer for appeals under this section, or he or she may make such designations on an individual basis.
- B. Said hearing must be held within five business days of the receipt of the request by the Mayor.
- C. The hearing officer shall explain his or her denial or approval of the application in writing to the City Clerk and the applicant within five business days of the hearing.

- D. If the hearing officer grants the application, the City Clerk shall issue the license pursuant to § 307-9 of this chapter.

§ 307-11. Contents of license.

All licenses issued pursuant to this article shall state clearly the following information:

- A. The name and address of the licensee and the fee paid for the license.
- B. The kind of goods, wares and merchandise to be sold or service to be rendered.
- C. The kind of vehicle, if any, to be used in the conduct of the business.
- D. The number of the license and, if any, the vehicle plates issued pursuant to § 307-21A of this article.
- E. The dates of issuance and expiration of the license.

§ 307-12. Expiration of license.

All licenses issued under the provisions of this article shall automatically expire on December 31 following the date of issuance of such licenses.

§ 307-13. Records of licenses.

It shall be the duty of the City Clerk to keep a record of all applications and of all licenses granted under the provisions of this article, giving the number and date of each license, the name and residence of the persons licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

§ 307-14. Revocation of license.

- A. The Mayor may revoke a license issued under the provisions of this article for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business licensed under this Code.
 - (3) Any violation of this article.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
 - (5) Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. The Mayor shall notify the City Clerk of the revocation of any license; and the reason or reasons therefor in writing shall be served by the City Clerk upon the person named in the application for the license, or by mailing the same to the address given in the application. A copy of such notice shall be filed in the office of the City Clerk.

§ 307-15. License to be carried and exhibited upon demand.

Every person to whom a license has been granted hereunder, while exercising his or her license, shall carry the license with him or her and shall exhibit the same upon demand.

§ 307-16. Assignment of license prohibited.

A license issued under the provisions of this article shall not be assignable. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this article.

§ 307-17. License not to be issued to minor.

No license to be issued under the provisions of this article shall be granted to a person under 18 years of age.

§ 307-18. Issuance of duplicate license.

Whenever a license issued hereunder shall be lost or destroyed on the part of the holder, his or her agent or employee, a duplicate in lieu thereof under the original application may be issued by the City Clerk upon the filing with him or her by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 307-19. Application when license has been refused or revoked.

No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation unless he or she can show that the reason for such rejection no longer exists.

§ 307-20. Vehicle plates; fee.

- A. To be provided; transfer, assignment prohibited. The City Clerk shall supply vehicle plates to licensed peddlers and solicitors. Such plates shall not be transferred or assigned.
- B. Display; contents. The vehicle plates shall be prominently displayed by every licensee of a vehicle. Such vehicle plates shall state the character and number of the license and the date of expiration. The display of the vehicle plates are hereby made a condition of every license to which such plates apply; and failure by the licensee to display the vehicle plates, as aforesaid, while in the exercise of his or her license, shall be cause for the revocation of such license.
- C. Fee. A charge in an amount as set from time to time by resolution of the City Council shall be made by the City Clerk for such vehicle plates (See Exhibit J).

§ 307-21. Name and address of licensee to be printed on vehicle.

Every vehicle used by a licensed peddler or solicitor in or about his or her business shall have the name of the licensee and his or her address plainly, distinctly and legibly painted in letters and figures in a conspicuous place on each side of every such vehicle; and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

§ 307-22. Employment of assistant.

One license shall entitle the licensee to employ two persons, and no more, to assist in carrying on the business for which the license is issued; but such person shall so act only while accompanying a licensed peddler or solicitor.

§ 307-23. License to include right to use one vehicle.

One license shall include the right to use only one vehicle in carrying on the business for which the person is licensed.

§ 307-24. Restrictions on licensee. [Amended 6-27-1988 by Ord. No. 84-88]

A licensed peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Keep the vehicle and receptacles used by him or her in clean and sanitary condition, and the sale or peddling of any foodstuffs and edibles shall be subject to the rules and regulations of the county health officer and the county sanitary code.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares or shout or cry out his or her wares.
- D. Not stand or permit the vehicle used by him or her to stand in any one place in any public place or street for more than 10 minutes. For the purposes of this section, a licensed peddler or solicitor shall at the end of said 10 minutes move at least 50 feet.
- E. Not sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not permit any vehicle used by him or her to stop or remain on any crosswalk.
- G. Conduct licensed activities only between the hours of 8:00 a.m. and 8:30 p.m. daily.
- H. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise unless a permit for said activity has been duly procured.
- I. Not use the vehicle plates issued under § 307-20 after the expiration or revocation of the license represented by them.

§ 307-25. Orders.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance; and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

§ 307-26. Penalties for offenses.

Any person who himself or herself, or by his or her clerk, agent or employee, shall act as a peddler or solicitor as herein defined, without a license, or who shall violate any of the provisions of this article, or who, having had his or her license revoked, shall continue to act as a peddler or solicitor shall, upon conviction, be punished as provided in § 1-4 of this Code.

§ 307-27. Registration with Detective Division of Police Bureau.

- A. It shall be unlawful for any person, or any nonprofit corporation or organization or its members, whether subject to these license provisions or not, to go from place to place or house to house, or to stand in any street or public place, for the purpose of peddling, soliciting or seeking charitable contributions without first having registered with the Detective Division of the Police Bureau.
- B. Registration with the Detective Division of the Police Bureau shall consist of the following:
 - (1) The name of each person to be peddling, soliciting or seeking contributions as described in this article;
 - (2) The address of each person;

- (3) If a nonprofit corporation or organization is represented, the name of that corporation or organization, and the address of its principal office;
- (4) The beginning and ending date of each act as described in this section;
- (5) Production of license (if applicable).

§ 307-28. Prohibited locations.

- A. Peddling and soliciting are forbidden in the area bound by the north side of Court Street, east side of Exchange Street, and north bank of Susquehanna River and the east bank of the Chenango River during the following periods of time: commencing three hours prior to the time during and one hour following all events held at the building commonly known as the "Broome County Arena."
- B. The license of any peddler or solicitor engaged in the pursuit of said vocation during the above-mentioned times in said area is subject to immediate revocation and the forfeiture of any license fee.

ARTICLE III, Stationary Pushcart Vendors [Adopted 5-18-1982 by Ord. No. 58-82 (Ch. 12, §§ 12-200 through 12-207, of the 1970 Code)]

§ 307-29. Pushcarts permitted. [Amended 4-4-2005 by Ord. No. 05-17]

Notwithstanding any contrary provisions of this Code, the City Clerk is authorized to issue no more than six annual permits for the operation of stationary pushcarts in the City of Binghamton.

§ 307-30. Applicability of peddler provisions.

Pushcart operators are deemed to be peddlers for the purposes of Article II of this chapter.

- A. Except as specifically set forth in this article, all regulations applicable to peddlers as set forth in Article II of this chapter shall be applicable to persons issued pushcart permits hereunder.
- B. A valid peddler's license for the current year issued by the City Clerk shall be in force prior to the issuance of any permit hereunder.

§ 307-31. Permit fee. [Amended 5-1-2000 by Ord. No. 00-42; 4-4-2005 by Ord. No. 05-17]

- A. In addition to the fee set forth at § 307-5 to obtain a peddler's license, the annual fee for a permit issued under this article shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J).
- B. All permitted pushcart vendors will be allowed to utilize one table, with a maximum of four chairs at this table, at each pushcart location, and shall pay a fee as set from time to time per table to the office of the City Clerk prior to said utilization (See Exhibit J).

§ 307-32. Application for permit.

Any person desiring to obtain a permit as herein provided shall file with the City Clerk a verified application upon a form provided by the City. Such application shall provide the following information:

- A. A copy of the verified application form for a peddler's license required by § 307-7 of this Code.
- B. A copy of a current City of Binghamton peddler's license issued under Article II of this chapter.
- C. Verified certification of compliance by the appropriate officer of the Broome County Health Department that the applicant is in compliance with all applicable food vending regulations. This subsection does not apply if the applicant verifies that food products will not be sold from the cart.

D. Insurance.

- (1) The applicant shall agree to give a public liability policy or protective liability policy to indemnify the City of Binghamton from any and all claims or causes of action arising out of the activity permitted. Said liability policy must be in force prior to the final issuance of any permit. Said policy shall name the City as a party insured, and the policy shall be in a uniform amount to be determined by the City on an annual basis upon consultation with the City's insurance broker of record.
- (2) No permit shall be issued without the production of proof of insurance by the applicant in a form acceptable to the Corporation Counsel. Accordingly, all permit approvals are contingent upon the applicant's actual compliance with this subsection.

§ 307-33. Procedure for permit issuance. [Amended 4-1-1991 by Ord. No. 32-91; 5-4-1992 by Ord. No. 32-92; 4-4-2005 by Ord No. 05-17]

- A. All persons wishing to obtain a permit as a stationary pushcart vendor shall make an application pursuant to the procedures set forth in Subsection B below. However, should more than six applicants appear on that date, the determination as to which six applicants shall be granted a license shall be determined by lottery. However, upon consultation with the Corporation Counsel, a potential vendor chosen in the lottery may be denied a license for valid reasons as set forth in § 307-7 and § 307-9. However, a previous permit holder with satisfactory performance records will be given priority in requesting and obtaining a permit for the location held by that permit holder under the prior year's permit. If any of the locations as set forth in this article are vacant (in that there is no existing permit holder from the prior year), that location shall be filled by means of a lottery. The vacated locations will be assigned by lot to an eligible permit holder chosen based upon the lottery procedure set forth above. If there are still available locations following the assignment of renewal permits to previous permit holders, and following a lottery of all new applicants applying on the first day applications are accepted, applicants may choose a site desired in order of the earliest date of receipt of application.
- B. Beginning with the year 2006, applications for permits shall be made in person by the applicant in the office of the City Clerk on the second Monday in February of each license year. The City Clerk shall establish a procedure for the public distribution of applications prior to the date set forth above.
- C. In no event shall applications be received by the Clerk prior to 9:00 a.m. on the second Monday in February of each license year nor after 4:00 p.m. on the second Monday in March of each license year.
- D. All applications shall be reviewed and investigated pursuant to the regulations set forth under Article II of this chapter.

§ 307-34. Types of goods; areas of operation. [Amended 8-15-1988 by Ord. No. 100-88; 4-1-1991 by Ord. No. 32-91; 2-2-1998 by Ord. No. 98-12; 10-21-2002 by Ord. No. 02-121]

- A. Types of goods. Permit holders hereunder shall be entitled to vend food items and nonalcoholic beverages for human consumption and/or cut flowers.
- B. Areas of operation. Permit holders shall operate their vending carts only in the following areas:
 - (1) City parks. Vending within City parks shall be permitted, provided that the free flow of pedestrian and vehicular traffic is not obstructed. Carts shall not be allowed in City parks

when fund-raising activities by nonprofit organizations take place (duly licensed under this Code) which involve the selling of food and refreshment items. It shall be the duty of the Director of Recreation to notify all permit holders when such events are scheduled to take place.

- (2) Downtown Binghamton areas. The following rectangular spaces shall be marked and numbered by painting the number of the space on the sidewalk by the Public Works Department. The Department of Public Works will work with the Planning Department and make reasonable efforts not to locate these spaces within 100 feet of a business dealing in the same type of goods. [Amended 4-4-2005 by Ord. No. 05-17]
 - (a) Space 1: on the south side of Court Street at the Chenango River along the River Promenade behind No. 2 Court Street.
 - (b) Space 2: along the north side of Main Street between Front Street and Oak Street.
 - (c) Space 3: on the northeast corner of the intersection of Washington Street and Court Street.
 - (d) Space 4: on Collier Street between Court Street and Hawley Street.
 - (e) Space 5: on the east side of Exchange Street between Court Street and Hawley Street.
 - (f) Space 6: on the west side of State Street between Henry Street and Lewis Street.
- (3) After the determination of the six vendors to be granted stationary pushcart licenses pursuant to § 307-33, the determination as to which vendor shall have the use of each of the six designated spaces set forth in Subsection B(2) shall also be determined by lottery. [Amended 4-4-2005 by Ord. No. 05-17]

§ 307-35. Additional regulations. [Amended 4-4-2005 by Ord. No. 05-17]

In addition to those regulations generally applicable to peddler's licenses as set forth at Article II of this chapter which are not in conflict with the specific provisions of this article, the following regulations are applicable:

- A. All permits issued hereunder shall be valid for a period of one year, expiring at 12:00 midnight of the second Monday of March.
- B. All inventory shall be kept within the cart and out of the public view.
- C. The area surrounding the carts shall be kept clear of trash, debris, snow and ice and the vendor shall provide a garbage can for the use of his or her customers and shall properly dispose of all trash collected in that receptacle. Proper disposal of all trash so collected shall not include disposal of the trash by placing it in the public trash receptacles provided by the City of Binghamton.
- D. No animals shall be kept by the vendor near the stand.
- E. Parking meters, utility poles, sign poles or property other than the cart operated by the permit holder shall not be used by the permit holder for any purpose, including advertising.
- F. Vending shall be permitted only between the hours of 9:00 a.m. and 9:00 p.m.
- G. Carts shall be removed at the end of each business day.
- H. Carts shall not obstruct free public passage on sidewalks or malls.

- I. No carts shall exceed the total height of 50 inches, including all accessories, except an umbrella. Total dimensions of carts shall not exceed three feet by seven feet. The longest dimension shall at all times be parallel to the curbline when said cart is operated on a sidewalk.

§ 307-36. Reservation of rights.

The City of Binghamton reserves the right to amend this article at any time by adding or eliminating spaces for vending as may be required in the interest of the public health, safety and welfare.

Chapter 310, PLUMBING

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Board of Plumbers [Adopted 10-5-1970 (Sub-Part VIII of the 1970 Code)]

§ 310-1. Definitions.

When used in this article the words "employing or master plumber" shall mean a person having a regular place of business and who, by himself or journeymen plumbers in his or her employ, performs plumbing work.

§ 310-2. Creation of Examining Board of Plumbers; composition; qualifications of members.

There is hereby created an Examining Board of Plumbers which shall consist of five members to be appointed by the Mayor, of whom one and only one shall be an employing or master plumber, and one and only one of whom shall be a journeyman plumber. Each member of said Board shall be a citizen of the United States and an actual resident of the City of Binghamton.

§ 310-3. Terms of office of members; filling of vacancies. [Amended 12-4-2006 by L.L. No. 2-2006]

The term of office of the members of such Board first appointed shall be one, two, three, four and five years from the first day of January following their appointment or until their successors are appointed. Upon the expiration of each of said terms, the term of office of each member thereafter appointed shall be three years from the first day of January of the year in which he or she shall be appointed, or until his or her successor is appointed. Vacancies shall be filled for the unexpired term.

§ 310-4. Removal of members.

The Mayor may, at any time, remove any member of such Board for cause upon stated charges after an opportunity to be heard.

§ 310-5. Compensation of members. [Amended 10-17-2012 by Ord. No. 12-66]

Staff members of the City of Binghamton shall receive no additional compensation for services rendered as a consultant, member, or Chairperson of the Board pursuant to this Chapter. Each member of the Board of Plumbers, who is not a staff member of the City of Binghamton, shall be paid an annual stipend of four hundred (\$400.00) dollars.

§ 310-6. Powers and duties. [Amended 6-4-07 by Ord. No. 20-2007; Amended 12-21-11 by Ord. No. 11-50]

The Examining Board of Plumbers shall have the power, and it shall be its duty:

- A. Meetings. To meet at regular stated intervals and at such other times as may be necessary, and upon the request of the Mayor so to do.
- B. Conduct of examinations. To have jurisdiction over and to examine all persons desiring or intending to engage in the work, trade, business or calling of plumbing as employing or master plumbers within the City of Binghamton with the power of examining persons applying for certificates of competency as such employing or master plumbers, to determine their fitness and qualifications for conducting the business of employing or master plumbers, and to issue certificates of competency to all such persons who have passed a satisfactory examination before such Board and shall be by it determined to be qualified for conducting the business as employing or master plumbers.
- C. Formulation of rules. To formulate in conjunction with the public health officer of the City of Binghamton a code of rules regulating the work of plumbing and drainage in the City of Binghamton, including the materials, workmanship and manner of executing such work and from

time to time to add to, amend or alter the same, or in their discretion to adopt the standard Plumbing Code recommended by the State Department of Health.

§ 310-7. Examination required; conducting business without certificate prohibited. [Amended 12-21-11 by Ord. No. 11-50]

- A. A person desiring or intending to conduct the work, trade, business or calling of a plumber or of plumbing in the City of Binghamton as employing or master plumber, except a person who has heretofore been issued a certificate of competency in the City of Binghamton, shall be required to submit to an examination before such Examining Board of Plumbers as to his or her experience and qualifications for such work, trade, business or calling and it shall not be lawful for a person, except a person who has heretofore been issued a certificate of competency in the City of Binghamton, to conduct such work, trade, business or calling in the City of Binghamton unless he or she shall have first obtained a certificate of competency from such Examining Board of Plumbers.
- B. Notwithstanding the above, a plumber licensed in another jurisdiction in New York State may obtain a certificate of competency from such Examining Board of Plumbers without examination to undertake, perform and complete a single continuous job or installation at one location or property. Such plumber must pay a fee in an amount as determined by City Council from time to time. Such plumber is permitted to supervise plumbing work for which the certificate of competency was issued. The plumber is required to be on site at all times when plumbing work is being done.

§ 310-8. Conduct of business by corporations. [Amended 12-21-11 by Ord. No. 11-50]

A domestic corporation desiring or intending to conduct the work, trade, business or calling of a plumber, or of plumbing in the City of Binghamton, as employing or master plumber, may do so, provided that one or more officers of such corporation separately or aggregately actually hold and own at least 51% of the issued and outstanding capital stock of said corporation, and provided that each of such officers holding such percentage of the stock is the holder of a certificate of competency of an Examining Board of Plumbers of the City of Binghamton. In case one or more officers of a corporation engaged in such business shall die, being the holder of a certificate of competency, the corporation may continue the business during the time necessarily required for the administration of the estate of such deceased officer, not exceeding two years from the granting of letters, provided that one or more officers of the corporation is the holder of a certificate of competency and, together with the legal representative of such deceased officer or officers, actually owns and holds at least 51% of the issued and outstanding capital stock of the corporation. Each and every member of said corporation holding a certificate of competency shall comply with all the rules and regulations applicable to employing or master plumbers in the City of Binghamton. Such corporation shall register as provided in § 310-10 of this article.

§ 310-9. Additional requirements relating to business of plumbing. [Amended 12-21-11 by Ord. No. 11-50]

- A. Sign or plate required; posting thereof; surrender. No person otherwise qualified shall engage in the work, trade, business or calling of a plumber or of plumbing in the City of Binghamton, as employing or master plumber, until he or she has first procured from the Examining Board of Plumbers a metal plate or sign appropriately lettered or marked "Licensed Plumber"; such plate or sign to be conspicuously posted in the window of the place where such business is conducted. Any person retiring, abandoning or not actually engaged in such work, trade, business or calling hereinbefore mentioned shall surrender to the Examining Board of Plumbers such metal plate or sign and shall not again engage in such work, trade, business or calling until he or she has again procured a metal sign as herein provided.

- B. Identification number; fee; transfer, etc., of sign, plate. Within 30 days after this article takes effect, the Examining Board of Plumbers shall prepare metal plates or signs appropriately lettered or marked "Licensed Plumber." Such plate or sign shall, on some part thereof, contain an identification number, which number, together with the name and location of the place of business of the person to whom issued, shall be recorded in the office of the Examining Board of Plumbers. Every person now actually engaged or about to engage in the work, trade, business or calling of a plumber or of plumbing as employing or master plumber, who has otherwise complied with the provisions of law relating to the conduct of such business upon payment of an amount as set from time to time to the Examining Board of Plumbers, shall have issued to him or her a sign or plate hereinbefore mentioned. No person to whom such plate or sign has been issued shall loan, rent, sell or transfer the same to another person, whether such person be entitled to receive a similar plate or sign or not.
- C. Applicability. This section shall not be construed to require an employing or master plumber who has heretofore procured a metal plate or sign appropriately lettered or marked "Licensed Plumber" from an Examining Board of Plumbers of the City of Binghamton to procure another metal plate or sign under this section.

§ 310-10. License required; fee. [Amended by L.L. No. 4-1991; Amended 12-21-11 by Ord. No. 11-50]

- A. Annual registration; issuance of license fee; expiration of license. Every employing or master plumber carrying on his or her work, trade, business or calling in the City of Binghamton shall annually register his or her name and address at the office of the City Clerk, under such rules as the City Clerk shall prescribe, and upon the payment of a sum as set from time to time shall thereupon be entitled to receive a license, which license shall expire on the first day of October after the date of the license; provided, however, that such employing or master plumbing shall, at the time of applying for such license, hold a certificate of competency from an Examining Board of Plumbers of the City of Binghamton. Further, every licensee who fails to renew his or her license prior to the expiration thereof shall pay an additional fee of as set from time to time (See Exhibit J), together with the license fee, upon renewal of the license.
- B. Proration of fees. See Exhibit J.
- C. License required. It shall not be lawful for any person to engage in or carry on the work, trade, business or calling of an employing or master plumber in the City of Binghamton unless he or she has registered and secured a license to do so.

§ 310-11. Cancellation of license; notice; hearing.

Such license (provided for in § 310-10) may be cancelled by such Examining Board of Plumbers for a violation of the rules and regulations for plumbing and drainage in the City of Binghamton, after a hearing had before such Examining Board of Plumbers and upon a prior notice of not less than 10 days, stating the ground of such complaint and served on the person charged with the violation.

§ 310-12. Plumbing Inspector; qualifications; appointment; compensation.

The Mayor of the City of Binghamton shall appoint an Inspector of Plumbing of the City of Binghamton who shall be a practical plumber and shall not be engaged directly or indirectly in the business of plumbing during the period of his or her appointment. He or she shall be a citizen of the United States and an actual resident of the City of Binghamton. He or she shall be entitled to receive such compensation as shall be determined by the body authorized by law to fix and determine the compensation of City officers and employees.

§ 310-13. Duties of Plumbing Inspector; reports.

The Inspector of Plumbing appointed under the provisions of the preceding section, in addition to the duties prescribed by law or ordinance and those which may be enjoined or required by the Mayor, shall inspect the construction and alteration of all plumbing work performed in the City of Binghamton and report in writing the results of such inspection to the Mayor. He or she shall also report in like manner any person engaged in or carrying on the business or occupation of employing or master plumber without having the license hereinbefore provided for.

§ 310-14. Compliance with Plumbing Code. [Amended 12-21-11 by Ord. No. 11-50]

The plumbing and drainage of all buildings, both public and private, which requires a work permit from the City of Binghamton, shall be performed or directly supervised by a Master Plumber, licensed by the City of Binghamton, and all plumbing and drainage work shall be executed in compliance with the Plumbing Code. All repairs and alterations in the plumbing or drainage of all buildings heretofore constructed shall also be performed and executed in accordance with such code; but this section shall not be construed to repeal any existing provisions of law requiring plans for the plumbing and drainage of new buildings to be filed with the health officer, the Examining Board of Plumbers or the Building Superintendent and to be previously approved in writing in accordance therewith, except that in case of any conflict with such plans, rules and regulations of the Examining Board of Plumbers, the latter shall govern.

§ 310-15. Penalties for offenses. [Amended by L.L. No. 5-1989]

- A. Any person violating any provisions of this article or any rules and regulations of the Department of Health or of the Examining Board of Plumbers or any provision of the Plumbing Code, regulating plumbing and drainage of buildings within the City of Binghamton, shall be guilty of a misdemeanor, and on conviction, if a master or employing plumber, shall, in addition, forfeit his or her certificate of competency or license.
- B. All violations of the Plumbing Code shall be prosecuted as an offense against the law. Upon conviction, the penalty shall be a fine of not less than \$100 nor more than \$500 for a first offense; a fine of not less than \$300 nor more than \$500 for a second offense; a fine of not less than \$500 nor more than \$1,000 for the third or subsequent offense; and, further, the offender shall be compelled to make corrections necessary to comply with the Plumbing Code, within a period of not more than 10 days.

§ 310-16. Issuance of permit to connect with sewers and water mains restricted.

The Commissioner of Public Works shall not issue a permit to anyone to connect with the sewers or with water mains unless such person has obtained a certificate as master or employing plumber.

§ 310-17. Eligibility for examination as master or employing plumber.

Any person shall, upon proof of one year's experience as journeyman plumber, be eligible to take the examination for a certificate of competency as a master or employing plumber.

§ 310-18. Repeal of portion of City Plumbing Code.

Article I of the Plumbing Code of the City of Binghamton adopted by the Examining Board of Plumbers and the health officer of the City of Binghamton on February 9, 1942, is hereby superseded and repealed. All other provisions thereof shall remain in full force and effect until changed in the manner herein provided.

§ 310-19. Permit and inspection fees.

- A. Permit required; fees. No plumbing or drainage work shall be commenced without a permit therefor issued in the manner prescribed by the Plumbing Code of the City of Binghamton, and before such

permit is issued the Plumbing Inspector shall collect fees in an amount as set from time to time for the following:

- (1) Issuance of a permit to connect with the sewers, including inspection.
 - (2) Issuance of all other plumbing or drainage permits, including inspection and approval.
- B. "Fixture" defined. The word "fixture" as used in this section, shall be construed to include water closets, wash basins, bath tubs, shower bath (when not placed over bathtub), kitchen and pantry sinks, urinals, sand traps, grease traps, cellar drains, laundry trays, drinking fountains, openings provided in the plumbing system for future connections, soda fountains, bar waste, dental units, conductors, sewers and all other plumbing fixtures.
- C. Records. The Plumbing Inspector shall keep a record of all fees collected and received under this section with the name of the person upon whose account the fee was paid and the date and amount thereof, together with the location of the building or premises to which they relate, and the amounts so collected shall be paid over by the Plumbing Inspector monthly to the City Treasurer.

§ 310-20. Discontinuance of existing examining Board of Plumbers.

The existing Examining Board of Plumbers is hereby discontinued.

§ 310-21. Effective date.

This article shall take effect on October 1, 1950.

ARTICLE II, Applicability of Plumbing Code [Adopted 10-5-1970 (Ch. 16 of the 1970 Code)]

§ 310-22. Effect of provisions on Plumbing Code.

Nothing contained in this Code shall be construed as repealing the Plumbing Code of the City of Binghamton as duly formulated and adopted by the Examining Board of Plumbers of the City in conjunction with the Broome County health officer on December 12, 1967, pursuant to the provisions of Article 4 of the General City Law.

Chapter 315, PROPERTY AND BUILDING NUISANCE REFORM
[HISTORY: Adopted by the City Council of the City of Binghamton 9-18-1995 by L.L. No. 6-1995
(Sub-Part LXXXI of the 1970 Code); amended in its entirety 6-20-2005 by L.L. No. 2-2005.

Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Fire prevention -- See Ch. 235.
- Housing and property maintenance -- See Ch. 265.
- Noise -- See Ch. 292.
- Solid waste -- See Ch. 350.
- Trees and shrubs -- See Ch. 391.
- Zoning -- See Ch. 410.

ARTICLE I, General Provisions

§ 315-1. Findings.

The Common Council of the City of Binghamton finds that public nuisances exist in the City of Binghamton in the operation of certain establishments and the use of property in flagrant violation of certain Penal Law and Municipal Code provisions, which nuisances substantially and seriously interfere with the interest of the public in the quality of life and total community environment, commerce in the City, property values and the public health, safety and welfare. The Council further finds that the continued occurrence of such activities and violations is detrimental to the health, safety and welfare of the people of the City of Binghamton and of the businesses thereof and the visitors thereto. It is the purpose of the Council to authorize and empower the Mayor to impose sanctions and penalties for such public nuisances, and such power of the Mayor may be exercised either in conjunction with, or apart from, the powers contained in other laws without prejudice to the use of procedures and remedies available under such other laws. The Council further finds that the sanctions and penalties imposed by the Mayor pursuant to this chapter constitute an additional and appropriate method of law enforcement in response to the proliferation of the above-described public nuisances. The sanctions and penalties are reasonable and necessary in order to protect the health and safety of the people of the City and to promote the general welfare.

§ 315-2. Title.

This chapter shall be known as the "Property and Building Nuisance Reform Law."

§ 315-3. Definitions. [Amended 5-21-07 by Ord. No. 16-2007; Amended 3-17-10 by Local Law 1-2010]

As used in this chapter, the following terms shall have the meanings indicated:

ADVERSE IMPACT -- Includes, but is not limited to, the following: any search warrants served on the property where controlled substances and/or weapons were seized; investigative purchases of controlled substances on or near the property by law enforcement agencies or their agents; arrests for violations of controlled substance law and or possession of weapons; loitering for the purposes of engaging in illegal activity; an increase in the volume of traffic associated with property; complaints made to law enforcement officials of illegal activity associated with the property, finding of illegal weapons, as defined in § 265 of the Penal Law, or controlled substances, as defined in Articles 220 and 221 of the Penal Law, on or near property by law enforcement officials and their agents.

BUILDING -- A structure where space is covered or enclosed for the use, shelter, storage or protection of persons, animals, chattel or property of any kind, and which is permanently affixed to the land.

BUILDING, ACCESSORY -- A building subordinate to the principal building on the lot and used for purposes which are clearly related but incidental to that of said principal building (See § 410-19, Accessory buildings and uses, of Chapter 410, Zoning, of the Code of the City of Binghamton.)

BUSINESS -- An activity, occupation, employment or enterprise which requires time, attention, labor and material and wherein merchandise is exhibited or sold, or services offered.

BUSINESS OFFICE -- A building or portion thereof utilized to accommodate the activities of a business.

CONVICTION -- A conviction for an offense in a court of competent jurisdiction or an administrative bureau shall not be required. Instead, the City shall prove by a preponderance of the evidence that the violations have occurred. However, a conviction as defined and applied in accordance with the provisions of § 1.20 of the Criminal Procedure Law, in any court of competent jurisdiction, or a plea of guilty shall constitute conclusive proof of a violation. Conviction of an attempt to commit a violation of any of the specified provisions shall be considered a conviction for a violation of the specified provision.

DISTURBANCE -- Actions, behavior, or conduct by person or persons at a particular location that disturbs the peace.

KNOWLEDGE OF PUBLIC NUISANCE -- The presumption of knowledge provided by Subdivision 1 of § 235.10 of the Penal Law shall be applicable to this chapter. Notice, by mail or personal service, of activities retailing a public nuisance, to the property owner of record shall be evidence of knowledge of the public nuisance.

LOT -- A parcel of land, with or without buildings or structures, delineated by lot line and having access to a street as defined in this chapter.

PENAL LAW -- New York State Penal Law.

PUBLIC NUISANCE – For the purposes of Article III, a public nuisance shall be deemed to exist whenever, through violations of any of the following provisions resulting from separate incidents at a building, erection or place, or immediately adjacent to the building, erection or place as a result of the operation of the business, 12 or more points are accumulated within a period of six (6) months, or 18 or more points within a period of twelve (12) months, in accordance with the following point system. Where more than one violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation.

- (1) The following violations shall be assigned a point value of two(2) points:
 - (a) Section 240.36 and 240.37 of the Penal Law—Loitering in the First Degree
 - (b) Suffering or permitting the premises to become disorderly, including suffering or permitting fighting or lewdness.
 - (c) Chapter 292 of the Code of Ordinances of the City of Binghamton—Noise.
 - (d) Chapter 350, Article II, of the Code of the City of Binghamton—Littering.
 - (e) Chapter 178, Article II, of the Code of the City of Binghamton regarding howling dogs, and/or repetitive barking, number of dogs, unlicensed dogs and dangerous or nuisance dogs.
- (2) The following violations shall be assigned a point value of four (4) points:
 - (a) Disorderly conduct by individual or individuals.
 - (b) Any violation of Chapter 265 of the Code of the City of Binghamton—Housing and Property Maintenance, including any garbage collection violation. Each repeat offense is an additional four (4) points.
 - (c) General disturbances at a particular location.
 - (d) Article 225 of the Penal Law—Gambling Offenses.
 - (e) The Alcoholic Beverage Control Law.
 - (f) Section 415-a of the Vehicle and Traffic Law—Vehicle Dismantlers.
 - (g) Sections 170.65 and 170.70 of the Penal Law—Forgery or Illegal Possession of a Vehicle Identification Number.
 - (h) Possession, use, sale or offer for sale of any alcoholic beverage in violation of Article 18 of the Tax Law, or of any cigarette or tobacco products in violation of Article 20 of the Tax Law.
 - (i) The Agriculture and Markets Law.
- (3) The following violations shall be assigned a point value of six (6) points:
 - (a) Article 178 of the Penal Law—Criminal Diversion of Prescription Medications and Prescriptions.
 - (b) Article 220 of the Penal Law—Controlled Substances Offenses.
 - (c) Article 221 of the Penal Law—Offenses Involving Marijuana.

- (d) Sections 165.15, (6), (7), and (8), 165.40, 165.45, 165.50, 165.50, 165.52, 165.54, 165.71, 165.72 and 165.73 of the Penal Law—Criminal Possession of Stolen Property.
 - (e) Article 158 of the Penal Law—Welfare Fraud.
 - (f) Section 147 of the Social Services Law—Food stamp program fraud.
 - (g) Section 2024 of Title 7 of the United States Code—Illegal Use of Food Stamps.
 - (h) Any commercial violations of Chapter 410, Zoning, of the City of Binghamton.
 - (i) Allowing persons on the premises in excess of occupancy limits.
 - (j) Section 3383 of the Public Health Law—Imitation controlled substances.
 - (k) Operating a premises without the requisite certificate of use in violation of Chapter 410, Zoning of the Code of the City of Binghamton.
- (4) The following violations shall be assigned a point value of ten (10) points:
- (a) Article 230 of the Penal Law—Prostitution Offenses.
 - (b) Article 265 of the Penal Law—Firearms and other Dangerous Weapons.
 - (c) Sections 260.20 and 260.21 of the Penal Law—Unlawfully Dealing with a Child.
 - (d) Article 263 of the Penal Law—Sexual Performance by a Child.
 - (e) Loitering for the purpose of engaging in a prostitution offense.
- (5) The following violation shall have a point value of twelve (12) points: penal law violations, including but not limited to murder, attempted murder, assault, attempted assault, sex offenses, etc.

TESTIMONY -- Oral, written or other documented evidence tending to show or prove the truth of the matter asserted.

VIOLATION -- Conduct, or evidence of conduct, prohibited under this chapter. A violation does not require criminal prosecution and conviction but only a preponderance of evidence that the prohibited conduct is occurring or has occurred. Evidence of prohibited conduct may include, but is not limited to, police reports, investigative reports, execution of search warrants, results of police surveillance, arrest and/or conviction of local and state and federal laws, activities associated with trafficking of controlled substances, finding of weapons and/or controlled substances on or near the property, increased volume of traffic associated with the property.

YARD -- An open area on a lot which is open to the sky and that is unoccupied by any land use or activity except as may otherwise be provided in Chapter 410, Zoning, of the Code of the City of Binghamton.

§ 315-4. Evidence and presumptions.

- A. Evidence. In any action under this chapter, evidence of the common fame and general reputation of the building, structure or place, of the inhabitants or occupants thereof, or of those resorting thereto, shall be competent evidence to prove the existence of a property or building nuisance.
- B. Scienter. If evidence of the general reputation of the building, structure or place, or of the inhabitants or occupants thereof, is sufficient to establish the existence of the nuisance, it shall be prima facie evidence of knowledge thereof and acquiescence and participation therein and responsibility for the nuisance, on the part of the owners, lessors, lessees, and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form in the property, real or personal, used in conducting or maintaining the property or building nuisance.
- C. Presumptions for the purposes of this section.
 - (1) Any building, accessory building, business office, lot, or yard wherein, within the period of one year prior to the commencement of an action under this chapter, there have occurred two or more convictions, as defined in § 315-3, on the part of the lessees, owners, operators, or occupants, of the provisions of this chapter as defined in § 315-3 of this article, shall be prima facie evidence that a public nuisance exists at said location.

- (2) Any building, accessory building, business office, lot, or yard wherein, within a one-year period prior to the commencement of an action under this chapter, there have occurred four or more violations on the part of the lessees, owners, operators, or occupants, of the provisions of this chapter as defined in § 315-3 of this article, shall be prima facie evidence that a public nuisance exists at said location.
- (3) Any building, accessory building, business office, lot, or yard wherein, within the period of one year prior to the commencement of an action under this chapter, there has been presented a preponderance of evidence of repeated criminal activity which has an adverse impact, as defined in § 315-3 of this article, on such property or neighborhood, shall be prima facie evidence that a public nuisance exists at said location.

ARTICLE II, Civil Remedies for Property and Building Nuisances

§ 315-5. Applicability.

This article shall be applicable to the public nuisances defined in Article I of this chapter.

§ 315-6. Civil remedies. [Amended 5-21-07 by Ord. No. 16-2007]

- A. The Corporation Counsel may bring and maintain a civil proceeding in the name of the City for the following types of relief:
 - (1) Permanent injunction.
 - (2) Temporary closing order.
 - (3) Temporary restraining order.
 - (4) Temporary injunction.
 - (5) Civil penalties.
- B. The summons. The Corporation Counsel shall name as defendants the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, by describing it by Tax Map number and/or street address, and at least one of the owners of some part of or interest in the property.
- C. The complaint.
 - (1) The Corporation Counsel shall bring and maintain a civil proceeding in the name of the City of Binghamton in the Supreme Court of Broome County, or any other court of competent jurisdiction, to permanently enjoin the public nuisance and the persons conducting, maintaining or permitting the public nuisance, as defined in Article I, § 315-3 of this chapter, from further conducting, maintaining, or permitting the public nuisance in the manner provided in Article II of this chapter. The owner, operator, and/or lessee of a building, structure or place wherein the public nuisance is being conducted, maintained or permitted may be made defendants in the action.
 - (2) The venue of such action shall be in the county where the public nuisance is being conducted, maintained or permitted.
 - (3) The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this chapter.
 - (4) The civil action shall be commenced by the filing of a summons and complaint alleging the facts constituting the nuisance.
 - (5) The complaint shall name as defendants the building, structure or place wherein the nuisance is being conducted, maintained or permitted, by describing it by Tax Map number and/or street address, and at least one of the owners who possesses some part of or an interest in the property.

(6) Any complaint filed under this chapter shall be verified or accompanied by an affidavit(s) for purposes of showing that the owner of his or her agent has notice of the nuisance and has had an opportunity to abate the nuisance. The Corporation Counsel will give the owner, and any designated property manager, written notice of the nuisance and ten (10) business days to personally meet with and provide to Corporation Counsel a written plan to abate the nuisance within thirty days. If part of the plan to abate the nuisance is to evict a tenant, then the owner will commence the eviction proceeding within ten (10) business days from the meeting with Corporation Counsel.

The complaint or affidavit shall contain a description of the attempts by the applicant to notify and locate the owner of the property and/or the owner's agent.

The complaint or affidavit shall describe the adverse impact associated with the property on the surrounding neighborhood.

- D. In rem jurisdiction over building, structure, or place. In rem jurisdiction shall be complete over the building, structure or place wherein the public nuisance is being conducted, maintained or permitted by affixing the summons to the door of the building, structure or place and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners who possesses some part of or an interest in the property. Proof of service shall be filed within two days thereafter with the Clerk of the court designated in the summons. Service shall be complete upon such filing.
- E. Service of summons on other defendants. Defendant(s), other than the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, shall be served with the summons as provided in the Civil Practice Law and Rules.
- F. Notice of pendency. With respect to any action commenced or to be commenced pursuant to this chapter, the Corporation Counsel may file a notice of pendency pursuant to the provisions of Article 65 of the Civil Practice Law and Rules.
- G. Presumption of ownership. The owner of the real estate affected by the action shall be presumed to be the person in whose name the real estate is recorded in the office of the City of Binghamton Assessor and/or the office of the Clerk of the County of Broome.
- H. Presumption of employment or agency. Whenever there is testimony that a person was the manager, operator, supervisor, or in any other way in charge of the premises at the time a public nuisance was being conducted, maintained or permitted, such evidence shall be presumptive that he or she was an agent or employee of the owner or lessee of the building, structure or place considered to be a nuisance.
- I. Penalty. If, upon the trial of an action under this chapter, or upon a motion for summary judgment in an action under this chapter, a finding is made that the defendant has conducted, maintained or permitted a public nuisance defined in this chapter, a penalty may be awarded in an amount not to exceed \$1,000 for each day it is found that the defendant conducted, maintained or permitted the public nuisance after notice to abate has been given by the City. Upon recovery, such penalty shall be paid into the general fund of the City.
- J. Enforcement. A judgment pursuant to this chapter shall be enforced by the City of Binghamton Police Department and the office of Corporation Counsel.

§ 315-7. Judgment awarding permanent injunction. [Amended 5-21-07 by Ord. No. 16-2007]

- A. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the Binghamton Police Department to seize and remove from the building, structure or place all material, equipment and instrumentalities used in the creation and maintenance of the public nuisance and shall direct the sale by the Binghamton Police Department of such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the Civil Practice Law and Rules. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid into the general fund of the City.
- B. A judgment awarding a permanent injunction pursuant to this chapter may authorize agents of the City to forthwith remove and correct construction and structural alterations in violation of the City Housing Code. Any and all costs associated with these repairs or alterations shall become a lien against said property and shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens and any nuisance abatement lien.
- C. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the closing of the building, structure or place by the Binghamton Police Department, to the extent necessary to abate the nuisance, and shall direct the Binghamton Police Department to post a copy of the judgment and a printed notice of such closing conforming to the requirements of § 315-8H of this chapter. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable on conviction by a fine of not more than \$500 or by imprisonment not exceeding 15 days, or by both, provided such judgment contains therein a notice of such penalty.
- D. The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this section.
- E. If the owner shall file a bond in the value of the property ordered to be closed and submits proof to the court that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the building, structure or place has been directed to be closed in the judgment, the court may vacate the provisions of the judgment that direct the closing of the building, structure or place.
- F. A closing by the Binghamton Police Department pursuant to this section shall not constitute an act of possession, ownership or control by the Binghamton Police Department of the closed premises.
- G. Intentional disobedience or resistance to any provision of a judgment awarding a permanent injunction pursuant to this chapter, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both.
- H. Upon the request of the Corporation Counsel, or the Mayor, the City of Binghamton Police Department shall assist in the enforcement of a judgment awarding a permanent injunction entered in an action brought pursuant to this chapter.
- I. A judgment rendered awarding a permanent injunction pursuant to this chapter shall be and become a lien upon the building, structure or place named in the complaint in such action, such lien to date from the time of filing a notice of liens pending in the office of the Clerk of the county wherein the building, structure or place is located. Every such nuisance abatement lien shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens.

- J. A judgment awarding a permanent injunction pursuant to this chapter shall provide, in addition to the costs and disbursements allowed by the Civil Practice Law and Rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements of the City in investigating, bringing and maintaining the action.

§ 315-8. Preliminary injunction. [Amended 5-21-07 by Ord. No. 16-2007]

A. Generally.

- (1) Pending an action for a permanent injunction as provided for in this article, the court may grant a preliminary injunction enjoining a public nuisance within the scope of this chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. An order granting the preliminary injunction shall direct a trial of the issues at the earliest possible time. Where preliminary injunction has been granted, the court shall render a decision with respect to a permanent injunction at its earliest convenience after the conclusion of the trial. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted.
- (2) Enforcement of preliminary injunction. A preliminary injunction shall be enforced by the Corporation Counsel and the City of Binghamton Police Department.
- (3) Preliminary injunctions, inventory, closing of premises, posting of order and notices, offenses. If the court grants a preliminary injunction, the provisions of this article shall be applicable.

B. Motion papers for preliminary injunction. The Corporation Counsel shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action for a permanent injunction abating a nuisance within the scope of this chapter.

C. Temporary closing order.

- (1) If, on a motion for a preliminary injunction pursuant to this section the Corporation Counsel shall show by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building, structure or place wherein the nuisance is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time; a decision on the motion for a preliminary injunction shall be rendered by the court at the earliest possible time.
- (2) Service of temporary closing order. Unless the court orders otherwise, a temporary closing order, together with the papers upon which it was based and a notice of hearing for the preliminary injunction, shall be personally served, in the same manner as a summons as provided in the Civil Practice Law and Rules.

D. Temporary restraining order.

- (1) A temporary restraining order may be granted pending a hearing for preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this chapter is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires the granting of a temporary restraining order. This order shall restrain the defendants and all persons from removing or transferring off the property or in any manner interfering with the fixtures and movable property used in conducting, maintaining or permitting the public nuisance and from further conducting, maintaining or permitting the public nuisance. A temporary restraining order may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction.
 - (2) Service of temporary restraining order. Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served in the same manner as a summons as provided in the Civil Practice Law and Rules.
- E. Temporary closing order; temporary restraining order.
- (1) If, on motion for a preliminary injunction, the Corporation Counsel submits evidence warranting both a temporary closing order and a temporary restraining order, the court shall grant both orders.
 - (2) Enforcement of temporary closing orders and temporary restraining orders. Temporary closing orders and temporary restraining orders shall be enforced by the Corporation Counsel and the City of Binghamton Police Department.
- F. Inventory upon service of temporary closing orders and temporary restraining orders. The officers serving a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining or permitting a public nuisance within the scope of this chapter and shall enter upon the building, structure or place for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory, including, but not limited to, photographing such personal property.
- G. Closing of premises pursuant to temporary closing orders and temporary restraining orders. The officers serving a temporary restraining order shall, upon service of the order, command all persons present in the building, structure or place to vacate the premises forthwith. Upon the building, structure or place being vacated, the premises shall be securely locked and all keys delivered to the officers serving the order who thereafter shall deliver the keys to the fee owner, lessor or lessee of the building, structure or place involved. If the fee owner, lessor or lessee is not at the building, structure or place when the order is being executed, the officers shall securely padlock the premises and retain the keys until the fee owner, lessor or lessee of the building is ascertained, at which time, the officers shall deliver the keys to such owner, lessor or lessee, if such individual resides within Broome County.
- H. Posting of temporary closing orders and temporary restraining orders. Upon service of a temporary restraining order, the officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the public nuisance is being conducted, maintained or permitted. In addition, where a temporary restraining order has been granted, the officers shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that shall state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. If the temporary restraining order directs that the premises are to be closed by court order, the notice shall contain the legend "Closed by Court Order" in block lettering of sufficient size to be observed by anyone intending or likely to

enter the premises, the date of the order, the court from which issued and the name of the office or agency posting the notice. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$1,000 or by imprisonment not exceeding 90 days, or by both, provided such order or notice contains therein a notice of such penalty. The Police Department shall, upon the request of the Office of Corporation Counsel, or upon the direction of the Mayor, assist in the enforcement of this subsection.

- I. Intentional disobedience of or resistance to temporary restraining order and permanent injunction. Intentional disobedience of, or resistance to, a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both.
- J. Temporary restraining order or preliminary injunction bond required. A temporary restraining order or preliminary injunction shall not issue under this chapter, except upon the giving of a bond or security by the applicant, in the amount of \$1,000, for the payment of such costs and damages as may be incurred or suffered by any party who is found to be wrongfully restrained or enjoined. A bond or security shall not be required of the State of New York, Municipal Corporations, or political subdivisions of the State of New York.

§ 315-9. Temporary restraining order; defendant's remedies. [Amended 5-21-07 by Ord. No. 16-2007]

- A. Temporary restraining order to be vacated; inspection provision.
 - (1) A temporary restraining order may be vacated by the court, upon notice to the Corporation Counsel, when the defendant gives an undertaking and the court is satisfied that the public health, safety or welfare will be protected adequately during the pendency of the action. The undertaking shall be in an amount equal to the assessed valuation of the building, structure or place where the public nuisance is being conducted, maintained or permitted or in such other amount as may be fixed by the court. The defendant shall pay to the City, in the event a judgment of permanent injunction is obtained, its actual costs, expenses and disbursements in investigating, bringing and maintaining the action.
 - (2) An order vacating a temporary closing order, or a temporary restraining order, shall include a provision authorizing agencies of the City to inspect the building, structure or place, which is the subject of an action pursuant to this chapter, periodically without notice, during the pendency of the action, for the purpose of ascertaining whether or not the public nuisance has been resumed, Intentional disobedience of, or resistance to, an inspection provision of an order vacating a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable, no conviction, by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both. The Police Department shall, upon the request of the office of Corporation Counsel, or upon the director of the Mayor, assist in the enforcement of an inspection provision of an order vacating a temporary restraining order.
- B. Vacating a temporary injunction or a temporary restraining order. When the defendant gives an undertaking in the amount of the civil penalty demanded in the complaint, together with costs, disbursements and the projected annual costs of the prosecution of the action to be determined by the court, upon a motion on notice to the Corporation Counsel, a temporary injunction or a temporary restraining order shall be vacated by the court. The provisions of the Civil Practice Law and Rules governing undertakings shall be applicable to this chapter.

§ 315-10. Preliminary injunction of bulk transfer.

- A. Generally, pending an action pursuant to this chapter, the court may grant a preliminary injunction enjoining a defendant from making a bulk transfer, as defined in this section.
- B. If, on a motion for a preliminary injunction of a bulk transfer, the Corporation Counsel shall show by clear and convincing evidence that a public nuisance within the scope of this chapter is being conducted, maintained, or permitted, a temporary restraining order may be granted, without notice, restraining the defendants and all persons from making or permitting a "bulk transfer," as defined in this article, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Application for a temporary restraining order shall be made pursuant to § 315-9 of this article.
- C. "Bulk transfer" defined. A "bulk transfer" is any transfer of a major part of the materials, supplies, merchandise or other inventory or equipment of the transferor in the building, structure or place where the public nuisance is being conducted, maintained or permitted that is not in the ordinary course of the transferor's business.
- D. Enforcement of preliminary injunction. A preliminary injunction shall be enforced by the office of Corporation Counsel or by the City of Binghamton Police Department.
- E. Preliminary injunction; inventory. If the court grants a preliminary injunction, the provisions of the § 315-8 of this article shall be applicable.

§ 315-11. Temporary receiver.

- A. Appointment, duration and removal. In any action wherein the complaint alleges that the nuisance is being conducted or maintained in the residential portions of any building or structure or portion thereof, which are occupied in whole, or in part, as the home, residence or sleeping place of one or more human beings, the court may, upon motion on notice by the plaintiff, appoint a temporary receiver to manage and operate the property during the pendency of the action, in lieu of a temporary closing order. A temporary receivership shall not continue after final judgment unless otherwise directed by the court. Upon the motion of any party, including the temporary receiver, or on its own initiative, the appointing court may remove a temporary receiver at any time.
- B. Powers and duties. The temporary receiver shall have such powers and duties as the court shall direct, including, but not limited to, collecting and holding all rents due from all tenants, leasing or renting portions of the building or structure, making or authorizing other persons to make necessary repairs or to maintain the property, hiring security or other personnel necessary for the safe and proper operation of a dwelling, prosecuting or defending suits flowing from his or her management of the property and retaining counsel therefor, and expending funds from the collected rents in furtherance of the foregoing powers.
- C. Oath. A temporary receiver, before entering upon his or her duties, shall be sworn or shall affirm faithfully and fairly to discharge the trust committed to such receiver. The oath or affirmation may be waived upon consent of all parties.
- D. Undertaking. A temporary receiver shall give an undertaking, in an amount to be fixed by the court making the appointment, that such receiver will faithful discharge his or her duties.
- E. Accounts. A temporary receiver shall keep written accounts itemizing receipts and expenditures, and describing the property and naming the depository of receivership funds, which shall be open to

inspection by any person having an apparent interest in the property. Upon motion of the temporary receiver, or of any person having an apparent interest in the property, the court may require the keeping of particular records, or direct or limit inspection, or require presentation of a temporary receiver's accounts. Notice of motion for the presentation of a temporary receiver's accounts shall be served upon the sureties on the temporary receiver's undertaking as well as upon each party.

§ 315-12. Chapter not exclusive remedy.

This chapter shall not be construed to exclude any other remedy provided by law for the protection of the health, safety and welfare of the people of the City of Binghamton.

ARTICLE III, Administrative Remedies for Property and Building Nuisances

§ 315-13. Applicability.

This article shall be applicable to the public nuisances defined in Article I of this chapter.

§ 315-14. Powers of Mayor with respect to public nuisances. [Amended 5-21-07 by Ord. No. 16-2007]

- A. In addition to and as an alternative to the enforcement procedures established elsewhere, the Mayor or the Mayor's designee, after notice and opportunity for a hearing may, pursuant to Article I, § 315-3, deem the existence of a public nuisance as such is defined thereunder and shall thereafter be authorized:
- (1) To order the closing of the building, erection, place, or place of business to the extent necessary to abate the nuisance; or
 - (2) To suspend for a period not to exceed six months or revoke for a period of one year a certificate of use issued for such premises, and to prevent the operator from obtaining a new certificate of use for another location for the period of suspension or revocation; or
 - (3) To suspend for a period not to exceed six months or revoke for a period of one year any occupational license or permit issued by the City related to the conduct of a business or trade at the premises, which suspension or revocation shall also apply to any other locations operated by the holder for which the license or permit is required; or
 - (4) To revoke for a period of five years eligibility to secure grants or loans from the City of Binghamton; or
 - (5) Any combination of the above.
- B. Service of notice.
- (1) Prior to the issuance of orders by the Mayor or the Mayor's designee pursuant to this section, the Mayor or the Mayor's designee shall give notice and opportunity for a hearing to the owner, lessor, lessee and mortgagee of a building, erection or place wherein the public nuisance is being conducted, maintained or permitted. Such notice shall be served upon an owner pursuant to Article 3 of the Civil Practice Law and Rules, upon a lessor or lessee pursuant to § 735 of the Real Property Actions and Proceedings Law, and upon a mortgagee by means of certified mail, return receipt requested, sent to the mortgagee's last known address, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting without the necessity of filing proof of service with the clerk of any court before the hearing. The person in whose name the real estate affected by the orders of the Mayor or the Mayor's designee is recorded in the office of the County Clerk shall be presumed to be the owner thereof. Proceedings shall be commenced by service of the notice and opportunity for a hearing within 60 days after the occurrence of the most recent violation cited in the notice.
 - (2) The lack of knowledge of acquiescence or participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all those persons in possession or having charge of, as agent or otherwise, or having any interest in the property,

real or personal, used in conducting or maintaining the public nuisance shall not be a defense by such owners, lessors and lessees, mortgagees and such other persons.

- (3) Every certificate of occupancy, certificate of zoning compliance and real property tax bill issued by any City department shall state the number of nuisance points, if any, assessed against the premises as of the date of the record being issued.
- C. Orders of the Mayor or the Mayor's designee issued pursuant to this section shall be posted at the building, erection or place where a public nuisance exists or is occurring in violation of law and shall be mailed to the owner or record thereof within one business day of the posting.
- D. Five business days after the posting of an order issued pursuant to this section and upon the written directive of the Mayor or the Mayor's designee, officers of the Binghamton Police Department are authorized to act upon and enforce such orders.
- E. Where the Mayor or the Mayor's designee closes a building, erection or place pursuant to this section, such closing shall be for such period as the Mayor or the Mayor's designee may direct, but in no event shall the closing be for a period of more than one year from the posting of the order pursuant to this section. If the owner, lessor or lessee shall file a bond in an amount determined by the Mayor or the Mayor's designee, but which may not exceed the value of the property ordered to be closed, and submits proof satisfactory to the Mayor or the Mayor's designee that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the building, erection or place has been directed to be closed by the order of the Mayor or the Mayor's designee, then the Mayor or the Mayor's designee may vacate the provisions of the order that direct the closing of the building, erection or place.
- F. A closing directed by the Mayor or the Mayor's designee pursuant to this section shall not constitute an act of possession, ownership or control by the City of the closed premises, nor will it constitute a closure caused by a government for purpose of nonconformity under Article XII, Nonconforming Use of Buildings, Structures and Land, of Chapter 410, Zoning, of the Code of the City of Binghamton.
- G. It shall be a misdemeanor for any person to use or occupy or to permit any other person to use or occupy any building, erection or place, or portion thereof, ordered closed by the Mayor or the Mayor's designee. Mutilation or removal of a posted order of the Mayor or the Mayor's designee shall be punishable by a fine of not more than \$250 or by imprisonment not exceeding 15 days, or both, provided such order contains therein a notice of such penalty.
- H. Intentional disobedience or resistance to any provision of the orders issued by the Mayor or Mayor's designee pursuant to this section, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$5,000, or by imprisonment not to exceed six months, or both.
- I. The Mayor or the Mayor's designee may promulgate rules and regulations to carry out and give full effect to the provisions of this section.

§ 315-15. Penalties for offenses.

- A. Any owner who, having been served with a notice or order to remove any violation of this chapter or any nuisance, fails to comply therewith within the time fixed by law shall be guilty of an offense punishable for each offense by a fine or penalty not exceeding those set forth in § 1-4 of the Code of the City of Binghamton. Every day of such violation may be held to constitute a separate offense.

- B. The term "owner" as used in this section shall include any person or persons deemed to be an owner or owners of property as set forth in Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton.
- C. Violations of this chapter may also be referred to the Code Enforcement Department or any other appropriate municipal department and be prosecuted pursuant to Chapter 265, Housing and Property Maintenance, or any other provision of the Charter and Code of the City of Binghamton.

Chapter 318, PUBLIC ASSEMBLY

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 170.

Amusements -- See Ch. 173.

Bingo and games of chance -- See Ch. 189.

Curfew -- See Ch. 211.

ARTICLE I, Bowling [Adopted 10-5-1970 (Ch. 3, Art. III, §§ 3-36 through 3-40, of the 1970 Code)]

§ 318-1. Licensing.

- A. Required; exception. No person within the limits of the City shall keep or maintain any public bowling alley or any room in which games of bowling are carried on for the playing of which any compensation, direct or indirect, shall be demanded or received, without first having secured a license therefor. No person shall permit any room or building owned or controlled by him or her to be used for the purpose of a public bowling alley unless the same shall be licensed as herein provided. The provisions of this section shall not apply to any club or organization formed in good faith, the privileges of which shall be enjoyed only by members thereof who pay for such privilege a stated sum as a membership fee, and by their invited guests.
- B. Issuance. The license required hereunder shall be issued by the City Clerk, in his or her discretion, upon payment by the person applying therefor of the fee fixed in Subsection C hereof.
- C. Fee. The fee for a license required under the provisions of this article shall be as set from time to time. For fractions of a year such fee shall be prorated upon the basis of the number of months remaining to January 31 following, and for such prorating a part of a month shall be counted as a full month.
- D. Expiration. All licenses issued under the provisions of this article shall expire on the 31st day of January succeeding the issuing thereof.
- E. Revocation. Any license issued under the provisions of this article may be cancelled by the Mayor upon a violation of any of the provisions of this article by the person to whom such license shall have been issued.

§ 318-2. License not to issue to certain persons.

No license required under § 318-1 shall be issued to any person under the age of 21 years, nor shall such license be issued to any person who has been convicted of a felony, nor to any person who, having been previously licensed to conduct a bowling alley, shall have had said license revoked during the year immediately preceding the time of making the application for such license.

§ 318-3. Gambling prohibited.

No person licensed as prescribed in this article shall permit or suffer any gambling to be carried on in the licensed premises.

ARTICLE II, Dance Halls [Adopted 10-5-1970 (Ch. 3, Art. V, §§ 3-68 through 3-75, of the 1970 Code)]

§ 318-4. License required. [Amended 12-4-2006 by L.L. No. 2-2006]

No dance for which admission can be had by paying for the right to be admitted or to which admission can be had by the purchase, possession or presentation of a ticket or token, or to which admission can be had by the purchase of liquid refreshments to be consumed on or off the premises, or at which a charge is made for caring for clothing or other property or at which a charge is made for any purpose in lieu of an admission charge shall be conducted within the corporate limits of the City unless a license therefor has first been obtained from the City Clerk, to conduct the same at a place designated therein and subject to the conditions contained in this article.

§ 318-5. Issuance of license; fee. [Amended 12-4-2006 by L.L. No. 2-2006]

The City Clerk shall issue licenses to the persons and under the conditions set forth in this article, and the license shall be in writing, stating the time and place of the dance so licensed and the City Clerk shall require a fee as set from time to time for the issuance of each license, which fee shall be paid over by the City Clerk to the City Treasurer (See Exhibit J).

§ 318-6. Yearly license. [Amended 12-4-2006 by L.L. No. 2-2006]

- A. Issuance authorized; license nontransferable; expiration. The City Clerk may grant to any such person a license to be known as a "yearly license," which shall entitle the licensee to conduct public dances on any or all days of the calendar year of the issuance of said license, excepting Sundays, in a hall or other place to be specified in such license. This license shall not be transferable and shall apply to and cover only the calendar year in which it is issued from the date thereof to December 31 of the same year.
- B. Fees; disposition. The City Clerk shall require a fee as set from time to time for the issuance of each yearly license (See Exhibit J).

§ 318-7. Character of license applicant. [Amended 12-4-2006 by L.L. No. 2-2006]

The City Clerk may at any time grant to any person who shall produce to him or her satisfactory evidence of good character a license authorizing the conduct of a dance as set forth in this article.

§ 318-8. Conduct of dance without license prohibited; use of premises other than those designated in license.

It shall be unlawful for any person, directly or indirectly, to conduct a dance without being duly licensed, nor shall any person conduct a dance in any building or on any premises other than the building or premises designated in the license issued pursuant to the provisions of this article.

§ 318-9. Revocation of license.

The City Clerk shall have full power and authority to revoke any license issued under the provisions of this article.

§ 318-10. Frequenting of dances by certain persons prohibited.

It shall be unlawful for any person licensed hereunder to permit any person of bad character, prostitute, gambler, intoxicated person, or procurer to frequent or attend any dance held pursuant to the license obtained under the provisions of this article.

§ 318-11. Minors attending dances.

No person to whom a license has been issued under the provisions of this article shall permit any person under the age of 18 years to frequent or attend any dance unless accompanied by parent or guardian.

ARTICLE III, Theaters [Adopted 10-5-1970 (Ch. 12, § 12-3, of the 1970 Code)]

§ 318-12. Theater licenses. [Amended 10-1-1973 by Ord. No. 196-73; 11-18-1974 by Ord. No. 243-74]

- A. Fees for annual licenses. The annual license fees for the operation of the theaters hereinafter named, operated on weekdays only, and also the license fees for theaters which also operate on the first day of the week, commonly known as Sunday, shall be as set from time to time by the City Council (See Exhibit J).
- B. Expiration of annual license. All licenses issued under the provisions of Subsection A shall expire on the 31st day of January in each year.
- C. Daily licenses. In lieu of obtaining the annual license and paying the fee as set forth in Subsection A, the owner of a theater can obtain a license to operate the theater on certain days only. The license fee for the operation of a theater on a daily license is as set from time to time. Said license shall be obtained at least three days prior to the date or dates for which said license shall be issued, and the license fee shall be paid upon the issuance of the license. The license issued hereunder shall be valid only for such days as mentioned in the license.

Chapter 324, RAILROADS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

ARTICLE I, Notice of Derailments [Adopted 2-6-1989 by L.L. No. 3-1989 (Sub-Part LXVIII of the 1970 Code)]

§ 324-1. Purpose and intent.

Recent derailments within the corporate boundaries of the City of Binghamton have been marked by the failure of the affected rail line to notify the City of Binghamton Bureaus of Fire and Police. These derailments have involved trains carrying toxic and/or combustible materials. The rail lines' failure to notify the City has slowed the City's response time and presents a threat to the health, safety, and welfare of the residents of the City of Binghamton. This threat to the residents of the City of Binghamton requires that legislation be adopted to mandate rail lines to notify the City of Binghamton of all derailments within the corporate boundaries of the City.

§ 324-2. Notice required.

Rail lines passing through the City of Binghamton shall notify the City of Binghamton Bureau of Police and Bureau of Fire of any derailment involving said rail line within the corporate boundary of the City of Binghamton no later than 15 minutes after said derailment.

§ 324-3. Violation a misdemeanor.

Any person(s) violating any of the provisions of this article shall be guilty of a misdemeanor punishable by a sentence of imprisonment not to exceed six months or a fine not to exceed \$1,000, or both.

Chapter 327, RIGHTS-OF-WAY, USE OF

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Auctions and auctioneers -- See Ch. 184.
Curfew -- See Ch. 211.
Loitering -- See Ch. 279.
Parks and recreation -- See Ch. 301.
Peddling and soliciting -- See Ch. 307.
Public assembly -- See Ch. 318.
Transient retail merchants -- See Ch. 331, Art. I.
Vehicles and traffic -- See Ch. 400.

ARTICLE I, Mass Gatherings [Adopted 10-5-1970 (Ch. 14, § 14-3, of the 1970 Code)]

§ 327-1. Assembly of crowds restricted.

It shall be unlawful for persons unnecessarily to assemble in or upon any public highway or part thereof, in such numbers as to obstruct traffic, and no public meeting shall be held and no crowd shall be assembled within any congested district of the City within 100 feet of a street intersection.

ARTICLE II, Outdoor Cafe Permits [Adopted 2-2-1987 by Ord. No. 12-87 (Ch. 12, § 12-6, of the 1970 Code); amended in its entirety 5-1-1995 by Ord. No. 95-130; Amended 5-18-00 by Ord. no 00-46; Amended 6-06-2012 by Ord. No 12-39; Amended 02-07-2018 by Ord. No 18-18]

§ 327-2.A. Definitions.

For the purposes of this section, the below terms shall be defined as follows:

OUTDOOR CAFÉ – An accessory seating area for a restaurant or tavern located on the public right of way, requiring an Outdoor Café Permit from the City of Binghamton.

PUBLIC PEDESTRIAN AREAS – Those areas accessible by pedestrian traffic which are not immediately adjacent to a street or highway, and which are exempt from vehicular traffic.

SIDEWALKS – Any walkway along the margin of a street or highway, designed and prepared for the use of pedestrians, encompassing the area between the front line of any abutting property and the curb or, where there is not curb, the line where the street begins.

§ 327-2.B. General Description.

An Outdoor Café Permit as described herein shall grant the holder thereof the ability to use public property for café purposes consistent with these rules and regulations. The City shall issue such permits only to those ground floor restaurants or taverns which are contiguous to and have a formal ingress or egress by door or passageway to public property. Such public property may consist of public pedestrian areas or sidewalks.

§ 327-2.C. Hours and Months of Operations. [Amended 12-18-2013 by Ord. No. 13-103; Amended 02-07-2018 by Ord. No 18-18]

Approved Outdoor Café Permits shall be valid from March 1st through November 30th during the year in which the permit was issued; the City reserves the right to exclude any particular dates from the outdoor café seasons in the interest of public safety. Such permit shall authorize the permit holder to operate an Outdoor Café during (a) the permit holder's regular business hours, but not before the hour of 7:00 A.M. or past the hour of 11:00 P.M. Sunday through Saturday. Outdoor Café operations must cease at the times indicated herein. Operation of an Outdoor Café outside of the permissible hours shall constitute a violation of this Ordinance, and shall constitute grounds for the revocation of an Outdoor Café permit, in accordance with § 327-2.L.

§ 327-2.D. Area Requirements.

The maximum width of the space in which a restaurant or tavern may operate an Outdoor Café shall be no larger than the width of the establishment frontage to which it is immediately abutting. In no case shall the width of an Outdoor Café impede any ingress or egress from an abutting establishment or infringe upon the space potentially available to another restaurant or tavern for use as an Outdoor Café. The maximum depth of space for any Outdoor Café area is outlined below:

1. Public Pedestrian Areas. In public pedestrian areas, the maximum depth of space for any Outdoor Café area shall be up to half the distance of the public pedestrian area minus five (5) feet, as measured perpendicular from the building wall to which the Outdoor Café is immediately abutting to the edge of the public pedestrian area.
2. Sidewalks. On sidewalks, the maximum depth of space shall be the entire width of the sidewalk, minus five (5) feet, as measured perpendicular from the building wall to which the Outdoor Café is immediately abutting to (a) the edge of the sidewalk or (b) any permanent obstruction including, but not limited to, trees, planters, fire hydrants, parking meters, and/or utility boxes, whichever is closest to the Outdoor Café.

§ 327-2.E. Outdoor Café Permit Fees.

The cost of an Outdoor Café Permit shall include the site plan review fee, the annual rental fee, and the security deposit, as described below:

1. Site Plan Review Fee. The site plan review fee shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The site plan review fee shall be paid together with an Outdoor Café Permit application, and shall be nonrefundable, regardless of the site plan review determination. As described in § 327-2.K, approved Outdoor Café Permits may be renewed on an annual basis for up to four (4) additional calendar years, without obtaining additional site plan reviews, provided that the Outdoor Café as described in the original permit remains unchanged. No site plan review fee shall be required during each annual renewal, provided that no additional site plan review is required during this four (4) year period.
2. Annual Rental Fee. The annual rental fee shall be based on the total square footage of the public property utilized, and shall be established from time to time by Council of the City of Binghamton (See Exhibit J). The annual rental shall be paid upon issuance of an Outdoor Café Permit fee and is nonrefundable. Should the applicant wish to renew the Outdoor Café Permit, the annual rental fee shall be paid upon each annual renewal.
3. Security Deposit. The security deposit shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The security deposit shall be paid upon issuance of an Outdoor Café Permit. IN the event that the City must provide services for the cleaning, maintenance, and/or repair of the area rented by the permit holder, the cost of such services shall be billed to the permit holder. Should the permit holder fail to submit payment for such services, the total cost shall be deducted from the security deposit. Any remaining portion of the security deposit shall be returned to the permit applicant within thirty (30) days of expiration of the Outdoor Café Permit, or within thirty (30) days of the City Clerk's receipt in writing that the permit applicant no longer wishes to operate an Outdoor Café.

§ 327-2.F. Permit Application. [Amended 9-05-2012 by Ord. No 12-60]

At least thirty (30) days prior to the requested start date of the Outdoor Café Permit; the permit applicant shall submit an application for an Outdoor Café Permit to the Department of Planning, Housing and Community Development (hereon known as Planning Department) containing the following:

1. Applicant name, mailing address, telephone number(s), and email address.
2. Business name, physical address, telephone number(s), and email address.

3. Business hours of operation.
4. Proposed Outdoor Café hours of operation.
5. Proposed site plan, as described in §327-2.J.
6. All appropriate permits issued by the Broome County Department of Health.
7. Payment of the site plan review fee, See Exhibit J.

§327-2.G. Permit Approval Procedure [Amended 02-07-2018 by Ord. No 18-18].

Upon receipt of the completed Outdoor Café Permit application, along with the site plan review fee and all associated documentation, the Planning Department will complete an initial review of the site plan. If the proposed Outdoor Café area is located within a locally designated historic district, or if it involves a designated local landmark property, the Planning Department shall refer such site plan to the Commission on Architecture and Urban Design (“CAUD”) for review and approval. Upon receipt of such recommendations, the Planning Department shall forward the Outdoor Café Permit application and such recommendations to the Police Department, Fire Bureau, Department of Public Works, Department of Parks and Recreation, Office of Building & Construction/Code Enforcement, Corporation Counsel, and City Clerk. All such departments shall submit their findings and determinations to the Planning Department within five (5) business days.

If the permit application is approved by the Planning Department, **the applicant will submit the following to the City Clerk’s Office:**

1. Certificate of Approval from the Planning Department and/or CAUD.
2. Proof of general liability insurance coverage in an amount not less than one million dollars (\$1,000,000), proof of property damage insurance in an amount not less than fifty thousand dollars (\$50,000), and, should the applicant intend to sell alcohol in the Outdoor Café area, proof of liquor liability insurance coverage in the amount not less than one million dollars (\$1,000,000). An endorsement naming the City of Binghamton as an additional insured on a primary non-contributory basis, and such other endorsements as may be required by the Corporation Counsel.
3. Payment of the security deposit and annual rental fee, See Exhibit J.
4. If the applicant intends to serve alcohol in the Outdoor Café area, the applicant must first receive approval from the New York State Liquor Authority (“NYSLA”). Upon receipt of items 1, 2, and 3 above, the City Clerk’s Office will provide the applicant with a Landlord Authorization and Open Container Approval letter to be submitted to the NYSLA. **The applicant cannot operate the Outdoor Café until the City Clerk’s Office receives a copy of the approval from the NYSLA and issues an Outdoor Café Permit.**
5. Upon compliance with the above conditions, the City Clerk will issue an Outdoor Café Permit. If the application is denied, the City Clerk will advise the applicant of its right to appeal. If the applicant does not appeal, the City Clerk will reimburse the security deposit and annual rental fee to the applicant.

A permit application may be denied if the Planning Department and/or City Clerk determines that the issuance of such permit would cause public health and/or safety concerns, prior non-compliance, if the Outdoor Café would conflict with a previously scheduled event, or if the permit applicant fails to comply with the regulations described herein.

§327-2.H. Denial Appeal Process.

Should a permit be denied for any reason, the applicant shall have the ability to appeal the denial by submitting such appeal in writing to the Council of the City of Binghamton within thirty (30) days from receipt of the denial. If the appeal is successful, the application will be remanded to the Planning Department and/or CAUD, for modifications, if any; or the City Clerk will issue an Outdoor Café Permit in accordance with City Council’s decision. If the appeal is unsuccessful, the City Clerk will reimburse the security deposit

and annual rental fee to the applicant. A denial can be appealed to the Broome County Supreme Court in a CPLR Article 78 proceeding commenced within thirty (30) days of the decision.

§327-2.I. Site Plan Design Standards [Amended 02-07-2018 by Ord. No 18-18].

No Outdoor Café Permit shall be issued until a site plan review has been completed and approved. The Outdoor Café and its property shall not be set up in such a way as to cause damage to City property. The City reserves the right to approve, approve with modifications or deny any proposed site plan. The site plan may include but is not limited to the following (please also see the Outdoor Café Design Guidelines manual kept in the Planning Department):

1. The shape and dimensions of the area in question.
2. The location and size of all buildings or structures within twenty-five (25) feet of the area in question.
3. The location and type of any screening, barriers, and/or landscaping. Outdoor Cafes shall be demarcated on all sides not immediately abutting the building wall by barriers, and such Site Plan shall delineate the Outdoor Café's egress for safety evacuation.
4. Type of furniture and its arrangement, materials and colors used. With the exception of table umbrellas or existing awnings, Outdoor Cafes shall be open to the sky.
5. Character of surroundings and harmony of the Outdoor Café layout to these surroundings.
6. Photographs of proposed café area.

§ 327-2.J. Terms and Conditions [Amended 02-07-2018 by Ord. No 18-18].

All Outdoor Café Permits issued pursuant to this section shall be subject to the following conditions, rules and regulations:

1. The permit holder shall maintain responsibility for the Outdoor Café and provide sufficient personnel for the proper supervision and operation of the Café, and shall be responsible for the cleaning, maintenance and/or repair of said Outdoor Café area.
 - (i) Maintenance shall include cleaning the Outdoor Café area of all rubbish, debris, stains, and/or residue resulting from the operation of the Outdoor Café, leaving the site in a clean condition at the end of each day during which the Outdoor Café is in operation. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of Outdoor Café operations.
 - (ii) Should the permit holder fail to clean, maintain, and/or repair the Outdoor Café area to the satisfaction of the City of Binghamton, the permit holder shall be notified by the City of Binghamton in writing of such failure to comply with the regulations described herein, and shall be given a reasonable time period to restore the Outdoor Café area to an acceptable condition, given the nature of the violation.
 - (iii) Should the permit holder fail to restore the Outdoor Café area to an acceptable condition, the City shall provide services for the cleaning, maintenance, and/or repair of the Outdoor Café area. The cost of such services shall be billed to the permit holder.
 - (iv) Should the permit holder fail to submit payment for those cleaning, maintenance, and/or repair services provided by the City of Binghamton, such funds shall be deducted from the security deposit, as outlined in §327-2.F.
 - (v) Notwithstanding any provision above, should the City be required to provide services for cleaning, maintenance, and/or repair of the Outdoor Café area, or if the permit holder fails

to make any required payment in a timely manner, the Outdoor Café Permit, in accordance with §327-2.L. *Outdoor Café Permit* maybe subject to immediate revocation by the City, and the permit holder may be ineligible to receive future Outdoor Café Permits.

2. If the security deposit is exhausted due to expenses incurred by the City for the cleaning, maintenance, and/or repair of the Outdoor Café area, the City Clerk may require the permit holder to provide an additional security deposit in an amount which may exceed the original security deposit. The permit holder will remain liable and shall reimburse the City for any and all damages or injury to any City property that may arise from the operation of the Outdoor Café.
3. The permit holder shall hold harmless and indemnify the City from any and all claims, actions, damages, or liability arising from the operation of the Outdoor Café of every name and nature which may arise or be incurred by the City as a consequence of the giving of such permission, or as the result of the conduct of such Outdoor Café patrons, or as a result of the cleaning of rubbish, debris, stains, and/or residue resulting from said Outdoor Café.
4. The permit holder shall comply with all regulations set forth by the Police Department, Fire Bureau, or other public safety personnel as they pertain to the conduct of the patrons of said Outdoor Café.
5. All approved barriers and furniture may remain in the designated Outdoor Café area during the permitted months of operation. Upon expiration of the Outdoor Café Permit, all barriers and furniture must be removed, and the space must be made open and available for public use.
6. Outdoor Café Permits are non-transferrable.
7. Permit Holder shall not be allowed access to or use of City electricity, electrical equipment, and/or water service in connection with the operation of an Outdoor Café.
8. The permit holder is responsible for ensuring that the business and its patrons adhere to all noise and public conduct regulations outlined in the Code of the City of Binghamton.
9. The City shall not be responsible for the theft, loss, or damage to any furniture or other Outdoor Café property.
10. No loudspeakers, public-address system, or similar amplification device shall be used, nor shall any live music be played within any Outdoor Café area without the permit holder having first obtained a Noise Permit from the City, as outlined in §292-9.
11. Please be aware of Section §327-2.L: Permit Modification, Revocations, and Inspections.

§327-2.K. Renewal of Permits.

An Outdoor Café Permit may be renewed on an annual basis provided the permit holder files an application and pays the annual rental fee and security deposit for each year of operation. A renewal for up to four (4) additional years does not require a new site plan review, provided the Outdoor Café as described in the original permit remains unchanged. If any portion of the Outdoor Café changes in the years following the initial approved site plan review, a new site plan review will be required and the permit holder must pay the site plan review fee.

§327-2.L. Permit Modification, Revocations and Inspections [Amended 02-07-2018 by Ord. No 18-18].

The Planning Department and/or the City Clerk may modify an Outdoor Café Permit and/or site plan should it become necessary or proper to do so in the interest of public health and/or safety or to preserve the character of any neighborhood of the City. The Planning Department and/or the City Clerk may revoke an Outdoor Café Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State. Should the permit holder fail to

comply with the provisions of its patrons, the permit holder may be ineligible to receive future Outdoor Café Permits. The City reserves the right to conduct inspections of the Outdoor Café and the Outdoor Café area at any and all times in order to ensure that all regulations as described herein are being met by the permit holder.

If the permit holder is in violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State, the Planning Department and/or the City Clerk will give the permit holder written notice of the violation and ten (10) days to cure same.. Any failure to make a required payment must be cured within five (5) days of written demand for payment to the permit holder. Any failure to submit an application or complete the application process will result in a written notice of violation from the City Code Department with ten (10) days to comply. If failure to comply, the City reserves the right to remove any barriers or furniture from the public right-of-way. Notwithstanding the foregoing, an Outdoor Café Permit may be immediately revoked if the permit holder violates the time limits set forth in §327-2.C. *Hours and Months of Operations* above. If an Outdoor Café Permit is revoked, the permit holder may be ineligible to receive future Outdoor Café Permits. Any notice can be e-mailed to the permit holder or delivered to the restaurant or tavern associated with the Outdoor Café.

§327-2.M. Modification or Revocation Appeal Process.

Should an Outdoor Café Permit be modified or revoked for any reason, the permit holder shall have the ability to appeal the modification or revocation by submitting such appeal in writing to the Council of the City of Binghamton within thirty (30) days from receipt of the modification or revocation. The appeal shall not stay the modification or revocation.

§327-3. [Reserved]

ARTICLE III, Banner Permits [Adopted 10-5-1981 by Ord. No. 178-81 (Ch. 12, Art. VI, §§ 12-160 through 12-171, of the 1970 Code); Amended 12-19-2012 by Ord. No. 12-76]

§ 327-4. Banner Permits.

The issuance of a Banner Permit shall allow for the erection of a banner over and across a public highway. The placement of banners across public highways shall be completed by the City of Binghamton upon issuance of a permit.

§ 327-5. Application. [Amended 8-20-2014 by Ord. No. 14-47]

In order to obtain a Banner Permit, the Applicant shall provide the following to the City Clerk:

- A. Applicant name, mailing address, telephone number, and email address.
- B. The dimensions of the proposed banner. No banner shall exceed the dimensions outlined in § 327-6.
- C. A copy of the words or designs to be place upon said banner.
- D. Preferred banner display location. Banner display locations shall be granted on a first-come first-served basis; however, banner applicants in good standing with the City shall have the right of first refusal of the location and dates from which they had a banner the year prior. The City reserves the right to modify the banner display location based upon availability.

- E. The requested dates during which the banner shall be displayed. Banners may be hung in one (1) week increments, and may be displayed for no more than three (3) weeks in total. Requested banner display dates shall be grant on a first-come first-served basis. The City reserves the right to modify the banner display dates based upon availability.
- F. The date on which the banner will be delivered to the City of Binghamton.
- G. The Banner Permit fee, as outlined in § 327-8.

§ 327-6. Physical requirements.

All banners shall be made of canvas or heavy-duty vinyl. Metal grommets must be placed at all four corners, and every two feet along banner. Banners which are erected over and across a public highway but which are not attached to a solid structure, such as an overpass or bridge, must have wind flaps. No banner shall exceed the maximum dimensions of forty-two (42) inches by twenty (20) feet.

§ 327-7. Submission deadlines.

- A. Applications for Banner Permits must be submitted at least thirty-five (35) calendar days prior to the event, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the event shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the event.
- C. Applications received less than thirty (30) calendar days prior to the event shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-8. Fee for Banner Permit.

The fee for a Banner Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). Such fee shall be paid upon permit application, and shall be nonrefundable.

§ 327-9. Hold harmless.

The Banner Permit Applicant shall hold harmless and indemnify the City from any and all claims, actions, damages or liabilities of every name and nature which may arise or be incurred by the City as a consequence of placing the banner upon City property. This shall include any damage to the banner or any injuries sustained by third parties as a result of faulty materials.

§ 327-10. Permit fees.

- A. Rejections.
 - 1. Rejection of Permit Application. The City of Binghamton reserves the right to reject Banner Permit applications which are incomplete and/or unaccompanied by the required documentation. In addition, the City of Binghamton may reject a Banner Permit application if the requested location is unavailable. The rejection of a permit application does not

preclude the Banner Permit Applicant from resubmitting the Banner Permit application in the future, when such application is complete. The resubmission of a Banner Permit application shall not exempt the Event Permit Applicant from the submission deadlines outlined in § 327-23.

2. Rejection of Banner. The City reserves the right to reject a banner due to noncompliance with dimension restrictions, materials, or based upon the quality of the banner.
- B. Modifications. The City of Binghamton reserves the right to modify a Banner Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed event conflicts with a previously scheduled event.
 - C. Denials. A Banner Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed banner location or display dates conflict with a previously approved banner, or if the Applicant fails to comply with the regulations described herein.
 - D. Revocations. The City may revoke a Banner Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State.
 - E. Any notice can be e-mailed to the Banner Permit Applicant.

§ 327-11. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Banner Permit Applicant shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

Article IV, Event Permits [Adopted 12-19-2012 by Ord. No. 12-76]

§ 327-12. Event permit requirement established

- A. It shall be unlawful for any person or organization, within the City of Binghamton, to engage in any event or activity which would demand reserved use of City property without first having obtained an Event Permit.
- B. The issuance of an Event Permit may allow for the exclusive and reserved use of a designated area or portion of City property, including streets, parks and other public property, excluding carousels and pools, for concerts, festivals, weddings, processions, races, parades, protests, marches, block parties, fundraisers, sales, camping and/or other social gatherings. This section includes, but is not limited to, those activities which would allow the following:
 1. The closure of one or more streets for the purpose of limiting vehicular traffic;
 2. The placement of platforms, stages, tents, tables, chairs and/or grandstands upon City property;
 3. The operation of cooking apparatuses on City property;

4. The sale of food, beverages, goods and/or other merchandise on City property;
5. The consumption of alcohol on City property; and
6. Access to City electricity and/or water service.

§ 327-13. Exempt activities.

The following activities shall not require Event Permits:

- A. Those activities which fall under the regulation of Peddlers, Charitable Solicitors, or stationary food vendor operations, as defined by Chapter 307 of the Code of the City of Binghamton.
- B. Those activities which fall under the regulation of Outdoor Café Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- C. Those activities which fall under the regulation of Street Work Permits, as defined by Chapter 355 of the Code of the City of Binghamton.
- D. Those activities which fall under the regulation of Banner Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- E. Those activities which fall under the regulation of Permanent Resolution 12-28, entitled “A Resolution approving the issuance of permits for use of City water in community greenspaces”, adopted on April 18, 2012.
- F. Those activities which fall under the regulation of Block Party Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- G. Normal park activities, constituting a normal, ordinary use of City parks and/or other public spaces. Such activities include group picnics, social gatherings, recreation, and those activities which do not demand exclusive and reserved use of City property, but which instead occur on a “first-come first-served” basis. Camping shall not constitute a normal park activity, and is specifically prohibited in public spaces without first having obtained an Event Permit. In all cases, the City of Binghamton maintains the right to utilize such spaces for scheduled activities and events.

§ 327-14. Other activities.

Those activities and events not set forth in this Chapter which demand reserved use of City property shall be permitted upon receipt of approval from the Council of the City of Binghamton.

§ 327-15. Application.

In order to obtain an Event Permit, the Event Permit Applicant shall provide an application to the City Clerk which will require the following, along with such other information as the City shall find necessary and proper:

- A. Applicant name, mailing address, telephone number, and email address.
- B. Name of sponsoring organization, if any, along with the name, mailing address, telephone number, and email address of a contact person within the sponsoring organization.

- C. Name(s) of On-Site Event Manager(s), and emergency telephone number(s).
- D. A description of the event
- E. Website address of the event, if available.
- F. Date(s) and time(s) of the proposed event, including times at which set up prior to and clean up after the event will take place. The Event Permit Applicant must indicate whether or not rain dates and times are requested for the event. Rain dates and times shall be granted subject to availability.
- G. Location of the proposed event, specifying the designated area or portion of City property to be utilized.
- H. Estimated number of event participants. Special conditions may apply based upon the number of estimated event participants, as described in § 327-22.
- I. Description of all items to be placed upon City property and/or used during the event, such as platforms, stages, tents, tables, chairs, grandstands, cooking apparatuses, electrical equipment, sounds systems and/or amplification devices.
 - 1. In accordance with the definitions and regulations outlined in §§ F2402 – F2403 of the Fire Code of New York State, tents and membrane structures having an area in excess of two hundred (200) square feet (19 m²) and canopies in excess of four hundred (400) square feet (37 m²) shall not be erected, operated or maintained for any purpose without first obtaining an Operating Permit from the Fire Bureau
 - 2. The issuance of an Event Permit shall indicate compliance with all regulations outlined in Chapter 292, *Noise*, provided that the event is of three (3) or less days in total. For events of longer duration, the Event Permit Applicant must apply for a Noise Permit.
- J. Indicate whether or not individuals will be cooking during the event, and/or selling food. If cooking and/or the sale of food will take place during the event, the Event Permit Applicant must comply with all regulations as set forth in § 327-16
- K. Indicate whether or not access to City electricity and/or water service is requested. If access to City electricity is requested, the Event Permit Applicant must include an outline of all items which require use of City electricity, along with the power requirements of each item. If access to City water service is requested, the Event Permit Applicant must include a description indicating in what capacity the water will be utilized. Access to City electricity and/or water service may or may not be available. Additional fees may apply if access to City electricity and/or water service is provided, in accordance with § 327-20.
- L. Indicate whether or not the Event Permit Applicant intends to allow vendors to operate in the requested area during the event.

M. Indicate whether or not access to public restrooms is requested for the event. Access to public restrooms outside of normal operating hours shall be determined the Director of Parks and Recreation.

N. All required fees, as outlined in § 327-20, must be submitted at the time of permit application.

§ 327-16. Cooking and sale of food authorized.

A. If cooking will occur during the event, the Event Permit Applicant must include a description of all cooking apparatuses to be used in the Event Permit application. The Event Permit Applicant is responsible for obtaining all necessary Operating Permits, as may be required by the Fire Bureau. In addition, the Event Permit Applicant is responsible for ensuring that all proper safety measures as may be required by the Fire Bureau, such as the provision of fire extinguishers at all cooking apparatus locations, are observed.

B. If the sale of food will occur during the event, the Event Permit Applicant is responsible for ensuring that all necessary certificates from the Broome County Department of Health have been obtained prior to the event.

§ 327-17. Vendor operations permitted.

The Event Permit Applicant may sublet space, hire vendors, and/or allow vendors to sell food, goods and/or merchandise as part of the Applicant's event. The Event Permit Applicant shall remain liable for vendor operations occurring during his/her event, and is responsible for ensuring that all vendors have obtained the documentation necessary to conduct their businesses.

§ 327-18. Insurance requirements.

A. All Event Permit applications must be accompanied by proof of general liability insurance coverage in the amount of not less than one million dollars (\$1,000,000) and property damage insurance in an amount not less than fifty thousand dollars (\$50,000). If the Event Permit Applicant intends to sell alcohol during the event, the application must also be accompanied by proof of liquor liability insurance coverage in the amount of not less than one million dollars (\$1,000,000).

1. The insurance certificate must name the City of Binghamton as an additional insured on a primary non-contributory basis.
2. The insurance certificate(s) must be endorsed.
3. If primary, non-contributory liability insurance is not available, e.g., from another government agency that is self-insured, the City may waive such requirement based on an indemnification satisfactory to the Corporation Counsel.

B. Workers Compensation Insurance. If the Event Permit Applicant or sponsoring organization has paid employees, the Event Permit Applicant must provide proof of workers compensation insurance coverage.

C. The Event Permit Applicant shall hold harmless and indemnify the City from any and all claims, actions, damages or liability arising from the permitted event of every name and nature which may arise or be incurred by the City as a consequence of giving such permission for the exclusive and

reserved use of City property, or as a result of the conduct of event participants, or as a result of the cleaning of rubbish and/or debris from the area in which the event is held.

- D. An application for a protest or march where first amendment issues are presented may be eligible for a waiver of some or all of the insurance requirements based on the Applicant's ability to obtain insurance, the size of the protest or march, and the potential for damage to persons or property. The initial responsibility for determination of eligibility shall be made by the City Clerk upon consultation with Corporation Counsel. The City Clerk and Corporation Counsel may request input from a designated representative from the Office of the Mayor and from a designated representative from City Council prior to making a final determination.

§ 327-19. Obtaining City sponsorship for an event.

- A. An Event Permit Applicant may request City sponsorship of an event. Such requests must be made on an annual basis for each event. Eligibility for City sponsorship of an event shall be determined by the nature of the proposed event, and shall be limited to events which celebrate a national holiday, public service, or events which provide a public service. Events for which income is intended to be generated (including through the rental of space or booths, or through fundraising activities) shall not be eligible for City sponsorship unless the City of Binghamton directly receives all such income. Events which allow the sale of alcohol and/or other risky behavior shall not be eligible for City-sponsorship. The City may refuse a request for sponsorship as a result of complaints received due to noise which is considered unreasonable given the nature of the event, the accumulation of garbage or other debris, and other issues which may diminish the value of the event to the City of Binghamton and its residents.
- B. The Applicant will describe any proposed donation of time, materials, gifts or services to be contributed to the event. If the City approves the request for sponsorship, then such donations will be deemed accepted by the City.
- C. The initial responsibility for determination of eligibility shall be made by the City Clerk upon consultation with Corporation Counsel. The City Clerk and Corporation Counsel may request input from a designated representative from the Office of the Mayor and from a designated representative from City Council prior to making a final determination.
- D. If the request for sponsorship is approved, the City shall assume responsibility for the event, and shall be considered the organizer and sponsor of the event. Under such circumstance, the Event Permit Applicant shall be considered a co-sponsor and co-organizer. The City of Binghamton may either purchase the necessary insurance coverage, or allow the City of Binghamton's generally self-insured status to cover any liabilities which may be incurred during the course of the event. The City of Binghamton may include in the annual budget an amount which shall be dedicated to the purchase of insurance policies for City-sponsored events.
- E. Notwithstanding the foregoing, the City may agree to be a participating "sponsor" of an event without accepting responsibility for planning or organization of the event. In such case the organizers of the event will be required to provide insurance.

§ 327-20. Event permit fees.

- A. The fee for an Event Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J), and shall apply to each date of the proposed event. Additional fees for access to City electricity, water service, and/or for the closure of any City street may apply.
- B. All fees for Event Permits wherein the Applicant does not claim eligibility for City sponsorship shall be paid upon Event Permit application. Event Permits wherein the Applicant claims eligibility for City sponsorship may be submitted without the appropriate fee; however, should the City determine that the event is ineligible for City sponsorship, all fees must be paid prior to the issuance of such permit.
- C. Event Permit Applicants shall not be charged additional fees for rain dates, if requested.
- D. Event Permit Applicants requesting a refund of Event Permit fees due to cancellation of an event or withdrawal or denial of the permit application must submit such request in writing at least ten (10) business days prior to the event. Fees may be nonrefundable if the City incurred any expenses due to preparation for the event.

§ 327-21. Submission deadlines.

- A. Applications for Event Permits must be submitted at least thirty-five (35) calendar days prior to the event, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the event shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the event.
- C. Applications received less than thirty (30) calendar days prior to the event shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-22. Terms and conditions.

All Event Permits issued pursuant to this section shall be subject to the following terms and conditions:

- A. The Event Permit Applicant is responsible for inspecting the public property which he or she intends to reserve for the exclusive and reserved use of the event in order to determine whether or not the public property is suitable for the proposed event, and to ensure that there are no defects or dangerous conditions. If, subsequent to submitting the Event Permit application, a new defect or dangerous condition appears, the Event Permit Applicant must advise the City of Binghamton in writing at least five (5) business days prior to the event. The City may, in its discretion, correct the defect or dangerous condition or may advise the Applicant to cancel or adjourn the proposed event. If the Event Permit Applicant provides less than five (5) business days prior notice or elects to proceed with the proposed event before the defect or dangerous condition is remedied, the Event Permit Applicant and event participants waive any right of action against the City of Binghamton.

- B. The Event Permit Applicant shall maintain responsibility for the City property which is reserved for the exclusive and reserved use of the event, and shall be responsible for the cleaning, maintenance and/or repair of said event area:
1. Maintenance shall include cleaning the City property which is reserved for the exclusive and reserved use of the event of all rubbish and debris, leaving the site in a clean condition. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of the event.
 2. Failure to clean, maintain, and/or repair the event area to the satisfaction of the City may result in the denial of future Event Permit applications. If such failure should occur, the City shall provide services for the cleaning, maintenance and/or repair of the area in which the event was held, and the cost of such services shall be billed to the Event Permit Applicant.
- C. The Chief of Police may at his/her discretion and in the interest of public safety require the Event Permit Applicant to provide adequate security for the duration of the event (e.g. events which include the service of alcohol, and based upon the number of anticipated event participants or due to the time of the event). In addition, the Chief of Police may determine the number of volunteers and/or event marshals necessary to ensure the safety of event participants and other City residents.
- D. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.
- E. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.
- F. Event Permits are non-transferrable.
- G. No paint or other permanent markings are permitted upon City property for any event without the express approval of the Council of the City of Binghamton. Should Event Permit Applicants wish to place non-permanent markings upon City property for the purpose of showing the route for a procession, parade, or race, such markings shall be water-soluble.
- H. The City of Binghamton maintains the right to require the Event Permit Applicant to provide portable toilet facilities at the proposed event. Such determination shall be based upon the nature of the event, and the estimated number of event participants.
- I. Pursuant to Broome County Charter & Code Chapter 168, Article IX, an Automated External Defibrillator (AED) and a person who is trained in Cardiopulmonary Resuscitation (CPR) must be

available at any event during which five hundred (500) or more individuals will be in attendance at any given time.

- J. The Event Permit Applicant must designate at least one On-Site Event Manager who must be on-site during the course of the event, and who must be available by telephone in case of emergencies.
- K. The City of Binghamton shall provide garbage and recycling receptacles at all events occurring on City property in order to prevent the accumulation of trash and recyclable materials.
- L. Issuance of an Event Permit does not supersede other permits that may be issued for a similar area or times, e.g., an Event Permit does not supersede an existing Outdoor Café Permit.
- M. Any notice can be e-mailed to the Event Permit Applicant or the sponsoring organization.

§ 327-23. Permit rejections, modifications, denials and revocations.

- A. The City of Binghamton reserves the right to reject Event Permit applications which are incomplete and/or unaccompanied by the required documentation. The rejection of a permit application does not preclude the Event Permit Applicant from resubmitting the Event Permit application in the future, when such application is complete. The resubmission of an Event Permit application shall not exempt the Event Permit Applicant from the submission deadlines outlined in § 327-21.
- B. Modifications. The City of Binghamton reserves the right to modify an Event Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed event conflicts with a previously scheduled or annual event.
- C. Denials. An Event Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed event conflicts with a previously scheduled event, or if the permit Applicant fails to comply with the regulations described herein.
- D. Revocations. The City may revoke an Event Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State
- E. Should the Event Permit Applicant or event participants fail to comply with the provisions of any regulations described herein, the Event Permit Applicant may be ineligible to receive future Event Permits, and/or a prohibition on the event itself may be established. The City reserves the right to conduct inspections during the course of the event in order to ensure that all regulations as described herein are being met by the Event Permit Applicant.

§ 327-24. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Event Permit Applicant shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of

Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

§ 327-25. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, shall be guilty of a violation and liable for a fine of not less than \$100, but not exceeding \$500.

Article V, Block Party Permits [Adopted 12-19-2012 by Ord. No 12-76]

§ 327-26. Block party permits.

The issuance of a Block Party Permit shall allow for the closure of one or more City streets in residential districts for the purpose of hosting a social gathering intended to serve the residents of the street(s). Block parties shall be limited to one (1) day in length, and shall not include the provision of City services which would otherwise require an Event Permit, as outlined in Chapter 327 of the Code of the City of Binghamton.

§ 327-27. Application.

In order to obtain a Block Party Permit, an application must be submitted to the City Clerk. Such application must be submitted by three (3) Co-Applicants residing on the street to be closed, and shall require the following, along with such other information as the City shall find necessary and proper:

- A. Co-Applicant names, mailing addresses, telephone numbers, and email addresses.
- B. Date and time of the proposed block party, including times at which set up prior to and clean up after the block party will take place. The Block Party Permit Co-Applicants must indicate whether or not a rain date and time are requested for the event. Rain dates and times shall be granted subject to availability.
- C. Location of the proposed event, specifying the designated area or portion of City property to be utilized.
- D. Description of all items to be placed upon City property and/or used during the Block Party, such as platforms, stages, tents, tables, chairs, grandstands, cooking apparatuses, electrical equipment, sounds systems and/or amplification devices. Tents and membrane structures having an area in excess of two hundred (200) square feet (19 m²) and canopies in excess of four hundred (400) square feet (37 m²) shall not be permitted during Block Parties.
- E. A petition containing the approval of at least seventy-five percent (75%) of the properties with frontage (i.e., a property line) on the street(s) to be closed. At least one owner or tenant from each property must sign the petition.
- F. Estimated number of block party participants. Special conditions may apply based upon the number of estimated block party participants, as described in § 327-30.
- G. The required fee and security deposit, as outlined in § 327-29, must be submitted at the time of permit application.

§ 327-28. Submission deadlines.

- A. Applications for Block Party Permits must be submitted at least thirty-five (35) calendar days prior to the Block Party, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the Block Party shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the Block Party.
- C. Applications received less than thirty (30) calendar days prior to the Block Party shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-29. Fee & Security Deposit.

- A. The fee for a Block Party Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). Such fee shall be paid upon permit application.
- B. Block Party Permit Applicants shall not be charged additional fees for rain dates, if requested.
- C. Block Party Permit Applicants requesting a refund of Block Party Permit fees due to cancellation of the block party or withdrawal of the Block Party Permit application must submit such request in writing at least ten (10) business days prior to the scheduled event. Fees may be nonrefundable if the City incurred any expenses due to preparation for the Block Party.
- D. The Block Party security deposit shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The security deposit shall be paid upon permit application. Such funds shall be returned to the Block Party Permit Co-Applicants within thirty (30) days of the Block Party, unless the City is required to provide services for the cleaning, maintenance, and/or repair of the Block Party area, as outlined in § 327-29.

§ 327-30. Terms and conditions.

All Block Party Permits issued pursuant to this section shall be subject to the following terms and conditions:

- A. The Block Party Permit Co-Applicants are responsible for inspecting the public property which they intend to utilize in order to determine whether or not the public property is suitable for the proposed Block Party, and to ensure that there are no defects or dangerous conditions. If, subsequent to submitting the Block Party Permit application, a new defect or dangerous condition appears, the Block Party Permit Co-Applicants must advise the City of Binghamton in writing at least five (5) business days prior to the Block Party. The City may, in its discretion, correct the defect or dangerous condition or may advise the Co-Applicants to cancel or adjourn the proposed Block Party. If the Block Party Permit Co-Applicants provide less than five (5) business days prior notice or elect to proceed with the proposed Block Party before the defect or dangerous condition is remedied, the Block Party Permit Co-Applicants and Block Party participants waive any right of action against the City of Binghamton.

- B. The Block Party Permit Co-Applicants shall maintain responsibility for the City property permitted for Block Party use, and shall be responsible for the cleaning, maintenance and/or repair of said Block Party area.
1. Maintenance shall include cleaning the City property which is permitted for Block Party use of all rubbish and debris, leaving the site in a clean condition. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of the Block Party.
 2. Should the Co-Applicants fail to clean, maintain, and/or repair the Block Party area to the satisfaction of the City, the City shall provide such services, and shall deduct the cost of such services from the security deposit. If the security deposit is exhausted due to expenses incurred by the City for such services, the Co-Applicants shall remain liable and shall reimburse the City for any and all damages or injury to any City property that may arise due to the Block Party.
- C. The Block Party Permit Co-Applicants must notify all residents and businesses along the street(s) to be closed of such closure prior to the Block Party. Failure to notify residents and businesses of such closure may result in the denial of future Block Party Permit applications.
- D. The Block Party Permit Co-Applicants shall comply with all regulations set forth by the Police Department, Fire Bureau, or other public safety personnel, and shall be responsible for ensuring that participants of the Block Party adhere to all noise and public conduct regulations outlined in the Code of the City of Binghamton.
- E. Block Party Permits are non-transferrable.
- F. The Block Party Permit Co-Applicants must be on-site during the course of the event, and must be available by telephone in case of emergencies.
- G. The Block Party Permit Co-Applicants shall provide garbage and recycling receptacles for Block Parties occurring on City property in order to prevent the accumulation of trash and recyclable materials.
- H. Pursuant to Broome County Charter & Code Chapter 168, Article IX, an Automated External Defibrillator (AED) and a person who is trained in Cardiopulmonary Resuscitation (CPR) must be available at any event during which five hundred (500) or more individuals will be in attendance at any given time.
- I. The issuance of a Block Party Permit shall indicate compliance with all regulations outlined in Chapter 292, *Noise*.
- J. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of

closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.

K. Any notice can be e-mailed to the Block Party Permit Co-Applicants.

§ 327-31. Permit rejections, modifications, denials and revocations.

- A. The City of Binghamton reserves the right to reject Block Party Permit applications which are incomplete and/or unaccompanied by the required documentation. The rejection of a permit application does not preclude the Block Party Permit Co-Applicants from resubmitting the Block Party Permit application in the future, when such application is complete. The resubmission of a Block Party Permit application shall not exempt the Block Party Permit Co-Applicants from the submission deadlines outlined in § 327-28.
- B. Modifications. The City of Binghamton reserves the right to modify a Block Party Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed Block Party conflicts with a previously scheduled or annual event.
- C. Denials. A Block Party Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed Block Party conflicts with a previously scheduled event, or if the Block Party Permit Co-Applicants fail to comply with the regulations described herein.
- D. Revocations. The City may revoke a Block Party Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State.
- E. Should the Block Party Permit Co-Applicant or Block Party participants fail to comply with the provisions of any regulations described herein, the Block Party Permit Co-Applicants may be ineligible to receive future Block Party Permits, and/or a prohibition on the Block Party itself may be established. The City reserves the right to conduct inspections during the course of the Block Party in order to ensure that all regulations as described herein are being met by the Block Party Permit Co-Applicants.

§ 327-32. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Block Party Permit Co-Applicants shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

§ 327-33. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, shall be guilty of a violation and liable for a fine of not less than \$100, but not exceeding \$500.

Article VI, Wedding Ceremony Permit [Adopted 2018.04.18 by Ord. 18-42]

§ 327-34. The issuance of a Wedding Ceremony Permit may allow for the reserved use of a designated area or portion of City property for a Wedding Ceremony only.

§ 327-35. Application.

In order to obtain a Wedding Ceremony Permit, the Permit Applicant shall provide an application to the City Clerk which will require the following, along with such other information as the City shall find necessary and proper:

- A. Applicant(s) name, mailing address, telephone number, and email address.
- B. Date(s) and time(s) of the proposed ceremony, including times at which set up prior to and clean up after the ceremony will take place.
- C. Location of the proposed event, as described in § 327-37.
- D. Estimated number of ceremony guests, maximum 50 guests.
- E. Indicate whether or not access to City electricity service is requested. If access to City electricity is requested, the Event Permit Applicant must include an outline of all items which require use of City electricity, along with the power requirements of each item. Access to City electricity service may or may not be available. Additional fees may apply if access to City electricity and/or water service is provided, in accordance with § 327-37.
- F. All required fees and insurance documents, as outlined in § 327-36, must be submitted at the time of permit application.

§ 327-36. Insurance requirements.

- A. All Wedding Ceremony Permit applications must be accompanied by proof of general liability insurance coverage in the amount of not less than one million dollars (\$1,000,000) and property damage insurance in an amount not less than fifty thousand dollars (\$50,000).
 1. The insurance certificate must name the City of Binghamton as insured.
 2. The insurance certificate must be endorsed and name the City of Binghamton as insured on a primary non-contributory basis.
- B. The Wedding Ceremony Permit Applicant shall hold harmless and indemnify the City from any and all claims, actions, damages or liability arising from the permitted event of every name and nature which may arise or be incurred by the City as a consequence of giving such permission for the exclusive and reserved use of City property, or as a result of the conduct of event participants, or as a result of the cleaning of rubbish and/or debris from the area in which the event is held.

§ 327-37. Wedding Ceremony permit fees and locations.

- A. The fee for an Wedding Ceremony Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J), and shall apply to each date of the proposed event. Additional fees for access to City electricity may apply (See Exhibit J).
- B. Wedding Ceremony Permit locations are as follows, exceptions may be allowed:
 1. Recreation Park Band Stand
 2. MLK Promenade
 3. Confluence Park (no table or chairs allowed)

4. Brown Park
5. Sandy Beach

§ 327-38. Submission deadlines.

- A. Applications for Wedding Ceremony Permits must be submitted at least thirty (30) calendar days prior to the ceremony, not including the date of submission.
- B. Applications submitted less than thirty (30) calendar days prior to the ceremony shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J).
- C. Applications received less than thirty (30) calendar days prior to the event may be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-39. Terms and Conditions.

All Wedding Ceremony Permits issued pursuant to this section shall be subject to the following terms and conditions:

- A. The Wedding Ceremony Permit Applicant is responsible for inspecting the public property which he or she intends to reserve for use of the ceremony in order to determine whether or not the public property is suitable for the proposed ceremony, and to ensure that there are no defects or dangerous conditions. If, subsequent to submitting the Wedding Ceremony Permit application, a new defect or dangerous condition appears, the Wedding Ceremony Permit Applicant must advise the City of Binghamton in writing at least five (5) business days prior to the ceremony. The City may, in its discretion, correct the defect or dangerous condition or may advise the Applicant to cancel or adjourn the proposed Wedding Ceremony. If the Wedding Ceremony Permit Applicant provides less than five (5) business days prior notice or elects to proceed with the proposed ceremony before the defect or dangerous condition is remedied, the Wedding Ceremony Permit Applicant and event participants waive any right of action against the City of Binghamton.
- B. The Wedding Ceremony Permit Applicant shall maintain responsibility for the City property which is reserved for the ceremony, and shall be responsible for the cleaning, maintenance and/or repair of said ceremony area:
 1. Maintenance shall include cleaning the City property which is reserved for the ceremony of all rubbish and debris, leaving the site in a clean condition. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of the ceremony.
 2. Failure to clean, maintain, and/or repair the ceremony area to the satisfaction of the City may result in the denial of future Wedding Ceremony Permit applications. If such failure should occur, the City shall provide services for the cleaning, maintenance and/or repair of the area in which the ceremony was held, and the cost of such services shall be billed to the Event Permit Applicant.
- C. The Chief of Police may at his/her discretion and in the interest of public safety require the Wedding Ceremony Permit Applicant to provide adequate security for the duration of the ceremony.
- D. The Wedding Ceremony Permit Applicant shall comply with all regulations set forth by the Police Department, Fire Bureau, or other public safety personnel, and shall be responsible for ensuring that participants of the permitted ceremony adhere to all noise and public conduct regulations outlined in the Code of the City of Binghamton.
- E. No changes to the normal daily routine of Parks Operations cannot be changed.
- F. Wedding Ceremony Permits are non-transferrable.
- G. No paint or other permanent markings are permitted upon City property for any ceremony without the express approval of the Council of the City of Binghamton. Should Wedding Ceremony Permit

Applicants wish to place non-permanent markings upon City property for the purpose of showing the route for a procession, parade, or race, such markings shall be water-soluble.

- H. A limit of fifty (50) participants for the ceremony (i.e. bridal party and guests).
- I. The City of Binghamton shall provide garbage and recycling receptacles on City property in order to prevent the accumulation of trash and recyclable materials.
- J. Issuance of a Wedding Ceremony Permit does not supersede other permits that may be issued for a similar area or times, e.g., an Event Permit does not supersede an existing Outdoor Café Permit.
- K. Any notice can be e-mailed to the Wedding Ceremony Event Permit Applicant.
- L. Please abstain from throwing rice at the conclusion of the ceremony. The City recommends bird seed.

§ 327-40. Permit rejections, modifications, denials and revocations.

- A. The City of Binghamton reserves the right to reject Wedding Ceremony Permit applications which are incomplete and/or unaccompanied by the required documentation. The rejection of a permit application does not preclude the Wedding Ceremony Permit Applicant from resubmitting the Wedding Ceremony Permit application in the future, when such application is complete. The resubmission of a Wedding Ceremony Permit application shall not exempt the Wedding Ceremony Permit Applicant from the submission deadlines outlined in § 327-38.
- B. Modifications. The City of Binghamton reserves the right to modify a Wedding Ceremony Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed ceremony conflicts with a previously scheduled or annual event.
- C. Denials. A Wedding Ceremony Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed ceremony conflicts with a previously scheduled event, or if the permit Applicant fails to comply with the regulations described herein.
- D. Revocations. The City may revoke a Wedding Ceremony Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State
- E. Should the Wedding Ceremony Permit Applicant or event participants fail to comply with the provisions of any regulations described herein, the Wedding Ceremony Permit Applicant may be ineligible to receive future Wedding Ceremony or Event Permits, and/or a prohibition on the ceremony itself may be established. The City reserves the right to conduct inspections during the course of the ceremony in order to ensure that all regulations as described herein are being met by the Wedding Ceremony Permit Applicant.

§ 327-41. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Wedding Ceremony Permit Applicant shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

§ 327-42. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, shall be guilty of a violation and liable for a fine of not less than \$100, but not exceeding \$500.

Chapter 328, USE OF PUBLIC PROPERTY BY PRIVATE PERSONS
[HISTORY: Adopted by the Council of the City of Binghamton on August 18, 2010.]

§ 328-1. Purpose.

City Hall, other municipal buildings, sidewalks, streets, and real property owned and managed by the City are for the benefit of the public and as such certain areas are made available for use by private persons and that such use of public property by private persons should be on a consistent, content neutral basis and subject to such requirements and restrictions as may be adopted by City Council from time to time.

§ 328-2. Existing Ordinances.

The use of sidewalks, streets, parks, and other public spaces are currently regulated by Chapter 327 and other provisions of the Code and traffic regulations. Nothing herein is intended to replace or amend such Ordinances and regulations.

§ 328-3. Second Floor Gallery.

City Hall includes a Second Floor Gallery which has historically been used for public assembly, public and private exhibits, and that such use has been administered by the Mayor, including creating guidelines for the use of the Second Floor Gallery. City Council hereby ratifies the use of the Second Floor Gallery for public assembly, public and private exhibits and approves the Guidelines dated May 27, 2010 a copy of which will be filed with the City Clerk; except, the Guidelines include an opportunity for exhibitors to advertise or display some portion of an exhibit on the exterior western wall of City Hall in conjunction with an exhibit in the Second Floor Gallery and that such right to use the exterior western wall will terminate on May 31, 2011. Any amendments to the Second Floor Gallery Guidelines must be approved by City Council.

§ 328-4. Expansion of use of public property by private persons.

No expansion of use of public property by private persons beyond what is currently permitted by the Code, including this Chapter, will be permitted without the consent of City Council.

Chapter 331, SALES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

- Auctions and auctioneers -- See Ch. 184.
- Collateral loan brokers -- See Ch. 275, Art. II.
- Secondhand dealers -- See Ch. 275, Art. III.
- Peddling and soliciting -- See Ch. 307.
- Use of rights-of-way -- See Ch. 327.

ARTICLE I, Transient Retail Merchants [Adopted 6-21-1982 by Ord. No. 83-82 (Ch. 12, §§ 12-104 through 12-118, of the 1970 Code)]

§ 331-1. Permit required. [Amended 12-1-1997 by Ord. No. 97-161]

No person shall conduct a transient retail business within the City of Binghamton until that person shall have obtained from the City Clerk a permit, in writing, to conduct such business.

§ 331-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON -- Include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, partnership, society or any other organization.

RETAIL GOODS, WARES OR MERCHANDISE -- All goods, as defined in § 401(1) of the New York Personal Property Law, sold for other than a commercial or business use or for purpose of resale. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part thereof whether or not severable therefrom. Exempted from this definition are hand-crafted goods or objects of art sold by the artisan who made said items.

SALE AT RETAIL OF GOODS -- A sale of goods, the taking of orders for the sale of goods for future delivery, or the furnishing or rendering of services or an agreement to furnish or render services by a seller to a buyer for cash or credit.

SELLER -- A person who sells retail goods or takes orders for the sale of goods for future delivery or furnishes or renders or agrees to furnish or render services to a buyer.

TRANSIENT RETAIL BUSINESS -- One conducted in a store, hotel, motel, house, building or structure for the sale at retail of goods, wares or merchandise, excepting food products, and which is intended to be conducted for a temporary period of time and not permanently.

§ 331-3. Term of permit; fee. [Amended 12-1-1997 by Ord. No. 97-161]

All permits issued under this article shall be valid for a period not to exceed six months from the opening of the transient retail business. The fee for such permits shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J).

§ 331-4. Presumption of transient status.

Pursuant to § 85-a of the General Municipal Law, if the place in which a business is conducted is rented or leased for a period of six months or less, such fact shall be presumptive evidence that the business carried on therein is a transient retail business.

§ 331-5. Not-for-profit exemption.

Nothing in this article shall be held to apply to any activities sponsored by and held for the benefit of any bona fide fraternal, charitable or religious organization. The burden of proving entitlement to this exemption shall be upon the person making an application for a permit under this chapter.

**§ 331-6. Verified application to be filed prior to beginning business; contents of statement.
[Amended 12-16-1985 by Ord. No. 164-85]**

No person shall conduct a transient retail business within the City until at least five business days shall have elapsed after the filing in the office of the City Clerk of an application verified by the person or persons who are to conduct such business containing the following information:

- A. The full name and address of such persons.
- B. New York State sales tax and certificate of authority identification.
- C. If a corporation makes the application, the state under the laws of which said corporation is organized.
- D. The exact location of the principal office and place of business of the applicant.
- E. The names and addresses of the officers of the business entity making said application.
- F. Applicant's social security number(s).
- G. The nature and location of the business engaged in by the applicant during the five years immediately preceding the filing of such statement.
- H. Satisfactory proof of compliance with all New York State and Broome County sales tax regulations.
- I. The exact location within the City of Binghamton where such transient retail business is to be conducted.
- J. The date on which such person intends to begin doing business within the City.
- K. The expected duration of the proposed sale.

§ 331-7. Investigation.

Upon the filing of the application required above, the City Clerk shall immediately send a copy of the application to the Detective Division of the Bureau of Police for investigation. Said Division shall report its findings, if any, to the City Clerk within two business days of the filing of said application.

§ 331-8. Issuance of permit.

- A. Upon receipt of the findings of the Police Bureau as required above, the City Clerk shall, except as set forth below, issue to the applicant a permit as required by this article, signed by the City Clerk or the Deputy City Clerk.
- B. Except as herein provided, no permit shall be refused except for a specific written reason and for the protection of the public safety, health, morals or general welfare.
- C. No permit shall be issued unless the applicant agrees to conform and comply with all terms and conditions of said permit as indicated in this article.
- D. All permits shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued.

§ 331-9. Place of business.

No person shall conduct a transient retail business within the City at any place other than that set forth on the permit issued by the office of the City Clerk pursuant to this article.

§ 331-10. Expiration of approval.

In the event that any person fails to begin conducting the transient retail business at the place as specified in the permit within 90 days after the issuance of said permit, such person shall not thereafter conduct any transient retail business within the City until five days shall have elapsed after the filing of a new application duly verified and containing the information, set forth above in § 331-6.

§ 331-11. City's right of entry, access to information.

The City Clerk, and such officers of the City designated by the Clerk for said purpose, shall have the power and authority to enter any store or building in which a transient retail business may be carried on at any time during business hours for the purpose of ascertaining the amount of stock of merchandise therein or sales made. At all times the City Clerk shall have access to the books of such businesses that relate to the transient operation in the City of Binghamton.

§ 331-12. Revocation of permit.

For the purposes of this article, the provisions of Chapter 307, Peddling and Soliciting, Article II, Policies and Procedures, § 307-14, Revocation of license, of this Code shall govern the revocation of any permit issued for the conduct of a transient retail business.

§ 331-13. Violation constitutes misdemeanor. [Amended 12-1-1997 by Ord. No. 97-161]

In addition to the civil penalties set forth in § 1-4 of this Code, and pursuant to the specific statutory authority conferred upon the City of Binghamton by § 85-a of the General Municipal Law, any person who conducts a transient retail business without first obtaining a permit hereunder shall be guilty of a misdemeanor.

ARTICLE II, Going-Out-of-Business Sales [Adopted 2-2-1987 by Ord. No. 12-87 (Ch. 12, § 12-5, of the 1970 Code)]

§ 331-14. Statutory provisions.

Going-out-of-business, closing out and similar sales held within the City will be regulated as provided in Article 29-F of the General Business Law.

Chapter 336, SEWAGE TREATMENT

[HISTORY: Adopted by the City Council of the City of Binghamton 12-20-1984 by L.L. No 1-1985 (Sub-Part LIX of the 1970 Code); amended in its entirety 2-17-1998 by L.L. No. 1-1998. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Sewers -- See Ch. 339.

Sewer use -- See Ch. 342.

Subdivision of land -- See Ch. 360.

ARTICLE I, Short Title; Policy and Purpose; Applicability

§ 336-1. Short title.

This chapter shall be known as the "Binghamton-Johnson City Joint Sewage Treatment Plant Law."

§ 336-2. Policy and purpose.

- A. It is the policy of the City of Binghamton and the Village of Johnson City, as joint owners of the Binghamton-Johnson City Joint Sewage Treatment Plant, to protect and preserve the joint sewage treatment plant by preventing the introduction of substances into the plant which impair the strength and/or durability of the plant; which pass through the plant inadequately treated; or which are otherwise incompatible with the plant or the treatment processes utilized by the plant. It is the further policy of the owners to protect the public health and the environment by promoting the use and operation of the plant in a manner which complies with the terms and conditions of the SPDES permit issued for the plant by the DEC, and in a manner which is consistent with the letter and spirit of the Industrial Waste Pretreatment Program developed for the plant under the guidelines of the DEC and the EPA. It is the further policy of the owners to foster the fiscal self-sufficiency of the sewage treatment plant through the imposition of user charges which equitably distribute the cost of operating and maintaining the plant among all users in an economically sound manner.
- B. The purpose of this chapter is to provide for the management, operation and use of the joint sewage treatment plant and its appurtenant structures and facilities so as to achieve maximum adherence to the policies stated above.

§ 336-3. Applicability.

The provisions of this chapter shall apply to all users of the Binghamton-Johnson City Joint Sewage Treatment Plant. Municipal users shall be governed by the provisions of their individual contract with the owners and by the rules and regulations of the Joint Sewage Board and shall, except as specifically provided hereinafter, be exempt from the coverage of this chapter.

ARTICLE II, Definitions

§ 336-4. Definitions and word usage. [Amended 4-18-2012, by Ord. No. 12-28]

- A. Unless otherwise defined herein, technical terms shall be as defined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Health Association, the American Water Works Association and the Water Pollution Control Federation.
- B. Whenever used in this chapter, unless otherwise expressly stated or required by subject matter of context, the following terms shall have the meanings indicated:

BOARD or JOINT SEWAGE BOARD -- The Binghamton-Johnson City Joint Sewage Board, established under the contract between the City of Binghamton and the Village of Johnson City for the operation of a

joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

CITY -- The City of Binghamton, New York.

COOLING WATER -- The water discharges from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD or suspended solids each in excess of 10 milligrams per liter.

CPLR -- The New York Civil Practice Law and Rules.

DEC -- The New York State Department of Environmental Conservation.

DISCHARGE DIRECTLY OR INDIRECTLY INTO THE JOINT SEWAGE TREATMENT PLANT -- To contribute wastewater or cause or permit the contribution of wastewater into the Binghamton-Johnson City Sewage Treatment Plant or into any public sewer which conveys wastewater to the Binghamton-Johnson City Joint Sewage Treatment Plant.

EASEMENT -- An acquired legal right for the specific use of land owned by others.

EPA -- The United States Environmental Protection Agency.

FEDERAL ACT or ACT -- The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500, and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the Act.

FLOW RATE -- The quantity of waste or liquid that flows in a certain period of time.

GARBAGE -- Animal and vegetable wastes from the preparation, cooking and disposing of food and from handling, processing, storage and sale of food products and produce.

HOLDING TANK WASTE -- Any sanitary waste from holding tanks such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INDIRECT DISCHARGE or DISCHARGE -- The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER or USER -- A source of indirect discharge.

INDUSTRIAL WASTE -- Any discarded matter, including any liquid, gaseous or solid substance or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term does not include garbage.

INDUSTRIAL WASTEWATER -- Wastewater in which industrial wastes are carried.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT -- A permit, issued by the Joint Sewage Board, authorizing the permittee to deposit or discharge industrial wastewater into any public sewer served by the joint sewage treatment plant.

INFILTRATION— Water, other than sewage, that enters a sewage collection system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

INFILTRATION/INFLOW(I/I)—The total quantity of water from both Infiltration and Inflow, without distinguishing the source.

INFLOW— Water, other than sewage, that enters a sewage collection system (including sewer service connections) from sources such as roof leaders, cellar drains, sump pumps, missing or defective cleanout caps, swimming pools, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between stormwater sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

INTERFERENCE -- The inhibition or disruption of the treatment plant processes or operations or its sludge processes, use or disposal. The term includes any action which is a cause of, or significantly contributes to, a violation of any requirement of the Joint Sewage Board's SPDES permit or which results in the prevention of sewage sludge reuse, reclamation or disposal by the treatment plant in accordance with Section 405 of the Act (33 U.S.C. 1345), 40 CFR Part 503, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act

and the Toxic Substances Control Act, or any more stringent state criteria or local regulations applicable to the method of disposal or use employed by the treatment plant.

JOINT SEWAGE TREATMENT PLANT, SEWAGE TREATMENT PLANT or TREATMENT PLANT

-- The Binghamton-Johnson City Joint Sewage Treatment Plant, including all facilities, buildings, equipment, appurtenances and land owned jointly by the City of Binghamton and the Village of Johnson City, in accordance with agreements between the owners, for the expressed purpose of providing adequate conveyance, treatment and disposal of sewage.

MAJOR CONTRIBUTING INDUSTRY -- All significant industrial users and all other industries having a wet process discharge to the public sewer system.

MUNICIPAL USER -- A municipal corporation which owns or has jurisdiction over any public sewer which conveys wastewater to the Binghamton-Johnson City Joint Sewage Treatment Plant.

NATIONAL PRETREATMENT STANDARD or PRETREATMENT STANDARD or STANDARD --

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

NORMAL SEWAGE -- Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed 240 milligrams per liter of BOD₅, 300 milligrams per liter of TSS or 50 milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the POTW under the terms of the rules and regulations of the Board. The numbers and values of characteristics are subject to the revision of the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the POTW or maintain the treatment works' capability of providing treatment in compliance with federal, state and local standards.

OWNERS -- The City of Binghamton and the Village of Johnson City, joint owners of the sewage treatment plant.

PASS THROUGH -- A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

PERSON -- Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust or estate or any other legal entity whatsoever.

POLLUTANTS -- Substances which may be present in wastewater, whether gaseous, liquid or solid, in an amount which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content of natural waters, contribute solids, contain oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life, or may be defined now or hereafter by appropriate local, state or federal authorities or by the Board.

PREMISES -- Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

PRETREATMENT REQUIREMENT -- Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

PUBLIC SEWER -- Any sewer owned or controlled by a governmental agency. The term includes any devices, structures or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

RULES AND REGULATIONS OF THE BOARD -- The Rules and Regulations Relating to the Use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

SANITARY SEWER -- A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants and institutions.

SANITARY WASTE -- Wash water, culinary wastes, the liquid waste containing only human excreta and similar matter, flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory or institution.

SEWAGE -- The water-carried domestic human or animal waste, together with industrial and commercial waste, from residences, buildings, industrial, and commercial establishments or other places. Neither infiltration nor inflow are components of "sewage".

SEWER -- A pipe or conduit for carrying wastewater; the term includes sanitary sewers and combined sewers.

SHREDDED GARBAGE -- Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than one-half inch in any direction.

SIGNIFICANT INDUSTRIAL USERS -- Those industries meeting one or more of the following criteria:

- (1) All industrial facilities subject to promulgated federal categorical pretreatment standards.
- (2) Industrial facilities having substantial impact, having a reasonable potential to affect the POTW operation, either singly or in combination with other industrial facilities on the operation of the treatment works.
- (3) A single industrial facility using, on an annual basis, more than 10,000 pounds or 1,000 gallons of any substance constituting a priority pollutant (designated pursuant to the Act) and discharging a measurable amount of that substance to the sewer system from the process using that substance.
- (4) Those industries discharging more than 1% of the average daily flow or more than 1% of the load of conventional pollutants tributary to the treatment plant receiving the waste.
- (5) All industries discharging heavy metals in any quantity of priority pollutants in any amount where the Board determines the discharge of such materials into the sewer system may have significant impact on the POTW.

SIGNIFICANT NONCOMPLIANCE -- A violation which meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all the measurements for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.)
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Board determines has caused, alone or in combination with other discharges, interference as pass through (including endangering the health of POTW personnel or the general public.
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.
- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, periodic self-monitoring reports and reports on compliance with compliance schedules.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG DISCHARGE -- Any discharge of a nonroutine, episodic nature, including but not limited to an accidental or intentional spill or a noncustomary batch discharge.

SPDES PERMIT -- A wastewater discharge permit issued by the DEC under the state pollutant discharge elimination system.

SUSPENDED SOLIDS -- The total suspended matter in wastewater, as determined by Standard Methods.

TOXIC SUBSTANCES -- Any substances, whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient amounts may tend to interfere with any sewage treatment process, constitute a hazard to the receiving waters of the effluent from the sewage treatment plant, pose a hazard to sewer maintenance personnel or constitute a hazard to fish or animal life or inhibit aquatic life. This definition includes, but is not limited to, EPA priority pollutants.

UNPOLLUTED WATER -- Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

USER -- Any person who contributes, causes or permits the contribution of wastewater into the joint sewage treatment plant or into any public sewer which conveys wastewater to the sewage treatment plant.

VILLAGE -- The Village of Johnson City, New York.

WASTEWATER—The composite of all flow constituents conveyed in a sewer including sewage and infiltration and inflow.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS -- The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and such other parameters, that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

C. Word usage. "Shall" is mandatory; "may" is permissive.

ARTICLE III, Joint Sewage Board

§ 336-5. Continuation of established Board.

The Binghamton-Johnson City Joint Sewage Board, which was established by the municipal cooperation agreement between the City of Binghamton and the Village of Johnson City dated July 14, 1965, is hereby continued; and all of the powers, functions, and obligations possessed by the Board pursuant to such agreement immediately preceding the effective date of this chapter are hereby continued.

§ 336-6. Composition; terms; vacancies.

The composition of the Joint Sewage Board, the terms of its members, and the manner of filling vacancies shall be as governed by the provisions of the agreement which created the Board, and any amendments thereto.

§ 336-7. Additional powers, duties and functions.

- A. In addition to any other powers, duties and responsibilities previously conferred upon it, the Joint Sewage Board shall have administrative responsibility for implementing, effectuating and enforcing, on behalf of the City, all requirements necessary to ensure compliance with this chapter, with the terms and conditions of the SPDES permit issued for the sewage treatment plant and with the industrial waste pretreatment program developed and approved for the sewage treatment plant.
- B. To carry out its responsibilities under this chapter, the Joint Sewage Board may:
 - (1) From time to time, adopt, amend or cancel administrative rules and regulations, not inconsistent with the provisions of this chapter, governing the use of the sewage treatment plant (including provisions applicable to municipal users); and the procedure to be followed with respect to hearings, filing of reports, the issuance of permits and all other procedural matters relating to the use of the plant and any public sewer served by the plant.
 - (2) Appoint officers and employees and delegate to and allocate among them administrative functions, powers and duties; and retain and employ private consultants for professional and technical assistance and advice.

- (3) Hold hearings, receive pertinent and relevant proof from any party in interest who appears at such hearing, compel the attendance of witnesses, make findings of fact and determinations and assess such penalties therefor as are hereinafter prescribed in Article VIII, all with respect to any aspect or matter involving the administration of this chapter.
- (4) Make, modify or cancel orders requiring the discontinuance of the discharge of wastewater into any public sewer served by the sewage treatment plant and specifying the conditions and time within which such discontinuance must be accomplished.
- (5) With the advice and consent of the City Attorney, institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this chapter or the determinations and orders of the Board.
- (6) Issue or deny permits, under such conditions as may be prescribed for the prevention and abatement of pollution, for the discharge of industrial wastewater into any public sewer served by the Binghamton-Johnson City Sewage Treatment Plant and to fix reasonable charges and fees for such permits.
- (7) Revoke, suspend or modify any wastewater discharge permits issued under the provisions of this chapter whenever, after hearing thereon, the Board determines that such revocation, suspension or modification is necessary or desirable to comply with the intent and purpose of this chapter; provided, however, that the hearing required under this subsection may be waived in writing by the applicant or permittee.
- (8) On its own motion, investigate or make inquiry, in a manner to be determined by it, as to any condition affecting the joint sewage treatment plant and as to any alleged act or commission or failure to comply with any provision of this chapter, with the Board's rules and regulations or with any permit, order or determination issued thereunder.
- (9) Make contracts and leases upon such terms as the Board shall deem appropriate; and execute all instruments necessary and convenient, including applications for permits from state and federal agencies having jurisdiction over the sewage treatment plant or its receiving waters.
- (10) Settle or compromise, with the approval of the City Attorney, any action or cause of action for the recovery of a penalty under the provisions of this chapter as it may deem advantageous to the City.
- (11) Accept and assume from participating municipalities such powers and functions as are necessary, convenient and proper for enforcing its rules and regulations within such municipalities.
- (12) Promote, develop, encourage and assist in the formulation of appropriate sewer use laws by municipalities which directly or indirectly discharge municipal wastewater into the sewage treatment plant; and cooperate with the appropriate agencies of such municipalities with respect to matters having impact on the sewage treatment plant.
- (13) Perform such other and further acts as may be necessary, proper or desirable to carry out effectively the duties and responsibilities prescribed in the provisions of this chapter.

ARTICLE IV, Administrative Procedures

§ 336-8. Proceedings before Board.

- A. Whenever it shall appear to the Board, after investigation, that there has been a violation of any of the provisions of this chapter, or of the Board's rules and regulations, or of any permit, order or determination issued thereunder, it shall give written notice to the alleged violator or violators, setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provisions and requiring that the matters complained of be corrected and/or that the alleged violator appear in person or by attorney before the Board or its duly designated representative, at the time and place in said notice specified, and answer the charges complained of.
- B. At least 15 days' notice of such hearing shall be given.

- C. Upon the return day of such notice, the person so notified shall file with the Board a written statement setting forth the position of the person so notified, the answer, if any, to the charges made against him, the methods, practices and procedures, if any, which are being taken to correct each alleged violation and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses shall be received in support of or opposition to said statement. Failure to file a statement shall be treated as a default in appearance.
- D. Following a hearing and after due consideration of the written and oral statements and testimony and arguments filed pursuant to Subsection C above, or on default in appearance in said return day, the Board may issue and enter such final order or make such final determination as it deems appropriate under the circumstances and shall notify such person or persons thereof in writing, personally or by registered mail, within 20 days after completion of the hearing. Where a person appears by attorney, service by mail on the attorney shall be sufficient if made in accordance with CPLR § 321.

§ 336-9. Hearings; notice and procedure.

- A. The Board may issue subpoenas and administer oaths in connection with any hearing or investigation under or pursuant to the provisions of this article, and it shall be the duty of the Board to issue subpoenas at the request of and upon behalf of the respondent.
- B. The Board shall not be bound by laws of evidence in the conduct of hearing proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it.
- C. Notice of hearing shall be served at least 15 days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the public interest to delay action for 15 days, the Board may proceed in accordance with § 336-52.
- D. Service of notice of hearing or order shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an infant, incompetent, partnership, corporation, governmental subdivision, Board or commission, it shall be made upon the person or persons designated to receive personal service by Article 3 of the CPLR.
- E. The Board's attorney may prefer changes, attend hearings, present the facts and take any and all proceedings in connection therewith.
- F. At a hearing, the respondent may appear personally, shall have the right of counsel and may cross-examine witnesses against him and produce evidence and witnesses in his behalf.
- G. A record, or summary thereof, of the proceedings of said hearings shall be made and filed with the Board. If requested to do so by any party, full stenographic notes of the testimony presented at said hearing shall be taken and filed. The stenographer shall furnish a certified transcript of the record to any party requesting and paying for same.
- H. Unless precluded by law, disposition may be made of any hearing by stipulation, agreed settlement, consent order, default or other informal method. Within 10 days of the notice specified in § 336-8A, the user may request a prehearing conference with the Board's representative for an informal disposition of any or all charges.

- I. At any time prior to the expiration of the time limited for commencement of judicial review of any decision or determination of the Board, a party may request that the Board furnish him with a copy of the record and transcript of the proceeding or any part thereof. The Board shall prepare the record together with any portion of the transcript requested and shall furnish a copy of the requested materials to the party. Except when any law provides otherwise, the Board is authorized to charge not more than its cost for the preparation and furnishings of such record or transcript, or the rate specified in the contract between the Board and a contractor if prepared by a private contractor.
- J. Upon application of any affected user the Board may modify or amend any determination after a hearing.

§ 336-10. Declaratory rulings.

Any interested person may petition the Board for a declaratory ruling relating to any rule, regulation, order, policy or interpretation used by the Board in the discharge of its functions under this chapter. A petition to the Board for a declaratory ruling shall be in writing and shall be in such form as the Board prescribes. No later than 30 days after its receipt of a petition, the Board shall state its opinion of the petitioner's position and the policy to be followed by the Board. This statement shall constitute a declaratory ruling which shall be served by mail on the petitioner. When the Board deems appropriate, it may schedule an adjudicatory hearing to be held in accordance with the procedures set forth in § 336-9 above, prior to its issuing a declaratory ruling.

§ 336-11. Appeals to Board.

- A. Any person aggrieved by any determination or order made by any delegate, deputy or representative of the Board may appeal such order or determination to the Board by filing with the Board a request for Board review. Requests for Board review shall be in writing and shall be made within 15 days of the date of the determination or order complained of. The request shall contain a short and plain statement of the matters asserted and the relief being sought. No later than 30 days after receipt of a request for review, the Board shall schedule an adjudicatory hearing to be held in accordance with the procedures set forth in § 336-9 above. A special meeting of the Board may be called by the Chairperson upon the filing of the request for review, and the Board may, in its discretion, suspend the operation of the order or determination being reviewed until such time as the Board has acted upon the appeal.
- B. The Board shall review and evaluate all appeals, and in making any decisions it shall give due consideration to such factors as it deems appropriate for effectuating the policy and purpose of this chapter. For appeals taken pursuant to § 336-27B of this chapter, the Board shall be reviewable in a proceeding pursuant to Article 78 of the CPLR. Application for such review must be within 30 days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant and for each person who has filed a notice of appearance, or the applicant in person if such applicant is not represented by an attorney.

§ 336-12. Adoption and amendment of rules and regulations.

- A. The Joint Sewage Board, prior to the adoption, amendment or repeal of any rule or regulation, shall:
 - (1) Publish notice at least 10 days prior to the intended action. Notice shall include a statement of either the terms or substance of the intended action or a description of subjects and issues involved and the time and manner at which interested persons may present their views.
 - (2) Afford all interested parties reasonable opportunity to submit data, views or arguments, orally or in writing. Reasons for adoption and refusal of proposed rules as well as the decision of the Joint Sewage Board shall be recorded and available for public inspection.

- (3) Within 15 days after Board action, file a certified copy of each such amendment to the rules and regulations with the City Council for approval. In the event that no action is taken by the City Council within 30 days, the proposed amendment shall be deemed approved. Where City Council disapproves a proposed amendment to the rules and regulations, then the clerk of the City Council shall promptly notify the Board of such disapproval. Within 10 days, the City Council shall convene a meeting with the Board and the Village Board of Johnson City to resolve any disagreement.
- B. The rule or regulation, or amendment or repeal thereof, shall be effective 10 days after approval; except that if the rule is adopted under the emergency procedures of Subsection C, then it shall be effective upon adoption by the Board.
- C. If the Board determines that emergency action is required under § 336-52 of this chapter the Board may waive the provisions of Subsection A above and proceed to adopt an emergency rule. The emergency rule shall be effective for a period not exceeding 120 days unless it is readopted in accordance with Subsection A of this section.

§ 336-13. Compilation of Joint Sewage Board rulings.

The Board shall compile, index and make available for public inspection all current rules and regulations and all declaratory rulings and decisions on appeal promulgated by the Board.

ARTICLE V, Restrictions and Limitations on Use of Joint Sewage Treatment Plant

§ 336-14. Prohibited discharges.

No person shall discharge directly or indirectly into the joint sewage treatment plant any substances, materials, waters or wastes in such qualities or concentrations which cause or are capable of causing, either alone or by interaction with other substances, interference with the operation or performance of the plant or which pass through the plant inadequately treated. The Joint Sewage Board shall by rule and regulation develop specific limits and restrictions to implement the general prohibitions of this section. These general prohibitions and the specific prohibitions developed by the Board shall apply to all users, whether or not a user is subject to any other local, state or federal requirements governing use of the joint sewage treatment plant.

§ 336-15. Compliance required.

No person shall discharge directly or indirectly into the joint sewage treatment plant, or otherwise use the sewage treatment plant, unless such discharge or use is in compliance with this chapter, with the rules and regulations of the Joint Sewage Board, with any applicable order or determination of the Board promulgated thereunder and with the terms and conditions of any applicable permit issued by the Board.

§ 336-16. Protection from damage.

No unauthorized person shall maliciously, willfully or recklessly break, damage, destroy, deface or tamper with any structure, appurtenance, equipment or other property which is under the jurisdiction, ownership or control of the Joint Sewage Board.

§ 336-17. Tampering with measuring devices prohibited.

No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under this chapter or the rules and regulations of the Board.

§ 336-18. False statements prohibited.

No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of this chapter or the rules and regulations of the Board.

ARTICLE VI, Industrial Wastewater Pretreatment Program

§ 336-19. Administration.

The Binghamton-Johnson City Joint Sewage Board, having jurisdiction over the indirect discharges to and the discharges from the joint sewage treatment plant, shall serve as the municipal agency responsible for the implementation and administration of industrial wastewater pretreatment program developed for the joint sewage treatment plant in accordance with the requirements prescribed in the USEPA General Pretreatment Regulations (Part 403 of Title 40 of the Code of Federal Regulations).

§ 336-20. Authority of Joint Sewage Board.

- A. The admission of industrial waste into the joint sewage treatment plant shall be subject to the review and approval of the Joint Sewage Board.
- B. For any user discharging or proposing to discharge industrial wastewater directly or indirectly into the joint sewage treatment plant, the Board may:
 - (1) Require pretreatment of the user's wastewater to a condition acceptable for discharge to the treatment plant;
 - (2) Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge;
 - (3) Require payment by the user to cover added cost of handling and treating the wastewater not covered by existing fees or charges;
 - (4) Require the development of compliance schedules by the user to meet any applicable pretreatment requirements, or any other applicable requirements prescribed by the Board's rules and regulations;
 - (5) Require the submission of reports necessary to assure compliance with applicable pretreatment requirements and with any other applicable requirements prescribed by the Board's rules and regulations;
 - (6) Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with applicable pretreatment requirements and any other requirements prescribed by the Board's rules and regulations;
 - (7) Obtain remedies for noncompliance by any user as specified in Article VIII of this chapter; or
 - (8) Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the joint sewage treatment plant or its appurtenant structures and facilities, or the processes, equipment or receiving waters of the plant; or which constitute a public nuisance or hazard; or
 - (9) Take such other measures as are necessary and proper to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.
 - (10) Request that the user submit revised industrial chemical survey and industrial waste survey forms when industrial facility expansions, production increases or process modifications result in new, different or increased discharges of pollutants, including hazardous wastes. Furthermore, the Board may deny or condition new or increased contributions of pollutants where such contributions do not meet applicable pretreatment standards and requirements or when they would cause the Board to violate its NPDES permit.
 - (11) All industrial users must notify the Board, the state and the EPA, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

§ 336-21. Wastewater discharge reports.

As a means of determining compliance with this chapter, with the Board's SPDES permit conditions and applicable state and federal law, the Board may require that any user discharging or proposing to discharge wastewater directly or indirectly into the joint sewage treatment plant file a wastewater discharge report within 90 days following the date for final compliance (or, if a new source, following the commencement of its discharge) and to supplement such reports with self monitoring reports as required under federal regulation 40 CFR 403.12. The wastewater discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate or other information which relates to the generation of waste; a certification of whether pretreatment standards are being met consistently; and, if not, a description of needed additional operation and maintenance, or pretreatment. The report may also require disclosure of the chemical constituents and quantity of liquid or gaseous materials stored on site, notwithstanding that such materials are not normally discharged. Such information shall be provided by completion of a questionnaire supplied by the Board and by such supplements thereto as the Board determines necessary.

§ 336-22. Industrial wastewater discharge permits.

Each major contributing industry is hereby required to obtain an industrial wastewater discharge permit as a condition for discharging or continuing to discharge wastewater to the joint sewage treatment plant. New major contributing industries must obtain an industrial wastewater discharge permit from the Board prior to discharging wastewater into the public sewage systems. Major contributing industries currently connected must obtain a permit from the Board within 180 days after the effective date of this chapter.

§ 336-23. Permit application.

- A. Users required to obtain an industrial wastewater discharge permit shall complete and file with the Board an application in the form prescribed by the Board. The applicant may be required to submit the following information:
- (1) Name, address and location (if different from the address).
 - (2) Name and phone number of person to contact concerning industrial waste.
 - (3) Indication of all permits held.
 - (4) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any.
 - (5) Wastewater constituents and characteristics of the sewage, industrial waste or other wastes discharged to the sewer system, including but not limited to pH, chemical composition, temperature, BOD5, etc.
 - (6) Time and duration of discharge.
 - (7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation.
 - (8) Description of activities, facilities and plant processes on the premises, including all materials, processes and types of materials which are or could be discharged.
 - (9) Description of each product made, manufactured or produced and type, amount, process or processes and rate of production.
 - (10) Type and amount of raw materials processed.
 - (11) Number and type of employees, and hours of work.
 - (12) Water consumption and uses.
 - (13) Signature and certification that all information submitted is accurate.
 - (14) Any other information in such form and at such times as the Joint Sewage Board deems appropriate to carry out the intent and purpose of this chapter.
- B. In addition to the application to obtain an industrial wastewater discharge permit, categorical industrial users must submit a baseline monitoring report (BMR) in accordance with the requirements of 40 CFR 403.12(b).

- C. The Joint Sewage Board shall evaluate the application and any additional information it requires. After such evaluation, the Joint Sewage Board may issue an industrial wastewater discharge permit subject to the terms and conditions provided herein.

§ 336-24. Permit conditions.

- A. Industrial wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other rules and regulations, charges and fees established by the Joint Sewage Board. The conditions of the industrial wastewater discharge permit shall be uniformly enforced by the Board in accordance with this chapter and with applicable state and federal laws and regulations.
- B. The permits may contain the following:
- (1) A statement of duration.
 - (2) A statement of nontransferability.
 - (3) Effluent limitations or other appropriate limitations when toxic substances are present in the user's wastewater discharge.
 - (4) Specifications for monitoring programs, which may include sampling locations, frequency and method of sampling, number types and standards for analytical tests and reporting schedule.
 - (5) A requirement to notify the Board, within 24 hours of becoming aware, of any violations and to resample and resubmit results of this sampling within 30 days.
 - (6) Requirements for submission of reports for conditions of noncompliance.
 - (7) Requirements for submission of technical reports or discharge reports.
 - (8) A requirement that all reports submitted contain a signed certification as required by 40 CFR 403.6(a)(2)(ii).
 - (9) Pretreatment requirements.
 - (10) Requirements for the submission of information concerning the disposal of waste materials separated from the authorized discharge.
 - (11) Requirements for the installation of inspection and sampling manholes.
 - (12) Schedule of compliance allowing reasonable time to conform with the effluent limitations of this chapter.
 - (13) Limits on the average and maximum wastewater constituents, flow rates and time of discharge.
 - (14) Requirements for maintaining records relating to wastewater discharge for a minimum of three years as specified by the Joint Sewage Board and affording access thereto by authorized Joint Sewage Board personnel.
 - (15) The computation and requirement for payment of an industrial waste surcharge.
 - (16) Other conditions which the Joint Sewage Board deems appropriate to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.
 - (17) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

§ 336-25. Duration of permit.

Industrial wastewater discharge permits shall be issued for a specified period of time not to exceed three years and shall be renewable.

§ 336-26. Transfer of permit.

Industrial wastewater discharge permits shall be issued to a specific user for a specific operation and shall be nontransferable.

§ 336-27. Modification, suspension or revocation of permit.

- A. Industrial wastewater discharge permits may be modified, suspended or revoked whenever the Joint Sewage Board finds, after a hearing held in conformance with the procedures set forth in Article IV, that:
 - (1) The user has violated any term of the permit; or
 - (2) The user obtained the permit by misrepresentation or failure to disclose fully all relevant facts.

- B. Permits may additionally be modified, suspended or revoked whenever the Board determines that a change in conditions or the existence of a condition at the joint sewage treatment plant requires either a temporary or permanent reduction or elimination of the authorized discharge. Affected users shall be informed of any proposed changes in their permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Any user aggrieved by a proposed modification, suspension or revocation of the user's wastewater discharge permit under this subsection may appeal to the Board for relief in accordance with the provisions of § 336-11 of this chapter.

- C. If the Board finds that the public health, safety or welfare requires emergency action, and incorporates a finding to that effect in its order, summary suspension or modification of a permit may be ordered pending proceedings for modification, suspension, revocation or other action. As soon as possible thereafter, but not to exceed 15 days, the Board shall provide the affected user an opportunity to be heard in accordance with the hearing provisions of Article IV.

§ 336-28. Capacity limitation.

The Joint Sewage Board shall not issue a wastewater discharge permit to any industrial user unless there is sufficient capacity in the wastewater sewers and treatment facilities available to convey and adequately treat the quantity of wastewater which the requested discharge will add to the system.

§ 336-29. Monitoring, surveillance and sampling.

The Board shall maintain a continuing program of monitoring, surveillance and sampling of industrial wastes discharged directly or indirectly into the joint sewage treatment plant. The Board shall have the power to obtain samples and make tests necessary to determine the nature and concentration of such wastes and shall have the right to reassess its determination by taking samples and tests at any time or by periodic rechecks without notice to the user discharging such wastes.

- A. Samples shall be taken and flow measurements made at the monitoring station or stations which are specifically identified with the user.

- B. In the event that a monitoring station has not been required, the samples shall be taken at a suitable and accessible point or points to be selected by the Board and which are specifically identified with the user.

§ 336-30. Monitoring facilities.

The Board may require that a monitoring facility be installed by any user who discharges, who proposes to discharge or who in the Board's judgment might reasonably discharge wastewater with constituents and characteristics different from that produced by a domestic premises. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by the user. Monitoring facilities shall be designed in accordance with Joint Sewage Board requirements and shall be constructed, operated and maintained at the user's expense. If sampling and metering equipment is also required by the Board, it shall be provided, installed, operated and maintained at the user's expense. When, in the judgment of the Board, there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the Board may require that separate monitoring facilities be installed for each discharge.

§ 336-31. Pretreatment.

Where necessary in the opinion of the Board, users shall make wastewater acceptable under the limitations established by this chapter and by Section 307 of the Act before discharging directly or indirectly into the joint sewage treatment plant. Any facilities required to pretreat wastewater to a level acceptable to the Board shall be provided and maintained at the user's expense. Detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Board for review and must be approved by the Board prior to commencement of construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this chapter and with any applicable local, state or federal requirements. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to, and be approved by, the Board. When pretreatment regulations are adopted by the EPA or the DEC for any industry, then users in that industry must immediately conform to the EPA or DEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by the EPA or the DEC. Additionally, such users shall comply with any more stringent standards necessitated by local conditions as determined by the Board.

§ 336-32. Federal effluent limitations.

Industrial users may perform activities which are subject to national categorical pretreatment standards. The national categorical pretreatment standards, found in 40 CFR Chapter I, Subchapter N, Part 405-471, are hereby incorporated into this chapter. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than limitations in this chapter. Users in industrial categories subject to effluent guidelines issued under Section 304 of the Federal Act shall achieve the level of treatment established by federal regulations. Nothing in this chapter shall be construed to relieve any industrial user from its obligation to comply with the pretreatment standards established pursuant to Section 307 of the Federal Act.

§ 336-33. Accidental discharge.

Each user shall provide protection from intentional and accidental slug discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental slug discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Board for review, and shall be approved by the Board before construction of the facility. Industrial users shall develop slug control plans meeting the Board's approval at the request of the Board. Users shall give immediate notification to the Board upon discharging wastes in violation of this chapter due to (1) breakdown of pretreatment equipment, (2) accidents caused by human error or negligence or mechanical failure, (3) other causes, such as acts of nature, to enable countermeasures to be taken by the Board to minimize any resulting interference or pass through. In addition to the notice provided above, users shall notify the Board, in writing, within five days of the date of occurrence, by a detailed statement describing the cause of the discharge and the measures being taken to prevent future occurrences. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment facility or treatment process, or for any fines imposed on the owners and/or the Joint Sewage Board on account thereof under Section 309 of the Act, or any liability for civil penalties assessed against the user under § 336-47 of this chapter.

§ 336-34. Confidential information.

Information and data concerning a user obtained from reports, questionnaires and permit applications are available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Board at the time the information is submitted that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which divulge secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these rules and regulations,

the national pollutant discharge elimination (NPDES) permit, state pollutant discharge elimination system (SPDES) permit or any state agency in judicial review or enforcement proceedings which arise out of this chapter and involve the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

§ 336-35. Inspections.

- A. The Joint Sewage Board, its authorized representatives and representatives of the EPA and the DEC, bearing proper credentials and identification, shall be permitted to enter all properties at all reasonable times for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain a user's compliance with this chapter, with applicable provisions of federal, state and local law governing use of the joint sewage treatment plant, and with the provisions of the rules and regulations of the Board. The Board shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. The Board shall additionally have access to and may copy any records the user is required to maintain under this chapter or under the rules and regulations of the Board. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities.
- B. Joint Sewage Board representatives, bearing proper credentials and identification, shall be permitted to enter all private premises through which the City holds an easement for the purpose of inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater treatment system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.
- C. On private premises, during the performance of inspections, sampling or other similar operations referred to in Subsections A and B above, Board personnel shall observe all applicable safety rules established by the owner or occupant of the premises.

§ 336-36. Special agreements.

No statement in this chapter shall be construed as preventing any special agreement between the Joint Sewage Board and any industrial concern whereby an industrial waste of unusual constituents or characteristics may be accepted by the user. The Board shall not accept any discharge prohibited by state or federal law.

§ 336-37. Notification to industrial users.

The Joint Sewage Board shall, from time to time, notify each industrial user of pretreatment standards and of other applicable requirements under Sections 204(b) and 405 of the Clean Water Act and Subtitles C and D of RCRA.

§ 336-38. Public notification of noncompliance.

The Board shall at least annually provide public notification, in the largest daily newspaper circulated in Broome County, of all industrial users which, at any time during the previous 12 months, were in significant noncompliance with any pretreatment standard or requirements with which they must comply. The notification shall also summarize the enforcement action taken by the Joint Sewage Board.

§ 336-39. Analytical procedures.

All measurements, tests and analysis of the constituents and characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest version of 40 CFR Part 136 procedures or alternate test procedures approved by the EPA administrator.

ARTICLE VII, Industrial Wastewater Surcharge

§ 336-40. Imposition of surcharge.

In addition to any other fees, charges, sewer rents or taxes provided by law, the owner or tenant of any parcel of real property connected with the public sewer by any means may be required to pay an industrial wastewater surcharge to the Board for discharging industrial wastes or other wastes (other than normal sewage) directly or indirectly into the joint sewage treatment plant. The industrial wastewater surcharge shall consist of, but not be limited to, the following charges:

- A. Debt service charges.
- B. Operation and maintenance charges.

§ 336-41. Basis for determination.

The industrial wastewater surcharge shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of the user, which may include but are not limited to flow rate, biochemical oxygen demand (BOD5), total suspended solids (TSS), total phosphorous (TP), total nitrogen (TKN) and total organic carbon (TOC). The wastewater constituents and characteristics used to calculate the industrial wastewater surcharge will be those determined by the Board. Any data provided by the user may be used in addition to the data obtained by the Board.

§ 336-42. Computation.

- A. The industrial wastewater surcharge shall be computed by the Board using the following surcharge formulas and shall apply to all industrial users as defined in § 336-4:

$$\text{Surcharge} = 8.34 Q(C_x - C_{x \text{ stp}}) \$x + \dots$$

Where:

- Q = flow of user's discharge in millions of gallons per day.
- C_x = concentration of parameter x in user's discharge in parts per million.
- C_{x stp} = sewage treatment plant design concentration of parameter x in parts per million.
- \$x = unit charge for treatment of parameter x in dollars per pound.

- B. The unit charge for treatment of any parameter subject to surcharge will be based on the sum of charges attributable to the capital cost of the treatment facilities and the operation and maintenance budget for that given year. "Capital cost" is defined as the total annual debt service cost for the sewage treatment plant. The "operation and maintenance cost" is defined as the net annual cost of operating and maintaining the sewage treatment plant after crediting all operating cost grants and aid.
- C. The unit charge for any parameter will include only that portion of the capital and operation and maintenance costs which are directly attributable to the treatment of that parameter. This unit charge will be determined by the Board on an annual basis reflecting current debt retirement and operation and maintenance costs.
- D. The unit charge (\$x) for any parameter (x) subject to surcharge will be determined as follows:

$$\$x = [P_{cx} (\text{capital cost}) + P_{ox} (\text{operation and maintenance cost})] \text{ divided by } 365 \text{ divided by } L_x$$

Where:

- P_{cx} = percentage of annual capital cost debt retirement attributable to treatment of parameter x
- P_{ox} = percentage of annual operation and maintenance cost attributable to treatment of parameter x
- L_x = average sewage treatment plant influent loading of parameter x in pounds per day

§ 336-43. Volume determination.

In applying the surcharge formula, the Board may represent flow discharged into the sewer system by:

- A. The volume of wastewater discharged into the sewer system by: system as determined by the measurements and samples taken at a monitoring facility installed by the owner of the property served by the sewer system; or
- B. The amount of water supplied to the premises as shown on the water meter, or water records if the premises are metered. Allowances for water not discharged to the sewer system will be made at the discretion of the Board; or
- C. A figure determined by the Board by any combination of the foregoing or by any other equitable method.

§ 336-44. Determination of pollutant concentration.

The pollutant concentration of any wastewater shall be determined from the analysis of representative samples taken prior to discharge into the sewers, taken by a representative of the Board at sampling stations as described in § 336-30 of this chapter, at any period, or time, or of such duration, and in such a manner as the Board may elect, or at any place or manner mutually agreed upon between the user and the Board. The intent of any sampling procedure is to establish the pollutant concentration in the wastewater discharge during an average or typical working day. This concentration may be derived according to the best judgment of the Board. The analysis of samples taken shall be performed in a laboratory of the treatment plant or a laboratory designated by the Board. The industrial waste surcharge and/or the acceptability of the wastes shall be determined from said analysis. All surcharges shall be based on the total volume of wastes determined under § 336-43 above.

§ 336-45. Pollutant concentration disputed by user.

In the event that a user disputes the pollutant concentration of his wastewater discharge determined in accordance with § 336-44 above, a program of resampling and flow measurement with subsequent analytical determination may be instituted as follows:

- A. The user must submit a request for resampling of the wastes and flow measurement to the Board.
- B. An independent consultant or agency of recognized professional standing in the employ of the user must confer with representatives of the Board in order that an agreement may be reached as to the various factors which must be considered on a new sampling and flow measurement program.
- C. The consultant or agency of recognized professional standing employed by the user shall conduct a resampling and reanalysis program, under the direction of the Board for at least two twenty-four-hour periods.
- D. The results of the resampling and the reanalysis shall be considered to be the current analysis of the wastes discharged to the sewer system and shall be used for determining the acceptability of the sampling and analysis results in question. The new results may be used in place of the results in question or in addition to other data collected by the Board for determining the industrial waste surcharge, and/or compliance with the Board's rules and regulations.
- E. All costs of sampling, analysis and flow measurements are to be paid by the user.

§ 336-46. Payment of industrial waste surcharge.

Payment of the industrial waste surcharge within the time period allotted by the Joint Sewage Board shall be made to the Board by the industrial user after receiving the industrial waste surcharge bill unless other arrangements for payment have been made and approved by the Board. A user's failure to submit timely payment of any industrial wastewater surcharge will subject the user to a penalty of 1 1/2% of the unpaid amount for each month or part thereof that the surcharge remains unpaid.

ARTICLE VIII, Enforcement and Penalties

§ 336-47. Enforcement responses.

The appropriate enforcement response to a specific violation of pretreatment requirements by industrial users of the Binghamton-Johnson City Joint Sewage Treatment Plant will be determined in accordance with the Binghamton-Johnson City Joint Sewage Board Enforcement Response Plan.

§ 336-48. Civil penalty.

Any person who violates any of the provisions of or who fails to perform any duty imposed by these rules and regulations or any order or determination of the Joint Sewage Board or the terms of any permit issued thereunder shall be liable to the owners for a civil penalty of at least \$1,000 per day for each violation, to be assessed after a hearing held in conformance with the procedures set forth in the Rules and Regulations Relating to Use of the Binghamton-Johnson City Joint Sewage Treatment Plant. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Board's attorney in the name of the owners in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Board before the matter has been referred to the Board's attorney, and where such matter has been referred to the Board's attorney and such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Board's attorney only with the consent of the owners.

§ 336-49. Judicial enforcement.

In addition to the power to assess penalties as set forth in § 336-48 above, the Joint Sewage Board shall have the power, following a hearing held in conformance with the procedures set forth in the rules and regulations, to issue an order suspending, revoking or modifying the violator's permit; and enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney at the request of the Board in the name of the owners in any court of competent jurisdiction.

§ 336-50. Judicial review.

Any civil penalty or final order issued by the Joint Sewage Board pursuant to this article shall be reviewable in a proceeding. Application for such review must be made within 30 days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant and of each person who has filed a notice of appearance, or the applicant in person if not directly represented by an attorney.

§ 336-51. Violation a misdemeanor.

Any person who willfully violates any provision of the rules and regulations or any final determination or order of the Joint Sewage Board made in accordance with the rules and regulations shall, in addition, be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than six months or by a fine of at least \$1,000 per day. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

§ 336-52. Civil liability.

Any person violating any of the provisions of the rules and regulations shall, in addition, be liable to the owners for any expense, loss or damage occasioned to the owners by reason of such violation and any expense incurred in correcting the violation.

§ 336-53. Injunction.

The Board's attorney shall have the right to seek equitable relief in the name of the owners to restrain the violation of, or to compel compliance with, the rules and regulations or any order or determination issued thereunder by the Board.

§ 336-54. Summary abatement.

Notwithstanding any inconsistent provisions of law, whenever the manager finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his/her judgment, presents an imminent danger to the public health, safety or welfare, or to the environment, or which threatens to interfere with the operation of the POTW, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the manager may, without prior hearing, order such user by notice, in writing, wherever practicable or in such other form as in the manager's judgment will reasonably notify such person whose practices are intended to be prescribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of notice is impracticable, the manager may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 days, the manager shall provide the user an opportunity to be heard in accordance with the provisions of the rules and regulations.

Chapter 339, SEWERS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 200.
Health and sanitation -- See Ch. 259.
Housing and property maintenance -- See Ch. 265.
Plumbing -- See Ch. 310.
Sewer use -- See Ch. 342.
Streets and sidewalks -- See Ch. 355.
Subdivision of land -- See Ch. 360.
Water -- See Ch. 405.
Zoning -- See Ch. 410.

ARTICLE I, Contracts [Adopted 10-5-1970 (Ch. 17 of the 1970 Code)]

§ 339-1. Monthly payments on sewer contracts.

Pursuant to authority contained in § C-151 of the Supplemental Charter of the City of Binghamton, the Comptroller of the City is authorized to audit and the City Treasurer is authorized to pay monthly estimates on contract work for sewers, upon duly verified claims, upon certificates, of the City Engineer duly approved by the Commissioner of Public Works, to apply on the contract price of such sewer not exceeding 85% of the value of the work done; subject, however, to the provisions of said § C-151 that such payments shall not be used as evidence against the City, that the work already done has been completed according to contract and that it shall not preclude the City from contesting any claims of the contractor that the sewer has been completed according to the contract.

ARTICLE II, Sewer Rents [Adopted 12-19-1979 by L.L. No. 9-1979 (Sub-Part XXIV of the 1970 Code)]

§ 339-2. Definitions.

For the purposes of this article, the definitions set forth in § 451 of the General Municipal Law shall be controlling.

§ 339-3. Rents established; computation. [Amended by L.L. No. 2-1982]

- A. Imposition. Pursuant to Subdivision 26-a of § 20 of the General City Law and pursuant to Article 14-F of the General Municipal Law, the City hereby establishes and imposes sewer rents in the City for the use of the sewer system or any part or parts thereof and establishes and imposes such sewer rents as a minimum charge and a water use surcharge on the real property within the City using such sewer system.
- B. Computation. Sewer rents shall be based on water consumption and computed in the following manner on all water consumed: 120% of the 100 cubic feet rate charged by the Binghamton/Johnson City Joint Sewage Treatment Board to the City of Binghamton per 100 cubic feet of water usage billed for the same time period; provided, however, that in case of consumers of water who discharge into the sewer system an amount of sewage substantially less than or substantially greater than the amount of water supplied to such consumer, the amount of sewage discharged into the sewer system shall be determined by meters, gauges or other suitable measuring devices acceptable to the City Engineer and installed by such consumer at the consumer's expense and at no cost or expense to the City of Binghamton; and the sewer rent thereon shall be computed at the rate of 120% of the 100 cubic feet rate charged by the Binghamton/Johnson City Joint Sewage Treatment Board to the City of Binghamton per 100 cubic feet of sewage discharged into the sewer system. All consumers shall

pay a minimum thirdly charge each four months at the same time water rents are due and payable, which is hereby fixed and established in an amount as set from time to time by the City Council.

§ 339-4. Due date; delinquent payments. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Bills for sewer rents shall be issued three times each year and are payable to the City Treasurer. Such sewer rents due and payable shall be for, and relate to, the water usage billed in the same time period
- B. Delinquent payment. If any account, which includes but is not limited to water and sewer charges, rents, and corresponding late fees and penalties, is delinquent with a balance that exceeds \$1,000.00 at any time or if no payment activity has occurred for two consecutive bills, then water service shut off shall occur in accordance with the provisions set forth in Section 405- 52.

§ 339-5. Lien for sewer rents.

Sewer rents shall constitute a lien upon the real property served by the sewer system to the extent set forth in § 452 of the General Municipal Law.

§ 339-6. Collection of delinquent sewer rents. [Amended by L.L. No. 6-1989; Amended 6-2-08 by Ord. No. 28-2008]

The City may enforce the collection of delinquent sewer rents pursuant to § 452 of the General Municipal Law (Local Law No. 4-1966, § 5). All outstanding account balances, which includes but is not limited to water and sewer charges, rents, and corresponding late fees and penalties, on November 1st for bills issued through August 1st, will be added to the real estate taxes for the following year.

§ 339-7. Correction of errors.

If any owner of real property on which a sewer rent has been imposed deems himself aggrieved because such real property is not served by the sewer system or an error has been made in computing such sewer rent, he or she may file an application for a refund of all or part of such sewer rent. Such application shall be verified by him or her and shall set forth the amount of refund sought and the grounds therefor. Such application shall be presented to the City Engineer, who may refund all or part of such sewer rent.

§ 339-8. Effective date.

This article shall take effect January 1, 1980.

Chapter 342, SEWER USE

[HISTORY: Adopted by the City Council of the City of Binghamton 4-1-1985 by L.L. No. 6-1985, effective 5-1-1985 (Sub-Part XXVI of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 200.
- Health and sanitation -- See Ch. 259.
- Housing and property maintenance -- See Ch. 265.
- Plumbing -- See Ch. 310.
- Sewers -- See Ch. 339.
- Streets and sidewalks -- See Ch. 355.
- Subdivision of land -- See Ch. 360.
- Water -- See Ch. 405.
- Zoning -- See Ch. 410.

ARTICLE I, Short Title; Definitions

§ 342-1. Short title.

This chapter shall be known as the "City of Binghamton Sewer Use Law."

§ 342-2. Definitions.

Unless otherwise defined herein, technical terms shall be as defined in the latest edition of "Standard Methods for the Examination of Water and Wastewater ("Standard Methods"), published by the American Health Association, the American Water Works Association and the Water Pollution Control Federation. Whenever used in this chapter, unless otherwise expressly stated or required by subject matter or context:

BOARD or JOINT SEWAGE BOARD -- The Binghamton-Johnson City Joint Sewage Board, established under the agreement between the City of Binghamton and the Village of Johnson City for the operation of a joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

BOD5 (denoting BIOCHEMICAL OXYGEN DEMAND) -- The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN -- That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer which begins five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER -- The extension from the building drain to the public sewer or other place of disposal.

CITY -- The City of Binghamton, New York.

CITY ENGINEER -- The City Engineer of the City of Binghamton, New York, and his or her duly authorized agents and representatives.

CITY PUBLIC SEWER SYSTEM -- All City-owned pipelines or conduits, pumping stations and force mains, and all other constructions, devices and appliances appurtenant thereto, used for conveying wastewater to a point of ultimate disposal.

COMBINED SEWER -- A sewer intended to receive storm- and surface water as well as wastewater.

COOLING WATER -- The water discharged from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD5 or suspended solids each in excess of 10 milligrams per liter.

DEC -- The New York State Department of Environmental Conservation.

EASEMENT -- An acquired legal right for the specific use of land owned by others.

EPA -- The United States Environmental Protection Agency.

FEDERAL ACT or ACT -- The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500, and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the Act.

FLOW RATE -- The quantity of waste or liquid that flows in a certain period of time.

GARBAGE -- Animal and vegetable wastes from the preparation, cooking and disposing of food; and from the handling, processing, storage and sale of food products and produce.

HOLDING TANK WASTE -- Any sanitary waste from holding tanks such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INDUSTRIAL USER -- Any nonresidential user of the City public sewer system, which user is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

- A. Division A: Agriculture, Forestry and Fishing.
- B. Division B: Mining.
- C. Division D: Manufacturing.
- D. Division E: Transportation, Communications, Electrical, Gas and Sanitary Services.
- E. Division I: Services.

INDUSTRIAL WASTE -- Any discarded matter, including any liquid, gaseous or solid substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term shall not include garbage.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT -- A permit issued by the Board, authorizing the permittee to deposit or discharge industrial wastewater into the City public sewer system.

INFILTRATION— Water, other than sewage, that enters a sewage collection system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

INFILTRATION/INFLOW (I/I)—The total quantity of water from both Infiltration and Inflow, without distinguishing the source.

INFLOW—Water, other than sewage, that enters a sewage collection system (including sewer service connections) from sources such as roof leaders, cellar drains, sump pumps, missing or defective cleanout caps, swimming pools, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between stormwater sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

INFLUENT -- Wastewater, raw or partly treated, flowing into any sewage treatment device or sewage treatment facilities.

INTERFERENCE -- The inhibition or disruption of the treatment plant processes or operations or its sludge processes, use or disposal. The term includes any action which contributes to a violation of any requirement of the Joint Sewage Board's SPDES permit or which results in the prevention of sewage sludge reuse, reclamation or disposal by the treatment plant in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, or any more stringent state criteria applicable to the method of disposal or use employed by the treatment plant.

JOINT SEWAGE TREATMENT PLANT or TREATMENT PLANT -- The Binghamton-Johnson City Joint Sewage Treatment Plant. The term includes all devices or systems used in the storage, treatment, cycling or reclamation of municipal sewage or industrial wastes of a liquid nature by the Binghamton-Johnson City Joint Sewage Treatment Plant.

NORMAL SEWAGE -- Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed 240 mg/l of BOD₅, 300 mg/l of TSS or 50 mg/l of oil and grease and which are otherwise acceptable for discharge into the treatment plant under the terms of this chapter. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to (a) maintain the physical integrity of the treatment plant; or (b) maintain the treatment plant's capability of providing treatment in compliance with federal, state and local standards.

PERSON -- Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust, estate or any other legal entity whatsoever.

POLLUTANTS -- May be defined now or hereafter by appropriate local, state or federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of

which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content of natural waters, contribute solids, contain oil, grease, or floating solids which may cause unsightly appearance on the surface of such waters, or contain materials detrimental to aquatic life.

PREMISES -- Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

PRIVATE SEWER -- A sewer which is not owned or controlled by a public agency.

PUBLIC SEWER -- A sewer which is owned or controlled by a governmental agency. This term includes any devices or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

RULES AND REGULATIONS OF THE BOARD -- The Rules and Regulations Relating to the Use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

SANITARY SEWER -- A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants, and institutions.

SANITARY WASTE -- Wash water, culinary wastes, the liquid waste containing only human excreta and similar matter, flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory or institution.

SEWAGE—The water-carried domestic human or animal waste, together with industrial and commercial waste, from residences, buildings, industrial, and commercial establishments or other places. Neither infiltration nor inflow are components of “sewage”.

SEWER -- A pipe or conduit for carrying wastewater; the term includes sanitary sewers and combined sewers.

SHALL -- Is mandatory; "may" is permissive.

SHREDDED GARBAGE -- Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than 1/2 inch.

SPDES PERMIT -- A wastewater discharge permit issued by the DEC under the state pollutant discharge elimination system.

STORM SEWER -- A sewer intended to carry only storm waters, surface runoff, street wash waters, and/or drainage exclusive of sanitary wastes.

SUSPENDED SOLIDS -- The total suspended matter in water or wastewater, as determined by Standard Methods.

TOXIC SUBSTANCE -- Any substance, whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient amounts may tend to interfere with any sewage treatment process, constitutes a hazard to the receiving waters of the effluent from the sewage treatment plant, poses a hazard to sewer maintenance personnel, or constitutes a hazard to animal life or inhibits aquatic life. This definition includes, but is not limited to, EPA priority pollutants.

UNPOLLUTED WATER -- Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

USER -- Any person who contributes, causes or permits the contribution of wastewater into the City public sewer system.

WASTEWATER—The composite of all flow constituents conveyed in a sewer including sewage and infiltration and inflow.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS -- The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate, and such other parameters that serve to define, classify or measure the contents, quality and/or strength of wastewater.

ARTICLE II, General Provisions

§ 342-3. Purpose.

The purposes of this chapter are as follows:

- A. To control discharges into the public sewers of the City of Binghamton public sewer system or tributaries thereto, including the Binghamton-Johnson City Joint Sewage Treatment Plant.
- B. To prohibit the discharge of:
 - (1) Excessive volumes and/or inordinate rates of flow into the City of Binghamton public sewer system;
 - (2) Sewage, industrial wastes or other wastes which may in any way:
 - (a) Create a poisonous, hazardous, explosive, flammable or toxic condition in the City public sewer system, or otherwise impair the strength and/or durability of the system or the structures appurtenant to the system (including the Binghamton-Johnson City Joint Sewage Treatment Plant); or
 - (b) Interfere with the normal treatment processes, including proper disposal of sludge; or
 - (c) Pass through the Joint Sewage Treatment Plant into the receiving waters inadequately treated; or
 - (d) Contain substances in such concentrations as may exceed established discharge limits.
- C. To prohibit and/or regulate the discharge of sewage, industrial wastes or other wastes which require greater expenditures for treatment than those required for equal volumes of normal sewage; to surcharge users for permitted contributions requiring treatment costs greater than "normal sewage" charges.
- D. To provide the authority for the Binghamton-Johnson City Joint Sewage Board to exercise regulatory control over users discharging industrial wastes into the City public sewer system.
- E. To provide cooperation with the Broome County Department of Health, New York State Department of Environmental Conservation, New York State Department of Health, United States Environmental Protection Agency and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and biological quality of watercourses within or bounding the City.
- F. To protect the public health and to prevent nuisances.
- G. To enforce promulgated final standards and/or procedures set by the New York State Department of Environmental Conservation or the United States Environmental Protection Agency.

§ 342-4. Health Department requirements.

Nothing contained in this chapter shall be construed to interfere with or modify any requirements of design, inspection and approval which are imposed by the New York State Department of Health or the Broome County Health Department.

§ 342-5. Compliance with Plumbing Code.

Nothing contained in this chapter shall be deemed to relieve any person of the duty and responsibility of complying with the City Plumbing Code.

§ 342-6. Administration.

Except as otherwise provided herein, the City Engineer shall administer, implement and enforce the provisions of this chapter.

§ 342-7. Fees and charges.

Except as otherwise provided herein, all fees and charges payable under the provisions of this chapter shall be paid to the City in accordance with Chapter 339, Sewers, Article II, Sewer Rents. Such fees and charges are due and payable upon the receipt of a notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges and collection as provided for in Chapter 339, Sewers, Article II, Sewer Rents.

§ 342-8. Inspections.

- A. The City Engineer, the Joint Sewage Board, and other authorized representatives of the City and representatives of the EPA and DEC bearing proper credentials and identification shall be permitted to enter all properties at all reasonable times for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain a user's compliance with applicable provisions of federal, state and local law governing use of the City public sewer system and with the provisions of the rules and regulations of the Board. Such representatives shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. Such representatives shall additionally have access to, and may copy, any records the user is required to maintain under applicable law or the rules and regulations of the Board. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities. Inspections will be accomplished during hours of operations or at periods of sewer use with or without notice to the user.
- B. The City Engineer, bearing proper credentials and identification, shall be permitted to enter all private premises through which the City holds an easement for the purpose of inspection, observation, measurement, sampling, repair and maintenance of any portion of the City's public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.
- C. During the performance on private premises of inspections, sampling, or other similar operations referred to in Subsections A and B above, the City Engineer shall observe all safety rules applicable to the premises as established by the owner or occupant of the premises.

§ 342-9. Vandalism; tampering with measuring devices.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the City public sewer system. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under this chapter. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$500, or imprisonment not exceeding 150 days, or to both such fine and imprisonment.

§ 342-10. False statements.

No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of this chapter.

ARTICLE III, Use of Public Sewers

§ 342-11. Disposal of waste.

It shall be unlawful for any person to place or deposit, or permit to be placed or deposited, in any unsanitary manner upon public or private property within the City, or in any other area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

§ 342-12. Discharge into natural watercourses.

It shall be unlawful to discharge any sewage or other polluted waters into any natural watercourse within the City or within any area under jurisdiction of the City except where such discharge is in accordance with requirements of regulatory agencies having jurisdiction over wastewater discharges into the watercourse.

§ 342-13. Connection to sewer system.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the City and abutting on any street or public right-of-way in which there is now located or may in the future be located a public sanitary sewer within 100 feet (30.5 meters) of the property line is hereby required to install, at his or her expense, suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer line, in accordance with the provisions of this chapter and with any applicable requirements of the City Plumbing Code.

§ 342-14. Separate connections required.

A separate and independent building sewer shall be provided for every building, with the exception that when one building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building, the building sewer from the front building may be extended to the rear building. The whole shall be considered as one building sewer. Old building sewers may be used in connection with new buildings only when they are found by the City Engineer to meet all other requirements of this chapter.

ARTICLE IV, Building Sewers and Connections

§ 342-15. Building sewer permits.

No person shall uncover, make any connection with or opening into, or use, alter or disturb any public sewer or appurtenance thereof without first obtaining a permit in accordance with all applicable requirements established by the City, including the City Plumbing Code.

§ 342-16. New connections.

No new connections shall be made to the sewer system of the City without a written permit issued by the City Engineer. Applications shall be made on a form supplied by the City Clerk. No connection from a residential structure shall be granted without the approval of the City Engineer. No connection from any building or structure discharging other than sanitary waste shall be granted without the approval of the City Engineer and the Binghamton-Johnson City Joint Sewage Board. All connections to a sewer shall be made under the direction of, and be subject to the approval of, the City Engineer and shall conform in all respects with applicable requirements of the City Plumbing Code.

§ 342-17. Cost of connections.

All cost and expense incident to the installation and connection of any building to the sewer system shall be borne by the property owner. The property owner shall indemnify the City from any loss or damage that may directly be occasioned by the installation of a connection to the sewer system.

§ 342-18. Excavations.

All excavations for building sewer installations shall be adequately guarded with barricades and lights, so as to protect the public from hazard. Streets, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City Engineer. All necessary permits for the opening of City and county streets shall be obtained from the Commissioner of Public Works prior to the issuance of any building sewer permit.

§ 342-19. Service and repair of building sewers.

Building sewers shall be serviced and repaired by the owner of the premises being served to a point within one foot of the pavement edge. Service and repair of building sewers within the paved areas of public rights-of-way shall be made by the City.

ARTICLE V, Private Disposal Systems

§ 342-20. When private systems permitted.

Where a public sanitary sewer is not available under the provisions of Article III, § 342-13, a building sewer shall be connected to a private sewage disposal system in accordance with the subsequent provisions of this Article V, and in accordance with applicable requirements of the New York State Department of Health and the Broome County Health Department.

§ 342-21. Type of connection.

Before the commencement of the construction of a private sewage disposal system, the owner shall obtain from the City Engineer a written permit allowing such construction, which permit shall be given upon application in such form and content as may be required by the City Engineer and the Department of Health. The type, location and layout of the private sewage disposal system shall comply with the specifications established by the City Engineer and the Department of Health. The City Engineer shall be allowed to inspect the work at any stage of the construction, and the applicant for the permit shall notify the City Engineer when the work is ready for final inspection and before any underground portions thereof are covered.

§ 342-22. Conversion to sanitary sewers.

The private sewage disposal facilities shall be operated and maintained in a sanitary manner at all times. When a public sanitary sewer becomes available under the provisions of Article III, § 342-13, the building sewer shall be connected to the sanitary sewer within 60 days, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material satisfactory to the City Engineer.

ARTICLE VI, Restrictions and Limitations on Use of Public Sewers

§ 342-23. Stormwater and other unpolluted water prohibited.

- A. No person shall discharge or cause to be discharged any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary or combined sewer, unless specifically authorized by the City Engineer. All stormwater, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water all be discharged to storm sewers, or to any natural watercourse approved by the City Engineer. All existing connections to a sanitary or combined sewer of any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters shall be removed from the sewer within 60 days from the service of a written notice by the City Engineer to disconnect from the sewer.
- B. If the owner of any property receiving a notice to disconnect from the sanitary or combined sewer, pursuant to Subsection A hereof, does not disconnect within 60 days from the receipt of such notice, the City shall have the right and power and shall cause the same to be removed at the expense of the property owner and shall charge the total expense of such disconnection to the property so affected. The total expense incurred by the City to perform such work shall be paid by a special assessment upon the real estate so affected, which expense shall be a lien thereon, and which lien shall be superior and have priority to any mortgage, judgment or other lien of any nature affecting said premises. The City shall also have the power to collect, by a civil action brought in the name of the City, any expense it may incur for making such removal; but any civil action so brought shall not

impair or affect the lien created under this chapter for such expense or be held to constitute a bar to any proceedings for the sale of lands under which said lien exists.

§ 342-24. Prohibited discharges.

- A. No person shall discharge, directly or indirectly, in the City public sewer system, or into any private sewer emptying into the City public sewer system, any substances, materials, waters or wastes in such quantities or concentrations which cause or are capable of causing, either alone or by interaction with other substances, interference with the operation or performance of the City public sewer system or the Joint Sewage Treatment Plant; or which pass through the Joint Sewage Treatment Plant inadequately treated. These general prohibitions and the specific prohibitions of Subsection B of this section apply to all users of the City public sewer system whether or not the user is subject to any other local, state or federal requirements governing use of the City public sewer system.
- B. No person shall discharge the following into the City public sewer system:
- (1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to create a fire or explosion hazard in, or be injurious in any other way to, the City public sewer system or the Joint Sewage Treatment Plant. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than 5%, nor any single reading over 10%, of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel oil, benzene and any other substances which the City Engineer, the Joint Sewage Board, the DEC or EPA has notified the user constitute a fire or explosion hazard to the system.
 - (2) Solid or viscous substances which may cause obstruction to flow in a sewer or other interference with the operation of the treatment plant such as, but not limited to: grease, shredded garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste papers, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, snow, ice, any other solid objects, materials, refuse and debris not normally contained in sanitary waste.
 - (3) Any wastewater having a pH less than 6.0 or higher than 10.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the City's treatment works.
 - (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the treatment plant, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Federal Act.
 - (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
 - (6) Any substance which will cause the City to violate any state pollutant discharge elimination system (SPDES) permit issued to the City or to violate the receiving water quality standards.
 - (7) Any wastewater with objectionable color not removed in the treatment process.
 - (8) Any wastewater having a temperature at the point of introduction into the City public sewer system in excess of 150° F. (65.5° C), or in such quantities that cause the temperature of the wastewater at the Joint Sewage Treatment Plant to exceed 104° F. (40° C).

- (9) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference with the treatment plant.
- (10) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (11) Any radioactive wastes.
- (12) Any holding tank wastes.
- (13) Any substance, materials, waters or wastes of such nature or in such quantities or concentrations as are prohibited by the rules and regulations of the Joint Sewage Board.

§ 342-25. Limitations on point of discharge.

No person shall discharge substances directly into a manhole or other opening in a public sewer other than through an approved building sewer.

§ 342-26. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of liquid wastes containing grease or oil in excessive amounts, sand or other harmful ingredients; except that such interceptors shall not be required for private residences. All interceptors shall be of a type and capacity approved by the City Engineer and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes of temperature. They shall be of substantial construction, watertight, and equipped with removable covers which, when mounted in place, shall be gastight and watertight.

§ 342-27. Dilution prohibited.

No discharger into the City sewer system shall augment his or her use of process water or otherwise intentionally dilute his or her discharge as a partial or complete substitute for adequate treatment to achieve compliance with this chapter.

ARTICLE VII, Industrial Wastewater Discharges

§ 342-28. Authority of Joint Sewage Board.

- A. Notwithstanding any other provisions of law, the admission into the City public sewers of any industrial wastes shall be subject to the review and approval of the Joint Sewage Board. The Board is hereby granted authority, concurrent with that of the City, to enforce against any user within the City all requirements necessary to ensure compliance with the provisions of the rules and regulations of the Board. Nothing contained herein, however, shall be construed as precluding the City from seeking against any user such remedial action as it deems appropriate for correcting any violation of its local laws, ordinances or regulations governing use of the City public sewer system.
- B. In exercising its authority over users discharging industrial wastes into the City public sewer system, the Board may:
 - (1) Require pretreatment of the user's wastewater to a condition acceptable for discharge to the public sewer;
 - (2) Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge;
 - (3) Require payment by the user to cover any added cost of handling and treating the wastewater not covered by existing fees or charges;
 - (4) Require the development of compliance schedules by the user to meet any applicable requirements prescribed by the Board's rules and regulations;
 - (5) Require the user to submit such reports and supplemental information which the Board deems necessary to assure compliance with any applicable requirements prescribed by the Board's rules and regulations;

- (6) Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with any applicable requirements prescribed by the Board's rules and regulations;
- (7) Investigate or make inquiry in a manner to be determined by it, as to any condition within the City affecting the operation of the Joint Sewage Treatment Plant, and as to any alleged act or omission resulting in a user's failure to comply with the Board's rules and regulations;
- (8) Obtain remedies for noncompliance by any user as specified in § 342-33 of this chapter;
- (9) Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the sewage treatment plant and its appurtenant structures and facilities, or the processes, equipment or receiving waters of the treatment plant; or which constitute a public nuisance or hazard; or
- (10) Take such other measures as it deems necessary and proper to ensure compliance with this chapter, with applicable state and federal law, and with the rules and regulations of the Board.

§ 342-29. Violations.

- A. No user discharging or proposing to discharge wastewater into the City public sewer system shall violate any of the provisions of, or fail to perform any duty imposed by, the rules and regulations of the Board; or any order or determination of the Board promulgated thereunder; or the terms and conditions of any permit issued by the Board.
- B. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is under the jurisdiction, ownership or control of the Joint Sewage Board.
- C. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under the rules and regulations of the Joint Sewage Board.
- D. No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of the rules and regulations of the Joint Sewage Board.

§ 342-30. Industrial waste surcharge.

In addition to any other fees, charges, sewer rents or sanitary district taxes provided by law, industrial users shall pay to the Joint Sewage Board an industrial waste surcharge for the privilege of using the Joint Sewage Treatment Plant for treating industrial wastes or other special wastes accepted for discharge into the City public sewer system. The industrial waste surcharge shall be computed and collected by the Board in accordance with its rules and regulations.

§ 342-31. Cooperation of City officials.

City officers and employees shall cooperate fully with the Board in the Board's enforcement and administration of its rules and regulations within the City.

ARTICLE VIII, Enforcement and Penalties

§ 342-32. Enforcement by City Engineer; penalties for offenses.

- A. Whenever it shall appear to the City Engineer, after investigation, that any person has violated any provision of this chapter (other than a provision of § 342-29), the City Engineer shall give written notice to the alleged violator or violators, setting forth the nature of the violation, and directing that the matters complained of be corrected within such reasonable time limit as may be set by the City Engineer. Any such notice shall be served on the violator by personal service or by registered or certified mail sent to the last address of the violator known to the City Engineer. Where the address

is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken within the time allotted by the notice, the violator shall be subject to the penalty provisions set forth in Subsection B below, in addition to any City code enforcement procedures otherwise authorized by law.

- B. Any person who willfully violates any provision of this chapter (other than a provision of § 342-29), or any order of the City Engineer issued pursuant to Subsection A above, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100 nor more than \$500. Each offense shall be a separate and distinct offense; and in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- C. Any person violating any of the provisions of this chapter shall, in addition, be liable to the City for any expense, loss or damage occasioned to the City by reason of such violations, and any expense incurred in correcting the violation.
- D. The Corporation Counsel, on his or her own initiative or at the request of the City Engineer, shall have the right to seek equitable relief in the name of the City to restrain the violation of, or to compel compliance with, this chapter or any order or determination issued thereunder by the City Engineer.
- E. Notwithstanding any inconsistent provisions of law, whenever the City Engineer finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which in his or her judgment presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irreversible or irreparable damage to the public sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the City Engineer may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in his or her judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of notice is impracticable, the City Engineer may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the City public sewer system. As promptly as possible thereafter, not to exceed 15 days, the City Engineer shall provide the user with the written notice required by Subsection A of this section.

§ 342-33. Enforcement by Joint Sewage Board; penalties for offenses.

- A. Any person who violates any provision of § 342-29 of this chapter shall be liable to the Board for a civil penalty of not less than \$100 nor more than \$500 for each violation, to be assessed by the Board after a hearing or opportunity to be heard in accordance with the procedures set forth in the Board's rules and regulations. Each violation shall be a separate and distinct violation; and in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Board's attorney in any court of competent jurisdiction.
- B. In addition to the power to assess penalties as set forth in Subsection A above, the Board is hereby empowered, following a hearing or opportunity to be heard in accordance with the provisions of its rules and regulations, to issue an order in the name of the Board and of the City enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney in any court of competent jurisdiction.
- C. Any civil penalty or final order issued by the Board pursuant to Subsection B may be reviewed in a proceeding brought pursuant to Article 78 of the New York CPLR. Application for such review must

be made within 30 days after service in person or by mail of a copy of the determination or order upon the attorney of record for the applicant, or upon the applicant in person if not represented by an attorney.

- D. Any person who willfully violates any provision of § 342-29 above shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$300 nor more than \$1,000 or by imprisonment for a term of not more than six months, or by both such fine and imprisonment. Each offense shall be a separate and distinct offense; and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- E. Any person violating any provision of § 342-29 above shall, in addition, be liable to the Joint Sewage Board for any expense, loss or damage occasioned to the Board by reason of such violation, and any expense incurred in correcting the violation.
- F. The Board's attorney, or the Corporation Counsel at the request of the Joint Sewage Board, shall have the right to seek equitable relief in the name of the City to restrain the violation of, or to compel compliance with, any provision of § 342-29 of this chapter.
- G. Notwithstanding any inconsistent provisions of law, whenever the Board finds after investigation that any user within the City is causing, engaging in or maintaining a condition or activity which, in its judgment, presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irrevocable or irreparable damage to the Joint Sewage Treatment Plant, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Board may, without prior hearing, order such user by notice in writing wherever practicable, or in such other form as in the Board's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity; and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of a notice is impracticable, the Board may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the City public sewer system. As promptly as possible thereafter, not to exceed 15 days, the Board shall provide the user an opportunity to be heard in accordance with the provisions of its rules and regulations.

Chapter 344, SEX OFFENDERS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Posting on Web Site [Adopted 4-19-2004 by Ord. No. 04-45]

§ 344-1. Information to be posted on Web site.

The City shall cause to be posted on the City Web site all the information about sex offenders it receives from the Sex Offender Registry maintained by the Division of Criminal Justice Services and received by the City's Police Department, to an extent allowable under the Laws of New York 1995, Chapter 192, as amended, and 4 U.S.C. 170101, the Federal Crime Control Act.

ARTICLE II, Sex Offender Services [Adopted 5-16-2005 by Ord. No. 05-28]

§ 344-2. Notification required.

A business, organization and/or agency which currently or in the future provides sex offender treatment services shall hereby be required to mail notification to surrounding businesses and residents within a radius of 1/4 mile measured from the main, or secondary, or tertiary entrances of said business, organization and/or agency that it is providing said services to Level II and/or Level III sex offenders. Said notification shall be required to be so mailed on a yearly basis no later than the first business day following the Labor Day holiday.

§ 344-3. Location restrictions.

No new business, organization and/or agency which provides sex offender services shall be located within a radius of 1/4 mile measured from the main, or secondary, or tertiary entrances of any public or private school, child day-care center and/or public park.

§ 344-4. Relocation or expansion of existing organizations.

An existing business, organization and/or agency which provides sex offender services shall be prohibited from relocating/expanding its services within a radius of 1/4 mile measured from the main, or secondary, or tertiary entrances of any public or private school, child day-care center and/or public park.

§ 344-5. Definition.

For the purposes of this article, "sex offender services" shall include treatment programs designed for and provided to registered sex offenders.

ARTICLE III, Residency Restrictions [Adopted 10-26-2005 by Ord. No. 05-80]

§ 344-6. Restrictions; exceptions.

Level Two Sex Offenders are hereby prohibited from knowingly entering into or upon any school grounds or any facility for minors; provided, however, that if such Level Two Sex Offender is a registered student or participant or an employee of such school ground or facility for minors or entity contracting therewith or has a family member enrolled in such school grounds or facility for minors, said Level Two Sex Offender may enter upon such facility only if a written authorization of his or her probation officer or the court and the superintendent or chief administrator of such school grounds or facility for minors is obtained and for the limited purposes authorized by the probation officer or the court and superintendent or chief officer of such school or facility. In addition to the foregoing, such Level Two Sex Offender may also lawfully enter into or upon a school grounds or facility for minors if he or she: a) has a medical emergency requiring immediate attention at a health care provider; or b) has lawful business at a federal, state or local court or governmental agency; or c) is traveling on an interstate roadway within the proximity of a school grounds or facility for minors.

§ 344-7. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

FACILITY FOR MINORS -- Any facility or institution primarily used for the care or treatment of persons under the age of 18 while one or more of such persons under the age of 18 are present, including, but not limited to, day-care centers licensed, certified or otherwise sanctioned by the State of New York and/or a political subdivision of the State of New York.

LEVEL TWO SEX OFFENDER -- A person who:

- A. Is convicted of an offense defined in Article 130, 235 or 263 of the New York State Penal Law and the victim of the offense was a person under the age of 18 at the time of the offense; or, is designated as a "Level Two Sexual Offender" pursuant to Subdivision 6 of § 168-1 of the New York State Correction Law; and
- B. By reason of his or her conviction for the offense, the person:
 - (1) Receives a sentence of probation or conditional discharge on or after September 1, 2005; or
 - (2) Is released on parole or a conditional release pursuant to Paragraph 1 or 2 of Subdivision 14 of § 259-c of the New York State Executive Law on or after September 1, 2005; or
 - (3) Is conditionally released pursuant to § 70.40 of the New York State Penal Law on or after September 1, 2005.

SCHOOL GROUNDS -- Any area in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school; or b) any area accessible to the public located within 1,000 feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within 1,000 feet of the real property boundary line comprising any such school. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

§ 344-8. Effect on conditions of supervision.

Nothing within this article shall be construed as restricting any lawful condition of supervision that may be imposed on a sentenced Level Two Sex Offender.

§ 344-9. Penalties for offenses.

Violation under this article will result in the penalties as recited under § 1-4 of the Code of the City of Binghamton.

Chapter 346, SHOPPING CARTS

[HISTORY: Adopted by the City Council of the City of Binghamton 7-15-1996 by Ord. No. 118-96 (Ch. 9, §§ 9-60 through 9-63, of the 1970 Code). Amendments noted where applicable.]

§ 346-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT -- The act of leaving, deserting or giving up control and/or possession of a shopping cart in a public place.

PUBLIC PLACE -- Any street, highway, sidewalk or other publicly owned property to which the public or a substantial number of persons has access.

SHOPPING CART -- Any device, vehicle or wheeled container of the kind customarily provided by merchants to customers for the purpose of carrying merchandise.

§ 346-2. Shopping carts to be marked.

Every supermarket or business establishment which makes a shopping cart available to the public shall permanently mark said cart with the name and address of the owner.

§ 346-3. Removal of shopping carts from establishments.

It shall be unlawful for any person to remove a shopping cart or permit the removal of a shopping cart from the property of the establishment or business that makes said cart available, except that such a cart may be removed to a parking area adjoining the property of said establishment or business.

§ 346-4. Carts found in public places. [Amended 10-6-1997 by Ord. No. 97-143; Amended 2-5-2014 by Ord. No. 14-4]

- A. The Commissioner of the Public Works Department is hereby authorized to remove or cause to be removed any shopping carts found in any public area and to store said cart until it is redeemed or otherwise disposed of.
- B. Within 30 days after said removal, the Commissioner shall mail a notice, by first-class mail, to the owner of the cart, stating that each cart may be redeemed by the owner upon payment to the City Treasurer of the sum of \$50.00 per cart.
- C. Any carts remaining unredeemed after a reasonable time may be destroyed or otherwise disposed of by the Public Works Department.

Chapter 350, SOLID WASTE

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disposal of canine waste -- See Ch. 178, Art. III.

Health and sanitation -- See Ch. 259.

Housing and property maintenance -- See Ch. 265.

ARTICLE I, Containerization and Collection [Adopted 11-6-1978 by Ord. No. 220-78 (Ch. 9, §§ 9-1 through 9-15, of the 1970 Code); amended in its entirety 3-7-1991 by Ord. No. 21-91]

§ 350-1. Definitions. [Amended 3-17-10 by Local Law 1-2010; Amended 12-22-10 by L.L. 11-1]

For the purpose of this article, the following terms shall have the meanings ascribed to them in this section unless different meanings are clearly indicated by the context:

ALTERNATE DAY PICK-UP -- Any day other than the scheduled pick up day for each property.

BULKY ITEMS -- Any item that does not fit within a City Refuse Bag. Bulky items include, but are not limited to: refrigerators, stoves, microwaves, freezers, washers and dryers, air conditioners, sinks, tubs, toilets, furniture, swing sets, lawn furniture, rugs, and lawn mowers.

CITY REFUSE BAG -- A plastic bag of such size and design as shall be determined by the Commissioner of Public Works, containing a distinctive label, to be used for the collection and disposal of solid waste in the City of Binghamton.

GARBAGE

- (1) Every waste accumulation of animal, vegetable, fruit or similar organic matter that attends the preparation, use, dealing in or storage of meat, fish, fowl, fruit or vegetable; metal containers, paper cartons or other containers that have contained food materials and beverages; discarded paper, rubber (excluding tires), cloth, leather, sweepings, as well as inorganic waste such as glass, porcelain or other similar waste materials that ordinarily accumulate around a home, business or industry. Garbage shall not, however, include those items designated by ordinance, rule or regulations as recyclables.
- (2) Further exclusions. Prohibited materials include flammable or explosive substances, paint, paint thinners or solvents, pesticides, acids, caustics, or similar wastes, oil, tires, batteries, garbage or trash generated outside the City of Binghamton and medical waste.

LITTER -- Any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be classified as trash, debris, garbage or junk.

METAL GOODS -- Large household appliances.

RESPONSIBLE PERSON -- In all cases, the property owner; additionally, when readily identifiable, shall also mean the tenant whose solid waste is at issue.

SOLID WASTE -- All material described as garbage, yard waste and trash as defined in this chapter.

TRASH -- Discarded household furniture, bedding and mattresses, and other bulky household materials not specifically prohibited by this chapter, too large to place in standard refuse containers, except those items designated by ordinance, rule or regulation as recyclables. Trash shall not include concrete, cinder, block, stone or other masonry materials.

YARD WASTE -- Grass clippings, garden materials, leaves and brush trimmings.

§ 350-2. Household solid waste containerization.

All residences located in any area in which collection is by the City or private contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections. In cases where this requirement may result in an unreasonable number of containers, the Commissioner of Public Works may require an alternate method of storage. However, the base standard shall be up to two cans per unit within any residential dwelling.

§ 350-3. Construction, capacity and placement of garbage containers.

All garbage shall first be placed in City refuse bags. Such City refuse bags shall then be placed in a watertight and weatherproof container of galvanized metal, unbreakable plastic or other substantial material which can withstand the cold without becoming brittle and which can stand up to normal use.

- A. Such exterior containers shall not exceed 32 gallons in capacity nor shall they weigh more than 60 pounds full.
- B. Such exterior containers shall be equipped with tightfitting covers, shall be covered at all times, and shall have two substantial handles for each dumping.
- C. All exterior garbage containers placed out to the curb for collection shall be imprinted with the house number of the property for which the container is provided.

§ 350-4. Dirty and defective containers prohibited.

Garbage shall not be placed in containers which are in a filthy, leaky or defective condition. Any container which does not conform to the prescribed standards or which has defects likely to hamper collection shall be replaced promptly by the owner or user of the container. Failure to do so within four days after notification shall constitute a violation of this section.

§ 350-5. Garbage to be drained and wrapped for disposal.

All garbage shall be thoroughly drained of its moisture before being deposited in a City refuse bag.

§ 350-6. Preparation of trash for collection.

Trash shall be placed in suitable containers, approved by the Commissioner of Public Works. If a container is not practical, trash shall be so securely sacked or tied in bundles as to prevent blowing and scattering and be easily handled by one person. The Commissioner of Public Works reserves the right to establish limits on the amount of trash which may be placed for collection by the City. However, the maximum permitted pursuant to this article shall be a total of 500 pounds properly bundled as follows: No bundle shall exceed four feet in length or weigh more than 60 pounds.

§ 350-7. Placement of containers for collection generally.

Receptacles containing garbage shall be placed at the curblin in front of the premises where such garbage originated. If such location is inconvenient or inaccessible for collectors, the Commissioner of Public Works may require the responsible owner or occupant to place such containers at some convenient and accessible location.

§ 350-8. Placement of solid waste for collection.

Solid waste shall be placed between the curb and the sidewalk in front of the premises where such waste originated on the night before the regular day for collection of such refuse, as specified by the Commissioner of Public Works.

§ 350-9. Placement of garbage for collection; removal of empty containers.

- A. Garbage designated for disposal shall be placed at the curblin not earlier than the evening preceding the normal garbage collection day, but not later than 6:00 a.m. on the day of scheduled collection.
- B. After collection, all empty garbage containers must be removed from the curb as soon as possible, but not later than 11:00 p.m. of the same collection day, and placed in a garbage port or at the rear of the building so that such containers shall be reasonably out of view from the street.

- C. Containers remaining at the curb on the day after collection may be picked up and disposed of by the City.

§ 350-10. Solid waste containerization and collection for commercial and industrial establishments.

All commercial and industrial establishments which generate solid waste for collection by the City shall abide by the container and collection requirements as prescribed in this article or as directed by the Commissioner of Public Works. The Commissioner of Public Works shall have the authority to refuse the collection of commercial or industrial solid waste which in his or her opinion is deemed excessive in quantity and extraordinary in substance. The base standard pursuant to this section shall be six cans per establishment.

§ 350-11. Removal of solid waste at construction/demolition projects.

It shall be the responsibility of the builder, contractor and property owner to collect, remove and dispose in a legal manner of building waste resulting directly from building, construction, reconstruction, repair or grading. Builders, contractors and property owners are required to provide on-the-spot containers to keep waste materials from accumulating on and spreading from construction/demolition projects.

§ 350-12. Excessive accumulation of solid waste.

Any accumulation of solid waste and any waste building materials in excess of ordinary accumulation associated with the land use thereof, resulting from the failure of any person or property owner to comply with any provision of this article or the rules and regulations of the Department of Public Works, or from their failure to take advantage of the regular collection service, shall be removed by such person or property owner at his or her expense. Whenever the responsible person or property owner fails to comply with a notice from any department of the City to remove same, the City shall have the power to direct that said accumulation be removed by the Department of Public Works at the person's or property owner's expense.

- A. Whenever garbage, trash, debris or other accumulation is left on the sidewalk or a curb area in a manner or amount that the Commissioner of Public Works deems to be a health or safety hazard, the Commissioner shall order that such accumulation be immediately removed by the Department of Public Works. Prior to removal, the Department of Public Works shall document such condition by means of photography.
- B. If deemed possible by the Commissioner, the Department of Public Works shall make a reasonable attempt to telephone the property owner prior to removal of the accumulation by the City. Such attempt shall in no way result in delay in the removal of the hazard.
- C. After removal of the accumulation, a bill for expenses incurred shall be presented to the owner of the property, personally or by mailing it to the owner's last-known address. If the owner fails to pay within 10 days, the Commissioner of Public Works shall certify to the City Treasurer the expenses incurred; and the amount of the expenses shall become a lien. The lien upon the property shall be included in the next tax bill rendered to the owner, unless paid before, and shall be collected in the same manner as other taxes against the property. The bill presented to the owner shall include all City expenses, material and contractor costs.
- D. A property owner may, within 10 days of receipt of the bill for expenses, appeal to the Commissioner of Public Works by letter, explaining the reasons why the bill should be excused. The Commissioner may then, solely within his or her own discretion, rescind the billing if he or she deems such action to be appropriate.
- E. In addition to such billing, the City is authorized to issue an appearance ticket, returnable in City Court, for violation of any provisions of this article. Penalties shall be as set forth in § 350-20 of this chapter.

§ 350-13. Scavenging prohibited.

No person shall interfere with or remove or scavenge for material in any container which has been placed at the curb or in any bulk refuse which has been placed at the curb by the owner or occupant for collection by the Department of Public Works, unless duly authorized to do so.

§ 350-14. Promulgation of additional rules, regulations.

The Commissioner of Public Works shall have the power and authority to formulate and promulgate from time to time such additional rules and regulations and directions, not inconsistent with the provisions of this article, as he or she may deem necessary for the proper conduct of the work of the collection of garbage and other solid waste in the City.

ARTICLE II, Littering [Adopted 11-6-1978 by Ord. No. 220-78 (Ch. 9, §§ 9-38 through 9-42, of the 1970 Code)]

§ 350-15. Definitions.

For the purposes of this article, the terms used herein shall have the meanings ascribed to them in Article I, § 350-1, of this chapter.

§ 350-16. Litter in public places. [Amended 10-1-1990 by Ord. No. 100-90]

- A. It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public property within the corporate limits of the City, except in containers or areas lawfully provided therefor.
- B. It shall be unlawful for any person to sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway.
- C. It shall be unlawful to throw or deposit litter in any fountain, pond, lake, stream, river or any other body of water in a park or elsewhere within the City or on the banks of any such body of water within the City.

§ 350-17. Litter thrown from or caused by vehicles.

- A. No person shall throw or deposit litter from any vehicle upon any street or other public place within the City, or upon private property.
- B. It shall be unlawful for any person, firm, corporation or organization to transport any loose cargo by truck or other motor vehicle within the limits of the City unless said cargo is secured and covered in such a manner as to prevent depositing of litter.
- C. Vehicles used to transport upon the street any garbage or other offensive liquid or substance shall have watertight boxes or vessels so as to prevent the contents from leaking.

§ 350-18. Litter on private property.

- A. It shall be unlawful to throw or deposit litter on any private property within the City, whether owned by such person or not, and whether occupied or vacant.
- B. The owner or person in control of private property or any portion thereof shall at all times maintain the premises, or that portion controlled by him or her, free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped in such locations as fences and wall bases, borders, embankments and other lodging points.

§ 350-19. Litter on publicly patronized or used establishments; maintenance of containers.

To facilitate proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments and institutions such as, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, commercial parking lots, motels and schools shall provide, regularly empty and maintain in good condition adequate containers that meet the standards as prescribed by the Commissioner of Public Works.

§ 350-20. Penalties for offenses. [Amended 10-1-1990 by Ord. No. 100-90; 4-5-2004 by Ord. No. 04-33; Amended 6-4-07 by Ord. No. 07-19]

Violation of any of the provisions of Articles I and II of this chapter shall be punishable by a fine of not less than \$150 and/or 20 hours of community service, but not exceeding \$700 and/or 20 hours of community service. The penalties for a second offense within a two-year period shall be a minimum fine of \$700 and/or 40 hours of community service, but not exceeding \$1,000 and/or 40 hours of community service, imprisonment not exceeding 15 days, or by both such fine, community service or imprisonment. The penalties for a third offense within a three-year period shall be a minimum fine of \$1,000, but not exceeding \$1,500 and/or imprisonment not exceeding 15 days. Each day's violation shall constitute a separate offense.

ARTICLE III, Garbage Collection Fee [Adopted 11-5-1990 by L.L. No. 3-1990 (Sub-Part LXXIII of the 1970 Code); Amended 12-22-10 by L.L. 11-1]

§ 350-21. Fee system implemented.

A bag user fee charge system is hereby adopted to be implemented for the collection of nonrecyclable garbage commencing on or about April 1, 1991.

§ 350-22. Program and fee structure.

Said system shall be consistent with the program and fee structure as set forth in Exhibit I, included at the end of this chapter.

§ 350-23. Effective date.

This article shall take effect April 1, 1991.

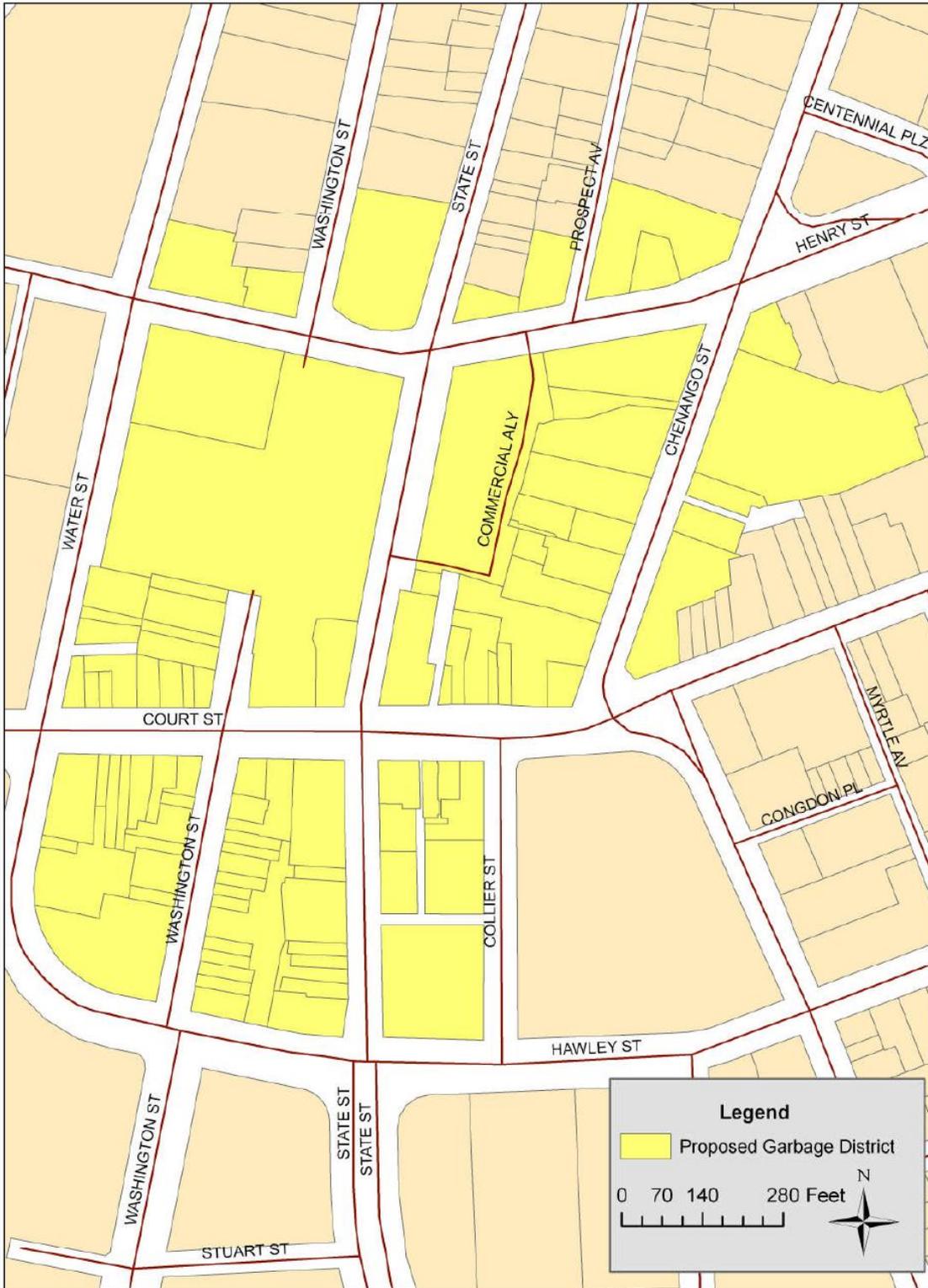
§ 350-24. Bulky items.

A bulky item will only be removed by the Department of Public Works if a sticker is placed on a conspicuous place directly on the bulky item and placed on the curb in accordance with Sections 7 and 8 of this Chapter. Bulky items with an official "Bulky Item" sticker will be removed on the property owner's normal scheduled pick-up day. A bulky item that does not have a sticker will not be removed. Stickers may be purchased by property owners at commercial outlets or through the City for a \$3.00 fee, or a fee amount as amended by City Council from time to time (See Exhibit J).

§ 350-25. Downtown properties.

Properties located in the downtown areas that are highlighted in the red and yellow target zones (as depicted below) must place an official sticker directly on the City garbage bag if they desire to have garbage picked up by the Department of Public Works on a day other than the regular scheduled pick up day. Garbage bags that do not have an official "Alternate Day" sticker will not be removed. Stickers may be purchased by property and business owners at commercial outlets or through the City for a \$1.35 fee, or a fee amount as amended by City Council from time to time (See Exhibit J). *[Note: § 350-25 effective February 1, 2011]*

Proposed Garbage District



§ 350-26. Penalty for offenses.

Any person who fails to place an official City sticker in accordance with the terms of this article shall be subject to penalties as set forth in Chapter 1, General Provisions, § 1-4, General Penalty.

ARTICLE IV, Recycling [Adopted 12-17-1990 by Ord. No. 158-90 (Ch. 9, §§ 9-21 through 9-27, of the 1970 Code)]

§ 350-24. Separation required.

Each person shall provide for the separation of recyclables from other solid waste in the recyclables container provided by the City of Binghamton. The Commissioner of Public Works shall determine by regulation what constitutes recyclables and the particular requirements for separation, which regulations may be modified from time to time, provided that reasonable notice is given to the general public. Recyclables may not be deposited in the City garbage bag for public collection or otherwise except in accordance with this article, other applicable law or with written permission of the Commissioner setting forth the specific means by which recyclables may be handled.

§ 350-25. Prohibited removal of recyclable materials.

The provisions of § 350-13 (Scavenging prohibited) of this chapter shall additionally apply to all recyclables.

§ 350-26. Public collection of recyclables.

Only those persons using the public collection system for solid waste may use public collection for recyclables. It shall be unlawful for any person to deposit for public collection any recyclable not produced at the address from which collection is made or to bring recyclables into the City or from one address to another within the City for the purpose of taking advantage of the public collection service.

§ 350-27. Use of City container required. [Amended 11-19-07 by Ord. No. 53-2007]

Except where otherwise specifically authorized in writing by the Commissioner of Public Works, no person shall place any recyclables at curbside for public collection in any receptacle other than the County of Broome recycling container except for (a) clean newspapers, magazines, catalogs, paperback books, periodicals and/or telephone directories that are bundled or placed in brown paper bags and/or (b) clean single-ply cardboard and corrugated cardboard which is flattened and bundled or securely placed in brown paper bags or cardboard boxes when in excess of five pieces. No person shall deposit or permit the deposit of any material other than recyclables in the recycling container.

§ 350-28. Preparation of recyclables; recyclable items. [Amended 11-19-07 by Ord. No. 53-2007]

Prior to placing recyclables in the recycling container, metal, glass, wax-coated beverage cartons, and plastic containers shall be rinsed so that they contain no liquid, gelatinous, or solid residue. Shredded paper will be placed in a closed paper bag. Other preparation of recyclables shall be as designated by the Commissioner of Public Works by regulation. Clear, green, and brown glass containers only may be put in the recycling container—labels do not need to be removed. Lids for such containers shall be disposed of as regular refuse. No broken glass, window glass, windshields, drinking glasses, colored glass (other than that specified above), ceramics, china or light bulbs may be placed in the recycling container but must be placed in with regular refuse to be disposed of pursuant to other provisions of this chapter. Clean newspapers, magazines, catalogs, paperback books, periodicals and/or telephone directories shall be securely tied with string or twine or placed in brown bags and placed in, atop or next to the recycling container. Additionally, brown paper bags, singly-ply and corrugated cardboard, and designated metals and plastics shall be recycled. (However, pizza boxes or other cardboard food containers to which cheese, sauce, or food residue is attached may NOT be recycled.) No books other than paperbacks may be placed in the recycling container unless the covers and bindings have been removed and disposed of as regular refuse. As other materials become designated recyclables, they shall be added by regulation of the Commissioner.

§ 350-29. Collection.

Recyclables set out for public collection shall be set at curbside at such times, dates and pickup points as determined by the Commissioner of Public Works. However, recyclables shall be set at curbside no earlier than 6:00 p.m. on the evening before scheduled pickup. Containers must be removed from curbside by 11:00 p.m. of the day of collection.

§ 350-30. Enforcement; penalties for offenses.

- A. Enforcement mechanisms and penalties for recyclables shall be as designated in § 350-12 of this chapter. Additionally, designated City enforcement officers and/or the Commissioner of Public Works or his or her designee may issue an appearance ticket, returnable in City Court, for any violation of this article. Such lack of compliance shall be deemed a violation and shall be punishable by a fine of up to \$1,000 and/or 15 days in jail.
- B. The Commissioner of Public Works may make such rules and regulations as are not inconsistent with the provisions of this article as may be necessary or desirable to aid in the administration of and obtaining the compliance with the provisions of this article.

EXHIBIT I

PROPOSED BAG SYSTEM USER-FEE CHARGE
FOR THE CITY OF BINGHAMTON
[Amended by L.L. No. 1-1992]

Effective April 1, 1991, the City of Binghamton will enter into a program of a user-fee charge for garbage pickup. In order for garbage to be picked up within the City, such material must be placed within officially designated bags authorized by the City of Binghamton.

The bags that must be used for placement of garbage in the City will be put out to bid on a regular basis. The bags will be distributed through either commercial outlets or through the City. The program and distribution of bags shall be coordinated between the Department of Public Works and the City Comptroller's office. The cost of the bags shall be reviewed on an annual basis and modified according to increased/decreased collection and disposal cost. The cost of the bags shall be in an amount as set from time to time.

Only garbage is to be placed into the bags; recyclable materials must be recycled through the City's recycling program. Yard waste and trash is not to be placed in these bags for pickup. Yard waste, trash and recyclables will be picked up within the City on a regular basis at no direct charge to the consumer. The Department of Public Works, in conjunction with the Comptroller's office, shall be responsible for setting up programs for the obtaining of bags, the distribution and sale of bags, collection of funds, and rules and regulations as apply to garbage pickup and disposal.

At the end of each calendar year, the Comptroller and the Commissioner of Public Works shall provide a report to the Mayor and City Council regarding the effectiveness of the user-fee bag system and related information.

Chapter 355, STREETS AND SIDEWALKS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising -- See Ch. 163.
Notification of defects -- See Ch. 295.
Peddling and soliciting -- See Ch. 307.
Use of rights-of-way -- See Ch. 327.

ARTICLE I, Maintenance and Use [Adopted 10-5-1970 (Ch. 20, §§ 20-1 through 20-38, of the 1970 Code)]

§ 355-1. Authority of Commissioner of Public Works.

It shall be the duty of the Commissioner of Public Works to see that the sidewalks are kept free from snow and ice, and that the ordinances of the City respecting streets, sidewalks and bridges are duly enforced. Whenever any resolution shall be passed by the City Council directing any work to be done with the oversight of which the Commissioner is charged by the Charter, he or she shall immediately obtain from the City Clerk a copy of such resolution and proceed to execute the same as therein required. The Commissioner shall have general oversight of the buildings and property belonging to the City, and shall, without further direction, keep free from snow and ice the walks on the bridges and in front of said buildings.

§ 355-2. Adoption of major street plan.

The major street plan, together with certain maps designated as the official map of existing streets in the City, which said maps comprise a complete outline of existing streets in the City of Binghamton, with the exception of Plat No. 3, comprising streets in the vicinity of South Mountain Park, and Plat No. 39, comprising streets in the vicinity of Ely Park, be and the same hereby are adopted as the major street plan and official map of existing streets of the City of Binghamton.

§ 355-3. Conveyances of land for street purposes to be accompanied by engineer's certificate.

No deed or conveyance of land to the City for street purposes shall be received or accepted by the City Council unless the same shall be accompanied by a certificate of the City Engineer to the effect that the lands so offered are on the proper grade.

§ 355-4. Construction standards and specifications.

Construction standards and specifications for streets and sidewalks within the City shall be as determined by the office of the City Engineer upon approval by the City Council.

§ 355-5. Games in streets; designation of play streets.

No person shall fly a kite or play baseball, football or other game or games in any public highway except such streets or parts of streets as may be designated by the Traffic Board as playground streets.

§ 355-6. Skateboarding and coasting on streets and sidewalks. [Amended 5-7-07 by Ord. No. 13-2007; Amended 4-21-08 by Ord. No. 23-2008; Amended 3-17-10 by Local Law 1-2010]

- A. Preamble. Public sidewalks and streets are for the benefit of all residents. There must be a balance among pedestrians, motor vehicles, bicycles, and, less traditional forms of transportation and recreation such as skateboards, and coasting, *e.g.*, the use of scooters and rollerblades. To achieve this balance, the City of Binghamton wishes to prohibit skateboarding in the "downtown area" and to limit coasting as may be determined by the Traffic Board. Safety is the primary concern regarding use of public streets and sidewalks. Just as operators of motor vehicles and bicycles are responsible

for their safety and the safety of others, skateboards and other coasting equipment must be used in a safe and responsible manner.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

COASTING - The use of any equipment, such as scooters, rollerblades or other non-motorized vehicles upon wheels or runners, excluding skateboards, for transportation or recreation.

RECREATION - Performing acrobatic stunts such as grinding, jumping obstacles larger than 12", or any activity where some surface of the skateboard (other than wheels) is made to come in contact with an object (other than the feet or hands of rider).

SKATEBOARD - A device for riding upon, usually while standing or sitting, consisting generally of an oblong piece of wood or other materials mounted on skate wheels and propelled solely by the force of its rider. The definition of the term "skateboard" shall not be construed to include bicycles, roller skates, roller blades, wheelchairs or any other device intended to be used to provide transportation for any disabled person.

C. Use of skateboards prohibited in certain areas.

- (1) It shall be unlawful to operate skateboards in any manner in public parking garages and ramps within the Binghamton city limits.
- (2) It shall be unlawful to operate skateboards in any manner on any private property in the City of Binghamton, unless specifically allowed by property owner.
- (3) It shall be unlawful to operate skateboards on the property of Binghamton University's Downtown Center and anywhere on Governmental Plaza property
- (4) It shall be unlawful to operate skateboards for any purpose on any sidewalks and streets specified by the Binghamton Traffic Board. The Traffic Board has prohibited skateboarding on the sidewalks and streets bounded as follows: Starting at the E. Clinton Street Bridge, east to Washington Street then north to Lewis Street, east to Fayette Street then south to Henry Street, west to Carroll Street then south to Susquehanna Street, west to Exchange Street then south to the Susquehanna River, west to the confluence with the Chenango River, and north to the E. Clinton Street Bridge. Skateboarding for transportation is permitted on the sidewalks and streets forming this boundary, *e.g.* Washington Street, Lewis Street, Fayette Street, Henry Street, Carroll Street, Susquehanna Street, and Exchange Street; and the Binghamton River Trail.

D. Use of skateboards for recreational purposes limited. It shall be unlawful to operate skateboards on streets, sidewalks or other public property in any manner for the purpose of recreation within the City of Binghamton, except in any skateboard parks, other areas specifically designated by the Traffic Board of the City of Binghamton (*e.g.*, areas with signs designating it a Free Skate/BMX Zone) for recreational skateboard purposes, and block parties where permission has been granted by City Clerk.

E. Conditions for use of skateboards as transportation. The operation of skateboards for the purpose of transportation only is permitted on any street, sidewalk, the Binghamton River Trail, or in any park, excluding those areas specifically prohibited in this chapter, see the No Skateboard Zone defined above, under the following conditions:

- (1) Skateboards may be operated upon the public roadways subject to New York State Vehicle and Traffic Law Article 34, and upon sidewalks and in bicycle lanes within the city limits, where not otherwise prohibited by ordinance, law or regulation.
- (2) The operator of a skateboard, when operated on the sidewalks within the city limits, shall maintain a safe speed (maximum speed should be the equivalent of a brisk walk or slow jog), will maintain a reasonable distance from pedestrians, and will avoid creating situations that make it unsafe for either the skateboard operator or pedestrians.

- (3) No person riding upon any skateboard shall attach the same or him/herself to any vehicle being operated on a roadway.
- (4) Upon all roadways, any skateboards shall be operated on a usable bicycle lane or, if a usable bicycle lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic, except when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a person on a skateboard and a vehicle to travel safely side-by-side within the lane. When preparing for a turn, operator must utilize existing crosswalks.
- (5) Persons riding upon a roadway shall not ride more than two abreast. Persons riding upon a shoulder or a bicycle lane or bicycle path intended for the use of bicycles may ride two or more abreast if sufficient space is available, except that when passing a vehicle, a bicycle or a person on in-line skates, another skateboarder or a pedestrian standing or proceeding along such shoulder, lane or path, persons riding skateboards shall ride single file. Persons riding skateboards upon a roadway shall ride single file when being overtaken by a vehicle.
- (6) No person shall skate or glide on a skateboard on a roadway during the period of time between 1/2 hour after sunset and 1/2 hour before sunrise, unless such person is wearing readily visible reflective clothing or material which is of light or bright color.

F. Coasting. Coasting is permitted on any street, sidewalk, the Binghamton River Trail, or in any park unless prohibited by order of the Traffic Board.

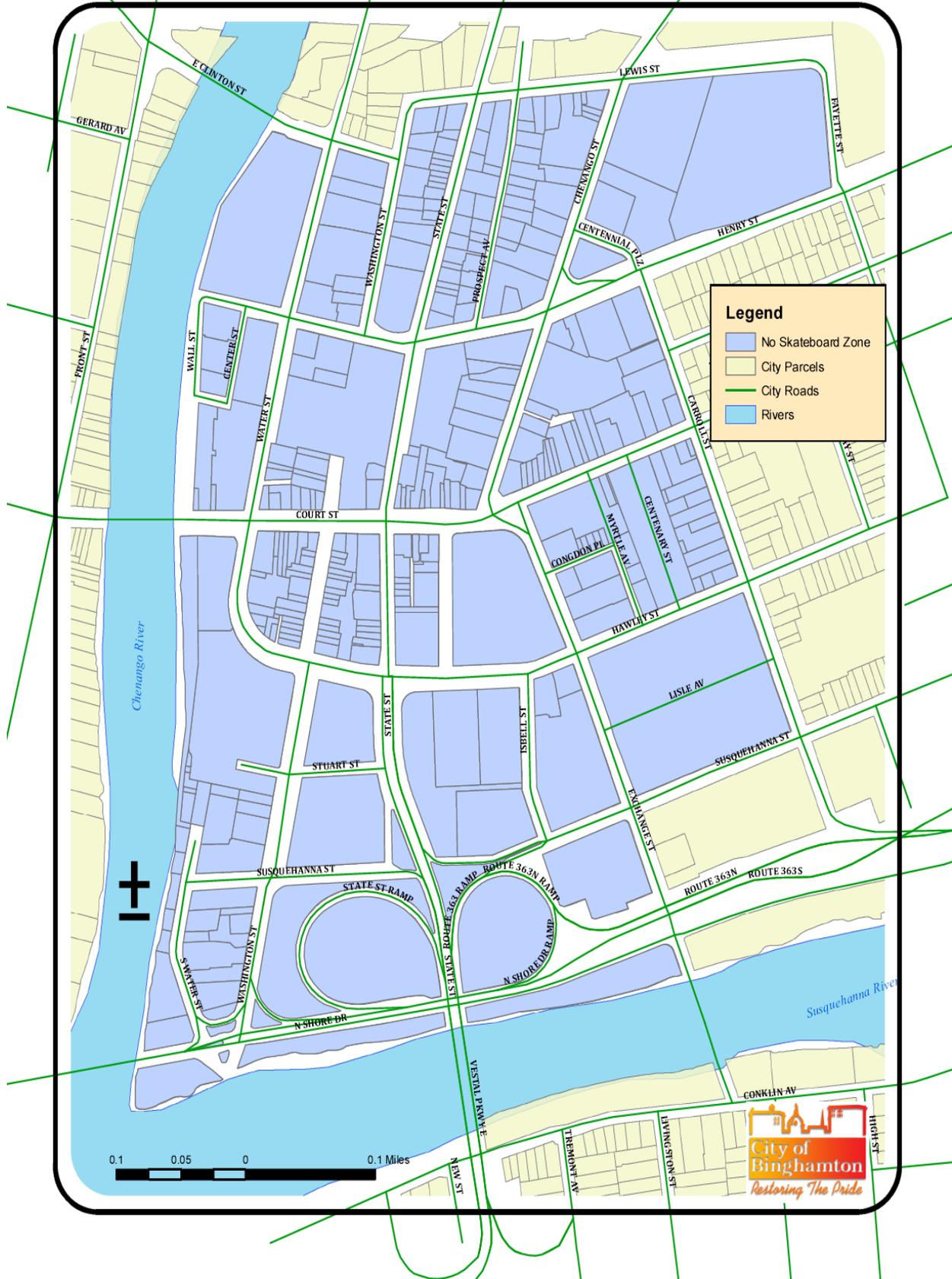
G. Safety. City streets and sidewalks are not designed for skateboards and coasting. Moreover, conditions may change from day to day or hour to hour. It is the responsibility each person using a skateboard or coasting or the parent of a minor, to (i) inspect and confirm that conditions are appropriate for such use; (ii) comply with all manufacturers' recommended safety wear, including helmets, if applicable; and (iii) comply with all traffic signs, traffic control devices and directions from a police officer. Nothing herein shall be deemed to amend the notice requirements of General Municipal Law § 50-g.

H. Penalties for offenses.

- (1) Violation of any of the provisions of this chapter, if committed by a person 16 years of age or older, shall be punished as follows:
 - (a) First offense: any person convicted of a violation of this chapter shall be punished by a fine of \$25 (to include all costs and assessments). The court may authorize community service in lieu of all or part of this fine.
 - (b) Second offense: any person convicted of a violation of this chapter shall be punished by a fine of \$50 (to include all costs and assessments). The court may authorize community service in lieu of all or part of this fine.
 - (c) Third or subsequent offense. Any person who violates this chapter a third or more times within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not less than \$100 nor more than \$250. The court may authorize' community service in lieu of all or part of the fine.
- (2) Violation of any of the provisions of this chapter, if committed by a person less than 16 years of age shall result in the confiscation of person's skateboard and a written warning with a copy of the same being sent to such person's parents or guardian.

- I. Enforcement. It shall be the duty of the City of Binghamton Police Department to enforce the provisions of this chapter. Additionally, any peace officer shall have authority to enforce the provisions of this chapter.
- J. Discontinuance of skateboarding and coasting during emergency. If a state of emergency is declared by the Mayor, skateboarding and coasting are prohibited.

No Skateboard Zone



§ 355-7. Deposits of garbage and rubbish prohibited.

- A. No person shall throw, dump, deposit or place or cause to be thrown, dumped, deposited or placed upon any highway or street in the City or within the limits of the right-of-way of such highway or street, or upon private and public lands adjacent thereto, any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter.
- B. Nothing herein contained shall be construed as prohibiting the use in a reasonable manner of ashes, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on, snow, ice or sleet.

§ 355-8. Spilling loads.

No person, while transporting through the streets any manure, gravel, dirt, stone or other substance, shall permit any portion of the same to escape from the load or bulk transported and to fall and remain upon any public highway.

§ 355-9. Sale of merchandise on sidewalks; solicitation of business on sidewalks.

No person shall sell or expose for sale any goods, wares or merchandise or solicit business upon any sidewalk in the City.

§ 355-10. Water draining on sidewalks.

No person shall conduct or allow to be conducted from any building, through any pipe, gutter, trough, spout or otherwise any water upon or over any sidewalk; nor shall any roof or eaves project over any sidewalk unless there shall be an eave trough or other device so placed as to prevent water from falling upon the walk.

§ 355-11. Width of curb openings for access to public streets. [Amended 12-4-1972 by Ord. No. 243-72; 8-6-1973 by Ord. No. 158-73; 5-6-1974 by Ord. No. 64-74; 11-4-1974 by Ord. No. 23-74; 6-19-1978 by Ord. No. 107-78]

- A. Restrictions on width. All curb openings for access to a public street shall be limited to a maximum width of 30 feet, and all curb openings shall be separated by regular curbing at least 20 feet in width. No curb openings will be allowed within 30 feet of an intersection.
- B. Exceptions. The Binghamton Traffic Board is hereby authorized to consider all applications for permission to construct curb openings which do not comply with the restrictions of Subsection A of this section. Before approving any application for such permission, the Binghamton Traffic Board shall notify the Council member who represents the district to be affected.

§ 355-12. Gates over sidewalks.

No gate shall be made or hung so as to open and swing over any sidewalk.

§ 355-13. Moving buildings and structures through streets.

- A. Permission required. No person shall move or cause to be moved any building or structure through or over any public highway without the permission of the City Council after public hearing thereon.
- B. Application for permission. Application for such permit shall be in writing, specifying the route through which it is proposed to move the building or structure.

§ 355-14. Depositing snow on streets and sidewalks prohibited.

No person shall cast, shovel, dump, plow, push or in any other way cause to be placed any snow upon the streets and sidewalks in the City. The provisions of this section shall not prohibit any person from removing snow from the sidewalks in front of their premises.

§ 355-15. Obstructing fire hydrant with snow or ice.

No person shall, in removing snow or ice from any street, sidewalk, building or other place, throw or deposit or cause to be thrown or deposited such snow or ice upon or so as to hinder, obstruct or delay free access to any fire hydrant.

§ 355-16. Windowboxes over sidewalks.

No person shall place on the windowsill of any building within 10 feet of the street line any box, flowerpot or other article unless said article is suitably secured to prevent the same from falling.

§ 355-17. Boxes, goods and wares on sidewalks.

No person shall place or cause to be placed any box, showcase, goods, wares, merchandise or other articles upon any sidewalk except as may be necessary in transporting such articles across the sidewalk.

§ 355-18. Erection of booths, stands and banners.

No person shall, without permission of the City Council, erect upon any public highway any booth or stand for the purpose of selling or exposing for sale, or advertising any goods, wares or merchandise; nor cause to be hung any banner or advertising devices across or over any public highway; nor erect any platform or grandstand upon any public highway.

§ 355-19. Obstructions to catch basins, sewers or gutters.

No person shall throw or deposit or cause to be thrown or deposited into any drain, catch basin, sewer or gutter any substance which may cause obstructions or injury thereto, or nuisance therein; nor shall any person divert or stop the flow of any drain or sewer.

§ 355-20. Hedge fences.

It shall be unlawful for any person to plant, set, have or maintain upon his or her premises adjacent to any street, sidewalk or footpath within the City any hedge fence unless the same shall be set at least two feet back from the line of the street, and be kept so trimmed as not to project into or over said street, sidewalk or footpath, or be separated from said street, sidewalk or footpath by a fence other than said hedge fence.

§ 355-21. Erection of barbed wire fences upon street line or adjacent to street.

Any person who shall erect, or place or cause to be erected or placed any barbed wire fence or fence constructed partly of barbed wire, likely to cause injury to animals or persons, or their clothing, within the City, situate, constructed or built upon any line of or adjacent to any street, avenue, alley, lane, public square or place therein shall be punished as provided in § 1-4 of this Code.

§ 355-22. Injury to bridges.

It shall be unlawful for any person to cut, whittle, post bills, mark upon or otherwise mar or injure any bridge within the City.

§ 355-23. Obstructing bridges.

It shall be unlawful for any person having control of any cart, sled or other vehicle to suffer the same to remain upon any public bridge for any longer time than shall be reasonably necessary to pass over the same; nor shall any person offer or expose for sale any goods, wares or merchandise upon any such bridge.

§ 355-24. Ordinances granting permission for erection of banners.

All ordinances granting permission for the erection of banners shall contain the words to be placed upon said banners.

§ 355-25. Public pedestrian malls. [Added 9-16-1985 by Ord. No. 113-85]

A. Definition.

- (1) A public pedestrian mall is a public way or public space owned by and/or controlled by the City wherein:
 - (a) Vehicular through traffic is prohibited; and
 - (b) Any permitted vehicular traffic is incidental to the use of the public pedestrian mall (examples of such permitted vehicular use include deliveries, public safety use, ingress and egress incidental to the mall and such other uses which may be authorized and permitted by the appropriate public agency); and
 - (c) Improvements for the benefit and use of pedestrians are installed and maintained.
- (2) The term "public pedestrian mall" shall include but not be limited to areas commonly known as promenades, malls, common space, commons, improved alleys and elevated walkways but shall not include any public property dedicated or reserved for park purposes as defined by law.

B. Street attributes of malls. For purposes of the provisions of the City Code set forth below, public pedestrian malls shall be considered as a street or highway:

- (1) Chapter 327, Article I, Activity Permits.
- (2) Chapter 220, Disorderly Conduct, § 220-1, Section 14-7, Injury to public property prohibited.
- (3) The definition of "public lands" in Chapter 170, Alcoholic Beverages, Article II, Consumption and Possession in Public Places.
- (4) Section 355-5, Games in streets; designation of play streets, of Article I of this chapter.
- (5) Section 355-6, Coasting on streets and sidewalks, of Article I of this chapter.
- (6) Section 355-7, Deposits of garbage and rubbish prohibited, of Article I of this chapter.
- (7) Chapter 178, Animals, Articles I and II.

C. Sidewalk attributes of malls. For purposes of [cmz] § 13-106 of the City Code, entitled "Operation of Bicycles Prohibited," public pedestrian malls shall be considered as a sidewalk.

D. Vehicular traffic. Limited vehicular uses of public pedestrian malls not permitted as of the effective date of this section (September 16, 1985) shall only be permitted by the express consent of the Council.

§ 355-26. Awnings. [Amended by L.L. No. 5-1975]

No awning, other than cloth so hung or placed as to be at least seven feet in the clear above the surface of the sidewalk, shall be placed, constructed or maintained over any street, sidewalk or portion of the same within the City. The foregoing shall not apply to awnings already constructed, but the same may be removed at any time by order of the City Council or the City Engineer.

ARTICLE II, Monuments [Adopted 10-5-1970 (Ch. 14, § 14-12, of the 1970 Code)]

§ 355-27. Consent required for removal.

No person shall remove any permanent iron, concrete or wood monument which has been established by the Department of Engineering of the City as a reference point without first obtaining the written consent of the City Engineer.

ARTICLE III, Construction of Vaults and Cellar Ways Under Sidewalks [Adopted 10-5-1970 (Ch. 20, §§ 20-84 through 20-87, of the 1970 Code)]

§ 355-28. Conditions on construction. [Amended by L.L. No. 5-1975]

Whenever permission shall be granted hereafter by ordinance of the City Council to any person to construct a vault under any sidewalk in the City, such permission shall be subject to the following terms, conditions and provisions as fully as if the same were set forth in such ordinance:

- A. Approval of plans, specifications. The plans and specifications for such vault shall be approved by the Superintendent of Buildings and the City Engineer.
- B. Expense, manner of construction. The vault shall be constructed without expense to the City and in a manner to be approved by the Superintendent of Buildings and subject to the supervision of the City Engineer.
- C. Provisions governing construction. The vault shall be constructed in accordance with the provisions set forth in this article and in accordance with the applicable provisions of the Building Code.
- D. Discontinuance of vault. The granting of such permission shall not be deemed or construed to be the grant of a right of permanent occupancy in the event that the City shall thereafter deem the use of said premises as contrary to public interests on account of extra hazard or otherwise, and the owner of said premises shall vacate said vault and discontinue the use thereof or cause the same to be filled in upon being ordered so to do by the City Engineer and shall at all times be subject to the orders as to any matters required for the safety of the City and highway over and along said vault. In case of the refusal of said owner to obey such order, the City Engineer shall have authority to cause the necessary work to be done, and the expense thereof shall be a charge against the owner of said premises, his or her or its heirs, executors, administrators or assigns and payable to the City.
- E. Liability of City. The owner of said premises, his or her or its heirs, executors, administrators or assigns shall indemnify and save harmless the City of and from any and all damage and liability of every name, description or nature arising or growing out of the installation and construction of said vault which shall thereafter be incurred or suffered by the City.

§ 355-29. Construction standards.

All vaults under sidewalks in the City shall be constructed of brick or stone, and the side of the grating or opening next to the center of the street shall be within one foot of the curbline, and between the same and the line of the street nearest thereto.

§ 355-30. Time frame for completion.

Every vault shall be completed, and the ground or sidewalk replaced over the same, within three weeks after the commencement of such vault, unless the time for such completion be extended by the City Council.

§ 355-31. Construction of trapdoors for cellar ways; doors not to be kept open.

Every cellar way leading from any street or sidewalk shall have trapdoors so constructed as to be on a level with the sidewalk or with the platform, if any, in front of the building where such cellar way is situated, and so as to be entirely safe for persons to pass over the same. No trapdoor or grate in any of the sidewalks of the City shall be kept open except while actually in use for the receipt or delivery of goods or commodities.

ARTICLE IV, Maintenance, Construction and Excavation Within Rights-of-Way [Adopted 4-15-2002 by L.L. No. 1-2002 (Ch. 20, §§ 20-67 through 20-75, of the 1970 Code)]

§ 355-32. Authority of City Engineer; street work permits limited during winter months.

- A. It shall be the duty of the City Engineer to supervise and control all maintenance and construction operation, including those operations which involve excavation and/or which impede the flow of vehicular or pedestrian traffic, conducted upon the City right-of-way and, to accomplish that

objective, to design and prepare forms to be used by applicants for street work permits. Said applications shall conform to the provisions of this article and may contain such other requirements as the City Engineer, in his or her discretion, shall deem necessary for the safety and well-being of the citizens and for the preservation of municipal property.

- B. No street work permits shall be issued from November 1 through April 1 of each year, except in the case of an emergency, as deemed necessary and appropriate by the City Engineer. The City Engineer shall use his or her reasonable discretion in making such determinations.

§ 355-33. Activities subject to control.

No person, firm, corporation or other entity, in the absence of emergency conditions, shall enter or encroach upon the right-of-way of the City of Binghamton for the following purposes, unless a street work permit for such activity has been duly issued by the City Engineer or his or her designated representative; provided, however, relocation of utility poles shall only be required by the City when such relocation can be accomplished by the utility without unreasonable costs or dislocation of adjoining facilities and only when necessitated by considerations of public safety.

- A. Making any excavation, trench, channel, or other opening;
- B. Removing or constructing any sidewalks, curbs or pavements;
- C. Storing, however temporarily, any sand, gravel, cement, stone, brick, lumber, or other material for building;
- D. Erecting any scaffolding or other temporary structures or devices;
- E. Installing utility poles, for whatever purpose, not covered under a current franchise agreement;
- F. Removing trees; or
- G. Any similar activity.

§ 355-34. Emergency conditions.

If it becomes necessary in case of an emergency or any unforeseen happening to enter upon the City right-of-way for the purpose of making emergency repairs to any sewer, water pipe, conduit or other underground or overhead structure, any person, firm, corporation or public utility may do so forthwith, provided that the City Engineer is immediately notified and provided that within 24 hours of the time of making such entry (Saturdays, Sundays, and holidays not included), proper application for a street work permit is made. Should the City Engineer be unavailable, emergency notice may be given to the Department of Public Works dispatcher, who shall relay the message to the City Engineer as soon as possible.

§ 355-35. Application for street work permit.

- A. No street work permit shall be issued unless a written application is approved by the City Engineer. The following conditions must be met before a street work permit shall be issued:
 - (1) Security. Security shall be exacted for excavation work to be performed on any footpath, sidewalk, street, alley, or ground(s) pursuant to the following:
 - (a) The security for any excavations shall be in the form of a performance bond in the amount of \$5,000 for each excavation not in the pavement. Security for excavations in the pavement shall be \$10,000 for each excavation.

- (b) This bond shall cover from one to ten excavations by an individual or business in any calendar year. Any individual or business engaging in greater than 10 excavations within such calendar year shall produce a bond in the amount of \$5,000 per each 10 additional excavations not in paved areas and in the amount of \$10,000 for each ten additional excavations in paved areas. The term of the bond shall be 24 months.
- (c) The maximum amount of a performance bond in any calendar year for one organization or firm shall be \$200,000.

(2) Insurance.

- (a) The applicant shall place on file with the City Engineer, without cost to the City, satisfactory evidence of public liability insurance and of property damage insurance, in amounts deemed reasonable and sufficient by the Risk Management Committee, based upon a schedule developed by said Committee. Said insurance shall insure the City of Binghamton against any loss, injury or damage arising out of the granting of the permit or from any negligence of the said applicant, his or her servants, agents or employees in connection with the said operations or with any and all work related thereto. Such insurance shall be issued in the name of the City of Binghamton as an additional insured.
- (b) Such insurance shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least 30 days' prior written notice to the City of Binghamton of any modification or cancellation of such insurance.
- (c) The provisions of this section shall not in any way limit the rights of the City to bring any action or proceeding against the applicant, his or her agents or employees, to recover damages suffered by the City and caused by the applicant, his or her agents or employees.

(3) Fees.

- (a) The applicant shall tender to the City Engineer a check, draft, or money order payable to the City of Binghamton for the amount as set from time to time by resolution of the City Council prior to the issuance of such permit (See Exhibit J):
- (b) Separate permits will be required for each excavation. An "excavation" is defined as having a separate noncontiguous opening in the ground or pavement and not part of a continuous operation or project. For example, installation of gas main in a continuous trench would be considered one excavation. The maximum fee amount for installation of utility mains and services on any project shall be \$5,000. A "project" is defined as being confined to a specific area or portion of a street. In no event shall the permit fees exceed the actual costs to the City in administering the project and permit.
- (c) The City of Binghamton reserves the right to negotiate a blanket annual coverage agreement with utilities licensed through the Public Service Commission, such blanket coverage agreement to be within the discretion of the City Engineer, provided that such blanket coverage is equitable in comparison with other fees. This blanket agreement must be approved by the Board of Contract and Supply.

(4) Other conditions.

- (a) The applicant shall comply with such other reasonable conditions as the City Engineer, in his or her discretion, shall require. The applicant shall be

deemed to agree, by his or her application for a street work permit, that all operations covered by the permit shall be performed and completed to the satisfaction of the City Engineer and that the direction of the City Engineer as to safety precautions shall be followed explicitly, including the placement of barricades and warning lights.

(b) Any excavations in paved areas on streets that have been reconstructed within 10 years or repaved within five years of the proposed excavation under a work permit will require that the entire width of the street be overlaid to the limits designated by the City Engineer. The City Engineer will also stipulate the type and depth of asphalt overlay on a case-by-case basis.

- B. Defects. Should any excavation be improperly restored, or should a problem develop within 12 months of the restoration of the excavation, the permittee shall be given 48 hours' written notice to correct the defect. Should said defect not be corrected, the City of Binghamton shall then be authorized to correct actions from the deposit required by Subsection A(1) above. The use of such funds will not prevent the City from seeking further compensation should such funds be insufficient to cover the costs of the corrective action. The City shall provide written notice of any withdrawal of deposit funds.
- C. City Engineer's authority. All references to the authority of the City Engineer shall mean the City Engineer or his or her designee, should the City Engineer choose to designate someone to act on his or her behalf.

§ 355-36. Exceptions.

The provisions of this article do not apply to:

- A. The erection, maintenance, and removal of public telephone facilities, pursuant to Chapter 383 of this Code.
- B. The removal or planting of trees pursuant to Chapter 391 of the Code, provided that the permittee under that chapter notifies the City Engineer of this intention at least 24 hours in advance of beginning work in the City right-of-way.
- C. The erection, maintenance and removal of public overhead electric or streetlight facilities.
- D. Maintenance or trimming of trees required for public overhead electric and streetlight facilities.

§ 355-37. Revocation of street work permit.

The City Engineer shall have the right, in his or her reasonable discretion, to revoke any street work permit at any time based upon documentation of the violation of any of the provisions of this article, other relevant provisions of the Code of the City of Binghamton or any other local, state or federal law related to the project. Further, should any permittee repeatedly fail to make proper and adequate repairs and/or fail to take corrective action after being given notice of defect as set forth in § 355-35 above, further permits may be denied. Any two such occurrences within a twelve-month period shall be considered cause for such action.

§ 355-38. Excavations to be guarded.

No person having charge of any excavation in any street, sidewalk or public way shall permit such excavation to remain open or uncovered day or night without having and causing the same to be fenced in and guarded during the day by a red flag, and at nighttime by lights with red globes, so placed and kept as to properly warn all persons of such excavation.

§ 355-39. Underground facility protection.

All excavations shall be done in accordance with New York State Industrial Code Rule 753.

§ 355-40. Penalties for offenses.

Any person or persons illegally working within the street right-of-way without obtaining the proper permits as set forth in this chapter may be charged with a violation, punishable by a fine of up to \$1,000 and/or 15 days' incarceration.

ARTICLE V, Maintenance and Repair Plan [Adopted 2-2-2004 by Ord. No. 04-10]

§ 355-41. Creation of plan.

The City Engineer shall create an on-going five-year street maintenance/repair/rebuilding/reconstruction plan that identifies, per each year, specific streets for maintenance on a five-year schedule.

§ 355-42. Updating of plan.

Said list will be updated and/or added to on a yearly basis.

§ 355-43. Amendments to list.

- A. If an when streets are replaced or removed from a specific year on the list due to special circumstances, the City Engineer will report in person to City Council on the specific reasons said replacement or removal is to take place.
- B. Any streets so replaced or removed according to Subsection A above shall be returned to the list in a subsequent year within the five-year plan or the next year immediately following.

Chapter 360, SUBDIVISION OF LAND

[Adopted by the City Council of the City of Binghamton (Ch. 21 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 200.
- Electrical standards -- See Ch. 225.
- Erosion control -- See Ch. 227.
- Flood damage prevention -- See Ch. 240.
- Sewer use -- See Ch. 342.
- Zoning -- See Ch. 410.

ARTICLE I, Purpose and Authority

§ 360-1. Purpose.

The purpose of these subdivision regulations is to provide for the harmonious development of the City by:

- A. Providing for harmonious residential development consistent with rational City planning principles.
- B. Facilitating expedient review of all subdivision plans by providing uniform standards and procedures.

§ 360-2. Authority.

The City of Binghamton Planning Commission is vested by law with the jurisdiction and control of the subdivision of land located within the City limits (General City Law §§ 32, 33).

ARTICLE II, Definitions

§ 360-3. Applicability.

For the purpose of this chapter, meanings of the following words and phrases shall be defined in this Article II.

§ 360-4. Interpretation.

Words used in present tense shall include the future tense. The singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure." The word "shall" is mandatory; the word "may" is permissive.

§ 360-5. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ALLEY -- A minor right-of-way, privately or publicly owned, primarily for service access to the back or sides of properties.

BLOCK -- The land adjoining one side of a street between two consecutive junctions of said street with streets, railway rights-of-way, or waterways crossing or meeting said side of street.

BULK REGULATIONS -- Zoning requirements related to such things as lot area and size, yard dimensions, height, percentage of lot covered and regulations other than land use. Such requirements are generally set forth in Schedules IA (§ 410-28) and IIA (§ 410-33) of Chapter 410, Zoning.

CLUSTER DEVELOPMENT -- The subdivision of an area into lots which are smaller than would customarily be permitted by Chapter 410, Zoning, the density of development is no greater than would be permitted in the district by conventional development, and the residual land produced by the smaller lot size is used for common recreation and open space.

COMMISSION -- The City of Binghamton Planning Commission.

CONDITIONAL APPROVAL OF A FINAL PLAT -- The approval by the Planning Commission of a final plat subject to conditions set forth by the Planning Commission in a resolution conditionally approving such plat. Such conditional approval does not qualify for the issuance of building permits until all such conditions

have been met and verified by the Building and Construction Bureau, nor does the plat qualify for filing with the County Clerk until all conditions are satisfied and determined acceptable to the City.

EASEMENT -- Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his or her property.

FILLING AND GRADING ORDINANCE -- See Chapter 227, Erosion Control, Part 1, of the Code of the City of Binghamton.

FINAL PLAT -- A drawing or drawings of a subdivision, prepared by a licensed professional engineer or land surveyor, containing all information and detail required by § 360-10, to be presented to the Planning Commission for final approval.

GRADE, ESTABLISHED STREET -- The permanently established elevation of the center line of a street in front of the midpoint of a lot.

GRADE, FINISHED -- The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.

IMPROVEMENTS, PERMANENT -- Any installation, structure, implement, device or part thereof, such as but not limited to sanitary sewer pipes, curbs and gutters, storm sewer pipes, manholes, catch basins, lateral sewers, bridges, water pipes, valves, pumps, open or enclosed culverts or any other facility which is or will be located on or in public property or could become the responsibility of the municipality.

LEAD AGENCY -- The agency which has responsibility to coordinate the environmental review of a proposed action in accordance with the New York State Environmental Quality Review Act.

LOT -- A parcel of land, with or without buildings or structures, delineated by lot lines and having access to a street as defined by this chapter.

LOT OF RECORD -- A lot which has been recorded in the Office of the County Clerk of Broome County.

PERFORMANCE BOND -- A bond issued by a bonding or surety company or a bond duly issued by the developer-obligor accompanied by security in the form of cash, certified check or other security. A performance bond must be approved by and have security acceptable to the Corporation Counsel of the City of Binghamton.

PLANNED DEVELOPMENT -- A parcel of land in a single ownership, or controlled by a partnership, corporation or cooperative group, which is planned and developed as a unit, with all required streets, parking, loading areas, accessory buildings, open space and other site amenities. A planned development shall involve a detailed review and approval in accordance with performance standards and procedures as set forth in [cmz] Section 505 of the Zoning Ordinance.

PLANNING DIVISION -- A division within the City of Binghamton which is staff to the Planning Commission.

PRELIMINARY PLAT -- A drawing or drawings of a proposed subdivision, prepared by a licensed professional engineer or land surveyor, containing all information and detail required by § 360-9 of this chapter and submitted to the Planning Commission for purposes of review and a public hearing prior to submission of the final plat.

PRELIMINARY PLAT APPROVAL -- The approval by the Planning Commission of the layout of a proposed subdivision as set forth in § 360-9, but subject to approval of the plat in final form in accordance with the provisions of § 360-10.

PUBLIC UTILITY -- Any office, equipment, structure, collection and distribution line or pipe, station, exchange, or other facility necessary for providing a service by a franchised private enterprise or a government.

SERVICE DRIVES -- Minor private ways which are used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

SKETCH PLAN -- A sketch of a proposed subdivision, as detailed in § 360-8, indicating salient existing features of a parcel and its surroundings and the general layout of a proposed subdivision, to enable the subdivider, the City and the Planning Commission to reach general agreement as to the form and layout of the subdivision before the detailed preliminary plat is submitted.

STREET -- An existing federal, state, county, or City highway, road or street, or a way shown upon a subdivision plat approved by the City Planning Commission, or on a plat duly filed and recorded in the

Office of the County Clerk prior to the appointment of the City Planning Commission and the grant to such Commission of the power to approve subdivision plats.

STREET CENTER LINE -- A line midway between and parallel to two street property lines.

STREET PAVEMENT -- The paved surface of the roadway between curbs which is used for vehicular traffic.

STREET WIDTH -- The width of the right-of-way, measured at right angles to the center line of the street.

STREET, COLLECTOR -- A street which carries traffic from minor streets to a major system of arterial highways.

STREET, CUL-DE-SAC -- A street with only one vehicular traffic outlet.

STREET, MAJOR -- A street used primarily for fast or heavy traffic, usually with complete or partial control over access from abutting properties.

STREET, MARGINAL ACCESS -- A minor street parallel to and adjacent to a major street, which provides access to abutting properties.

STREET, MINOR -- A street used primarily for access to the abutting properties.

SUBDIVIDER -- Any person, firm, corporation, partnership or association, or his or her or their authorized agent, who shall propose to apportion, for the purpose of sale or development, any subdivision or part thereof as defined herein.

SUBDIVISION -- The division of any parcel of land into four or more lots, plots, sites, or other divisions of land for immediate or future sale or for building development with or without streets or highways, and including resubdivision. After the effective date of these regulations, the division of any part, parcel, or area of land into four or more lots shall be considered a subdivision irrespective of the length of time which may elapse prior to the time the fourth lot or area is created.

TRACT -- Any body of land, including contiguous parcels of land under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

ARTICLE III, Submission Requirements

§ 360-6. Approval required.

Whenever any subdivision or resubdivision of land is proposed to be made, before any contract for sale of any part thereof, and before any permit for erection of a structure in such proposed subdivision shall be granted, the owner shall make application to the Planning Commission for and secure approval of the proposed subdivision in accordance with the provisions of the following.

§ 360-7. Preapplication meeting.

Before commencing work on the subdivision application, a developer shall make an appointment with the Planning Division to discuss the proposed subdivision, zoning requirements, expected timetables for approval, etc.

§ 360-8. Sketch plan.

- A. Submission requirements. A subdivider shall submit to the Planning Division at least 20 calendar days prior to the regular meeting of the Planning Commission 15 copies of a sketch plan of the proposed subdivision and development data for the purpose of preliminary discussion.
- B. Contents of the sketch plan. The sketch plan shall contain the following:
 - (1) The subdivision name or title, the scale, North arrow, and date.
 - (2) The name and address of the owner, subdivider, and subdivider's agent, if any.
 - (3) The subdivision boundaries and approximate boundaries of all contiguous properties.
 - (4) The location of that part which is to be subdivided, in relation to the entire tract, and the distance to the nearest existing street intersection.
 - (5) All utilities available and all streets which are either proposed, mapped, or built.

- (6) The proposed pattern of lots (including lot width and depth), and the proposed street layout.
 - (7) The location and dimensions of land to be reserved for parks, playgrounds, or recreational purposes as required by § 360-23.
- C. Development data. Other supporting development data shall include the following:
- (1) A description of the land characteristics of the site; i.e., description of environmental features, topography, etc.
 - (2) The availability and adequacy of existing and proposed utilities.
 - (3) The total acreage of the subdivision.
 - (4) The proposed building types, approximate size, and cost.
 - (5) A brief narrative discussing the subdivision and its development schedule.
- D. Review by the City. Once the Planning Division has received a sketch plan, the Division will coordinate a review with the departments of Engineering, Water and Sewer, Building and Construction, Corporation Counsel, and other departments or agencies as necessary, to review the sketch plan. Comments will be forwarded in writing to the developer or the developer's agent. The Planning Division will place the proposed subdivision sketch plan on the next regularly scheduled meeting of the Planning Commission.
- E. Review by the Planning Commission. The subdivider or his or her agent shall attend a Planning Commission meeting to discuss the requirements of this chapter. The Planning Commission shall study the sketch plan to determine whether or not it conforms to or would be in conflict with Chapter 410, Zoning, the Master Plan, the developments proposed by any public agency, the existing adjacent private and public development, facilities and services, and the purposes of these regulations, including reservations of land, street improvements, drainage, sewerage, water supply, fire protection and availability of services, and any special problems that may be encountered.
- F. Modification of requirements. When the Planning Commission determines that special conditions or circumstances exist which make the site development conditions and requirements set forth in Chapter 410, Zoning, inappropriate, the Commission, in acting on any subdivision application, may modify such conditions or requirements if the best interest of the City would be served and the spirit of Chapter 410, Zoning, can be maintained. Any modification by the Planning Commission shall not, however, be such as to permit a land use which would not otherwise be allowed in the district, nor shall the Commission modify the density, maximum percentage of lot coverage, or off-street parking requirements for any use or district.
- G. Referrals to the Zoning Board of Appeals. Notwithstanding the provisions of Subsection F, if the proposed subdivision does not meet the minimum standards and requirements of Chapter 410, Zoning, the subdivider must make application to the Zoning Board of Appeals in accordance with the provisions of [cmz]

Article XIV of Chapter 410, Zoning. The proposed subdivision must be in compliance with all requirements of Chapter 410 before preliminary plat submission.

- H. Planning Commission recommendation. The Planning Commission shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations to be incorporated by the subdivider in the next submission to the Planning Commission.
- I. The submission of a sketch plan does not constitute formal filing of the preliminary plat.

§ 360-9. Preliminary plat.

- A. Submission requirements. When a preliminary plat is required by this chapter, the owner shall submit to the Planning Division, at least 30 calendar days prior to the regular meeting of the Planning Commission:
- (1) Fifteen copies of the preliminary plat of the proposed subdivision.
 - (2) The completed subdivision application.
 - (3) The completed SEQR full or long form.
 - (4) Any other supporting development data relevant to the subdivision or suggested by staff.
- B. Contents of the preliminary plat. The following information shall be required on all maps and drawings:
- (1) The subdivision name or title, the scale, North arrow, and date.
 - (2) The name and address of the owner, subdivider, and engineer or land surveyor, including license number and seal.
 - (3) The scale shall be one inch to 100 feet. This may be waived if special conditions warrant the use of a different scale.
 - (4) The subdivision's boundaries and location in the City.
 - (5) The zoning districts within the proposed subdivision, and the zoning districts of all adjoining properties.
 - (6) The zoning regulations affecting the proposed subdivision, including use, area, height, density, coverage, off-street parking, and other regulations.
 - (7) The location of adjoining tracts, subdivisions, and property lines, existing and proposed streets, easements, buildings, watercourses, marshes, wooded areas, and public facilities.
 - (8) All property held by the owner and/or subdivider adjoining the proposed subdivision.
 - (9) The names of all adjoining property owners and the names of adjoining developments, if applicable.
 - (10) Contours with intervals of not more than five feet; however, if the grade at any point is less than 5%, contours shall be at ten-foot intervals for that area. The datum plane for all topographic information shall be that of the United States Geological Survey. An approximate grading plan shall be submitted if existing contours are to be changed more than five feet.
 - (11) The location and dimensions of existing and proposed property lines, lots, and blocks.
 - (12) The exact location of the one-hundred-year floodplain, if applicable, surveyed by a licensed engineer or land surveyor.
 - (13) All pertinent features, including existing or proposed structures, streets, railroads, water bodies, streams, swamps, large trees, rock outcroppings, parks, and playgrounds.
 - (14) All green areas and other open space, and screen plantings and street trees, giving the size and type of trees to be used.
 - (15) The location, width, and approximate grade and proposed names of all proposed streets. Elevations shall be shown at the beginning and end of each street, at street intersections, and at all points where there is a decided change in slope or direction.
 - (16) The approximate location and dimensions of all property recommended by the developer to be dedicated for public use and the conditions of such dedications.
 - (17) The location of existing and proposed sewers, water mains, storm drainage, and culverts, with pipe sizes and direction to flow, both on the property and adjacent to it.
 - (18) The location of existing and proposed utilities on the property and adjacent to it, including gas lines, fire hydrants, electric and telephone facilities, and streetlights.
 - (19) The proposed provision of water supply, fire protection, disposal of sanitary wastes, stormwater drainage, and sidewalks.
 - (20) The location and dimensions of land to be reserved for parks, playgrounds, or recreational purposes, as required by § 360-23.

- C. Development data. Other supporting development data shall include the following:
- (1) A description of the land characteristics of the site.
 - (2) The availability of existing and proposed utilities, schools, parks, and playgrounds, if applicable.
 - (3) The total acreage of the subdivision, and the number and size of the proposed lots.
 - (4) The building types, approximate size, and cost.
 - (5) Completion of the SEQR full or long form.
 - (6) The location, size, and species of all existing and proposed vegetation as required by § 360-22.
 - (7) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 227, Erosion Control, Part 2, Articles II and III, shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 227, Part 2, Article III, Stormwater Control. [Added 12-4-2006 by L.L. No. 2-2006]
- D. Hearing and notices.
- (1) The Planning Commission shall hold a public hearing on the preliminary plat within 45 days from the date a complete application is received by the Planning Division. Notice of such hearing shall be published in the Press and Sun Bulletin at least 10 days prior to the date thereof.
 - (2) Additionally, at least 10 days prior to the public hearing, notice thereof shall be sent by certified mail, return receipt requested, to the owners of record within a distance of 100 feet from the boundary of the subject property(ies).
 - (a) An affidavit of publication shall be submitted to the Planning Division at least five days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and the return receipt forms (PS Form 3811) from the post office.
 - (b) The preparation and cost of publication and mailing of the required notice of public hearing shall be borne by the applicant.
- E. Fees. For the purpose of defraying administrative and other costs involved in review, the subdivision application shall be accompanied by a fee as set from time to time, payable to the City of Binghamton, in addition to any and all other fees required by any other section of this or any other ordinance, local law, or regulation of the City or Broome County (See Exhibit J).
- F. Review by the City. The Planning Division will review the plan to determine if it meets the submission requirements as set forth in these regulations. In reviewing an application for a proposed subdivision, it shall be the responsibility of the Planning Division to obtain relevant comments or approvals, in writing, from other City departments and affected agencies before a decision is made on such application. All such comments will be forwarded, in writing, to the applicant and to the Planning Commission.
- G. Other referrals.
- (1) Before final plat approval on any subdivision with proposed structures or proposed new streets having frontage on, access to, or otherwise directly related to any existing or proposed county right-of-way, such application shall be referred to the Broome County Department of Planning and Economic Development for review and report in accordance with the provisions of § 239-n of the General Municipal Law.
 - (2) Within 30 working days of receipt of such notification, the Broome County Department of Planning and Economic Development shall report to the City on its approval or disapproval, or on its approval subject to stated conditions, of the proposed subdivision plat, insofar as

the proposed structures or new streets may be related to any existing or proposed right-of-way or site as shown on the county official map. If the county planning agency disapproves, or recommends modification of such a proposed subdivision plat, the Planning Commission shall not, in approving the final plat, act contrary to such disapproval or recommendation or modification except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

- H. Planning Commission review and decision. At a scheduled public hearing, the Planning Commission shall review the preliminary plat and all other submissions. Within 45 days from the date of the closing of the public hearing, a decision to approve, with or without modifications, or disapprove the application for a subdivision shall be made by the Planning Commission. Such forty-five-day period may be extended by written mutual consent of the applicant and the Planning Commission. Any decision of the Planning Commission shall include a brief written report outlining the conditions upon which such decision was made and specifying what changes or additions, if any, will be required prior to review of the final plat.
- I. Approval of the preliminary plat. Approval of the preliminary plat shall constitute approval of the proposed subdivision as to the character and intensity of development, and the arrangement and approximate dimensions of streets, lots, and other planned features. Approval of the preliminary plat does not constitute approval of the final plat and does not authorize the sale of building lots, the installation of streets or utilities, or other construction activities on such lots.

§ 360-10. Final plat.

- A. Submission requirements.
 - (1) After preliminary plat approval is obtained, the developer must file a proposed final plat within 90 days. If the developer does not file the proposed final plat within the 90 days, the approval of the preliminary plan shall become null and void unless an extension of time is requested by the subdivider in writing and approved by the Planning Commission before the expiration date.
 - (2) The final plat may be submitted in phases, with each phase covering a portion of the entire subdivision shown on the approved preliminary plat.
 - (3) An owner intending to submit a final plat for the approval of the Planning Commission shall provide the Planning Division at least 20 calendar days in advance of the regular monthly Planning Commission meeting:
 - (a) Fifteen paper copies of the final plat.
 - (b) Two mylar copies of the final plat.
 - (c) Two true copies of all offers of cession, covenants, deed restrictions, easements, and other agreements.
 - (d) Two true copies of the performance bond or irrevocable letter of credit when the proposed subdivision includes public improvements.
 - (e) Three prints of all detail construction drawings.
 - (f) Any other information as requested by the Planning Division or the Planning Commission.
- B. Contents of the final plat. The following information will be required for submission of the final plat:
 - (1) Drawn at a scale of not less than one inch equals 100 feet on sheets no larger than 24 inches by 32 inches.
 - (2) Accurate engineering survey showing dimensions, bearings, and angles of all property lines.
 - (3) Name and address of subdivider.
 - (4) Name of engineer or surveyor.
 - (5) Zoning classification of property to be subdivided.

- (6) Boundary reference points which tie into the existing system. All information required on the preliminary subdivision plat, updated and accurate, indicating actual layout, areas, and dimensions of the subdivision.
- (7) The street lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated for public use.
- (8) Sufficient data acceptable to the enforcement officer to readily determine the location, bearing, and the length of every street line, lot line, and boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates and in any event should be tied to reference points previously established by a public authority.
- (9) The length and bearing of all straight lines, radii, length of curves, central angles of all curves, and tangent bearings shall be given for each street. All dimensions shall be shown in feet and decimals of a foot and shall be given together with all angles of the lines of each lot and lot area in square feet.
- (10) The location, dimensions, and names of all sites for residential, commercial, industrial, public, and nonpublic uses.
- (11) The boundaries and proposed uses of all property which is offered for dedication for public use.
- (12) The boundaries and proposed uses of all property that is proposed to be reserved by deed or covenant for the common use of property owners in the subdivision.
- (13) The location, material, and size of all monuments.

C. Detail construction drawings. The final plat shall be accompanied by three copies of separate construction drawings which shall be submitted to the Planning Division and include:

- (1) Plans and profiles shall show elevations along center lines of all streets within the subdivision and, where a proposed street intersects an existing street, the plan shall show the elevation along the center line of the existing street within 100 feet of the intersection.
- (2) Plans and profiles shall show the locations of street pavements, including curbs, gutters, and sidewalks.
- (3) Plans shall show the location, size, and invert elevations of existing and proposed sanitary sewers, including design calculations.
- (4) Plans shall show all existing and proposed water mains, including design calculations, size, and location of water lines and fire hydrants.
- (5) Plans shall show the existing and proposed storm drainage system, including design storm information, the drainage basin area, development extent, pipe flow information, manholes, and catch basins, and including preliminary design of any bridges or culverts which may be required.
- (6) Plans shall show the location and size of gas, electricity, telephone, streetlights, and other utilities or structures.

D. Other supporting data.

- (1) Updated data from the preliminary submission.
- (2) Time schedule of lot sales and development, if known.
- (3) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- (4) Completion of a revised SEQR full or long form, if such revisions were necessary.
- (5) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 227, Erosion Control, Part 2, Articles II and III, and with the terms of the preliminary plan shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 227, Part 2, Article III, Stormwater Control. [Added 12-4-2006 by L.L. No. 2-2006]

- E. Performance bond. Before any subdivision plat proposing public improvements can be approved by the Planning Commission, the owner shall file either a performance bond, a certified check, or an irrevocable letter of credit as follows:
- (1) The owner shall file with the Corporation Counsel a bond in the amount estimated by the City Engineer to secure the satisfactory construction and installation of the uncompleted parts of all required improvements. The bond shall guarantee the construction and installation of all streets and other required improvements in accordance with the standards and requirements set forth in these regulations.
 - (2) The Planning Commission shall specify the time period within which the required improvements must be completed, and this period shall be expressed by the bond. In the event that any of the required improvements have not been completed under the terms of the bond, the City, upon recommendation of the City Engineer and the Corporation Counsel, shall declare the bond to be in default and shall collect the sum remaining payable thereunder.
 - (3) The bond shall provide that an amount determined adequately by the City Engineer and the Corporation Counsel shall be retained for a period of one year after the date of completion of the required improvements, to assure their satisfactory condition.
- F. Review by the City. The Planning Division will review the final plat submissions to determine whether all submission requirements have been met. The Corporation Counsel shall review all covenants, deeds, easements, bonds, and other agreements. All such agreements must be acceptable to the City before final approval. The City Engineer will review the detail construction plans for correctness and compliance to City standards.
- G. Planning Commission review and decision. The Planning Commission will review the final plat submissions and assure that all prerequisites have been met. The Commission shall take action and report within 45 calendar days from the date of the submission of the final plat. The time of submission of the final plat shall be considered to be the date of the Planning Commission meeting at which such plan is considered. The forty-five-day period may be extended by written mutual consent of the applicant and the Planning Commission. Any decision of the Planning Commission shall include a brief written report outlining the conditions upon which such decision is made.
- H. Approval of the final plat.
- (1) The Planning Commission may, after due deliberation, grant final plat approval, with or without conditions. This approval, once all conditions have been met, all improvements completed, or a satisfactory performance bond in lieu thereof submitted, will allow the subdivider to apply for building permits to begin construction activities.
 - (2) Final plat approval does not permit the sale of building lots until the final plat is recorded in accordance with § 360-11.

§ 360-11. Recording of final plot plan.

Upon completion of the improvements or the submission of a performance bond in lieu thereof, in accordance with § 360-10E, the following steps shall be taken to file the final plat:

- A. The City Engineer shall inspect the construction of all land and utility improvements and assure that they are in conformance with City standards and specifications.
- B. The subdivider shall provide the Planning Commission with two mylar copies of the final plat and two paper copies of the final plat.

- C. Within 10 working days of the receipt of the final plat by the Planning Division, the Chairman of the Planning Commission will sign the final plat and issue an environmental determination of no significance.
- D. The subdivider shall be responsible for complying with the mandated review by the Broome County Health Department of the proposed subdivision and for obtaining the authorized signature of the Broome County Health Department on all copies of the final plat.
- E. The subdivider shall file one signed mylar copy of the final plat with the Planning Division.
- F. The subdivider shall file one signed mylar copy of the final plat with the Broome County Clerk.
- G. In no case shall the final plat be recorded after 90 days from the date the final plat was signed by the Chairman of the Planning Commission. Should the subdivider fail to record the final plat within such ninety-day period, the approval of the Commission shall be null and void unless an extension of time is requested by the subdivider in writing and is granted by the Planning Commission before the expiration date.
- H. The subdivider shall bear all fees in connection with the filing of the plat.
- I. The final plat must be filed with the Broome County Clerk before the sale of any lots within such subdivision.

§ 360-12. Public acceptance of improvements.

Upon completion of the improvements, and prior to the City accepting any public improvements, the subdivider shall comply with the following:

- A. Drawings showing the location of all required improvements as built shall be certified by an engineer or land surveyor and filed with the Planning Division 30 days prior to acceptance of the improvements. As-built drawings shall include the location of water, sanitary sewers, storm sewers, natural gas, electric, telephone and cable lines together with the lateral or service lines of each. Until as-built plans are filed, no performance bond guaranteeing the completion of such improvements shall be released.
- B. Upon completion of the required improvements, and approval of this work by the City Engineer, the subdivider shall present Corporation Counsel with any deeds, abstracts, and easements for streets and other public improvements.
- C. Prior to any public acceptance of required improvements, the subdivider shall submit an affidavit stating that all bills and accounts for material and labor used in the construction of the improvements have been paid for in full.
- D. The subdivider shall make good, without cost to the City, any defects to any improvements constructed by him or her and any damage due to faulty workmanship on his or her part, or due to imperfect materials or equipment furnished by him or her for which defects or damage may appear within one year after the acceptance of such improvements by the City.

ARTICLE IV, Design and Construction of Streets, Lots, and Related Infrastructure and Services

§ 360-13. General standards.

- A. The following requirements and guiding principles for land division shall be observed by all subdividers:
- (1) All land surveys, design, and construction drawings presented to the Planning Commission shall bear the name, seal, license number, and signature of a professional architect, engineer, surveyor, or landscape architect.
 - (2) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to the public health, safety, or welfare.
 - (3) Land subject to flooding and within the floodplain management area as delineated on the flood insurance rate map dated June 1, 1977, for the City of Binghamton.
 - (4) No subdivision showing reserve strips of land restricting the access to public ways will be approved, except where the control and disposal of land comprising such strips are placed within the jurisdiction of the City under an agreement meeting the approval of the Planning Commission and Corporation Counsel.
 - (5) Lot lines shall, where possible, follow municipal boundaries rather than cross them.
- B. Unique conditions. Where the Planning Commission finds that because of exceptional and unique conditions of topography, location, shape, size, drainage, or physical features of the site or because of the special nature and character of surrounding developments, the minimum standards specified herein would not reasonably protect or provide for the public health, safety, or welfare, special requirements may be imposed in addition to or in substitution for the minimum standards by the Planning Commission to protect the public.
- C. Conformance with Master Plan and zoning requirements. Subdivisions, including streets and parks, shall conform to and be in harmony with the current Master Plan and Chapter 410, Zoning, except as provided by § 360-8F of this chapter.

§ 360-14. Street and sidewalk layout.

- A. General standards for street layout.
- (1) Width, location, and construction. Streets shall be suitably located on sufficient width and adequately constructed to accommodate the prospective traffic and to afford satisfactory access to the police, fire fighting, snow removal, and other maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjacent properties and shall be coordinated so as to create a safe traffic and pedestrian system.
 - (2) Arrangement. The arrangement, width, grade, and location of all subdivision streets shall conform to the Master Plan and/or neighborhood plan approved by the Binghamton Urban Renewal Agency and/or Planning Commission and/or City Council, and shall be designed in consideration to the existing and planned streets, to topographic conditions, to public convenience and safety, and to the proposed use of the land to be served by such a street.
 - (3) Minor streets. Local and minor streets shall be planned so that their uses by through traffic will be discouraged.
 - (4) Relation to topography.
 - (a) Streets should be related to the topography of the property, with all streets arranged so as to provide access to as many possible building sites at or above the grades of streets.
 - (b) Grades of streets should conform as closely as possible to original topography. A combination of steep grades and sharp curves shall be avoided.
 - (5) Intersections.
 - (a) A distance of at least 150 feet shall be maintained between all intersections, measured from center line to center line.
 - (b) Within 100 feet of any intersection, streets shall be approximately at right angles.

- (c) All street intersection corners shall be rounded by curves of at least 15 feet in radius at the curbline.
 - (d) Within triangular areas formed by the intersection of two street lines and a third line joining them at points at a distance of 30 feet away from their intersection, visibility for traffic safety shall be maintained by keeping the triangular area free of plant materials exceeding three feet in height.
- (6) Cul-de-sacs.
 - (a) Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by an easement having a distance not less than 10 feet so as to allow access to the street edge or utilities for maintenance purposes.
 - (b) Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Planning Commission may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities to the next street.
 - (c) A circular turnaround shall be provided at the end of a permanent cul-de-sac street, with a radius of 50 feet.
 - (d) A circular turnaround shall be provided at the end of temporary cul-de-sac streets. Deed requirements for the temporary turnaround shall be in a form acceptable to the Corporation Counsel.
 - (e) All streets with divided pavements or center malls shall be prohibited.
- (7) Land abutting major streets or certain rights-of-way.
 - (a) Where the subdivision abuts or contains an existing or proposed major street, the Planning Commission may require marginal access streets.
 - (b) Where a subdivision abuts or fronts on a street, sidewalks shall be required in the subdivision unless this requirement is waived by the Planning Commission.
- (8) Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Planning Commission may require that the streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- (9) Continuation of streets into adjacent streets.
 - (a) The arrangement of streets shall provide for the continuation of existing streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and where such continuation is in accordance with the Master Plan.
 - (b) If the adjacent property is undeveloped and the street must be a temporary dead end street, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround of a minimum of 50 feet in radius shall be provided on all temporary dead end streets, with the notation on the plat that the land outside of the street right-of-way shall revert to abutting lots whenever the street is continued.
 - (c) The Planning Commission may limit temporary dead end streets to a length not more than double the permitted length of permanent cul-de-sac streets.
- (10) Street names. All streets shall be named, and such names shall be subject to the approval of the City Council. Names shall be sufficiently different in sound and in spelling from other street names so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.

B. Design standards and specifications. Streets shall be designed in accordance with the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) Geometric Design of Highways and Streets. Streets shall be designed for a maximum vehicle speed of 30 miles per hour. The following chart provides minimum standards for streets and horizontal curve design; vertical curve design will be determined as site conditions dictate, and design variables shall conform with AASHTO standards. All design work will be subject to review and approval of the City Engineer.

<u>Standard</u>	<u>Collector Street</u>	<u>Minor and Marginal Access Street</u>	<u>Cul-de-sac (turn around radius 50 feet)</u>
Minimum right of way width (feet)	60	50	50
Minimum pavement (feet)	40	30	30
Maximum grade	3% to 6%	8% to 10%	10%
Minimum radius of curves, inner street line (feet)	302	302	302
Maximum grades within 100 feet of center line intersections	2%	3%	3%
Minimum braking sight distance (feet)	200	200	200
Maximum length of cul-de-sac (feet)	--	--	400
Minimum outside radius of cul-de-sac pavement to curb (feet)	--	--	40
Angel at intersection of street center lines (degrees)	85 to 95	85 to 95	85 to 95
Sidewalk width (feet)	5	5	5

C. Construction standards. The following specifications provide minimum standards for the construction of streets in subdivisions:

- (1) Approved streets shall be rough graded to the full width of the street in accordance with typical street sections as used by and kept on file by the City Engineer.
- (2) The base of all roadbeds shall be 30 feet in width and shall be run of bank gravel at least 12 inches in depth. The roadbed shall be deeper if deemed necessary by the City Engineer. The street base shall be constructed in accordance with the New York State Department of Transportation Specifications, Item 2EF-B, Select Granular Fill (a copy of these specifications are available through the City Engineer). The base shall be placed in maximum layers of six inches, compacting each layer before the next layer is applied. Before any gravel is used for construction, representative samples must be tested by an approved testing laboratory.
- (3) The street surface materials and depth shall be determined by the City Engineer as site conditions dictate.
- (4) Concrete curbs shall be required on all streets. Curbs shall be poured integral, with construction joints every 10 feet and expansion joints every 60 feet. Curb cuts shall be made at all intersections to allow for handicapped access. All curbs shall be constructed in accordance with City of Binghamton standard specifications.

- (5) Concrete sidewalks shall be required on all streets. The minimum width of sidewalks in residential areas shall be five feet. The area from the street right-of-way shall be graded down 1/4 of an inch per foot to the curbline. The minimum thickness of sidewalks shall be five inches. Concrete for sidewalks shall have a minimum of twenty-eight-day compressive strength, 4,500 pounds per square inch. Concrete shall be air entrained with a minimum air entrainment of 6% plus or minus 1%. Sidewalk construction must follow City of Binghamton specifications. All workmanship, construction, and materials shall be subject to the approval of the City Engineer.
- (6) The City Engineer may require the installation of an underdrain system if groundwater conditions under the pavement prohibit proper drainage. Such a system shall be installed at the developer's expense. The underdrain system shall consist of perforated pipe laid in trenches and encased in gravel as directed by the City Engineer. The underdrain system shall be connected into the storm sewer system at the catch basin or manhole. Use of other underdrain systems may be allowed at the discretion of the City Engineer.

§ 360-15. Blocks and lots.

A. General standards.

- (1) Blocks. The length, width, and shape of blocks shall be determined with due regard to the following:
 - (a) The provision of adequate building sites suitable to the special needs of the use contemplated.
 - (b) Chapter 410, Zoning, requirements as to lot size and dimensions.
 - (c) The need for convenient access, circulation, and safety of street traffic.
 - (d) The limitations and opportunities of topography.
 - (e) Irregular shaped blocks indented by cul-de-sacs, parking courts, loop streets, or open space will be acceptable when properly designed under the provisions of Chapter 410, Zoning, as determined by the Planning Commission. Such blocks shall include adequate off-street parking, facilities for pedestrian access from streets to all lots, proper easements for all utilities, and sufficient provisions for maintenance of park and open space.
- (2) Lots.
 - (a) Lot arrangement shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with Chapter 410, Zoning, and in providing access to buildings on such lots from an approved street.
 - (b) Lot size, depth, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use proposed.
 - (c) Side lot lines shall be either at right angles to the street on which the lot faces or radial lines in the case of curvilinear streets.
 - (d) Through lots shall be prohibited.
 - (e) The subdivision plan shall provide each lot with satisfactory access to an existing public street or to a proposed street within the subdivision that will be deeded to public use at the time of final subdivision plan approval.

B. Design standards.

- (1) Blocks.
 - (a) Straight block lengths (grid pattern design) shall not exceed 1,000 feet.
 - (b) Irregularly shaped blocks will have no minimum length imposed, but designs will be subject to review by the City Engineer.
- (2) Lots.

- (a) Lot dimensions shall comply with the bulk standards of Chapter 410, Zoning, unless the Planning Commission modifies such standards in accordance with § 360-8F.
- (b) Where lots are double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.

§ 360-16. Storm drainage systems.

A. General standards.

- (1) Storm drainage systems shall be designed by a licensed professional engineer using prudent methods and the most current information available.
- (2) Extensive consideration shall be given to retention and detention features in design, and whenever possible, the outfall of the system shall be in the same basin as the system.
- (3) Storm drainage systems shall be designed to handle any future development of the basin in which it is situated. A culvert or other drainage facility shall in each case be large enough to accumulate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall review the design and size of the facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by Chapter 410, Zoning.
- (4) The subdivider's engineer will study the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision. This study will be reviewed by the City Engineer. Where it is anticipated that the additional runoff incidental to the development of the subdivision will overload the existing downstream drainage facility during a five-year storm, the Planning Commission shall not approve the subdivision until a provision has been made to upgrade the capacity of the downstream facility.

B. Design standards.

- (1) Storm sewer pipes.
 - (a) All pipes shall be sized in accordance with proven engineering practice to handle expected flows, both present and future.
 - (b) Pipe strength shall be sufficient enough to carry all expected loads and with minimum loads of H-20.

C. Construction standards.

- (1) Storm sewer pipe material. The following kinds of pipes and joints shall be used for storm sewer construction:
 - (a) Reinforced concrete, meeting ASTM Specification C-76. Joints shall be either rubber gasket or cement mortar.
 - (b) Polyvinyl chloride (PVC) pipe, schedule 35; push joints with rubber gaskets.
- (2) Storm sewer pipe installation.
 - (a) Storm sewer pipe shall be laid true to line and graded as shown in construction plans.
 - (b) Storm sewer pipes shall be firmly set in a minimum depth of four inches of No. 1 crushed stone (New York State Department of Transportation Specification). Depth of backfill around the pipes shall be determined by the City Engineer. A concrete cradle under the pipe and required backfill as specified by the City Engineer may be used as an alternate.
 - (c) Connections to the storm sewer such as drain lines from parking lots from adjacent properties shall be made at the manhole or catch basin.
- (3) Storm sewer manholes.

- (a) Manholes, catch basins, and inlets shall be constructed in accordance with the standard detail drawings. Manholes shall be installed at the end of each line, at all changes in grade, size, or alignment, at all intersections, and at intervals not exceeding 300 feet. All connections to stormwater sewers from catch basins and inlets shall be made at the manhole. Catch basins and inlets shall be installed at all intersections and on no more than three-hundred-foot intervals.
- (b) Storm sewer manholes shall be precast concrete with a minimum inside diameter of at least four feet. Flow channels shall be finished smooth and shaped to encourage smooth flow of water through the manhole. Manholes and frames may be heavy-duty cast iron Neenah Catalog No. R-1712-Type B lid (or approved equal), with a minimum weight for frame and lid shall be 540 pounds. All manholes shall be installed so that the top conforms to the adjacent finished road grade.
- (4) Inlets and catch basins. Storm inlets and catch basins shall be required at the intersection of each street or at intermediate points along long blocks or as directed by the City Engineer.
 - (a) Inlet frames and grates shall be of heavy-duty cast iron as manufactured by the Neenah Foundry Company Inc. Catalog Number R3250A or another manufacturer approved by the City Engineer.
 - (b) Catch basins shall be precast concrete or poured concrete (as specified by Item 204 A, Standard Catch Basin; filed with the City Engineer). They shall have a minimum diameter of four feet two inches, and they shall have a sediment chamber at least two feet below the invert of the pipe. Frames, grates, and curb boxes shall be Neenah Catalog No. R-3250-A (or approved equal). The minimum weight of frame and lid shall be 435 pounds.
- (5) Location of utilities. Storm sewer lines shall be placed on the lower side of the street at a distance of 10 feet from the center line. Connections shall extend to catch basins placed along curblines, or to inlets placed along ditch lines.

D. Review and approval. Storm sewer design is subject to review by the Bureau of Water and Sewers and the City Engineer prior to final plat approval. The Planning Division shall seek the opinion of these departments as part of its subdivision processing responsibilities.

§ 360-17. Sanitary sewer systems.

A. General standards.

- (1) Sanitary sewer systems shall be designed by a licensed professional engineer using prudent methods and the most current information available.
- (2) Sanitary sewers shall be designed for the estimated ultimate tributary population. Stormwaters, roof drainage, and ground waters shall be excluded from the sanitary sewers and house connections.
- (3) Sanitary sewer systems shall be designed on the basis of an average daily per-capita flow of sewage of not less than 100 gallons per day. Lateral sewers shall be designed to carry a peak flow of 400 gallons per capita per day. Trunk sewers shall be designed to carry a peak flow of 250 gallons per capita per day.
- (4) No sanitary sewer shall be less than eight inches in diameter. All sanitary sewers shall be designed and constructed to give mean velocities, when flowing full, of not more than two feet per second, based on Kutter's formula using an "n" value of 0.013.

B. Design standards for sanitary sewer pipes.

- (1) All pipes shall be sized in accordance with proven engineering practices capable of handling expected flows, both present and future.

- (2) All pipes shall be installed in accordance to ASTM standard specification C12 and the City of Binghamton specifications.
- (3) Pipe strength shall be sufficient to carry all expected loads and with minimum loads of H-20.

C. Construction standards.

- (1) Sanitary sewer pipes.
 - (a) Sanitary lines shall be laid to the line and grade indicated on approved construction drawings. Sanitary sewer pipe and fittings 24 inches in diameter or under shall be bell and spigot clay sewer pipe conforming to ASTM standard specification C200, or polyvinyl chloride (PVC) pipe, schedule 35, and push joints with rubber gaskets.
 - (b) All sewer lines shall be subject to the following tests in the presence of the City Engineer:
 - [1] A lamplight shall be clearly visible between manholes.
 - [2] A ball two inches smaller than the diameter of the pipe shall roll freely of its own accord between manholes (on grades less than 1.5%, water may be used to assist the progress of the ball).
 - [3] Where, in the opinion of the City Engineer, sufficient care has not been taken in joining the pipe, an exfiltration test shall be performed as directed to assure that leakage will not exceed 500 gallons per inch diameter per mile per day.
- (2) Manholes. Manholes shall be constructed in accordance with the City of Binghamton specifications. Manholes shall be installed at each end of the line, at all changes in grade, size, or alignment, at all intersections, and at all intervals not exceeding 300 feet.
- (3) House connections. Six-inch sewer pipe for house connections shall be laid from wye branches, placed in the sewer line to a point two feet beyond the edge of pavement. A thirty-degree sweep bend shall be used in the wye branch, and the connection shall be laid on a straight grade such that the end of the connection is approximately seven feet deep. In no case shall the pipe be laid on a grade less than 1/4 of an inch per foot. The connection shall incorporate the same type of joints as required for the main sewer, and the end of the connection shall be tightly stoppered. A two-inch-by-four-inch piece of lumber shall be placed at the end of each house connection, extending vertically to the grade of the street, to serve as a marker. The location of all connection markers shall be accurately recorded on "as-built" drawings of the sewer lines, and copies in duplicate shall be submitted to the City Engineer and Corporation Counsel before the system will be accepted by the City.
- (4) Appurtenances. Sewage lift stations, disposal works, and appurtenances shall be designed and constructed to afford a maximum of dependability and efficiency in operation and maintenance, and shall be approved by the City Engineer.
- (5) Location of sanitary sewer lines.
 - (a) No more than two utility lines shall be installed in the same trench.
 - (b) Sanitary sewer lines shall be placed along the center line of the street with the house connections extending to a point two feet behind the curbline.
 - (c) Care shall be taken to ensure that the lateral connections thereto do not intercept other lines or water lines.
 - (d) Sewer lines shall be deep enough to service basements and shall have a minimum cover of two feet.

§ 360-18. Water supply systems.

A. General standards.

- (1) Water supply systems (including water lines and hydrants) shall be designed by a licensed professional engineer using prudent methods and the most current information available.

- (2) All water mains shall be designed in accordance with the City of Binghamton Water and Sewer Ordinance and appropriate Broome County Health Department regulations.

B. Design standards.

- (1) Water mains shall be designed in accordance with proven engineering practices to provide anticipated usage demands, consistent water pressure for household use and fire service, and to handle expected flows for the proposed subdivision and the area immediately surrounding the subdivision.
- (2) The Bureau of Water and Sewer and City Engineer will review the size and design of the facility based on the capacities of existing pipes that will be used to connect proposed systems into the current municipal system.
- (3) All water mains and appurtenances shall be installed, disinfected, and tested in accordance with the City of Binghamton Water and Sewer Ordinance.

C. Construction standards.

- (1) Pipe materials.
 - (a) Pipes shall be ductile iron pipe, class 52, cement lined with push joints.
 - (b) All necessary valves, hydrants, tapping valves, sleeves, cross tee bends, corporation stops, shutoffs, and curb boxes shall be installed in accordance with the City of Binghamton Standard Specifications.
- (2) Water main installation.
 - (a) Water pipes and mains shall be laid true to line and graded as shown in construction drawings.
 - (b) Depth of trenches and backfill for waterlines shall be determined from City of Binghamton standard details for water mains or as directed by the City Engineer.
- (3) Location of water pipes.
 - (a) No more than two utility lines shall be placed in the same trench.
 - (b) Water mains shall be placed on the higher side of streets at a distance of 10 feet from the center line, with service connections extending to the right-of-way lines. All service connections are to be made by the City of Binghamton Water Department.
 - (c) Fire hydrants shall be placed 2 1/2 feet beyond the face of curbs, or six feet beyond the edge of pavement where the curbs are not installed.
 - (d) All water mains shall have a minimum depth of five feet.
 - (e) Hydrants shall not be placed more than 600 feet apart.

- D. Review and approval. Water and sewer system design is subject to review and approval by the Bureau of Water and Sewer and City Engineer prior to approval of the final plat.

§ 360-19. Electric and cable services.

A. Electric and cable service systems.

- (1) Electric and cable systems shall be designed and installed to conform to the provisions of the City of Binghamton Electrical Ordinance, local laws, or building code of the City pertaining thereto, and shall be in conformance with approved standards for the safety of life and property.
- (2) Electric, telephone, and television lines shall be laid between the back of the curblin and the street right-of-way line. All lines laid within the street right-of-way shall have a minimum cover below finished grade of two feet, except under paved areas of the street right-of-way where the minimum shall be three feet.

- (3) The subdivider shall install underground service connections to the property line of each lot before the street is paved. Such paving and improvements shall conform to the minimum road specifications and shall be approved by the City Engineer.
- B. Review and approval. Electrical and cable system designs are subject to the review and approval of the City Engineer prior to the approval of the final plat. The Planning Division shall seek the opinion of the City Engineer as part of its subdivision processing responsibilities.

§ 360-20. Street lighting.

- A. General requirements.
- (1) Proposed lighting systems shall be presented in conjunction with the final plat application.
 - (2) Streetlighting systems shall be designed and installed by licensed electricians in accordance to the provisions of the City of Binghamton Electrical Ordinance, EN applicable state and local law, and building codes of the City pertaining thereto, and shall be in conformance with the standards for the safety of life and property.
- B. Design standards.
- (1) Streetlighting systems shall be designed to provide the proper amount and quality of night lighting within the proposed subdivision. Placement of poles will be determined by a licensed engineer. Bulbs used will provide 8,500 lumens per lamp when used in residential areas and 14,400 lumens per lamp along major streets.
 - (2) All electrical and cable lines shall be installed underground.
- C. Construction standards. All concrete light bases shall be designed and installed in accordance with proven engineering practices as used by the utility corporation responsible for scheduled electrical streetlight service for the City of Binghamton.
- D. Review and approval. The streetlighting system design is subject to review and approval from the City Engineer prior to final plat approval. The Planning Division shall seek the opinion of this department head as part of its subdivision processing responsibilities.

§ 360-21. Utility easements.

Public utility design standards.

- A. Where topography or other conditions are such as to make it impractical for the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements for such utilities shall be provided centered on rear or side lot lines with satisfactory access to the street.
- B. Permanent easements shall be the minimum width necessary to provide service and shall be so indicated on the plat.

§ 360-22. Landscape and buffer areas.

Preservation of natural features, trees, and landscape.

- A. In preparing a lot for construction of a structure, the owner or developer shall remove only those trees necessary to make the construction feasible. All other vegetation shall be left in place and shown on site plans. No lot shall be cleared completely of existing trees except on the approval of the Planning Commission.

- B. In residential districts where land has been subdivided and sold for use as townhouse (attached) development, an overall tree planting scheme shall be incorporated as part of the final plat and will be subject to final plat review and approval.
- C. Required trees shall be located at least five feet outside rights-of-way and utility easements.
- D. New trees shall measure at least two inches in diameter, as measured at a point six inches above finished grade.
- E. Trees shall be hardy and suitable to the local climate and shall be of a species approved by the Planning Commission, such as maple, oak, sycamore, plane, fir, spruce, hemlock, ash, hackberry, linden, Redspire pear, locust, alder, and hawthorne. Other varieties must be approved by the Planning Commission.

§ 360-23. Parks, playgrounds, and recreation areas.

- A. Purpose.
 - (1) The purpose of this section is to provide an option for development standards for securing adequate land for parks, playgrounds, and recreational areas in new subdivisions.
 - (2) Except as hereafter provided, lands comprising at least 5% of the total area to be subdivided shall be reserved for parks, playgrounds, or recreational purposes in a location with suitable public access within the subdivision unless this requirement is waived by the Planning Commission.
 - (3) Land may be reserved for parks, playgrounds, or recreational purposes in accordance with the Master Plan or other local plans. While the plan may show only the general location of such proposed sites, the required reservation of such lands for recreational purposes must be specifically located and designated on the final subdivision plat.
- B. Waiver. In cases where the Planning Commission determines that a park of adequate size cannot be properly located in the subdivision plat or is otherwise not practical due to the size, topography, or location of the proposed subdivision, the Planning Commission may either waive the requirement that the subdivision plat show land for such purposes and may require a cash payment in lieu of the aforementioned land donation, the amount of which to be determined by City Council, and which cash payment shall be dedicated for park, playground, or other recreational purposes located in the same Council District as authorized by New York State General City Law § 33(4).

§ 360-24. Monuments.

- A. Permanent reference markers shall be set in all corners and angles of the subdivision boundaries and at all street intersections, angle points in street lines, points of curves, and at approximately five-hundred-foot intervals, and their locations shall be shown with a circled "x" on the subdivision plat.
- B. Permanent monuments shall be one-inch-diameter metal rods at least three feet long located in the ground at final grade level.
- C. Lot corner markers shall be permanently located by a 3/4 of an inch metal pipe at least two feet in length, driven into the ground at final grade level.

Chapter 363, SUNDAY ACTIVITIES

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 3, §§ 3-2 and 3-3, of the 1970 Code). Amendments noted where applicable.]

§ 363-1. Exhibition of motion pictures on Sunday.

- A. It shall be unlawful to exhibit motion pictures in the City after 2:00 p.m. on the first day of the week, commonly called Sunday, for which exhibition an admission fee may be charged.
- B. The admission fee, which may be charged by exhibitors of motion pictures exhibiting pursuant to Subsection A, shall not exceed the admission fee charged by them for motion picture exhibitions in the City on any other day of the week.

§ 363-2. Sunday baseball.

Baseball games at which no admission shall be charged are permitted to be played at Recreation Park and at the baseball ground on Front Street in the City on the first day of the week, commonly known as Sunday, after 2:00 p.m.

Chapter 367, SWIMMING POOLS

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 22 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Plumbing -- See Ch. 310.

Sewer use -- See Ch. 342.

Water -- See Ch. 405.

Zoning -- See Ch. 410.

§ 367-1. Compliance with chapter; permit required.

No private swimming pool shall be constructed, installed or maintained on any premises within the City of Binghamton unless it complies with the provisions of this chapter and a building permit is first obtained from the Superintendent of Buildings.

§ 367-2. Applicability to existing pools.

Swimming pools in existence on September 8, 1964, shall, on or before October 1, 1964, comply with all the terms of this chapter, with the exception, however, that swimming pools presently in existence which are enclosed by a wall, fence or other substantial structure at least three feet high equipped otherwise in accordance with § 367-4 shall be considered as complying with the enclosure requirements of § 367-4.

§ 367-3. "Private swimming pool" defined.

The term "private swimming pool" as used in this chapter shall mean any body of water or receptacle for water having a depth at any point greater than two feet, constructed, installed or maintained in or above ground, outside a residential building, except hotels and motels, as an accessory use to a residence for swimming or bathing by the occupants thereof and guests.

§ 367-4. Enclosures.

Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet in height with no openings therein, other than doors or gates, larger than three inches. All such gates or doors opening through such enclosure shall be equipped with self-closing and self-latching devices, designed to keep and capable of keeping such gate or door securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped.

§ 367-5. Location of private pools. [Amended 5-28-1974 by Ord. No. 87-74; 9-3-1974 by Ord. No. 186-74]

All private swimming pools shall be constructed, installed or maintained only in the rear or side yard of the premises; all swimming pools shall be considered structures within the meaning of Chapter 410, Zoning, of the Code of the City of Binghamton, except that they shall not be placed into any yard to a point closer than five feet to any lot line.

§ 367-6. Lighting.

No lighting shall be permitted in, on or about a swimming pool, except such lighting that shall shine into or upon said pool and cast no light or reflections onto abutting properties.

§ 367-7. Inspection of pools connected to City water or sewer system; applicability of Plumbing Code.

All swimming pools connected to the water or sewer system of the City shall be inspected by the Plumbing Inspector of the City before said pools can be used by the owners, and the Plumbing Code of the City shall apply to all plumbing connections made to the pool.

§ 367-8. Abandonment of pool.

Should the owner abandon the swimming pool, he or she shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed, and he or she shall further notify the Superintendent of Buildings of the abandonment so that the site may be inspected.

§ 367-9. Inspection of City pools; report and recommendations to Council. [Added 6-16-1975 by Ord. No. 97-75]

- A. The City Engineer is directed to make periodic inspections of the City of Binghamton's swimming pools for the purpose of insuring maintenance.
- B. The City Engineering Department is directed to make a physical inspection of each swimming pool facility between September 1 and October 1 each year and to provide the Binghamton City Council with a written report each year with the results of these inspections and the recommendations of the City Engineering Department for repairs as to any swimming pool facility in the City of Binghamton, New York.

Chapter 375, TAXATION

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Tax on Utility Companies [Adopted 10-5-1970 (Sub-Part II of the 1970 Code)]

§ 375-1. Tax on furnishing of utility services imposed; amount.

Pursuant to the authority granted by § 20b of the General City Law of the State of New York, a tax equal to 1% of its gross income from and after July 1, 1937, is hereby imposed upon every utility doing business in the City of Binghamton which is subject to the supervision of the State Department of Public Service, which has a gross income for the 12 months ending May 31 in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law, and a tax equal to 1% of its gross operating income is hereby imposed from and after July 1, 1937, upon every other utility doing business in the City of Binghamton which has a gross operating income for the 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the City of Binghamton and shall be in addition to any and all other taxes and fees imposed by any other provisions of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the City of Binghamton notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 375-2. Definitions. [Amended 12-4-2006 by L.L. No. 2-2006]

The terms "gross income," "gross operating income," "person" and "utility" shall be defined as provided in § 186-a of the Tax Law.

§ 375-3. Records to be kept.

Every utility subject to tax under this article shall keep such records of its business and in such form as the Comptroller may require, and such records shall be preserved for a period of three years, except that the Comptroller may consent to their destruction within that period or may require that they be kept longer.

§ 375-4. Returns to be filed; frequency, form and contents.

Every utility subject to tax hereunder shall file, on or before September 25, December 25, March 25 and June 25, a return for the three calendar months preceding each such return date, including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the Comptroller on a form to be furnished by him or her for such purpose and shall contain such other data, information or matter as the Comptroller may require to be included therein. Notwithstanding the foregoing provisions of this section, any utility whose average gross income or average gross operating income, as the case may be, for the aforesaid three-month period is less than \$1,500 may file a return annually on June 25 for the 12 preceding calendar months and the Comptroller may require any utility to file an annual return, which shall contain any data specified by him or her, regardless of whether the utility is subject to tax under this article. Every return shall have, annexed thereto, an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

§ 375-5. Payment of tax.

At the time of filing a return as required by this article, each utility shall pay to the Comptroller the tax imposed by this article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 375-6. Determination of tax upon failure to file proper return.

In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Comptroller, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from the

Comptroller, or if no return is made for any period, the Comptroller shall determine the amount of tax due from such information as he or she is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. The Comptroller shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Comptroller for a hearing, or unless the Comptroller, of his or her own motion, shall reduce the same. After such hearing, the Comptroller shall give notice of his or her decision to the person liable for the tax. The decision of the Comptroller may be reviewed by certiorari, if application therefor is made within 30 days after the giving of notice of such decision. An order of certiorari shall not be granted unless the amount of any tax sought to be reviewed, with penalties thereon, if any, shall be first deposited with the Comptroller and an undertaking filed with him or her, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such order be dismissed or the tax confirmed, the applicant for the order will pay all costs and charges which may accrue in the prosecution of the certiorari proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties as a condition precedent to the granting of such order.

§ 375-7. Mailing of notices.

Any notice authorized or required under the provisions of this article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him or her in the last return filed by him or her under this article, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.

§ 375-8. Penalty for violation of time limitations.

Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Comptroller, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 375-9. Refunds of taxes and penalties paid.

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Comptroller or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Comptroller shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Comptroller. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Comptroller as hereinbefore provided unless the Comptroller, after a hearing as hereinbefore provided, or of his or her own motion, shall reduce the tax or penalty or it shall have been established in a certiorari proceeding that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Comptroller may receive additional evidence with respect thereto. After making his or her determination, the Comptroller shall give notice thereof to the person interested, and he or she shall be entitled to a certiorari order to review such determination, subject to the provisions hereinbefore contained relating to the granting of such an order.

§ 375-10. Tax to constitute part of operating costs of utility.

The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 375-11. Proceedings to enforce payment of tax and penalty.

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Corporation Counsel shall, upon the request of the Comptroller, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Comptroller. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

§ 375-12. General authority of Comptroller.

In the administration of this article, the Comptroller shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his or her powers and the performance of his or her duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his or her official duty under this article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 375-13. Confidentiality.

- A. Except in accordance with the proper judicial order or as otherwise provided by law, it shall be unlawful for the Comptroller, or any agent, clerk or employee of the City of Binghamton to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City of Binghamton in an action or proceeding under the provisions of this article, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his or her duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this article, together with any relevant information which in the opinion of the Comptroller may assist in the collection of such delinquent taxes; or the inspection by the Corporation Counsel or other legal representatives of the City of Binghamton of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this article.
- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both, and if the offender be an officer, agent, clerk, or employee of the City of Binghamton, he or she shall be dismissed from office, and shall be incapable of holding any office or employment in the City of Binghamton for a period of five years thereafter.
- C. Notwithstanding any provisions of this article, the Comptroller may exchange with the chief fiscal officer of any other city in the State of New York information contained in returns filed under this article, provided such other city grants similar privileges to the City of Binghamton, and provided such information is to be used for tax purposes only, and the Comptroller shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 375-14. Disposition of taxes and penalties received.

All taxes and penalties received by the Comptroller for taxes heretofore or hereafter imposed under this article shall be credited and deposited by him or her in the general fund of the City of Binghamton.

§ 375-15. Review of Comptroller's decision to be exclusive remedy.

The remedy provided by this article for review of a decision of the Comptroller shall be the exclusive remedy available to any taxpayer to judicially determine the liability of such taxpayer for taxes under this article.

ARTICLE II, Complaints Related to Assessments [Adopted 10-5-1970 (Sub-Part V of the 1970 Code)]

§ 375-16. Procedures to be followed.

Complainants who file complaints with the Assessor and Board of Review of the City of Binghamton in relation to assessments shall comply with the procedure set forth in this article in addition to the procedure set forth by other applicable statutes or provisions of law.

§ 375-17. Filing of statement; appearance before Board of Review.

Such complainants shall file with the Assessor and Board of Review a statement under oath specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person assessed or whose property is assessed, or by some person authorized to make such statement and who has knowledge of the facts stated therein. If such statement is made by a person other than the person assessed or whose property is assessed, there must be submitted to the Assessor and Board of Review a written power of attorney, duly acknowledged, showing the authorization of the person therein designated to make such statement. If not satisfied that such assessment is erroneous, the Assessor and/or Board of Review may require the person assessed, or his or her agent or representative, or any other person, to appear before them and be examined concerning such complaint, and to produce any papers relating to such assessment with respect to his or her property for the purpose of taxation.

§ 375-18. Effect of failure to appear before Board.

If any such person submitting such a complaint, or his or her agent or representative, shall willfully neglect or refuse to attend and be so examined, or to answer any material question put to him or her, such person shall not be entitled to any reduction of his or her assessment.

§ 375-19. Information to be contained in statement.

The complainant shall file with the Assessor and Board of Review a statement, under oath, specifying the necessary information with regard to the following items concerning complainant's property on which a reduction of assessment is sought, which information shall be for the period of one year preceding the first day of July next preceding the time of the filing of the complaint:

A. Operating expenses and other items:

- (1) Repairs.
- (2) Plumbing.
- (3) Management.
- (4) Taxes.
- (5) Water rents.
- (6) Coal or other fuel.
- (7) Light and power.
- (8) Fire insurance.
- (9) Liability insurance.
- (10) Other insurance.
- (11) Itemized statement of janitor service and other labor service.

- (12) Depreciation on each building and on machinery and equipment.
- (13) All other operating expenses.

B. Income:

- (1) Rentals received from each tenant of each building, and terms and provisions of leases.
- (2) Other income, including an itemized statement of income received from each and every source by owner from said property.
- (3) A schedule of area rents and annual rental charge for each tenant.
- (4) A schedule of rentals and vacant space, showing location, floor area and rental paid where occupied or price asked where vacant.
- (5) A schedule showing the percentage of vacancies as of July 1 next preceding the date of filing of the complaint.

C. The date and cost of purchase of each parcel of land, or land and improvements, covered by the complaint.

D. The date and cost of construction of improvements on each of the premises covered by the complaint.

E. In addition to the above items, the complainant shall submit such additional information as is requested on the form of application for revision of real property assessment prepared by or under the supervision of the Assessor of the City of Binghamton.

§ 375-20. Complaints regarding property purchased at auction. [Added 3-1-2004 by Ord. No. 04-15]

- A. Any purchaser of property offered for sale by the City may grieve the purchased property's assessment pursuant to New York State Real Property Tax Law.
- B. There shall be no waiting period after a purchase and before an assessment may be grieved.

ARTICLE III, Consumer Utility Tax [Adopted 10-5-1970 (Sub-Part VII of the 1970 Code)]

§ 375-21. Definitions.

When used in this article, the following terms shall have the meanings indicated:

CHARGE -- The amount of the consideration for property or service subject to tax under this article, whether receivable in money or otherwise, including all receipts, cash, credits and property of any kind or nature and all fixed charges incidental thereto.

COMPTROLLER -- The Comptroller of the City of Binghamton.

PERSON -- An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

PURCHASER -- A person who purchases property or to whom services are rendered, the use or consumption of which are subject to the tax imposed by this article.

RETURN -- Includes any return filed or required to be filed as herein provided.

VENDOR -- A person selling property or rendering services, the use or consumption of which is subject to the tax imposed by this article.

§ 375-22. Imposition of tax; collection.

- A. Commencing February 1, 1949, there shall be paid by the purchaser and collected by the vendor a tax at the rate of 3% of the charge for the consumption or use within the City of the following: telephony and telegraphy and telephone or telegraph service of whatsoever nature, except:

- (1) Service paid for by inserting coins in coin-operated telephones available to the public.
 - (2) Transactions by or with this City, the State of New York or any municipality or other political subdivision of the state where it is the purchaser, user or consumer and also by or with the United States insofar as it is immune from taxation.
 - (3) Transactions by or with organizations contributions to which are deductible in computing personal income taxes as provided in Tax Law § 601 et seq.
- B. Telephone or telegraph service shall be deemed used or consumed within this City if such services originate within this City, or, in the case of collect messages, terminate within this City, except that where the services rendered include the furnishing to subscribers located in this City of service such as stock market quotations, baseball scores, racing results and similar services, such services are subject to the tax imposed by this article, irrespective of the City in which such services may originate.
- C. Upon each charge to a purchaser for property or service subject to tax under this article, the tax to be collected by the vendor shall be stated and charged separately therefrom; provided, however, that the Comptroller shall permit a vendor to combine the charge and the tax if the bill to the purchaser indicates a method of determining the amount of the tax and if the vendor maintains records satisfactory to the Comptroller showing such tax. The tax shall be paid by the purchaser to the vendor as trustee for and on account of this City and the vendor shall be liable for the collection thereof. The vendor shall be personally liable for the tax collected under this article, and the vendor shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the charge.
- D. Where the purchaser has failed to pay and a vendor has failed to collect a tax imposed by this article, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to the Comptroller and it shall be the duty of the purchaser to file a return thereof with the Comptroller and to pay the tax imposed thereon to the Comptroller within 30 days after the bill to the purchaser is rendered.
- E. The Comptroller may, whenever he or she deems it necessary for the proper enforcement of this article, provide by regulation that the purchaser shall file returns and pay directly to the Comptroller the tax herein imposed, at such times as returns are required to be filed and payment over made by the vendor.
- F. The tax imposed by this article shall be paid with respect to charges for property or service used or consumed on or after February 1, 1949, although made under a contract dated prior to said date. Where property is sold or service rendered on a periodic, monthly or other term basis, the bill for such property or service for such month or other term shall be a charge subject to the tax hereby imposed and the tax shall become applicable upon all bills based on meters read on or after a day after February 1, 1949, which is $\frac{1}{2}$ of the number of days of such normal periodic term basis; provided, however, that where such bills are for telephone or telegraph service, the tax shall apply to all charges on such bills dated on or after February 1, 1949, for which no previous bill was rendered, except, however, charges for service furnished before the date of the first of such bills. Where the charge has been ascertained to be worthless, the amount thereof may be deducted by the vendor in computing charges subject to tax or, in case the tax has been paid, a credit or refund of the amount of the tax may be allowed under regulations of the Comptroller.
- G. For the purpose of proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all amounts received by a vendor from any property or service of a kind specified in Subsection A of this section are subject to tax until the contrary is established, and

the burden of proving that any such amount is not taxable hereunder shall be upon the vendor or the purchaser.

§ 375-23. Collection of tax from purchaser.

The Comptroller shall by regulation prescribe a method or methods or a schedule or schedules of the amounts to be collected from purchasers in respect to any charge for property or service with respect to which a tax is imposed by this article so as to eliminate fractions of \$0.01.

§ 375-24. Records.

Every vendor shall keep records of charges, of the tax payable thereon and records of purchases of property or services of a kind subject to tax under this article in such form as the Comptroller may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Comptroller or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the Comptroller may consent to their destruction within that period or may require that they be kept longer.

§ 375-25. Returns.

- A. Every vendor shall file with the Comptroller a return of the taxes payable for the quarterly periods ending March 31, June 13, September 13, and December 31 of each year. Such returns shall be filed within 30 days from the expiration of the period covered thereby. The Comptroller may permit or require a return to be made by shorter or longer periods and upon such dates as he or she may specify.
- B. The form of the return shall be prescribed by the Comptroller and shall contain such information as he or she may deem necessary for the proper administration of this article. The Comptroller may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice, and may inspect the books and records of any person pertaining to his or her receipts.
- C. If a return required by this article is not filed or if a return when filed is incorrect or insufficient on its face, the Comptroller shall take the necessary steps to enforce the filing of such a return or of a corrected return.

§ 375-26. Payment of tax.

At the time of filing a return each vendor shall pay to the Comptroller the taxes imposed by this article, as well as all other moneys collected by the vendor acting or purporting to act under the provisions of this article. All the taxes for the period for which a return is required to be filed shall be due from the vendor and payable to the Comptroller on or before the date fixed for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of the taxes due.

§ 375-27. Assessment and determination of tax.

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Comptroller from such information as may be obtainable. If a purchaser refuses to pay the tax imposed by this article or if for any reason it is impossible for the vendor to collect the tax from the purchaser, the vendor shall report to the Comptroller the name and address of such purchaser, the nature of the property sold or service rendered, and the amount charged therefor. Upon receipt of such information the Comptroller shall forthwith assess such tax directly against such purchaser. Written notice of such assessment shall be given to the person liable for the collection or payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such assessment, shall apply in writing to the Comptroller for a hearing, or

unless the Comptroller of his or her own motion, shall reassess the same. After such hearing the Comptroller shall give written notice of his or her determination to the person against whom the tax is assessed. The determination of the Comptroller shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 90 days after the giving of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Comptroller and an undertaking filed with the Comptroller, in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs which may accrue in the prosecution of the proceeding.

§ 375-28. Refunds.

- A. In the manner provided in this section the Comptroller shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the Comptroller for such refund shall be made within two years from the payment thereof. For like cause and within the same period a refund may be so made on the initiative and order of the Comptroller. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by a vendor who has collected and paid such tax to the Comptroller, provided that the application is made within two years of the payment by the purchaser to the vendor, but no refund of money shall be made to the vendor until he or she shall first establish to the satisfaction of the Comptroller, under such regulations as the Comptroller may prescribe, that he or she has repaid to the purchaser the amount for which the application for refund is made. The Comptroller, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.
- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Comptroller may receive evidence with respect thereto. After making his or her determination, the Comptroller shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided such proceeding is instituted within 90 days after the giving of the notice of such determination and provided that a final determination of tax was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Comptroller in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs which may accrue in the prosecution of such proceeding.

§ 375-29. Remedies exclusive.

The remedies provided by §§ 375-28 and 375-29 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article.

§ 375-30. Proceedings to recover tax.

- A. Whenever any vendor or any purchaser or other person shall fail to collect and pay over any tax or to pay any tax, penalty or interest imposed by this article as herein provided, the Corporation Counsel shall, upon the request of the Comptroller, bring an action to enforce the payment of the same. If, however, the Comptroller believes that any such vendor, purchaser or other person subject to the provisions of this article is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason he or she deems it necessary in order to protect revenues under this article, he or she may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

- B. As an additional or alternative remedy, where the tax shown to be due upon a return is not paid at the time of filing such return, or an assessment of tax made under § 375-27 of this article is not paid within 10 days from the date of the notice of such assessment, or where the Comptroller believes that any vendor, purchaser or other person subject to the provisions of this article is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason he or she deems it necessary in order to protect revenues under this article, he or she may issue a warrant, directed to a Constable of the City Court of the City of Binghamton, commanding him or her to levy upon and sell the real and personal property of the person liable for the tax which may be found within this City, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Comptroller and to pay to him or her the money collected by virtue thereof within 60 days after the receipt of such warrant. The constable shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he or she shall be entitled to the same fees, which he or she may collect in the same manner. In the discretion of the Comptroller a warrant of like terms, force and effect may be issued and directed to any officer or employee of this City, and in the execution thereof such officer or employee shall have all the powers conferred by law upon constables but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Comptroller may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the City had recovered judgment therefor and execution thereon had been returned unsatisfied.

§ 375-31. General powers of Comptroller.

In addition to all other powers granted to the Comptroller, he or she is hereby authorized and empowered:

- A. To make, adopt and amend rules and regulations appropriate to the carrying out of this article and the purposes thereof;
- B. To extend, for cause shown, the time of filing any return for a period not exceeding 60 days and, for cause shown, to waive, remit or reduce penalties or interest;
- C. To request information from the Department of Taxation and Finance or the Department of Public Service of the State of New York or the officials of any political subdivision of this state or the Treasury Department of the United States relative to any person; and to afford information to such departments, officials or Treasury Department relative to any person, any other provision of this article to the contrary notwithstanding;
- D. To require vendors to keep such records as he or she may prescribe;
- E. To delegate his or her functions hereunder to the Deputy Comptroller or another employee or employees of the City;
- F. To prescribe methods for determining the charges for property or services subject to tax under this article or for the classification of such charges as taxable or nontaxable;

G. To assess, reassess, determine, revise and readjust the taxes imposed by this article.

§ 375-32. Administration of oaths and compelling testimony.

- A. The Comptroller or his or her employees or agents duly designated and authorized by him or her in writing shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of his or her powers and duties under this article. The Comptroller shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his or her duties hereunder and of the enforcement of this article and to examine them in relation thereto.
- B. A Justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Comptroller under this article.
- C. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Comptroller shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$500 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The officers who serve the Comptroller's summons or subpoena and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his or her duly appointed deputies or any officers or employees of this City designated to serve such process.

§ 375-33. Penalties and interest.

- A. Any person who, without intent to evade the tax imposed by this article, fails to pay the tax when due shall pay interest at the rate of 6% per annum from the due date of the tax to the date of payment, or to the 10th day after the date of the notice of assessment of such tax, whichever date is earlier. If such tax is assessed and is not paid within 10 days from the date of the notice of assessment, such person, in addition to such interest, shall pay a penalty of 5% of the amount of tax due plus interest at the rate of 1% of such tax for each full month after the date of the notice of assessment during which the tax remains unpaid.
- B. Any person who, with intent to evade the tax imposed by this article, fails to pay the tax when due shall pay a penalty equal to the amount of tax due plus interest at the rate of 1% of such tax for each full month from the due date of the tax to the date of payment.
- C. Any vendor or purchaser willfully failing to file a return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article, which is willfully false, and any vendor willfully failing or refusing to collect such tax from the purchaser, and any vendor willfully failing to keep the records required by this article, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$500 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The certificate of the Comptroller to the effect that a tax has not been paid or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

§ 375-34. Confidentiality.

- A. Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Comptroller or any officer or employee of this City to divulge or make known in any manner the charges, receipts, expenses or other information relating to or contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City in an action or proceeding under the provisions of this article, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the courts may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return filed in connection with his or her tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Corporation Counsel or other legal representatives of the City of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this article may be instituted. Returns shall be preserved for three years and thereafter until the Comptroller permits them to be destroyed.
- B. It shall be a misdemeanor to violate any provision of this section and if the offender be an officer or employee of the City he or she shall be dismissed from office and be incapable of holding any public office or employment in the City for a period of five years thereafter.

§ 375-35. Notices and limitations of time.

- A. Any notice authorized or required under the provisions of this article shall be in writing and shall be served personally or by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him or her pursuant to the provisions of this article or in any application made by him or her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by this City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.
- C. Where, before the expiration of the period described herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

§ 375-36. Disposition of revenues.

All moneys received by the Comptroller under this article shall be paid into the treasury of the City and shall be credited to and deposited in the general fund thereof and shall be available for any City purpose of the City.

§ 375-37. Construction and enforcement.

This article shall be construed and enforced in conformity with Chapter 278 of the Laws of 1947, as amended by Chapter 651 of the Laws of 1948, pursuant to which it is enacted.

ARTICLE IV, Assessments and Collection [Adopted 10-5-1970 (Ch. 2, Art. V, §§ 2-217 through 2-223, of the 1970 Code)]

§ 375-38. Assignment of tax certificates.

The City Treasurer hereby is authorized, empowered and directed to assign any tax certificate now held by the City to any person who shall pay to him or her for the City the amount due to the City on such certificate, together with any additional sum which may be justly due and owing to said City upon such parcel of land.

§ 375-39. Cancellation of assessments after completion of tax roll.

The City Council will make no change of property legally assessed upon the tax roll of the City, canceling assessments of or taxes on any property upon said roll, by reason of any change in the exempt status of said property, after the completion of said roll.

§ 375-40. Duties of certain City officers. [Amended 9-4-07 by Ord. No. 45-2007]

- A. The City Clerk shall immediately, upon the approval of the Mayor and the Board of Estimate and Apportionment of an ordinance directing the construction of a local improvement, any part of which may be assessed against the owners of lands affected thereby, transmit a copy thereof to the Commissioner of Assessment and Taxation.
- B. Whenever the Commission of Public Works shall construct or repair any sidewalk or remove any snow or ice therefrom in accordance with § 92 of the Second Class Cities Law or remove any obstruction from any stream under § C-178 of the Supplemental Charter, or shall make any other charge which may become a lien against the property affected thereby, he or she shall, in case said charge is not paid to him or her within the time provided by law, notify the Assessor and the City Treasurer of the names of the owners of the property, the lots affected thereby and the amount of such charge.
- C. Whenever a copy of an ordinance as provided in Subsection A hereof shall be delivered to the Assessor, he or she shall immediately deliver to the City Treasurer a statement showing the nature of the contemplated improvement and the lots or parcels of land which will become subject to assessment therefor.
- D. The Assessor shall, so far as possible, ascertain the mailing address of the grantee or devisee named in any deed presented to him or her and shall transmit the same to the City Treasurer.
- E. The City Treasurer shall, as soon as convenient, compile and thereafter keep a card index of each lot or parcel of land upon the City Tax Map which shall contain a memorandum of all taxes and assessments except those for which a tax sale certificate has been recorded in Broome County Clerk's office and except those upon the general tax roll for the current year against said lot or parcel of land and of all ordered improvements and charges made by the Commissioner of Public Works.

- F. Notwithstanding any other provision of this Code to the contrary, in each and every instance when the City is authorized to add unpaid fees or expenses to the real property tax roll for collection, the City Treasurer will add a one hundred dollar (\$100) administrative fee to such tax levy.

§ 375-41. Foreclosure of tax lien by proceeding in rem; applicability of state law. [Added 11-16-1970 by Ord. No. 96-70]

From and after January 1, 1971, the City of Binghamton elects to adopt the provisions of Title 3 of Article 11 of the Real Property Tax Law for the purpose of enforcing the collection of delinquent taxes in such tax district.

§ 375-42. Notice to mortgagee or lienor. [Added 1-19-1988 by Ord. No. 5-88]

- A. Any owner of real property in the City of Binghamton, any mortgagee thereof, or any person having a lien or claim thereon or interest therein shall file with the City Treasurer an "in rem" card stating his or her name, post office address, a description of the premises by reference to the Tax Map number, and the date the card was filed.
- B. The City Treasurer shall maintain a file of the "in rem" cards and shall mail a notice of foreclosure and any other process required by Article 11, Title 3 of the Real Property Tax Law to all persons who shall have filed "in rem" cards whenever the parcels as to which such cards were filed are included in a list of delinquent taxes filed pursuant to Article 11, Title 3 of the Real Property Tax Law.

§ 375-43. Sale of personal property located in City-owned in rem properties. [Added 1-21-1997 by Ord. No. 97-3]

The Council of the City of Binghamton does hereby authorize the City's Board of Estimate and Apportionment to review and authorize the sale of personal property located in City-owned in rem properties for less than \$1,000.

ARTICLE V, Service Charges on Exempt Real Property [Adopted by L.L. No. 5-1971 (Sub-Part XXXV of the 1970 Code)]

§ 375-44. Charges imposed; authority.

Pursuant to and in accordance with the provisions of Chapter 417 of the Laws of New York of 1971, service charges authorized by said Chapter 417 are hereby imposed on real property located within the City of Binghamton as specified hereinafter, which real property is otherwise exempt by law from taxation. EN

§ 375-45. "Service charge" defined.

"Service charge" means a charge, other than a special ad valorem levy or special assessment, imposed upon real property by or on behalf of the City of Binghamton, to defray the cost of services, and improvements necessary or convenient in providing such services, for the following purposes: police protection; fire protection; street and highway construction, maintenance and lighting; sanitation; and water supply. All improvements specified in Clause (a) of Subdivision 1 of § 490 of the Real Property Tax Law shall be deemed such improvements.

§ 375-46. Property against which service charge imposed.

The service charge authorized by said Chapter 417 and imposed by this article shall be imposed against the following real property, located within the City of Binghamton, exclusive of property used exclusively for religious, charitable, hospital, education or cemetery purposes:

- A. Public property.

- (1) All real property for which exemption from taxation is allowed by the following sections of the Real Property Tax Law of the State of New York (titles of said sections are set out following each section number):

404 State of New York
406 Municipal corporations
412 Public authorities
412-a Industrial development agencies

- (2) The foregoing is subject to the following exceptions:

- (a) Real property owned by the City of Binghamton within its corporate limits which is otherwise exempt from taxation shall be exempt from any such service charge, special ad valorem levy or special assessment imposed by or on behalf of such municipal corporation;
- (b) Property owned by the City of Binghamton not within its corporate limits which is otherwise exempt from taxation, either wholly or partially, shall be exempt from any such service charge, special ad valorem levy or special assessment imposed or on behalf of any municipal corporation in which such property is located, provided the governing board thereof shall so agree in writing; and
- (c) This section shall not apply to the real property of any of those public authorities specified in Clause (c) of Subdivision 1 of § 400 of the Real Property Tax Law.

- B. Private property. All real property for which exemption from taxation is allowed by the following sections of the Real Property Tax Law of the State of New York (titles of said sections are set out following each section number):

421 Nonprofit organizations
424 Institutes of arts and sciences
426 Opera houses
427 Performing arts buildings
428 Fraternal organizations
432 Theatrical corporations created by Congress
434 Academies of music
428 Real property held by trustees of a hospital, playground and library, hospital for benefit of City
440 Infant homes
442 Soldier monument corporation
444 Historical societies
450 Agricultural societies
452 Veteran's organizations
464 Incorporated associations of volunteer fire fighters
472 Pharmaceutical societies
474 Dental societies
486 Nonprofit medical and dental indemnity, and hospital service corporations
488 Retirement systems

§ 375-47. Computation of service charge rates.

Any service charge to which any real property is subject as provided in Chapter 417 of the Laws of New York of 1971 and as imposed herein shall be imposed at a rate which shall be a percentage of the rate of tax imposed on real property for which no exemption is allowed; such percentage shall be computed and applied as provided in Subdivision C of § 498 of the Real Property Tax Law.

§ 375-48. Property also subject to special ad valorem levies and special assessments.

Pursuant to and in accordance with Section 7 of Chapter 417 of the Laws of New York of 1971 and § 490 of the Real Property Tax Law, real property located within the City of Binghamton subject to service charges as provided hereinabove shall also be subject to special ad valorem levies and special assessments.

§ 375-49. Effective date.

This article shall take effect April 1, 1972.

ARTICLE VI, Exemption for Businesses [Adopted 10-3-1977 by L.L. No. 12-1977 (Sub-Part LIV of the 1970 Code)]

§ 375-50. Authorized.

Pursuant to and in accordance with the provisions of § 485 of the Real Property Tax Law as amended by Chapter 798 of the Laws of 1976, real property situate within the bounds of the City of Binghamton, New York, and owned by eligible business facilities as defined in § 115 of the Commerce Law shall be exempt from real property taxation imposed for purposes of the City of Binghamton.

§ 375-51. Improvements eligible for exemption; term.

An eligible business facility, as certified by the New York State Job Incentive Board, pursuant to § 120 of the Commerce Law shall be exempt from taxes imposed for purposes of the City of Binghamton of any increase in the value thereof which is attributable to expenditures certified by said Board to have been paid or incurred by the owner or operator for capital improvements commenced on or after the date upon which the area in which the eligible business facility is located became an eligible area pursuant to § 115 of the Commerce Law, consisting of the construction, reconstruction, erection or improvement of depreciable real property included in such facility. Such exemption shall be applicable for a period not to exceed 10 years, and shall be continued from year to year during such period only if the certificate of eligibility with respect to such business facility is not revoked or modified and is renewed or extended as provided in § 120 of the Commerce Law.

§ 375-52. Period of exemption.

Such real property shall be exempt for a period of 10 years to the extent of 100% of the increase in assessed value which is attributable to such Board-certified expenditures by the owner or operator for capital improvements.

§ 375-53. Application required.

Such exemption shall be granted only upon an application by the owner or operator of such facility on a form prescribed by the State Board, to which there shall be attached a copy of a certificate of eligibility issued by the New York State Job Incentive Board. Such application shall be filed with the Assessor on or before the appropriate taxable status dates. Copies of such application shall be filed simultaneously with the State Board and with the New York State Job Incentive Board.

§ 375-54. Determination by Assessor.

The Assessor shall consider the application for such exemption and if the same is in order shall determine the assessed value of such exemption in accordance with the certificate of eligibility and enter such value on the exempt portion of the tax roll. The eligible business facility shall then be exempt from real property taxes commencing with the assessment roll prepared on the next following taxable status date.

§ 375-55. Redetermination of exemption.

If an exemption has once been granted for a business facility under this article and the Assessor receives notice that a certificate of eligibility of such facility has been revoked or modified, he or she shall redetermine the assessed value of any such exemption in accordance with such revocation or modification. If upon such redetermination it appears for a year for which an exemption has been granted that such facility has been ineligible or that the assessed value of such exemption as redetermined is less than the assessed value of such exemption as shown on the assessment rolls for such year, then a tax shall be levied at the rate of tax for such

year upon so much of the assessed valuation of such exemption, as shown on such assessment rolls, as may be ineligible or excessive. Such tax shall be levied as an omitted assessment in the manner provided in § 550 of the Real Property Tax Law. Any such redetermination shall be made no later than three years after the applicant for exemption last received benefit of any exemption under this article.

§ 375-56. When effective; applicability.

This article shall take effect immediately but shall not apply for any real property taxes levied by the City of Binghamton for the year commencing January 1, 1977, and ending December 31, 1977.

ARTICLE VII, Veterans Exemption [Adopted 4-24-1985 by L.L. No. 7-1985 (Sub-Part LVIII of the 1970 Code)]

§ 375-57. Maximum exemption level. [Amended by L.L. No. 1-1993]

Pursuant to § 458-a(2)(c)(ii) of the Real Property Tax Law, this Council hereby elects to adopt the maximum exemption level for Paragraphs (a), (b) and (c) of § 458-a at \$12,000, \$8,000 and \$40,000 respectively.

ARTICLE VIII, Exemption for Nonprofit Sub-Grantee Developers [Adopted 2-21-1990 by L.L. No. 2-1990 (Sub-Part LXXII of the 1970 Code)]

§ 375-58. Authority.

The City of Binghamton is hereby authorized to grant a partial real property tax exemption to not-for-profit subgrantee developers under the New York State Low-Income Housing Trust Fund, based upon the provisions of § 421-e of the Real Property Tax Law.

§ 375-59. Amount; term; conditions.

Said partial real property exemption shall be in an amount not in excess of 40% of the increased assessed value based upon the improvements, for a period not to exceed 10 years. The actual property assessment shall not, however, be decreased or reduced.

§ 375-60. Determination of amount.

The actual amount of said exemption in each case, within the parameters set forth in § 375-59 above, shall be determined jointly by the Director of Housing, Planning and Community Development, the Director of Finance and the Assessor.

ARTICLE IX, Homestead Base Proportions [Adopted 2-24-1993 by L.L. No. 3-1993 (Sub-Part LXXVIII of the 1970 Code)]

§ 375-61. State law adopted.

The provisions of Real Property Tax Law § 1903, concerning homestead base proportions, are hereby adopted.

§ 375-62. Established by ordinance of City Council; applicability.

The homestead base proportions shall be established by ordinance of the Council of the City of Binghamton in accordance with the rules of the State Board of Real Property Services, and shall apply to taxes levied on the 1993-1994 final assessment roll and to taxes levied on subsequent rolls, until this article shall be repealed.

ARTICLE X, Senior Citizens Exemption [Adopted 12-19-1994 by L.L. No. 6-1994 (Sub-Part XXV of the 1970 Code)]

§ 375-63. Scope of exemption. [Amended by L.L. No. 4-1997; 12-1-2003 by L.L. No. 1-2003; 10-3-2005 by L.L. No. 3-2005]

Pursuant to and in accordance with the provisions of § 467 of the Real Property Tax Law, real property situate within the City of Binghamton, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband or wife or by siblings (for the purposes of this section, "sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption), one of whom is 65 years of age or over, shall be exempt from real property taxation by the City of Binghamton to the extent provided in the following schedule:

AGED EXEMPTION: Sliding Scale for City, County and School Purposes

<u>Exemption</u>	<u>Income Limits</u>
50%	\$23,999 or lower
45%	\$24,000 to \$24,999
40%	\$25,000 to \$25,999
35%	\$26,000 to \$26,999
30%	\$27,000 to \$27,899
25%	\$27,900 to \$28,799
20%	\$28,800 to \$29,699
15%	\$29,700 to \$30,599
10%	\$30,600 to \$31,500
0%	Greater than \$31,500

§ 375-64. Conditions for exemption. [Added by L.L. No. 4-1997; amended 12-1-2003 by L.L. No. 1-2003; 10-3-2005 by L.L. No. 3-2005]

No exemption shall be granted:

- A. If the income of the owner or the combined income of the owners of the real property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$31,500. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except that where the husband or wife, or ex-husband or ex-wife, is absent from the property as provided in Subsection D(2) of this section, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or money earned through employment in the federal foster grandparent program. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

- B. Unless the owner shall have held an exemption under this section for his or her previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death, which then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferee spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such

owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months shall be deemed satisfied. [Amended 12-4-2006 by L.L. No. 2-2006]

- C. Unless the property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section.
- D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property; except where:
 - (1) An owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse or co-owner for care in the facility, and provided further that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or
 - (2) The real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met, provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be 62 year of age or over.

§ 375-65. Application for exemption.

Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the assessing authority and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in the Assessor's office on or before the appropriate taxable status date.

§ 375-66. Penalties for false statement in application.

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemptions for a period of five years.

ARTICLE XI, Homestead Status for Cooperative Apartments [Adopted 7-20-1998 by Ord. No. 98-101 (Ch. 22A, Art. I, § 22A-1, of the 1970 Code); Amended 2-22-2017 by LL No. 17-01]

§ 375-67. Eligibility.

- A. Pursuant to City of Binghamton Local Law 17-01, dated February 8, 2017, the assessor of the City of Binghamton is directed to transfer cooperative apartments in the City of Binghamton, County of Broome, from the non-homestead tax class to the homestead tax class and to adjust the homestead and non-homestead tax shares accordingly. Said transfer shall take effect as of the March 1, 2017, tax status date and shall be reflected in the 2017/18 School and 2018 City/County real property tax bills and thereafter.
- B. All exemptions, including veterans' exemption, shall apply to the owners of said cooperative apartments.

ARTICLE XII, Exemption for Improvements to Historic Property [Adopted 1-19-1999 by Ord. No. 99-1 (Ch. 22A, Art. II, §§ 22-A2 through 22-A4, of the 1970 Code)]

§ 375-68. Adoption of statutory exemption.

The Council of the City of Binghamton does hereby determine that it is in the best interest of the City of Binghamton to adopt New York State Real Property Tax Law § 444-a in its entirety.

§ 375-69. Permission to assess taxes.

The Council of the City of Binghamton hereby grants permission to the Mayor and Tax Assessor to assess taxes on historic landmarks in the above-mentioned manner.

Chapter 379, TAXICABS

[HISTORY: Adopted by the City Council of the City of Binghamton 6-5-2000 by Ord. No. 00-47 (Ch. 24, §§ 24-2 through 24-24, of the 1970 Code). Amendments noted where applicable. Abolished 6-30-2010 by Ord. No. 10-17]

GENERAL REFERENCES

Vehicles and traffic -- See Ch. 400.

Chapter 383, TELEPHONE BOOTHS, PUBLIC

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 20, §§ 20-49 through 20-55, of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 355.

§ 383-1. Permit for erection and maintenance required; approval of and charges for permit. [Amended by L.L. No. 5-1975]

It shall be unlawful to install or maintain a public telephone booth on any street, sidewalk or public grounds of the City without a permit therefor. The permittee shall obtain a permit from the City for every installation. Each permit, before becoming valid, shall be approved by the City Engineer. There shall be no charge for such permits.

§ 383-2. Location restrictions. [Amended by L.L. No. 5-1975]

The permit required by this chapter may be issued by the City Engineer, provided that the following conditions are complied with:

- A. No public telephone booth shall be erected within six feet of a building line unless consent of the owner of the abutting premises is first obtained.
- B. No public telephone booth shall be erected in any park unless approval is first obtained from the Commissioner of Parks and Recreation.
- C. No public telephone booth shall be installed in any location where it will unreasonably interfere with the use of the street by the public or it will unreasonably interfere with the use of the abutting property.
- D. No public telephone booth shall be placed on sidewalks unless at least 24 inches from the curb.

§ 383-3. Indemnity agreement between City and permittee.

In consideration of the granting of a permit by the City to install or maintain a public telephone booth on any street, sidewalk, or public ground of the City, the permittee will indemnify and save harmless the City from all claims, suits, actions, damages, judgments and costs of every name and description, in any way arising out of or resulting from the erection or maintenance of telephone booths, under any such permit, and shall defend on behalf of the City all such claims, suits, actions or proceedings which may be instituted against the City; provided that the City shall, within a reasonable time, in the event of any such action or other claims, give the permittee written notice of all accidents or claims to which this indemnity agreement relates, and shall furnish the permittee with copies of all such claims and of all process or other papers served upon the City in connection therewith as soon as practicable; and provided further that said City shall permit the permittee to undertake the defense of all such claims, suits, actions or proceedings, cooperate in their defense, and refrain from settling thereof without the written consent of the permittee. All such indemnification agreements shall be approved by the Corporation Counsel.

§ 383-4. Revocation of permit. [Amended by L.L. No. 5-1975]

Any and all permits granted under the provisions of this chapter shall be revocable by the City upon at least 30 days' prior written notice to the permittee, following which the permittee shall remove the public telephone booth or booths and restore the site of any removed booth to a safe and proper condition to the satisfaction of the City Engineer.

§ 383-5. Size, installation, maintenance and lighting of booths. [Amended 8-21-1972 by Ord. No. 193-72]

Booths shall be of a type or types acceptable to the City of Binghamton and subject to review and approval by CAUD. The permittee shall install and maintain each booth at no cost to the City. The permittee shall provide and make power connections reaching each installation, and the City shall furnish free electric current for the lighting of each booth.

§ 383-6. Termination of service. [Amended by L.L. No. 5-1975]

The permittee may terminate the service and remove any and all public telephone booths upon at least 10 days' prior written notice to the City Engineer, and shall restore the site of any removed booth to a safe and proper condition, to the satisfaction of said Engineer.

§ 383-7. Record of receipts; City to receive commission.

The permittee shall furnish accurate records of receipts and shall pay to the City a commission on charges collected at each of the public telephone booth locations in connection with said service, all in accordance with the regulations and the standard rate of commission adopted by the permittee from time to time. Such commissions shall be received by the City Treasurer, and shall be deposited to the general funds of the City.

Chapter 391, TREES AND SHRUBS

[HISTORY: Adopted 6-5-1978 by Ord. No. 89-78 (Ch. 20, Art. VII, §§ 20-126 through 20-143, of the 1970 Code). Amended 4-16-07 by Ord. No. 13A-2007]

GENERAL REFERENCES

- Parks and recreation -- See Ch. 301.
- Streets and sidewalks -- See Ch. 355.
- Subdivision of land -- See Ch. 360.
- Zoning -- See Ch. 410.

§ 391-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

STREET TREES -- Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

PUBLIC TREES -- Any woody plant, located on municipal property, having at least one well-defined trunk and at least 2 ½ inches in diameter measured at a height of six inches above the natural grade and having a clearly defined ground.

§ 391-2. Shade Tree Commission-created. [Amended on 2-12-16 by Ord. No. 16-06]

There is hereby created a City Shade Tree Commission for the City of Binghamton, County of Broome, State of New York. Said Commission shall consist of seven (7) members, who are residents or work in the City, three (3) who shall be appointed by the Binghamton City Council Parks and Recreation Committee and three (3) who shall be appointed by the Mayor of the City of Binghamton, and one (1) who shall be the Commissioner of Parks and Recreation or his/her designee.

§ 391-3. Term of office of Commission members; high school member; vacancies.

- A. The term of office of the seven persons shall be three years, except that the term of two of the members appointed to the original Commission shall be for only one year and the term of two members of the original Commission shall be for two years. A high school student for a two-year term shall be appointed by the Chairperson of the Shade Tree Commission and approved by the Mayor of the City of Binghamton.
- B. The term of office of the seven appointed persons shall begin on January 1, 2008.
- C. The Director of Planning, Housing and Community Development or a designee of will serve as an ex-officio member. The Director of Parks and Recreation or a designee of will serve as an ex-officio member.
- D. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the City Council Parks and Recreation Committee or the Mayor of the City of Binghamton, as the case may be, for the unexpired portion of the term.

§ 391-4. Compensation of Commission members.

The members of the Shade Tree Commission, including ex officio members, shall receive no compensation for their services pursuant to this chapter, but they may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

§ 391-5. Duties and responsibilities of Commission.

The Shade Tree Commission shall have the following duties and responsibilities:

- A. To study the problems and determine the needs of the City of Binghamton, County of Broome, State of New York, in connection with its tree planting program.

- B. To assist the Parks and Recreation Department with the type and kind of trees to be planted upon such municipal property.
- C. To assist the Parks and Recreation Department of the City of Binghamton, County of Broome, State of New York and citizens of the City in the dissemination of news and information regarding selection, planting and maintenance of trees within the corporate limits
- D. To provide regular and special meetings at which the subject of trees, insofar as it relates to the City, may be discussed by members of the Commission, officers and personnel of the City and all others interested in the tree program.
- E. Upon request, to act as an advisory committee for City Council, the Planning Commission and the Zoning Board of Appeals.

§ 391-6. Commission operation; quorum.

The Shade Tree Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

§ 391-7. Spacing of street trees; nuisance trees prohibited.

- A. The spacing of street trees will be as follows, no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet, except in special plantings designed or approved by the City of Binghamton Parks and Recreation Department.
- B. No nuisance trees such as Aspen, Box Elder, Catalpa, Cottonwood, Gingko (females only), Horse Chestnut, Silver Maple, and Willow and the like shall be planted in the City of Binghamton.

§ 391-8. Distance of trees from street corners and fireplugs.

No street tree or public tree shall be planted closer than 35 feet to any street corner, measured from the point of the nearest intersecting curbs or curblines. No street tree or public tree shall be planted closer than 10 feet to any fireplug.

§ 391-9. Distance of trees from utilities.

No street trees or public trees may be planted over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

§ 391-10. Public tree care.

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenue lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City of Binghamton Parks and Recreation Department may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition; or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements; or is affected with an injurious fungus, insect or other pest.

§ 391-11. Pruning corner clearance.

Every owner of any tree on private property overhanging any street right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic-control device or sign.

§ 391-12. Removal of dead or diseased trees.

The City of Binghamton Parks and Recreation Department shall have the right to cause the removal of any dead or diseased street trees, public trees, or trees on private property within the City when such trees constitute a hazard to life and property or harbor insects or disease which constitutes a potential threat to other trees within the City. The Parks Department or the Code Enforcement Department shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the property tax notice.

§ 391-13. Removal of stumps.

All stumps of trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§ 391-14. Removal of healthy street trees restricted.

In order to protect the City's investment in time and resources in the street tree program, it shall be unlawful to remove any healthy street tree or public tree without prior approval of the City of Binghamton Parks and Recreation Department.

§ 391-15. Interference with authority of tree program.

It shall be unlawful for any person to prevent, delay or interfere with agents of the City tree program while they are engaged in and about planting, cultivating, mulching, pruning, spraying or removing any street trees, as authorized in this chapter.

§ 391-16.

Any violation of Sec. 391-14 and Sec. 391-15 will result in a fine of not less than fifty dollars per event nor more than one hundred and fifty dollars per event.

Chapter 400, VEHICLES AND TRAFFIC

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 13 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- City-owned motor vehicles -- See Ch. 99.
- Noise -- See Ch. 292.
- Notification of defects -- See Ch. 295.
- Peddling and soliciting -- See Ch. 307.
- Transient retail merchants -- See Ch. 331, Art. I.
- Taxicabs -- See Ch. 379.

ARTICLE I, General Provisions

§ 400-1. Title.

This chapter shall be known and cited as the "Traffic Code of the City of Binghamton."

§ 400-2. Applicability.

This Traffic Code shall govern and regulate traffic within the entire area of the City of Binghamton as now bounded and defined, and shall automatically become effective in any area which may hereafter be incorporated within said City.

§ 400-3. Additional regulations. [Added 12-4-2006 by L.L. No. 2-2006]

Additional traffic regulations applicable to the City of Binghamton are found in the Binghamton Traffic Code.

§ 400-4. Definitions.

The following words and phrases, when used in this Traffic Code, shall have the meanings respectively ascribed to them as follows:

AUTHORIZED EMERGENCY VEHICLES -- Vehicles of the Fire Department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the City Council or Chief of Police of the City.

BICYCLE -- Any vehicle consisting of an arrangement or combination of two wheels, one following the other, supported by a frame, propelled by the feet acting upon pedals.

CROSSING -- Includes that portion of a public highway clearly indicated for pedestrians crossing by lines or other markings, and the extension of the sidewalk space across intersecting streets.

CURB -- The boundaries of the roadway whether marked by curbstone or not so marked.

CURB BUS ZONES -- A space adjacent to a curb, officially reserved for the exclusive use of vehicles during the loading and unloading of passengers, extending nine feet from the curb toward the center line of the street.

CURB LOADING ZONE -- A space adjacent to a curb, officially reserved for the exclusive use of vehicles during the loading and unloading of goods, wares and merchandise.

DRIVER -- A person who propels or operates or who is in charge of a vehicle.

EMERGENCY -- An occasion when, or circumstance by reason of which, a hazard is created and public safety and public health are endangered.

FIRE ZONE -- That area within a roadway for a distance of 75 feet in either direction from the boundaries of premises occupied by a public fire station.

HEAVY TRUCKS -- Every truck weighing, unladen, more than 4,000 pounds and every combination of tractor and trailer weighing, unladen, more than 4,000 pounds.

HOLIDAYS -- Refers to all the days, exclusive of half-holidays, defined as such under and pursuant to the statutes of the State of New York.

HOSPITAL ZONE -- That area within a roadway for a distance of 200 feet in either direction from the boundaries of premises occupied by a public hospital.

INTERSECTION -- The area bounded by the side lines, real or projected, of two or more public highways which meet or cross each other.

MOTOR VEHICLE -- All vehicles propelled by any power other than muscular power, except motorcycles, traction engines, road rollers, fire and police vehicles, tractors used exclusively for agricultural purposes, tractor cranes, power shovels, road building machines, snow plows, road sweepers, sand spreaders, well drillers and such vehicles as run upon rails or tracks.

MOTORCYCLE -- Every vehicle propelled by other than muscular power, which is so designated that the operator steers the vehicle by turning the single front wheel of the vehicle, except invalid chairs.

OFFICIAL TIME STANDARD -- Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in the City.

OFFICIAL TRAFFIC SIGNS AND SIGNALS -- All signs, markings, devices and signals not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

ONE-WAY STREET -- Any public street, avenue, alley, or roadway on or over which traffic is restricted to one direction.

OPERATOR -- Any person who operates or drives a motor vehicle or motorcycle upon any public street of this City.

PARK, PARKING or PARKED -- Stopping of a vehicle, motor vehicle or motorcycle upon any public street and leaving such vehicle, motor vehicle or motorcycle unattended by a person capable of operating it, for a period longer than necessary to load or unload passengers or freight.

PARKING SPACE -- That part of any street designated by ordinance or regulation as a place for the standing of vehicles.

PEDESTRIAN -- Any person making use of a public highway for foot passage. "Person" shall include any individual, firm, copartnership or corporation.

RIGHT-OF-WAY -- The privilege of the immediate use of the roadway.

SCHOOL ZONE -- That area within a roadway for a distance of 200 feet in either direction from the boundaries of premises occupied for school purposes.

STOP -- When required, means complete cessation of movement.

STOP, STOPPING or STANDING -- When prohibitive, means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control sign or signal.

STREET or ROADWAY -- That part of the public highway intended for vehicular travel.

THROUGH STREET -- Every street or roadway, or portion thereof, at the entrance to which vehicular traffic from intersecting streets or roadways is required by law to stop before entering or crossing the same, and when stop signs are erected as provided in this chapter.

TRAFFIC INFRACTION -- The violation of any provision of this chapter governing and regulating traffic, where a penalty or other punishment is prescribed, and which is not expressly declared to be a misdemeanor. No jury trial shall be allowed for traffic infractions.

TRAFFIC-CONTROL SIGNAL -- A signaling device, either hand or electrically operated, in which different colors become visible for periods of time, during which traffic shall comply with the meaning conveyed by the color shown.

VEHICLE -- Any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except a baby carriage and devices used exclusively on stationary rails or tracks.

VIOLATION -- The commission of, or failure to perform, any act or deed required by, or commission or performance of any act or deed prohibited by, this chapter.

§ 400-5. Obedience to police.

No person shall fail, neglect or refuse to comply with any lawful order or direction of a police officer engaged in the direction of traffic.

§ 400-6. Violations.

It is a violation for any person to do any act forbidden or fail to perform any act required in this Traffic Code.

§ 400-7. Applicability to authorized emergency vehicles.

- A. The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles as defined in this chapter, except as herein stated.
- B. A driver, when operating any such vehicle in an emergency, except when otherwise directed by a police officer, may:
 - (1) Park or stand notwithstanding the provisions of this chapter.
 - (2) Proceed past a red or stop signal or stop sign, so long as he or she does not endanger life or property.
 - (3) Exceed the speed limits fixed in this chapter so long as he or she does not endanger life or property.
 - (4) Disregard regulations governing direction of movement or turning in specified directions so long as he or she does not endanger life or property.
- C. An authorized emergency vehicle, when equipped with a gong or siren, shall sound such gong or siren when acting in an emergency.

§ 400-8. Existing signs, signals, markings and devices.

All existing signs, signals, markings and devices posted pursuant to order of the Traffic Board or the City Council shall be deemed to have been posted under authority granted by this chapter and the Vehicle and Traffic Law, and the posting thereof is hereby ratified and confirmed.

§ 400-9. Obedience to signs, signals, markings and devices.

- A. Required. The operator of a vehicle shall obey the instructions of any official traffic-control sign, signal, marking or device applicable thereto placed in accordance with the provisions of this chapter or of the Vehicle and Traffic Law, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the operator of an authorized emergency vehicle in the Vehicle and Traffic Law.
- B. Signs. No provision of this chapter or of the Vehicle and Traffic Law for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

§ 400-10. Interference with or injury to traffic-control signs and signals.

It shall be unlawful and a violation of this chapter for any person to interfere with, deface, injure, mark, move, tamper with, break, destroy or impair the usefulness of any sign, parking meter, traffic-control signal or other device placed within the City by City authorities for the regulation of traffic or parking.

§ 400-11. Measurements.

Whenever in this chapter a measurement is stated as being from a corner of two streets, the point of beginning of said measurement is produced by extending the curblines on said streets approaching said corner to their point of intersection.

§ 400-12. Highway flare torches, kerosene lanterns and propane gas lamps.

- A. Prohibited on streets, sidewalks. No person shall use, or cause to be placed, highway flare torches, kerosene lanterns and propane gas lamps upon any sidewalk, street or highway within the City.

- B. Requirements for devices. Traffic-control devices must be battery-operated control lights of three-inch minimum lens attached to reflectorized traffic cones, and seven-inch minimum lens attached to luminous or reflectorized barricade of four feet, six feet or eight feet in length, or such size lens as approved by the Department of Public Safety.
- C. Applicability. The provisions of this section shall not apply to a temporary breakdown of vehicles on any street or highway.
- D. Violations. Any violation of the provisions of this section shall be deemed an offense, and any person found guilty thereof shall be liable to a fine which shall not exceed \$150, or to imprisonment not to exceed 150 days, or to both such fine and imprisonment, and each day's violation of this section shall constitute a separate violation.

ARTICLE II, Administration and Enforcement

§ 400-13. General powers of Deputy Commissioner of Public Safety.

The Deputy Commissioner of Public Safety:

- A. May, whenever and wherever necessary, at his or her discretion, designate street intersections at which left-hand turns shall not be made; and upon the posting of lawful signs indicating that no left turn shall be made at such intersections, violators shall be prosecuted.
- B. May post by legible signs marked "stop" any street approaching a congested street intersection; and upon approaching any street intersection so posted, all vehicles shall come to a full stop before proceeding across, upon or into said intersecting street or streets.
- C. May, whenever and wherever necessary, at his or her discretion, establish loading zones for vehicles used for commercial or industrial purposes, and which vehicles are properly marked as such on the body of the vehicle, actively engaged in loading or unloading merchandise and shall designate such zones by legible signs; and no vehicles other than commercial and industrial vehicles properly marked as such, engaging in loading and unloading merchandise, shall occupy such zones during the hours that are designated as such.
- D. May declare any street or part thereof a play street or a coasting street, provided there shall be placed appropriate signs or devices in said street indicating and helping to protect the same.
- E. Shall, after consultation with the Triple Cities Traction Corporation, its successors or assigns, designate and establish curb bus zones at and in which public buses of said corporation, its successors or assigns, shall stop for the purpose of receiving and discharging passengers, and shall cause the same to be marked and posted as such and shall file in the office of the City Clerk a list with description of said curb bus zones and shall cause the same to be amended and corrected as the curb bus zones are or may be changed.

§ 400-14. Emergency powers of Deputy Commissioner of Public Safety.

In cases of emergency or when it is deemed to be in the best interests of public safety, the Deputy Commissioner of Public Safety may at his or her discretion close off streets or any portions thereof, divert and regulate traffic and prohibit parking, standing and unloading at such places and in such areas as the occasion may require and may direct the performance of any other act or acts necessary to promote public welfare and all pedestrians, drivers and operators of vehicles, motor vehicles, motorcycles, and bicycles shall conform thereto and obey such regulations.

§ 400-15. Traffic Violations Bureau. [Amended 6-17-1985 by Ord. No. 8-85]

- A. Pursuant to the authority vested in the City Court by Article V-A, Section 79 of the Traffic Code of the City of Binghamton and Article 14-B, § 370, of the General Municipal Law, a Traffic Violations Bureau of the City of Binghamton, New York, is hereby established to assist the City Court and dispose of parking violations only, which occur within the City of Binghamton, New York, and are subject to Article III and Article IV of the Traffic Code of the City of Binghamton, Article IV, Article V and Article VI of this chapter, and §§ 1200 through 1204 of the Vehicle and Traffic Law of the State of New York.
- B. The Mayor of the City of Binghamton, New York, shall designate an appropriate official to be in charge of the Traffic Violations Bureau and provide for regular office hours for the transaction of business concerning parking violations.
- C. Except as may be limited herein, the Traffic Violations Bureau shall have the jurisdiction and power as prescribed under Article 14-B, § 371 of the General Municipal Law, and Article V, §§ 400-34 through 400-36, and Article VI, §§ 400-44 through 400-46, of this chapter.

§ 400-16. Parking enforcement officers.

Any person duly appointed by the Mayor of the City as a parking enforcement officer is hereby authorized to issue parking tickets to any person violating any provisions of the Traffic Code relating to the parking of vehicles.

§ 400-17. Authority to issue permits for radio receiving sets capable of receiving signals on frequencies allocated for police use. [Added 4-15-1974 by Ord. No. 54-74; amended 12-4-2006 by L.L. No. 2-2006]

Pursuant to § 397 of the New York State Vehicle and Traffic Law, the Mayor, acting as the Commissioner of Public Safety, of the City of Binghamton is authorized to issue a permit as provided in said section.

§ 400-18. Fee for impounded vehicles; disposition of fees. [Added 2-5-2001 by Ord. No. 01-6; amended 10-21-2002 by Ord. No. 02-119]

- A. A fee per day as set from time to time by the City Council shall be charged to the registered owner of any vehicle impounded by the City of Binghamton Police Department as a storage fee payable to the City prior to the owner of said vehicle regaining possession of said vehicle (See Exhibit J).
- B. The term "per day" as defined herein shall mean that said fine shall be levied for any portion of a twenty-four-hour period that the vehicle remains upon the City's impound lot.
- C. The Comptroller shall establish a police vehicle fund identified as "H3120.9022," to which he or she shall increase appropriations in said line for the purpose of purchasing new police vehicles.

ARTICLE III, Traffic Board

§ 400-19. Establishment.

Pursuant to authority granted by § 1603 of the Vehicle and Traffic Law of the State of New York, any and all of the powers granted by the Vehicle and Traffic Law of the State of New York to the City Council are hereby delegated to a board to be known as the "Binghamton Traffic Board," which Board is hereby established in and for the City.

§ 400-20. Composition; Chairperson. [Amended 8-15-1983 by Ord. No. 133-83, Amended 10-23-2013 by Ord. No. 13-75]

The Traffic Board shall consist of the Deputy Commissioner of Public Safety, who shall be the chairperson of the Board; an officer from the Bureau of Police, to be appointed by the Chief of Police; a member of the Department of Public Works, to be appointed by the Commissioner of Public Works; a member of the Engineering Department, to be appointed by the City Engineer; and a member of the City Council, to be appointed by the President of the Council.

§ 400-21. Meetings; quorum. [Amended 8-21-2013 by Ord. No. 13-56]

The Traffic Board shall meet monthly, and three members of the Board shall constitute a quorum. In order to adopt any order, rule or regulation, at least three votes of the Board shall be deemed necessary. The Traffic Board shall adopt such rules and regulations to govern its meetings as such Board may deem necessary.

§ 400-22. Authority to modify Traffic Code. [Added 6-19-1978 by Ord. No. 98-78]

The Traffic Board, with respect to highways (which term, for the purpose of this section, shall include private roads open to public motor vehicle traffic) in the City, subject to the limitations imposed by § 1684 of the Vehicle and Traffic Law, may, by order, rule or regulation, amend, repeal, supersede and provide new provisions to this chapter as follows:

- A. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.
- B. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.
- C. Regulate the crossing of any roadway by pedestrians.
- D. Designate any highway or any separate roadway thereof for one-way traffic.
- E. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations and trucks in excess of any designated weight from designated highways.
- F. Prohibit, restrict or limit the stopping, standing or parking of vehicles.
- G. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of the roadway would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the State Traffic Commission.
- H. Designate safety zones.
- I. Provide for the installation, operation, maintenance, policing, and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and fix and require the payment of fees applicable to parking where such meters are in operation. Such fees shall be paid to the City, and credited to its general fund, unless a different disposition be prescribed by local law or ordinance.
- J. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of 10,000 pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such

truck route system. Such exclusion shall not be construed to prevent the delivery or pick up of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such City.

- K. Regulate traffic by means of traffic-control signals.
- L. License, regulate or prohibit processions, assemblages or parades. Whenever such a procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of 10 minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said highway maintained by the state.
- M. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.
- N. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.
- O. Adopt such additional reasonable orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of the state.
- P. Such Board also may, by order, rule or regulation, prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by the City.
- Q. Such Board shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of 2,000 pounds which the bridge or structure will safely carry. Upon bridges or structures of insufficient strength to carry safely the legal loads permissible by § 385 of the Vehicle and Traffic Law, the Board shall cause signs to be erected to inform persons of the safe capacity.
- R. The Board shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion to the roadway. On bridges or structures having 14 feet or more of measured clearance, no such signs shall be required.
- S. Authorize angle parking on any roadway.
- T. Upon a roadway which is divided into three lanes, allocate the center lane for traffic moving in a specified direction.
- U. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

- V. Except for state highways maintained by the state, the Board may prohibit, restrict or regulate the operation of vehicles on any controlled-access highway, or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.
- W. Establish speed limits prescribed by the Vehicle and Traffic Law.
- X. The Board shall also have the right to state where school guards shall be designated.
- Y. The Board shall have the authority to consider and approve all applications for permission to construct curb openings which do not comply with the restrictions imposed by Chapter 355, Streets and Sidewalks, Article I, Maintenance and Use, § 355-11, of the Code of the City of Binghamton. Before approving such application, the Board shall notify the Council member who represents the district to be affected.

§ 400-23. Filing of orders, rules and regulations.

Upon the adoption by the Traffic Board of any order, rule or regulation, a copy of the same shall be filed with the City Court, the City Clerk and the City Council.

§ 400-24. Effective date of orders, rules and regulations. [Amended 3-5-2014 by Ord. No. 14-9]

It shall be the duty of the City Clerk to maintain the Traffic Code, and to amend any portion of the Traffic Code as may be necessary upon receipt of any order, rule or regulation adopted by the Traffic Board and reviewed by the Council of the City of Binghamton.

§ 400-25. Applicability of penalties to orders, rules and regulations.

The penalties provided in the Traffic Code of the City shall apply to any order, rule and regulation adopted by the Traffic Board, and the Board shall have the right to amend the penalty provisions of the Traffic Code so that the penalty complies with the provisions of § 1800 of the Vehicle and Traffic Law of the State of New York.

§ 400-26. Authority of Council to amend or repeal orders, rules and regulations.

The City Council shall have the right to enact ordinances to repeal or amend any order, rule or regulation adopted by the Traffic Board.

§ 400-27. Orders, rules and regulations inconsistent with state law.

In the event that any order, rule or regulation promulgated by the Traffic Board is inconsistent with any of the provisions of the Vehicle and Traffic Law of the State of New York, the provisions of the Vehicle and Traffic Law of the State of New York shall apply.

§ 400-28. City Council review period. [Amended 12-4-2013 by LL 13-3]

The Traffic Board shall notify City Council upon the adoption of any order, rule, or regulation, setting forth the change proposed by the Board. Upon receipt of notification, City Council shall have up to thirty (30) days to review such Traffic Board determinations, and may elect to amend or repeal any such order, rule or regulation, in accordance with § 400-26 of the Code of the City of Binghamton. The Traffic Board shall not implement any order, rule or regulation until the thirty (30) day City Council review period has expired.

§ 400-29. Board to act as Highway Safety Committee.

- A. Authorization. The Traffic Board is hereby authorized to act as a Highway Safety Committee pursuant to Article 16-A of the Executive Law.
- B. Function. The Traffic Board, in acting as such committee, shall coordinate highway safety efforts within the City and with the state program in the manner required by the rules and regulations

promulgated by the Governor of New York or his or her designee, and shall take such other action as may be necessary to carry out the purposes of Article 16-A of the Executive Law.

ARTICLE IV, Removal of Vehicles and Creation of Liens

§ 400-30. Removal authorized. [Amended 9-4-1989 by Ord. No. 116-89]

Members of the Bureau of Police are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety or to a garage designated or maintained by the Bureau of Police or otherwise maintained by the City under the circumstances hereinafter enumerated:

- A. When any vehicle is left unattended upon any bridge, viaduct, or crossway or in any underpass or tunnel where such vehicle constitutes an obstruction to traffic.
- B. When a vehicle upon a street or highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
- C. When a vehicle is left unattended upon a street and is parked illegally or so as to constitute a definite hazard or obstruction of the normal movement of traffic.
- D. When a driver is apprehended while operating such motor vehicle and charged with driving while intoxicated.
- E. When necessary in an emergency to remove such vehicle in order to properly clear said street of snow or ice.
- F. Authority to remove and/or immobilize vehicles for failure to respond to parking tickets shall be governed by Article VI, Section 84 of the Traffic Code of the City of Binghamton (§ 400-37 of this chapter).

§ 400-31. Notice of removal.

- A. Whenever an officer removes a vehicle from a street as authorized by § 400-30 and the officer knows or is able to ascertain from registration records the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal, and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.
- B. Whenever an officer removes a vehicle from the street under § 400-30 and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as hereinbefore provided, then, in that event, the Bureau of Police shall contact the department whose duty is to register motor vehicles in the state in which such vehicle is registered and ascertain the name and address of the registered owner to whom such license is issued, and upon receipt of such information shall immediately give or cause to be given notice in writing to such owner as provided hereinabove and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, date, time and place of removal, reasons for such removal and name of garage or place in which the vehicle is stored.

§ 400-32. Lien created.

The City shall have a lien upon and against any vehicle removed under the provisions of this article, together with all equipment, tools and accessories found therewith or attached thereto for its reasonable expenditures for towing and storing such vehicles and may proceed to enforce such lien in the same manner as a garageman may enforce a lien upon motor vehicles under and pursuant to the Lien Law of the State of New York.

§ 400-33. Promulgation of additional orders, rules and regulations.

Pursuant to § 400-26O of this chapter and the provisions of the Vehicle and Traffic Law, the Traffic Board shall have the authority to promulgate additional orders, rules and regulations providing for the removal and storage of vehicles.

ARTICLE V, Violations and Penalties

§ 400-34. Violation declared traffic infraction.

Any person who drives, operates, is in control of or has charge of a vehicle and who drives or operates the same or does any act prohibited by the provisions of this Traffic Code and any person who fails to do any act required to be done by the provisions of this Traffic Code shall be deemed guilty of a traffic infraction.

§ 400-35. Prima facie evidence of parking violation.

In any prosecution charging a violation of this Traffic Code or any section thereof governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any section hereof, together with proof that the defendant named in the complaint was at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during which such violation occurred.

§ 400-36. Penalties for offenses.

Any person violating any of the provisions of this Traffic Code may, upon conviction, be punished for the first offense by a fine not exceeding \$25 and for the second and each subsequent offense by a fine of not more than \$50 or by imprisonment for a period of time not exceeding one day for each dollar of said fine unpaid.

§ 400-37. Authority to impound vehicles for delinquent parking tickets. [Added 9-4-1989 by Ord. No. 116-89]

- A. In addition to any other penalties or fines imposed for the violation of this Code, the provisions of this section shall apply to vehicles which have three or more outstanding and unpaid parking violations issued against them and which, after mailing to the registered owner a final notice, are found operated or parked on any public street, public highway, any portion of the entire width between the boundary lines of any way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, or on any property leased by, or in the possession and control of, the City of Binghamton.
- B. Any such vehicle may be removed or caused to be removed by or under the direction of a member of the Police Department by towing or otherwise. In addition to, or in lieu of, towing, any such vehicle may be immobilized in such manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place. In any case involving immobilization of a vehicle pursuant to this subsection, such member of the Police Department shall cause to be placed on such vehicle, in a conspicuous manner, notice sufficient to warn any individual to the effect that any attempt to move such vehicle might result in damage to such vehicle.

- C. Within 24 hours after towing or immobilization, the Police Department shall notify the owner of such vehicle of the fact of its towing or immobilization, the place where it may be recovered and the conditions under which it will be released.
- D. Release of vehicle.
 - (1) Before the owner or person in charge of any vehicle taken into custody, or immobilized as above provided, shall be allowed to repossess or to secure the release of said vehicle, the owner or his or her agent shall pay the following:
 - (a) All sums legally due for any City of Binghamton parking violations issued and outstanding against such vehicle.
 - (b) The cost of towing, payable to the City of Binghamton.
 - (c) To the towing service, the cost of storage for each day, or portion of a day, that such vehicle is so stored in excess of the first 24 hours.
 - (2) No such vehicle shall be released until the owner or his or her agent has established his or her identity and right to possession and has signed a proper receipt therefor.
- E. Any person who, after having had his or her vehicle towed or immobilized, shall remove such vehicle without complying with Subsection D(1) and (2) shall, in addition to the charges provided for in said subsection, be liable for any damage done to the immobilization device or mechanism and be subject to a fine of not more than \$100.

ARTICLE VI, Operation of Vehicles

§ 400-38. One-way streets.

- A. Authority; signs required. The Traffic Board is hereby authorized to designate public streets and highways in which vehicles shall pass in one direction only, and the time such restriction shall be in effect, and shall cause such streets and highways to be marked by suitable signs during the hours in which such designation is to be observed.
- B. Obedience required. It shall be unlawful for any person to pass, drive or operate any vehicle along, over or through any such street or highway in a direction opposite or contrary to the direction designated as provided in Subsection A.

§ 400-39. Through streets.

- A. The Traffic Board may, at such time as it deems advisable, designate streets, avenues or roads in the City, or parts thereof, as through streets.
- B. Signs; duty of driver. Signs bearing the word "stop" shall be erected and maintained at or near the curb in every highway intersecting a through street. Every driver of a vehicle shall, unless otherwise directed by a police officer or a traffic-control signal, before entering a street designated as a through street, bring such vehicle to a full stop. Such vehicle shall be stopped before reaching the crosswalk and shall in no case obstruct usage of such crosswalk by pedestrians.

§ 400-40. Streets closed to heavy trucks.

- A. Authority; signs required. The Traffic Board is hereby authorized to designate public streets and highways in the City from which heavy trucks shall be excluded, and shall cause such streets and highways to be marked by suitable signs during the hours in which such designation is to be observed.

- B. Obedience required. It shall be unlawful for any person to drive or operate a heavy truck along, over or through a public street or highway from which heavy trucks have been excluded as provided in Subsection A.

§ 400-41. Designation of truck routes.

The Traffic Board of the City is hereby authorized and empowered to designate highways, streets and avenues on and over which heavy or unusual length trucks, vans, trailers, semitrailers, road or farm machinery, whether loaded or unloaded, shall, when passing through this City in any required direction, proceed, travel and take passage over and shall cause such highways, streets and avenues to be properly posted by conspicuous and plainly legible signs of a directional nature, and all drivers of such vehicles shall obey such signs and follow such routes.

§ 400-42. School zones established.

School zones are hereby created and established in all territories on any street, embraced within 300 feet of the building line of premises occupied for school purposes, including school playgrounds, of every public or parochial school and the same shall be posted as such.

§ 400-43. Designation of play area zones.

Play area zones are hereby created and established in all territories on any street designated by the Traffic Board and posted as such.

§ 400-44. Rate of speed.

No person shall drive a vehicle on a highway within the City:

- A. At a rate of speed exceeding 50 miles per hour on Vestal Arterial Highway from the westerly City line to a point 700 feet west of South Washington Street; on the new Brandywine Avenue Extension Arterial Highway from the Village of Port Dickinson and the City of Binghamton boundary line south to a point 500 feet north of Frederick Street.
- B. Anywhere within a school zone at or near the time when pupils are arriving at or departing from school at a rate of speed in excess of 15 miles per hour.
- C. Anywhere within a play area zone at a rate of speed in excess of 25 miles per hour.
- D. Anywhere else within the City at a rate of speed exceeding 30 miles per hour.
- E. Anywhere within a hospital zone at a rate of speed in excess of 25 miles per hour.

§ 400-45. Driving so as to impede traffic.

No person shall, when driving or propelling a vehicle within the congested district, loiter or move at so slow a rate of speed as to impede traffic.

§ 400-46. Duty to yield right-of-way to pedestrians.

At intersections where traffic is controlled only by traffic control signals, pedestrians shall cross at a street or roadway only on a green or walk signal, and operators of vehicles shall yield the right-of-way to pedestrians who are crossing or who have started to cross the street or roadway on a green or walk signal.

§ 400-47. Turning at intersections.

- A. Right turns. A motor vehicle, motorcycle or bicycle must not make a right turn at any street intersection except from the lane of traffic available nearest to the curb, and must approach such street intersection in such traffic lane.

- B. Left turns. A motor vehicle, motorcycle or bicycle must not make a left turn at any street intersection from a lane of traffic other than the lane nearest to the center of the street, and must approach such street intersection in such traffic lane.

§ 400-48. Stopping so as to obstruct or encroach upon crosswalk.

A motor vehicle, motorcycle or bicycle must not stop at any street intersection in obedience to a traffic signal or a signal from a police officer so as to encroach upon or obstruct any crosswalk or any part thereof.

§ 400-49. Parades.

No procession or parade containing 200 or more persons or 50 or more vehicles, excepting the forces of the United States Army or Navy and military forces, shall occupy, march or proceed along any street except in accordance with a permit issued by the Traffic Board pursuant to § 400-22L of this chapter.

§ 400-50. Crossing fire hose.

Whenever any hose of the Fire Department of the City shall be placed in or upon any street of the City, it shall be unlawful for any person to drive or propel or cause to be driven or propelled on or across such hose any motor vehicle, motorcycle or other vehicle unless a bridge, planking or other apparatus shall have been prepared by the Fire Department or some agency of the City for the safe passage over such hose of any such vehicles.

§ 400-51. Stop required for red lights; right turns on red.

- A. It shall be unlawful for any driver or operator of any motor vehicle, motorcycle or bicycle to proceed against a red traffic signal.
- B. Notwithstanding Subsection A of this section, right turns on red are permitted at and only at such intersections as are so indicated by properly designated traffic signs lawfully erected. At intersections where right turns are so permitted, all drivers and operators of vehicles must bring their vehicles to a full stop before making a right turn and must proceed with care and caution not to interfere with vehicular or pedestrian cross traffic.

§ 400-52. Driving on play and coasting streets.

Whenever authorized signs are erected, indicating any street or part thereof as a play street or coasting street, no person shall drive a vehicle upon such street or portion thereof except drivers of vehicles having business or whose residences are within such closed areas, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

§ 400-53. Driving within sidewalk area.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

§ 400-54. Crossing double line.

It shall be unlawful, except in an emergency, for any driver of a vehicle, while proceeding along a City street, to drive said vehicle across a double white line marked on the highway surface by or under the authority of the Deputy Commissioner of Public Safety or the Traffic Board.

§ 400-55. Driving on divided highways.

Whenever any street or highway has been divided into two roadways by a viaduct, parkway, mall or parking space, by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier or section, except through

an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

§ 400-56. "U" turns.

A motor vehicle, motorcycle or bicycle must not make a "U" turn within the Business B-1 District as set forth on the official district map, nor upon any through street, nor upon Brandywine Avenue Extension Arterial Highway, nor upon the Susquehanna River Bridge Arterial Highway Route.

§ 400-57. Use of vehicle for advertising purposes.

No vehicle, while used exclusively for advertising purposes, shall be driven or conveyed through any of the streets in the congested districts of the City.

§ 400-58. Right-of-way of Department of Public Works' vehicles.

Vehicles and apparatus of the Department of Public Works of the City, when engaged in the work of sprinkling, cleaning, snow removal or the collection of ashes and garbage or other refuse matter, shall have the right-of-way in any street; and all other vehicles, except authorized emergency vehicles as defined in this Traffic Code, shall move in such manner and to such positions as shall not interfere with such work.

§ 400-59. Projecting loads.

No person shall drive any vehicle, the contents of which project more than four feet beyond the rear of the vehicle without fastening upon the projecting part of this load a red flag of sufficient size to be a warning during the hours of daylight, or a red light at night, except that this shall not apply to vehicles loaded with hay or straw.

§ 400-60. Clear view for driver.

No person shall drive any vehicle so constructed or closed in as to prevent the driver from having a clear view ahead and at the sides of such vehicle.

§ 400-61. Operation of vehicle while intoxicated.

No person owning or having control of any vehicle shall permit any intoxicated person to drive or operate the same, and no person while intoxicated shall operate or drive a vehicle within the City.

§ 400-62. Repairs in street prohibited; exception.

It shall be unlawful to make repairs to any vehicle in any street or public place except in an emergency or in case the vehicle cannot be taken into a shop or garage for repairs.

§ 400-63. Mufflers required; use of muffler cut-outs prohibited.

All motor vehicles shall be equipped with a good and sufficient muffler or silencing device, which will control and diminish the sound of the explosion of the motor in such vehicle and the same shall be used at all times when said motor vehicle is in or on any public highway. The use of muffler cut-outs is prohibited on any public highway within the City.

§ 400-64. Emission of excessive smoke.

No motor vehicle or motorcycle shall be allowed to emit excessive smoke.

§ 400-65. Use of siren whistles.

Siren whistles are prohibited on any vehicles other than authorized emergency vehicles.

§ 400-66. Unnecessary blowing of horns.

No person shall blow any horn or signaling device except as a necessary signal of an approaching vehicle.

§ 400-67. Unnecessary noise in hospital zones.

It shall be unlawful for any driver or operator of any vehicle, motor vehicle, motorcycle or bicycle to so operate the same within a duly posted hospital zone as to create any unnecessary noise or disturbance or to make unnecessary use of any horn, bell, gong or other signaling device.

§ 400-68. Operation of motorcycles and bicycles.

- A. Operation of motorcycles or bicycles on sidewalks prohibited. No person shall ride any motorcycle, bicycle or other vehicle propelled by the hands or feet of the rider along or upon any public sidewalk within the City, except that this shall not apply to persons who cannot walk and who make use of a wheelchair.
- B. Signal devices required on motorcycles and bicycles. Bicycles shall be provided with a bell or horn, and motorcycles with a horn, capable of being heard at least 100 feet distant.
- C. Manner of riding on motorcycles and bicycles.
 - (1) No person shall ride a motorcycle or bicycle without having a hand on the handlebars and his or her feet on the pedals.
 - (2) The driver of a two-wheel motorcycle or bicycle shall not carry any other person thereon, except on a seat securely fastened to the machine and provided with footrests and hand grips.
- D. Motorcycles and bicycles not to use middle of street. No motorcycle or bicycle shall proceed along any street in the middle thereof.
- E. Lamps required on bicycles. No person shall drive, propel or otherwise operate a bicycle upon or along any highway, alley, park or public place within the City during the period from 1/2 hour after sunset to 1/2 hour before sunrise without displaying one light reflector or bicycle light in front and one red reflector in the rear. Such reflectors shall be designed, located as to the height, and maintained so as to be visible for at least 200 feet when opposed by a motor vehicle displaying lawfully undimmed headlights on an unlighted highway.

§ 400-69. Clinging to moving vehicles.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall not attach the same or himself or herself to any moving vehicle upon any street or public roadway.

§ 400-70. Restriction on width of vehicle.

A vehicle the width of which, with or without its load, exceeds nine feet shall not be driven or conveyed through any of the streets in the congested district unless a permit therefor is obtained from the Deputy Commissioner of Public Safety.

§ 400-71. Transportation of high-level nuclear waste. [Added 12-29-1980 by Ord. No. 297-80; amended 3-2-1981 by Ord. No. 28-81]

- A. Definitions. For the purpose of this section, the words and phrases shall be construed as follows:

HIGH-LEVEL NUCLEAR WASTE -- Spent nuclear reactor fuel elements or rods.

MOTOR VEHICLE -- A vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used on a highway, street or road in transportation, or a combination thereof, but does not include a vehicle, locomotive or car operated only on a rail.

- B. Prohibited. No spent nuclear reactor fuel elements or rods shall be transported on streets or highways maintained by the City of Binghamton.

(1) For the purposes of this section, the following streets or highways are not maintained by the City of Binghamton:

- (a) Brandywine Highway.
- (b) Court Street from the City line to Chapman Street.
- (c) Henry Street between Liberty Street and Brandywine Highway.
- (d) Interstate Route 81.
- (e) Liberty Street between Court Street and Henry Street.
- (f) North Shore Drive between Memorial Circle and Brandywine Highway.
- (g) Route 17.
- (h) Vestal Parkway - Route 434.
- (i) The Pennsylvania Avenue Overpass and entrance and exit ramps off Route 434.
- (j) Susquehanna Street between State Street and Exchange Street.
- (k) Tompkins Street between Court Street and 0.07 mile south of the Tompkins Street Bridge.

C. Prior notification. In the case of shipments of high-level nuclear waste not prohibited by this section, no person, firm, corporation, organization or association shall transport high-level nuclear waste by motor vehicle in any quantity or form within the City of Binghamton, unless notification of such transportation is submitted to the Chief of Police of the City of Binghamton at least 48 hours prior to the shipment entering the City of Binghamton.

D. Contents of notice. The notice required by Subsection C above shall include the following:

- (1) The name, address and phone number of person submitting the notice.
- (2) The name, address and phone number of the shipper represented by the person submitting the notice.
- (3) The name, address and phone number of the carrier of the high-level nuclear waste.
- (4) The date, time and route of the planned transport of high-level nuclear waste into and through the City of Binghamton, including starting point and destination.
- (5) The classification, name, type and quantity of high-level nuclear waste to be transported.
- (6) A detailed statement of any planned stops within the City of Binghamton.

E. Exclusions:

- (1) The transportation of high-level nuclear waste which is to be used for medical, medical research, military or national defense purposes shall be excluded from the requirements of this section.
- (2) The transportation of high-level nuclear waste by rail shall be excluded from the requirements of this section.

ARTICLE VII, Stopping, Standing and Parking

§ 400-72. Parking prohibited in specified places.

A driver of a vehicle shall not stand or park the same in any of the following places:

- A. On a sidewalk.
- B. In front of a private or public driveway.
- C. Within an intersection.
- D. Within 15 feet of a fire hydrant.
- E. On a crosswalk.

- F. Within 10 feet of a crosswalk at an intersection.
- G. Within 30 feet upon approaching any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
- H. Within 50 feet of the nearest rail of a railroad crossing.
- I. Within a fire zone.
- J. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- K. Upon any bridge or viaduct, or underneath any trestle or railroad overhead crossing.
- L. In any curb zone.
- M. At any place where official signs prohibit parking.
- N. In front of a curb gas filling station maintained by permission of the City, except to obtain gasoline, oil or automobile supplies.
- O. Wholly or partially between the curbline and the sidewalk line of any highway.
- P. In any alley.
- Q. With its left side adjacent to the curbline except on one-way streets.
- R. On any public highway where excavating or repairing of streets is in progress within eight feet from such excavation or repairs.
- S. So as to prevent the free passage of other vehicles through the street.
- T. In any loading zone.

§ 400-73. Streets where parking is prohibited.

- A. Designation. The Traffic Board shall have the authority to designate streets or parts of streets where parking is prohibited, and shall cause such streets or parts of streets to be marked by suitable signs or other devices.
- B. Effect. When such streets or parts of streets are established as areas where parking is prohibited, as provided in Subsection A, it shall be unlawful for any person to stop, stand or park a vehicle upon such street in violation of such prohibition.

§ 400-74. Streets where parking is limited.

- A. Designation. The Traffic Board shall have the authority to designate streets or parts of streets where parking time limits have been established, and shall cause such streets or parts of streets to be marked by suitable signs or other devices indicating the parking time limits and the periods when such time limits shall be in effect.

- B. Effect. When parking time limits are established for a part of a public street, highway or public parking area, and such places are appropriately signposted or marked to indicate the parking time limit, it shall be unlawful for any person to park or leave standing any vehicle upon such public street, highway or public parking area in violation of such parking time limit.

§ 400-75. Loading zones.

- A. Designation. The Traffic Board shall have the authority to designate streets or parts of streets as loading zones, and shall cause such areas to be marked by suitable signs or other devices.
- B. Effect. No person shall park or leave standing any vehicle within a space designated as a "loading zone" and suitably marked as such, except for the exclusive purpose of loading and unloading.

§ 400-76. Safety zones; bus and cab stands.

- A. Designation. The Traffic Board is hereby authorized to designate safety zones and bus, cab or taxicab stands in the public streets or highways of the City, and in parking areas either owned, operated or controlled by the City, and to limit or prohibit parking in spaces and zones in said streets, highways and parking areas, and to cause such zones, spaces and stands to be marked and indicated by suitable signs.
- B. Signs for bus stops. Spaces specified as parking and stopping places for buses shall be marked and indicated by suitable stationary and portable signs indicating the location and extent of such places so reserved.
- C. Effect. No person shall park or leave standing any automobile or other vehicle, except a bus within a space designated as a "bus stop," and except a taxicab within a space designated as a "taxicab stand" and suitably marked as such within the City.

§ 400-77. Fire zones established.

Fire zones are hereby created and established to extend in area 75 feet in either direction from the front of premises occupied by public fire stations and shall be posted as such.

§ 400-78. Alternate side of street parking. [Amended 2-22-1994 by Ord. No. 9-94; 10-17-1994 by Ord. No. 112-94; 11-9-1994 by Ord. No. 117-94; 11-18-1996 by Ord. No. 162-96; 11-19-2001 by Ord. No. 01-132; 12-2-2002 by Ord. No. 02-142; 12-2-2002 by Ord. No. 02-143; 12-16-2002 by Ord. No. 02-148; Amended 10-3-2005 by Ord. No. 05-70; 1-17-2006 by Ord. No. 06-1; 12-17-07 by Ord. No. 60-2007; Amended 1-22-08 by Ord. No. 4-2008]

- A. Alternate side of the street parking shall be imposed upon all streets and public highways of the City of Binghamton.
- B. The provisions of the alternate side of the street parking are as follows:
 - (1) Parking is permitted on the even side of the street on even calendar days. The even side of the street shall be that side of the street having even residence house numbers. Parking is permitted on the odd side of the street on odd calendar days. The odd side of the street shall be that side of the street having odd residence house numbers.
 - (2) Parking shall be permitted from 5:00 p.m. daily and shall be in effect until 4:59 p.m. the following day.

- (3) After 5:00 p.m., on even days, drivers should park on the odd side of the street so that they "park for tomorrow." After 5:00 p.m. on odd days, drivers should park on the even side of the street so that they "park for tomorrow."
- (4) Posting of this regulation shall encompass the major entrances to the City of Binghamton.
- (5) Posting of this regulation shall also be made by one advertisement in the local newspaper and an announcement made on the local airways (radio and television) every year, which said advertisement and announcement shall inform the public one week in advance of the effective date of the alternate side of the street parking regulation.
- (6) Alternate side of the street parking regulations shall be enforced daily throughout the time from December 1 through March 15 of the following year.
- (7) Alternate side street parking rules apply to those streets which have been designated as "no parking zones" on one side of the street only. Streets with no parking allowed on both sides of the street remain no parking zones on both sides of the street.

C. Any vehicle that is parked in violation of this section and is found, in the opinion of the Commissioner of Public Works, his or her designee, or a Binghamton police officer, to be hindering snow removal or plowing or so parked as to obstruct vehicular traffic or safe passage through a City side street shall be towed by the City of Binghamton pursuant to the towing procedures established.

D. Exclusions: The provisions of this section shall not be applicable to the following:

- (1) Streets with metered parking, either on one side or on both sides of the street, limited to where metered parking has been established on the street.
- (2) Clinton Street between Glenwood Avenue and Jarvis Street.
- (3) Conklin Avenue between South Washington Street and State Street Bridge off-ramp.
- (4) Court Street, from the Court Street Bridge to Fayette Street where metered parking is not inserted.
- (5) Prospect Street, from Front Street to Glenwood Avenue.
- (6) Delavan Street, starting at Iva Street and going east to the end of Delavan Street.
- (7) Fayette Street between Court Street and Susquehanna Street.
- (8) Florence Avenue between Eaton Place and Leroy Street.
- (9) Judson Avenue between Lorraine Avenue and Glenwood Avenue.
- (10) Lookout Street, from Telegraph Street to Alfred Street. In the event that any snow plowing or snow removal is requested or is deemed necessary by the Commissioner of Public Works on any of these excluded streets, "No Parking" meter bags or pylon cones prohibiting parking shall be displayed prior to said snow removal or plowing; and any vehicle parked there shall be towed or ticketed or both.
- (11) Minerva Avenue, from Grand Boulevard to Schubert Street.
- (12) Mitchell Avenue between Vestal Avenue and Morris Street.
- (13) Alfred Street, from Grand Street to Lookout Street.
- (14) Lourdes Road.
- (15) King Avenue.
- (16) Park Street from Schubert Street to Harrison Street.
- (17) Park Avenue between Vestal Avenue and Morris Street.
- (18) Ronan Street between Baxter Street and dead-end to the north, odd side only.
- (19) Seminary Avenue between Chestnut Street and Laurel Avenue.
- (20) Back-in diagonal parking on Conklin Avenue from South Washington Street to State Street Bridge off ramp, with signs posted accordingly.
- (21) Back in diagonal parking on Hawley Street, from Isbell Street to Collier Street.
- (22) McDonald Avenue.
- (23) West Street between Clinton Street and Phelps Street.

- E. The provisions of this section are subject to the provisions of Article III of the Traffic Code of the City of Binghamton which prohibits parking in certain areas.

§ 400-79. Limitation on parking of commercial vehicles. [Amended 1-17-2006 by Ord. No. 06-1]

- A. No commercial vehicle shall be parked on any street within the City limits, for a period of more than three hours, except for the purposes of loading and unloading.
- B. Vehicles shall not be parked on any street for more than six consecutive hours between 7:00 a.m. and 12:00 midnight, except commercial vehicles which shall comply with the provisions of § 28.1 of the Traffic Code.

§ 400-80. Parking on City-owned property.

Vehicles shall not be parked at any time on any City-owned property which is posted with a sign stating "Property of City of Binghamton, Parking Prohibited," except City-owned vehicles or privately owned vehicles used by a City employee for City business. Pursuant to the provisions of § 400-22P, the Traffic Board may, by order, rule or regulation, further prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by the City.

§ 400-81. Parking commercial vehicles in parks.

- A. No commercial vehicle shall be parked at any time on any City-owned park property which is duly posted, except:
 - (1) City-owned vehicles.
 - (2) Commercial vehicles having written permission from the Commissioner of Parks and Recreation.
 - (3) Commercial vehicles used for the transportation of guests to the park.
 - (4) Commercial vehicles used for the transportation of spectators or participants of any athletic event held at said park.
- B. Pursuant to § 400-22M, the Traffic Board may further prohibit or regulate the operation and the stopping, standing or parking of vehicles in public parks.

§ 400-82. Manner of parking generally.

Except as herein otherwise provided, all vehicles must be parked parallel to the curb or curblines with the wheels nearest to the curb or curblines, at a distance of not to exceed six inches therefrom. Where individual parking spaces are marked by parallel lines, vehicles shall be parked entirely within such parking spaces and between two such parallel lines. Back in diagonal parking on Conklin Avenue from South Washington Street to State Street Bridge off ramp, with signs posted accordingly. Back in diagonal parking on Hawley Street, from Isbell Street to Collier Street.

- A. Diagonal parking.
 - (1) On streets where diagonal parking is permitted, and in all metered municipal parking lots, vehicles must be parked in the designated spaces allowed so that the front of the vehicle is facing the parking meter and/or curb
- B. Perpendicular parking.
 - (1) On streets where perpendicular parking is permitted, vehicles must be parked in designated spaces allowed so that the vehicle is facing the curb
- C. Back in angle parking

- (1) On streets where back in angle parking is permitted vehicles must be parked in the designated space allowed and the vehicle must be backed into the space with the rear of the vehicle adjacent to the curb line. The space shall be angled at forty-five degrees to the curb line and the parallel lines will be 9' wide center to center.

§ 400-83. Manner of parking on one-way streets.

Every vehicle stopped, standing or parked upon a one-way roadway where there are adjacent curbs shall be so stopped, standing or parked parallel with the nearest curb, headed in the direction of lawful traffic movement, and the nearest wheels of such vehicle parallel to and within 12 inches of the curb.

§ 400-84. Parking on incline.

It shall be unlawful to park any motor vehicle or motorcycle on an incline on a public highway or roadway:

- A. With the motor running.
- B. Without all proper brakes set tightly.
- C. Without the front wheels so turned that one of them is in contact with the curb in such a manner that if the brakes fail to hold properly the motion of said vehicle or motorcycle will be against said curb.

§ 400-85. Parking in front of funeral home.

Except vehicles actually in service or to be put in service in connection with a funeral being held therein, it shall be unlawful to park in front of the premises of any funeral home where funeral services are being held during the time of such services. For the purpose of this section, the use and erection during the period of such services of signs owned or used by such funeral home shall constitute lawful notice of the use to which the premises are being made and of the fact that parking in front of said premises is unlawful.

§ 400-86. Vehicles to park next to curb when loading.

It shall be unlawful for any truck or other vehicle, when loading or unloading in a street, alley or public place in the City, to park or stand at an angle to the curb of such street, alley or public place, but the same shall be parked parallel and next to the curb at which loading or unloading is taking place except when permission to stand or park at an angle shall be granted by the Deputy Commissioner of Public Safety or the Traffic Board for whatever cause shown. Such special permission may be issued either to the owner or lessee of real property or to the owner of a vehicle to be parked and shall grant to such person only the privilege therein stated.

§ 400-87. Free parking for City Court jurors. [Added 11-15-1976 by Ord. No. 229-76]

The Council hereby authorizes free ramp parking for persons serving as City Court jurors.

§ 400-88. Handicapped parking spaces. [Added 1-17-2006 by Ord. No. 06-1; Amended 9-22-10 by Ord. No. 10-42]

- A. The Traffic Board shall have the authority to designate handicapped parking spaces on public streets and on public property and shall cause spaces so designated to be marked by suitable signs or other devices indicating that parking in those spaces is limited to those vehicles property displaying a duly issued and valid handicapped parking permit or license plate.
- B. Effect. No person shall stop, stand, or park in spaces designated as a handicapped parking space without having a duly issued and valid handicapped parking permit, *i.e.* a special vehicle identification

parking permit, or a handicapped license plate on the vehicle. A violation of this section shall be subject to fines as set forth in § 400-89(c).

§ 400-89. Penalties for violations of article. [Added 1-17-2006 by Ord. No. 06-1; Amended 9-22-10 by Ord. No. 10-42; Amended 12-7-11 by Ord. No. 11-42; Amended 8-5-15 by Ord. No. 15-45]

- A. For violation of §§ 400-74, 400-78, and 400-79, of this article or any other timed zone parking rule, regulation or restriction based on time, the initial fine shall be a fine of \$35; however, each such owner may, within two business days, exclusive of the date on which the ticket was issued, of the time when such notice was attached to such vehicle pay to the City Treasurer a penalty for an in full satisfaction of such violation, the sum of \$30. If a plea of not guilty has not been filed nor the fine paid within 30 days, the fine shall be \$75.
- B. For violation of §§ 400-72, 400-73, and 400-80, sections prohibiting parking in certain areas, the initial fine for violations of this article shall be a fine of \$70; however, each such owner may, within two business days, exclusive of the date on which the ticket was issued, of the time when such notice was attached to the such vehicle pay to the City Treasurer a penalty for an in full satisfaction of such violation, the sum of \$45. If a plea of not guilty has not been filed nor the fine paid within 30 days, the fine shall be \$75.
- C. For violation of § 400-88(b) (handicapped parking), the fine for a violation of this article is a fine of \$155, plus the payment of the mandatory surcharge to the State of New York of \$30; however, such owner may, within two business days of the day the notice was attached to such vehicle (exclusive of the date on which the ticket was issued) pay to the City Treasurer a fine in full satisfaction of such violation, the sum of \$95, plus the payment of the mandatory surcharge to the State of New York of \$30. If a plea of not guilty has not been filed nor the fine paid within 30 days, the fine shall be \$175, plus the payment of the mandatory surcharge to the State of New York of \$30. If such owner provides a valid handicapped parking permit for the time in question and proof that the holder of the permit was a driver or occupant of the vehicle at the time in question, then the violation will be dismissed and such owner will be subject to an administrative fee for failure to display a handicapped parking permit as provided in section D below.
- D. For violation of § 400-88(c), the administrative fee for a violation of this section is \$15.
- D. For the period from September 1, 2015, through September 30, 2015, the City of Binghamton offers an amnesty program for parking tickets issued prior to January 1, 2015. The total cost of any ticket, including any penalties and late fees, may be paid at seventy-five percent (75%) of the outstanding balance due and owing. All payments must be made payable to the City of Binghamton and delivered to the Treasurer's Office, City Hall, 38 Hawley Street, Binghamton, NY 13901 on or before September 30, 2015. This paragraph will automatically expire on October 1, 2015, and will be of no further force or effect.

ARTICLE VIII, Parking Meters

§ 400-90. Designation of parking meter zones; establishment of time limits therein.

The Traffic Board may from time to time designate as parking meter zones, and establish parking time limits therein, such streets, portions of streets or other areas situate, lying and being within the City as it may deem necessary and shall cause parking meters to be installed in such areas.

§ 400-91. Regulation, control and maintenance of meters.

Pursuant to the provisions of § 400-22I, the Traffic Board shall provide for the regulation, control, operation and use of parking meters provided for in this article and shall cause said meters to be maintained in a good workable condition.

§ 400-92. Lines and markings to indicate parking spaces; placement of meters.

The Traffic Board shall cause to be placed lines or marks on the streets and portions of streets designated as parking meter zones and in accordance with a map and any amendments thereto, filed in the office of the City Clerk, designating the parking spaces in which meters are to be used, and shall cause to be installed parking meters thereon. Such parking meters shall be placed upon the curblin along the side of or next to such individual parking spaces, and each of said parking meters shall be so set as to display a signal that the parking space alongside of the same is or is not in use. It shall be unlawful and a violation of the provisions of this article to park any vehicle across any such lines or marks or to park said vehicle in such a way that the same shall not be within the area designated by such lines or marks.

§ 400-93. Meter legend.

Each parking meter installed under the provisions of this article shall indicate by a proper legend the legal parking time established for the particular parking meter zone in which said meter is installed. Upon deposit of the coin or coins required to set the meter in operation, such meter shall continue in operation until the expiration of the time fixed as the parking time limit for the parking meter zone in which said meter is located. Each parking meter shall be so arranged that upon the expiration of said parking time limit it will indicate by a mechanical operation and signal that the legal parking period has expired.

§ 400-94. Manner of parking in spaces.

Any vehicle parked in any parking space in any parking meter zone shall be parked with the hood of such vehicle alongside of or next to the parking meter alongside of such parking space in parallel parking spaces, and with the radiator directed at the meter in diagonal parking spaces, and in either event shall be parked within the lines marked on the street for such parking purposes.

§ 400-95. Hours of meter operation.

- A. The provisions of this article relating to parking meter zones shall be applicable between the hours of 8:00 a.m. and 6:00 p.m. on Monday, Tuesday, Wednesday, Friday and Saturday and on Thursday from 8:00 a.m. to 9:00 p.m., holidays excepted, except that on such streets as may be designated by the Traffic Board, the hours shall be between the hours of 8:00 a.m. and 4:00 p.m.
- B. Within the meaning of this article the term "holiday" shall include the following days only: first day of January, Fourth of July, 30th day of May, first Monday in September, 25th day of December, and the day designated and set apart by the President of the United States as a day of Thanksgiving.

§ 400-96. Duty of vehicle operator to deposit coins, set meter in operation.

When any vehicle shall be parked or left standing in any parking space alongside or next to which a parking meter is located, the operator, upon entering such space, shall immediately deposit or cause to be deposited in said meter such proper coin of the United States as is required and is designated by proper directions on the meter and, when required by said directions, after depositing a proper coin, shall also set in operation the timing mechanism of such meter; and failure to deposit such proper coin and to set the timing mechanism in operation, when required, shall constitute a violation of this article. Upon the deposit of such coin and the setting of the timing mechanism in operation when so required, the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin so long as his or her occupancy of said space does not exceed the indicated unused parking time.

§ 400-97. Overtime parking.

- A. If a vehicle shall remain parked or left standing in any parking space beyond the time limit set for such parking space and if the parking meter shall indicate such illegal parking, then in that event such vehicle shall be considered as parked or standing overtime and beyond the period of legal parking or standing time and such parking or standing shall be deemed a violation of this article. It shall be unlawful and a violation of this article for any person to keep, allow, permit or suffer any such vehicle registered in his or her name to be parked or left standing overtime or beyond the lawful period of time set for such space.
- B. It shall be unlawful and a violation of the provisions of this article for any person to deposit or cause to be deposited in a parking meter a coin or coins for the purpose of extending the parking or standing time beyond the time fixed as the parking time limit for parking or standing in a parking space alongside of or next to which a parking meter is placed.

§ 400-98. Parking when meter signal indicates violations.

It shall be unlawful and a violation of this article for any person to permit a vehicle to remain or to be placed in any parking space alongside of or next to which any parking meter is placed while said meter is displaying a signal showing that such vehicle shall have been already parked or standing beyond the period of time fixed as the parking time limit for such parking space.

§ 400-99. Use of slugs prohibited.

It shall be unlawful and a violation of the provisions of this article for any person to deposit or cause to be deposited in any parking meter any slug, device, or other substitute for a lawful coin of the United States or to motivate or attempt to motivate any parking meter by using other than a proper lawful coin.

§ 400-100. Enforcement of article. [Amended 8-4-1980 by Ord. No. 167-80; 6-21-1982 by Ord. No. 90-82; Amended 1-17-2006 by Ord. No. 06-1; Amended 12-7-2011 by Ord. No. 11-42]

- A. Report. It shall be the duty of each traffic patrol officer, or such other officer as shall be so instructed by the Chief of Police, in his or her beat or district, to take the number of any meter at which any vehicle is over parked, as provided in this article, and the registration number of such vehicle, and report the same to the Police Department, together with the length of time during which said vehicle is parked in violation of any of the provisions of this article, as well as any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.
- B. Notice. Each such police officer shall also attach to such vehicle a notice to the owner thereof that such vehicle has been parked in violation of a provision of this article, and instructing such owner to report to the City Court in regard to such violation.
- C. Penalties. The initial fine for violations of this article (Article VIII, Parking Meters) shall be a fine of \$40; however, each such owner may, within two days (48 hours) of the time when such notice was attached to such vehicle, pay to the City Treasurer a penalty for and in full satisfaction of such violation, the sum of \$20. If a plea of not guilty has not been filed, nor the fine paid within 30 days the fine shall be \$55.

ARTICLE IX, Off-Street Parking Areas

§ 400-101. Acquisition and designation.

For the relief of traffic congestion, the City may from time to time acquire areas which shall be designated and dedicated as public places for the off-street parking of motor vehicles.

§ 400-102. Regulations.

In off-street parking areas, the following regulations shall apply 24 hours of each day, from Monday through Saturday, inclusive:

- A. No vehicle shall be parked for a continuous period in excess of 24 hours in off-street parking areas.
- B. In areas where there are no parking meters, no vehicle shall be parked except within a parking space designated by the attendant, and in areas where there are parking meters, no vehicle shall be parked except within a parking space in front of or alongside of which a parking meter is located.
- C. In areas supervised by a parking attendant, the fees for parking of vehicle, shall be duly posted as established by the Traffic Board.
- D. In areas where there are parking meters, the following fees are hereby established:
 - (1) When any vehicle shall be parked in any of the areas, the operator or driver of which desires to park for a period of not to exceed one hour, he or she shall, upon entering the parking space, immediately deposit the amount as set from time to time in the parking meter in front of or alongside of said vehicle, and shall operate any handle or other mechanical device necessary to start operation of the meter, and the parking space may then be used by such vehicle for said period of not to exceed one hour.
 - (2) If said operator or driver desires to park for a period exceeding one hour, but not to exceed two hours, such operator or driver upon entering any parking area shall immediately deposit the amount as set from time to time in the parking meter in front of or alongside of said vehicle and shall operate any handle or other mechanical device necessary to start operation of the meter, and the parking space may then be used by such vehicle for said period of not to exceed two hours.
 - (3) If said operator or driver desires to park for a period exceeding two hours but not to exceed 24 hours, such operator or driver, upon entering any parking area, shall immediately deposit the necessary coins of the United States in the parking meter in front of or alongside of said vehicle and shall operate any handle or other mechanical device necessary to start operation of the meter, and the parking space may then be used by such vehicle for such period of time of not to exceed 24 hours.

§ 400-103. Regulations not applicable on certain holidays.

The provisions of this article relative to the parking meters or the operation of parking meters in off-street parking areas shall not be applicable on Sundays, the first day of January, the fourth day of July, 30th day of May, first Monday in September, 25th day of December, and the day designated and set apart by the President of the United States as a day of Thanksgiving.

§ 400-104. Collier Street ramp residential parking program. [Added 9-6-1991 by Ord. No. 97-94]

A residential parking program at the Collier Street ramp is hereby established and shall encompass the following regulations:

- A. Registration forms for parking permits must be completely filled out and returned to All Right Binghamton Parking prior to the start of a new month in order to receive a valid pass card to enter and exit the parking ramp.
- B. A copy of a recent electric or phone bill, rent receipt or voter registration card is to be presented upon registration to verify residency requirements.

- C. It is the resident's responsibility to notify the facility operator, All Right Binghamton Parking, of any changes affecting the registration form. These changes include: change of address, license plate number, telephone number, vehicle identification number, etc.
- D. A copy of the rules and regulations for the parking program will be attached to the registration form. All rental patrons must abide by these regulations. Failure to do so will result in the parking pass being invalidated. The pass card is for the registrant's use only and is not transferable.
- E. Every resident parker is required to attach a small sticker in the left hand corner of the rear window of the registered automobile. All Right Binghamton Parking, as the operator, may elect to issue a hang tag for the rear view mirror. If so, this tag must always be displayed when using the facility.
- F. Parking will be available on any level of the Collier Street ramp, Monday through Friday, from 3:00 p.m. to 9:00 a.m. the following day and all day Saturday and Sunday.
- G. The monthly parking fee will be as set annually in the City budget.
- H. The pass card has been programmed to allow a registered vehicle to enter or exit only during the prescribed hours. If a registered vehicle is found exiting after 9:00 a.m., or entering before 3:00 p.m., the vehicle operator will be charged the hourly rate for the time the registered vehicle was parked in the ramp before or after the prescribed hours.
- I. A parking space is not guaranteed when the Collier Street Parking ramp is being used for event parking.
- J. All Right Binghamton Parking, as the operator, reserves the right to amend any rules and regulations with the prior approval of the Binghamton City Council.

ARTICLE X, On-Street Parking

§ 400-105. Establishment of residential parking permit program. [Added 4-18-2005 by Ord. No. 05-21; Amended 12-18-2006 by Ord. No. 06-41]

- A. The City of Binghamton hereby creates a residential parking permit system within the area of the City consisting of the following roadways (the "Permit Area"):
 - Pine Street from Carroll Street to Liberty Street
 - Henry Street from Carroll Street to Liberty Street
 - Fayette Street from Court Street to Henry Street
 - Carroll Street from Court Street to Henry Street
 - Liberty Street from Court Street to Henry Street
- B. Parking in the Permit Area shall be restricted to residents and/or property owners living on or owning property within the Permit Area; except that not less than twenty percent of all spaces within the Permit Area will continue to be available to non-residents and shall provide for short term parking of not less than ninety minutes in duration in such area. The City of Binghamton Police Bureau will determine which spaces will continue to be available to non-residents.
- C. The City Clerk shall issue parking permits for the Permit Area. The City Clerk shall establish guidelines to issue parking permits, including proof of residency and/or ownership requirements. Parking permits will be issued for vehicles registered at said address only. A single family dwelling

will be eligible for up to two parking permits and a multi-family dwelling will be eligible for up to one parking permit per dwelling unit. The fee for a permit will be \$10 and permits will be valid for so long as the resident and/or property owner lives in or owns such residence within the Permit Area. Parking permits shall be specific to registered vehicles only and will include the license plate number of the vehicle. Permits may not be assigned from one person to another, but may be transferred to another vehicle owner by the permit holder without a fee. The permits will be valid twenty-four hours a day, seven days a week from March 15 to November 30 of each year or such time frame as the City may establish for alternate side of the street parking. Permits may be revoked by the City Clerk if the permit holder moves, sells the property, allows others to use the parking permit, has any outstanding parking ticket(s) or other outstanding motor vehicle violations, or housing code violations at the residence in question.

- D. Motor vehicles registered pursuant to § 404(a) of the Vehicle and Traffic Law shall be exempt from any permit requirement.
- E. The Permit Area, except the parking spaces designated for non-residents, shall be duly posted as no parking areas, except by valid permit only. The Police Bureau and the Public Work Department shall determine from time to time how the Permit Area is to be posted.
- F. Any vehicle parked in the Permit Area, except the parking spaces designated for non-residents, without a valid parking permit to park may be issued a \$50 parking ticket and/or towed at the owner's expense as a violator of a no parking area.
- G. The permit fees shall be credited to the general fund of the City.

ARTICLE XI, Regulation and Control of Traffic During Snow and Other Natural Emergencies
[Added 5-16-1988 by Ord. No. 65-88]

§ 400-106. Purpose.

The Common Council hereby finds and declares as a matter of legislative determination, and by authority of the Vehicle and Traffic Law, that it is in the best interest of the public and for the welfare and safety of the inhabitants of the City of Binghamton and to regulate and control traffic, to prevent congestion of traffic and to expedite the orderly movement thereof, that this article be enacted.

§ 400-107. Declaration of snow emergency.

Whenever road conditions in the City of Binghamton shall become hazardous or such that the free movement of fire, health, police, emergency or other vehicular traffic may become impeded by reason of snow, freezing rain, sleet, ice or other natural causes, the Mayor hereby is authorized to declare the existence of a snow emergency.

§ 400-108. Announcement of emergency to public.

The declaration of the snow emergency as stated above shall be conveyed to the public by radio, television and by newspaper; announcement by two local radio stations or two television stations or one radio station and one television station, or in the daily newspaper published in the County of Broome shall constitute notice to the general public.

§ 400-109. Term of emergency; termination.

The snow emergency so declared shall be deemed to continue for a period of 72 hours unless earlier terminated by the Mayor; and termination of the snow emergency may be declared as to one or more streets prior to the seventy-two-hour period.

§ 400-110. Prohibited parking or standing.

- A. It shall be unlawful to cause, permit, allow or suffer any vehicle to be parked or standing on the even-numbered side of any City street during the first 24 hours of a snow emergency.
- B. It shall be unlawful to cause, permit, allow or suffer any vehicle to be parked or standing on the odd-numbered side of any City street during the second twenty-four-hour period after the commencement of a snow emergency.
- C. Where the driver of such vehicle cannot be located, the violation of this provision shall be presumed to be that of the registered owner of the vehicle.
- D. The provisions of Subsections A and B shall not apply to physicians, emergency vehicles, snow control vehicles, public transit vehicles, public service vehicles, or commercial vehicles when in the performance of their respective duties.

§ 400-111. Use of snow tires, chains or mud hooks.

After the declaration of a snow emergency and the giving of public notice as stated above, it shall be unlawful for the owner or driver of a motor vehicle to cause, permit, allow or suffer said vehicle to become stalled or immobile on any street unless at least two wheels of said vehicle shall be equipped with "snow tires" or "tire chains" or "skid chains" or "mud hooks."

§ 400-112. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUD HOOKS -- Consist of the cross chains designed for giving added traction, and at least two sets of mud hooks on each of two wheels shall be required to comply with the requirements herein.

SNOW TIRES -- Such tires having a recognized tread or thickness of rubber adapted to give added traction and skid resistance on wet, icy or snow-covered areas; tires which are so worn as to have less than 5/32 of an inch of recognizable tread shall be deemed inadequate and not in compliance with the requirements of this article.

TIRE CHAINS or SKID CHAINS -- Those designed and constructed to encircle the outside perimeter of tires.

§ 400-113. Penalties for offenses.

Any person violating any of the provisions of this article may, upon conviction, be punished for the first offense by a fine not exceeding \$25 and each subsequent offense by a fine of not more than \$50.

§ 400-114. Towing of vehicles in violation; responsibility for charges.

Any vehicle left unattended as set forth in § 400-110 herein or which shall be stalled or otherwise unable to be moved on any street during a snow emergency may be towed or removed or caused to be removed under the direction of the Police Department, at the owner's expense, in addition to any other penalty herein prescribed. Said towing charge shall be paid prior to the release of said vehicle.

Chapter 401, PROHIBITION AGAINST CRUISING

[HISTORY: Adopted by the City Council of the City of Binghamton 3-19-2007. Amendments noted where applicable.]

§ 401-1. Short title.

This ordinance shall be referred to as “Anti-Cruising Ordinance.”

§ 401-2. Definitions. [Amended 11-19-2-07 by Ord. No. 52-2007; Amended 3-17-10 by Local Law 1-2010]

For the purposes of this Ordinance the following terms shall mean:

CITY – City of Binghamton, New York, with administrative offices at 38 Hawley Street, Binghamton, NY 13901.

CRUISING – Driving a motor vehicle on a street past a traffic control point, as designated by the Binghamton City Police department, more than three (3) times in any two (2) hours period, between the hours of 10:00 P.M. and 6:00 A.M. The passing of a designated traffic control point a fourth time under the conditions stated above shall constitute unnecessary repetitive driving and a violation of this Ordinance.

DESIGNATED AREA – From the corner of Main Street and Front Street west to Glenwood Avenue; north to the railroad tracks back to Front Street; east to the corner of Front Street and Clinton Street and back to the corner of Front Street and Main Street and all of the streets inside this boundary.

TRAFFIC CONTROL POINT – Clearly identified reference point to a designated area, as determined periodically by the City of Binghamton Police Department.

§ 401-3. Cruising Prohibited.

No person shall engage in unnecessary repetitive driving, also known as “cruising” in any designated area. For purposes of this Ordinance, the person having control and/or ownership of a motor vehicle shall be considered the person cruising, without regard as to whether that person was actually driving the motor vehicle each time it passed the traffic control point. Having control or ownership of a motor vehicle shall mean either the owner of the motor vehicle as stated on the vehicle registration if the owner is present in the vehicle at the time of the violation, or if the owner is not present in the vehicle, the person operating the vehicle at the time of the violation of this Ordinance.

§ 401-4. Exceptions.

The following use of vehicles shall constitute valid exceptions to the Ordinance:

- A. Any emergency vehicle
- B. Any vehicle owned or operated by the City of Binghamton, provided that the vehicle is being operated for official purposes
- C. Any taxi cab, bus, or other vehicle for hire
- D. Any vehicle being used to conduct lawful business activities.

§ 401-5. Penalty.

Any person violating the provisions of this Ordinance shall, upon conviction, be fined \$150.00 for each offense.

§ 401-6. Construction and Severability.

- A. Severability is intended throughout and within the provisions of this Ordinance. If any provision, including any exception, part, phrase, or term, or the application therefore to any person or circumstances is held to be invalid by a court of competent jurisdiction, the application to other

persons and circumstances shall not be affected thereby and the validity of the Ordinance in any and all other respects shall not be affected thereby.

- B. The Chief Executive, after consultation with the City Attorney, is hereby authorized to give advisory opinions in writing, which shall be binding and shall be adhered to by the police, until the Ordinance is amended in such respect, interpreting terms, phrases, parts, or any provision of the Ordinance. Normally such advisory opinions shall be in response to good faith, signed letters addressed to the Chief Executive or to a member of the City Council, questioning the Ordinance as (1) ambiguous; (2) having a potentially chilling effect on constitutional rights specifically invoked; or (3) otherwise invalid, in all three categories with respect to conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three categories.

- C. The City Council does not intend a result through the enforcement of the Ordinance that is absurd, impossible of execution, or unreasonable. The City Council intends that the Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the United States of America.

Chapter 405, WATER

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 25 of the 1970 Code); amended in its entirety 12-19-1979 by Ord. No. 322-79. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 200.
- Health and sanitation -- See Ch. 259.
- Housing and property maintenance -- See Ch. 265.
- Plumbing -- See Ch. 310.
- Sewer use -- See Ch. 342.

ARTICLE I, General Provisions

§ 405-1. Rules and regulations part of contract.

The rules and regulations set forth in this chapter are prescribed by the Superintendent of Water; and every person who shall be supplied or whose property shall be supplied with water by the Water Department of the City must agree to comply and must comply with these rules and regulations; and the same shall constitute a part of the contract existing between such person and the Water Department.

§ 405-2. Definitions. [Amended 6-2-08 by Ord. No. 28-2008]

When used in this chapter the following words, terms and phrases shall have the meanings ascribed to them in this section:

APPLICANT -- The owner of property or agent applying for water service.

COMMERCIAL SERVICE -- Provision of water to premises where the customer is engaged in trade.

CONSUMER -- The owner or owners of the premises to which water is furnished as provided in this chapter.

CUSTOMER -- The owner or agent of record receiving water service from the Water Department.

DATE OF PRESENTATION -- The date upon which a bill or notice is mailed or delivered personally to the customer.

DOMESTIC SERVICE -- Provision of water for household residential purposes, including water for sprinkling lawns, gardens, and shrubbery; watering livestock; washing vehicles; and other similar and customary purposes.

FIRE PROTECTION SERVICE -- Provision of water to premises for automatic fire protection.

FLAT RATE SERVICE -- Provision of water in unmeasured quantities.

INDUSTRIAL SERVICE -- Provision of water to a customer for use in manufacturing or processing activities.

IRRIGATION SERVICE -- Provision of water for commercial, agricultural, floricultural or horticultural use.

MAIN EXTENSIONS -- Extension of distribution pipelines, exclusive of service connections, beyond existing facilities.

MAINS -- Distribution pipelines located in streets, highways or public ways which are used to serve the general public.

METER RATE SERVICE -- Provision of water in measured quantities.

MUNICIPAL OR PUBLIC USE -- Provision of water to a municipality or other public body.

PREMISES -- The integral property or area, including improvements thereon, to which water service is or will be provided.

SERVICE AREA -- That area in which service is or will be furnished as prescribed and approved by the Water Resources Commission, Conservation Department, State of New York in Decision, Dated May 15, 1934.

SERVICE CONNECTION -- The pipe, valves and other facilities by means of which water is conducted from distribution mains to the curb or shutoff valve.

SUPERINTENDENT -- The Superintendent of Water of the City of Binghamton, who is the head of the Water Department.

TARIFF SCHEDULE -- The entire body of effective rates, rentals, charges and regulations.

TEMPORARY SERVICE -- A service for circuses, bazaars, fairs, construction work, irrigation of vacant property and similar uses which, because of their nature, consumption or use, will not be regular or permanent.

WATER BILL -- A bill that includes but is not limited to water and sewer charges, rents, and corresponding late fees and penalties.

WATER DEPARTMENT -- That division of the government of the City which is in the charge of the Superintendent of Water of the City.

§ 405-3. Responsibility for transactions.

All transactions which are in the rules and regulations set forth in this chapter shall be with the Water Department, and all matters herein prescribed to be done by the Water Department shall respectively be had with and done by the Superintendent of Water of the City.

§ 405-4. Description of service.

- A. Supply. The Superintendent of Water will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to a customer at a proper pressure and to avoid any shortage or interruption in delivery. The Superintendent has, however, the right to limit the amount of water furnished.
- B. Quality. The Superintendent of Water will endeavor to furnish a safe and potable supply of water for human consumption at all times.

§ 405-5. Classes of services.

All services installed by the utility will be classified as follows:

- A. Residential.
- B. Commercial.
- C. Industrial.
- D. Irrigation.
- E. Municipal or public use.
- F. Fire protection.

§ 405-6. Types of services.

The types of services available from the Water Department are:

- A. Flat rate.
- B. Metered rate.
- C. Temporary.

§ 405-7. Application for service. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Generally. All applications for the use of water must be made in writing on forms provided by the Water Department. When acted on by the Superintendent of Water, the application shall constitute a contract between the City and the applicant, obligating the applicant to pay the City its established rates and comply with its rules and regulations. Applications will be accepted subject to there being an existing main in a street or right-of-way abutting on the premises to be served, but acceptance shall in no way obligate the City to extend its mains to serve the premises except as hereinafter provided.
- B. Separate application for each premises. A separate application must be made for each premises. The word "premises" as used herein shall be defined as follows:
- (1) A building under one roof owned or leased by one customer and occupied as one residence or one place of business.
 - (2) A combination of buildings owned or leased by one customer in one common enclosure, occupied by one family or one corporation or firm as a residence or place of business.
 - (3) Each unit of a multiple house or building separated by a solid vertical partition wall, occupied by one family or one firm as a residence or place of business.
 - (4) A building owned or leased by one customer having a number of apartments, offices or lofts which are rented to tenants or using in common one hall and one or more means of entrance.
 - (5) A building one or more stories high under one roof owned or leased by one customer having an individual entrance for the ground floor occupants of the upper floors.
 - (6) Garden apartments owned by one individual or firm and located in one common enclosure.
- C. Temporary service. Application of contractors, builders and others for temporary water service will be accepted and temporary water service will be supplied, provided it does not interfere with use of water for general purposes. The quantity of water taken for such purposes shall be determined either by meter or by estimate and paid for in accordance with the rate schedule applicable to metered general purposes. Customers requiring temporary water service shall reimburse the Water Department for all its expenses in connection with the necessary temporary service connections, and a deposit, in an amount specified by the Bureau of Water, may be required in every instance.
- D. Plumbing plan required in certain instances. Where service is desired for multiple dwelling, commercial, or industrial use, a detailed plumbing plan showing service supply, fixtures and equipment and any other water use facilities must be submitted at the time of application.
- E. Effect of application. The application for water service is merely a written request for service and does not bind the applicant to take service for any particular length of time nor does it bind the Water Department to give service, except under reasonable conditions.

§ 405-8. Notification of discontinuance; rebates.

Any consumer desiring to discontinue the use of water must notify the Water Department, and an employee of the Department will shut the water off at the curb. No rebate will be made for any period of discontinuance of such use unless the service is to be abandoned. The fact that different portions of premises can be shut off inside of the building shall not entitle the owner to rebate.

§ 405-9. Failure to give notice of discontinuance.

No rebate from any water bill shall be made when the owner or consumer has not complied with the requirements of these rules and regulations in making application at the Office of the Water Department for the discontinuance of the use of water, in making application to have the water turned off from the service, or in giving the notice required, or where the claimed overcharge in the bill is a result of failure on his or her part, to perform any act required by these rules and regulations.

§ 405-10. License required for plumbers; filing, contents of petition; only master plumbers to be licensed.

Any plumber wishing to do business in connection with the Water Department must receive a license from the Water Department; and before receiving such license he or she shall file in the Office of the Water Department his or her petition in writing, giving his or her name or the name of the firm and his or her or its place of business. No license shall be issued by the Water Department to any plumber or firm of plumbers unless he or she or they are fully registered master plumbers and hold a certificate of competency from the Examining Board of Plumbers of the City.

§ 405-11. License nontransferable.

No plumber licensed hereunder shall allow his or her name to be used by any other person or party, either for the purpose of obtaining permits or doing work under his or her license. A license cannot be transferred.

§ 405-12. Renewal of license.

Plumbers will be required to make written application to have their license renewed on or before the first day of February of each year; otherwise their license will become inoperative.

§ 405-13. Inoperative licenses.

A license issued under the provisions of this chapter to a firm becomes inoperative on a dissolution of said firm and a separate license must be secured for either party continuing the business. A license becomes inoperative whenever the party or parties to whom it is issued have no longer a recognized shop or place of business.

§ 405-14. Forfeiture of license; hearing.

Any licensed plumber who by his or her own act, or by that of any of his or her employees, shall be guilty of a violation of the rules, regulations and ordinances prescribed by the Superintendent of Water and adopted by the City Council shall forfeit his or her license and be subject to penalty. If after a hearing he or she is found guilty of violation, a forfeiture or suspension of the license of any plumber for violation of rules, regulations or ordinances shall operate as a suspension of the license of any copartner; a separate license will not be granted to any person interested in or employed by such firm. In case a license is forfeited, a new license shall not be granted by the Water Department within one year from the date of the forfeiture of the license.

§ 405-15. Plumber as agent of owner.

The plumber designated and employed by the owner of the premises will be considered the agent of such owner while employed in the prosecution of the work of introducing water into said premises and in no sense as the agent of the Water Department; neither will said Water Department nor the City be responsible for the acts of such plumber.

§ 405-16. Right to limit water furnished.

The Water Department reserves the right to limit the amount of water furnished to any consumer should circumstances seem to warrant such action; although no limit may be stated in the application or permit for use; or said Water Department may entirely shut off the water supply used for any manufacturing purpose, or for furnishing power or for lawn sprinkling at any time by giving reasonable notice to the consumer of such intended action. In the case of making or constructing new work or in making repairs, the right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.

§ 405-17. Lawn sprinkling restrictions.

Lawn sprinkling may be forbidden at any time by the Superintendent of Water, in case he or she should deem it necessary to conserve the water supply of the City.

§ 405-18. Street sprinkling, street flushing and street construction. [Amended 4-15-1996 by Ord. No. 64-96]

Any person who shall, under contract with the City or with private individuals, engage in the work of sprinkling, flushing, constructing or repairing any street or highway of the City shall do so subject to the following rules and regulations:

- A. Permit required, application. Such person shall first make application for a permit to the Water Department, which application shall state the name of the street or streets where such sprinkling, flushing or construction shall be done.
- B. Charges. Before receiving a permit the applicant shall pay to the Water Department an application fee in an amount as set from time to time, the charges as determined by the Superintendent of Water for the use of the water by the applicant to the satisfaction of the Water Department (See Exhibit J).
- C. Special hydrants. Water shall be taken only from hydrants that have been designated by the Water Department.
- D. Use of water for other purposes. A permit to sprinkle, flush, or for street construction does not authorize anyone to take water from a hydrant except for said purposes; and anyone who takes water from a hydrant for any other use without a special permit from the Water Department will be subject to the penalties as provided in § 405-20.
- E. Backflow prevention. No permit shall be issued unless applicant has established to the satisfaction of the Water Department sufficient proof that the container receiving water is constructed to prevent backflow or cross-contamination.

§ 405-19. Shut-off for failure to comply. [Amended 6-2-08 by Ord. No. 28-2008]

In case any provision of this chapter is not complied with at any premises, or the owner of any premises fails to do any matter required to be done by him or her in accordance with the rules and regulations set forth herein, or such owner fails to make any payments of money payable to the City under or in accordance with such rules and regulations or any payment of water rents or rates due to the City for the supply of water, or otherwise with reference to such premises; the Water Department may shut off the water supply from such premises until such provision of this chapter is complied with, such matter is done and such payments made; and when any water supply is so shut off, no advance payment made to the City for the supply of water at such premises, or any part of such payment need be refunded by reason of such shutting off of such water supply. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-20. Penalties for offenses. [Amended 4-15-1996 by Ord. No. 64-96]

The violation of any provision of this chapter, except where a specific penalty or punishment is provided herein, shall be punishable by a fine not exceeding \$250 for each violation each day; by imprisonment not exceeding 15 days, or by both such fine and imprisonment; forfeiture of said special water permit; and/or the loss of the right to apply for said special water permit.

§ 405-21. Superintendent to impose and collect penalties.

Whenever there is a provision herein for a penalty, the Superintendent of Water shall have the power and authority to impose and collect such penalty.

§ 405-22. Liability, indemnification and insurance for damages. [Added 4-15-1996 by Ord. No. 64-96]

- A. An applicant shall agree to be liable for all damages caused by its use of City hydrant(s). Said liability shall include any and all damages caused by the applicant's use of the hydrant(s) to the City's or third

party's real and/or personal properties, including, but not limited to, pipes, conduits and appliances found thereon.

- B. An applicant shall be required to indemnify and hold harmless the City from all causes of actions, costs and fees, including, but not limited to, attorney fees. Said indemnification must be in a form approved by the Corporation Counsel.
- C. An applicant shall supply the City with an insurance certificate naming the City as an additional insured on a general liability policy in an amount not less than \$1,000,000.

ARTICLE II, Services and Connections

§ 405-23. Work to be performed by Department of Water.

No person other than the Superintendent of Water or persons authorized and employed by him or her shall be permitted to take or make any connection with any street main or distribution pipe.

§ 405-24. City's right of entry for purpose of inspection and service of water meters. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Employees of the Water Department, upon presentation of a badge, may enter and must be permitted to enter upon any premises where City water is being supplied, or upon any premises when application is made for a permit to connect plumbing with the water pipes for the purpose of inspecting the plumbing and fixtures of the water service and all work in connection with such service.
- B. The Superintendent of the Water Department and employees of the Water Department shall have authority, within the limits of the law, at all times to enter into any building or place where water is used from service pipes to make examination as to the manner, use and quantity of water used and to maintain, service, replace and update the water meter installed therein.
- C. The Water Department may shut off the water for failure to comply with this section. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-25. Waste of water prohibited. [Amended 6-2-08 by Ord. No. 28-2008]

Water must not be allowed to run for the purpose of flushing soil or sewers, or for any other purpose on the premises than those paid for or indicated in the application for the same and which are allowed by the rules and regulations set forth in this chapter. Faucets must be kept properly backed and all other fixtures in repair, so as to prevent leaks. The Water Department may shut off the water for failure to comply with this section. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-26. Possession of curb cock or valve keys.

No plumber shall part with the possession of a key for turning off or on water except to an employee of the Water Department; and no person, unless specially authorized by the Water Department, shall have or hold such a key in his or her possession.

§ 405-27. Character and workmanship of service and fixtures.

All of the parts of the water service inside the building and the fixtures and appurtenances connected therewith shall be of such form, character and workmanship as is described in this chapter or may be approved by the Water Department.

§ 405-28. Opening of curb cocks.

The curb cock controlling any service shall not be opened or left open by the plumber or any other person after connecting said service at the curb or elsewhere; or after making any new extension or attachment in unoccupied premises so that water may be supplied to said premises by said service without a formal permit from the Water Department; but in cases where the work is a simple extension or additional attachment in premises where the water is then in use and where a permit has been duly obtained to make the same, then the plumber may leave the water on the premises.

§ 405-29. Water to remain off until meter set.

When the plumbing work in any building has been completed and tested, it shall be the duty of the plumber to shut off the water and leave it turned off until a meter has been set. The water will then be turned on by the Water Department.

§ 405-30. Expenses for injury or damage to fixtures.

An injury to service pipes, street mains, hydrants, valve boxes, or other fixtures and any damage that may be caused by leakage or flow of water occasioned by such injury caused by putting in any sewer, drain, or other pipe, or by any excavation, embankment, track laying, paving or other construction, shall be paid by the contractor doing the work, or by the owner of the premises, or the person or corporation for whom such work is being done.

§ 405-31. Size of tap.

The Water Department will determine the size of the tap to be inserted in any water main under any application and permit.

§ 405-32. Connection of two services to one tap.

- A. Plumbers shall not connect two services to one tap; but each house must have one distinct and separate tap and service pipe and each service must be provided with a stop cock and metal extension box outside of the premises connected with the same. Where a larger tap or a branch is required to replace a tap or taps previously made, the tap or taps which are abandoned shall be shut off at the corporation cock, and any branch abandoned shall be capped, at the owner's expense.
- B. Supply pipes shall not be laid across adjoining premises. In no case, except in that of mills and factories, shall permission be granted to supply two or more service supply pipes to any premises without special permission in writing from the Superintendent of Water.

§ 405-33. Pipe specifications. [Amended 6-2-08 by Ord. No. 28-2008]

No service pipe, except those pipes that are approved by the Plumbing Code of New York State, shall be laid in any trench or under any cellar floor, or be covered by earth except beyond the point where the water passes through the meter. The quality, strength and weight of the pipe shall be equal to that used by the Water Department. In case this section is not complied with, water will not be turned on the service by the Water Department until the pipe or fittings shall have been made to comply with this section.

§ 405-34. Laying of service pipe.

- A. Service pipes will be required to be laid so as to be no less than five feet below the surface of the ground at any point outside of the foundation wall of the building into which the service is to be introduced; and in case final grade of the street or sidewalk has been officially determined and established, then the service shall be laid at a depth of not less than five feet below said established grade at all points so that when the street and walk are graded there shall be not less than a five-foot covering of earth over it at every point; and in no case shall a service be permitted to be laid in the same trench with a sewer, gas, steam, electrical or other conduit.

- B. Whenever the service pipe is extended into the premises from a main passing said premises along any front thereof, it shall be extended at right angles with said main to the inside of the curb line, at which point will be placed a curb cock and curb box. The water mains shall be laid at least 10 feet from a sewage line, and a service connection shall be laid at least four feet from a sewer line.

§ 405-35. Temporary service pipes.

- A. Owners desiring to introduce water into premises along any front on which water mains have not yet been laid must make application therefor at the Office of the Water Department. In case a permit is granted, the Superintendent of Water will furnish a map or other explicit directions in detail in regard to the point of attachments to the City main, the method of attachment, and the position and depth which said service must occupy in the street; the service must in all other respects comply with the rules and regulations governing service pipes.
- B. In general, when a temporary pipe is laid on a street, alley or highway, it shall be laid in a line corresponding to the contemplated permanent water main. When opposite the premises to be supplied, the service from said pipe shall be laid at right angles to said line of pipe and in a manner as directed. The owner or owners of premises supplied by means of a temporary service of any description shall, whenever a permanent water main is laid in the street, alley or highway upon which said premises abut, cause said temporary service to be discontinued and connection to be made with the permanent main. The expense of making such connection must be borne by the owner of the premises.
- C. Premises on streets on which there is a permanent main and which are now supplied by temporary service lines shall, upon the direction of the Superintendent of Water, abandon such private service lines and make application for connection to the permanent water main as provided in § 405-7.
- D. Should the owner or owners of premises who are so temporarily supplied refuse to make direct connections as specified in this section, the Superintendent of Water will cause said temporary supply to be discontinued.

§ 405-36. Maintenance of service pipes. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Maintenance by owner; failure to maintain. The owner of property into which water is introduced by a service pipe will be required to maintain in perfect order, at his or her own cost and expense, the service pipe from the curb cock to his or her own premises, including all fixtures therein provided for delivering or supplying water for any purpose. The curb box must be kept in view and the top thereof even with the sidewalk or street grade at all times, and in a serviceable condition. In case such service and fixtures are not so kept in repair, the Superintendent of Water shall notify the owner, as shown on the latest assessment roll of the City, of the property in writing by certified mail. Such written notice shall contain the date for completion, at the discretion of the Superintendent of Water, up to but no longer than 12 months from the date the written notice is issued. Failure to comply with such written notice may result in shut off of the water service on the premises until compliance is reached; or the Water Department may make the necessary repairs to conform to this rule and charge the cost thereof to the owner of the property at which this section is violated, and collect such cost from the owner of such property and shut off the water from such property until such charges are paid. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.
- B. Maintenance by Water Department. The Water Department will maintain and repair each service pipe between the water main and the curb cock controlling the service, provided the same is in the

roadway of the street; provided also that said service has been installed in full compliance with the rules covering the introduction of the water, and provided that failure of said service or the injury thereof, rendering repairs necessary, does not result from some improper act or omission on the part of the owner to keep or protect the service inward from the curb from injury or from frost; or otherwise from which act or omission injury results to that part of the service in the roadway of the street, in which latter case the owner shall pay the whole cost of the necessary repairs thereto.

§ 405-37. Location of stop and waste cock; waste cock to be kept open when service not in use.

Just inside the basement or foundation wall of the building into which the service pipe extends, a stop and waste cock shall be conveniently located and arranged so that water may be drawn back and all of the pipes within the building can be emptied to such stop and waste cock. Said waste cock must be kept open at all times when the service is not in use.

§ 405-38. Protection of service pipes from freezing. [Amended 6-2-08 by Ord. No. 28-2008]

Service pipes in buildings shall be located in the parts thereof best protected from frost. In buildings where there is no cellar, the pipes shall be carried to the center of the building or to unexposed parts previous to being carried upward. In all cases where the service pipe passes through areas or basements having windows, grating, or traps open to the weather, the openings shall be closely covered and the windows and doors closed to the outside area during the cold weather. In all exposed situations, the service pipes and fixtures shall be properly wrapped with felt or other nonconducting substances and surrounded with a box, packed also with nonconducting substances if necessary to protect such service from frosting. Said protection shall be at the expense of the owner, and in case such owner neglects to protect his or her service as aforesaid, the Water Department may shut off the water therefrom. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-39. Defective services. [Amended 6-2-08 by Ord. No. 28-2008]

In all premises where water from the City mains is now supplied by a system of pipes and fixtures for water service, and where the service pipes and fixtures are not of the standard or pattern prescribed in the rules and regulations of the Water Department; or where such fixtures and devices for the prevention of damage to the service or of waste of water as are prescribed in said rules and regulations are lacking from said system, the owner of said premises shall at any time when so required by order of the Superintendent of Water make such changes in and additions to said system or fixtures for such water service as shall be necessary in order to comply with such rules and regulations, and at their own cost and expense. In case such service and devices are not so kept in accordance with this section, the Superintendent of Water shall notify the owner, as shown on the latest assessment roll of the City, of the property in writing by certified mail. Such written notice shall contain the date for completion, at the discretion of the Superintendent of Water, up to but no longer than 12 months from the date the written notice is issued. In case of failure to comply with this section at any premises, the water may be shut off from such premises until this section is complied with. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-40. Large cut-in connections. [Amended 12-4-2006 by L.L. No. 2-2006]

If a connection larger than two inches is required, a cast-iron pipe service not less than four inches in diameter shall be used and connection to the street main shall be made with patented or standard fittings. All material shall be furnished by the Water Department. All such services shall have a gate valve placed in the service pipe near the street main, which gate shall be controlled exclusively by the Water Department. Any fees, labor, material and pavement must be paid before work is begun.

§ 405-41. Installation of fire service; penalty for use of water for other than fire service; temporarily shutting off service.

- A. Standpipes or pipes for automatic suppression of fire in buildings, which fixtures are only intended for such use, may be attached to the water supply. All material for such connection shall be approved

by the Superintendent of Water, and all labor in carrying such services to the curb shall be done by employees of the Water Department. No charge will be made for use of water for this purpose; but all such pipes must be provided with suitable valves outside of the building and under the exclusive control of the Water Department; also in case of standpipes, a valve must be provided and placed at the bottom of the standpipe. No standpipe or other fixture for fire protection will be allowed in premises where water is not taken for other than fire purposes. The Water Department reserves the right to refuse any or all applications for water for merely fire protection uses at its discretion. The entire cost and expense of installing the fire service shall be borne by the owner of the premises. Under no condition shall connection be made with such fire protection fixtures for the supply of water for any other purpose. All persons making such a connection or any owner using water from fire service fixture's for other than purposes intended, shall be liable to a fine of not more than \$150 and, in default of payment thereof, to imprisonment of one day for each dollar of such fine remaining unpaid.

- B. In case of an emergency, if the fire service is to be shut off temporarily, a letter from the owner of the property is required in order that the Water Department will assume no responsibility in the shutting off of a fire service.

§ 405-42. Repairs to fire service.

The owner of the premises on which fire service is located may, upon application to the Water Department, have repairs made to such fire service by the Water Department. All costs for repairs will be assumed by the owner of the premises.

§ 405-43. Maintenance of fire service.

The owners of the premises where pipes are in service for fire protection only shall maintain such service pipes their entire length from the street main into the premises; and they shall be responsible for any damage that may be caused by a leak in such pipe, or the breaking or busting of such pipes, unless such damage has been caused through some fault of the Water Department.

§ 405-44. Supplying water to neighboring premises.

No person shall supply water in any manner or through any fixture or device whatever to the occupants of neighborhood premises of any description except by special written permit from the Superintendent of Water.

§ 405-45. Supplying water to detached buildings. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Permit required. In cases where it becomes advisable and necessary to supply water to a number of detached buildings upon a single undivided City lot from an attachment affixed or properly belonging to only one of said buildings, a special permit for the use of the City water may be granted by the Superintendent of Water.
- B. Unauthorized use of water. The owner of the premises will be held responsible for all unauthorized use or waste of water; and in case such unauthorized use or waste is discovered, the permit will be at once revoked and the water shut off without notice; and the same will not be turned on again until all charges for unauthorized use or waste shall have been paid together with the charge as established from time to time by the Superintendent of Water, for turning on the water.

§ 405-46. Supply of water to services outside City. [Amended 6-2-08 by Ord. No. 28-2008]

- A. All municipalities, water districts, persons, firms or corporations outside the City limits desiring a supply of water in a private main must comply with the rules and regulations of the Water Department and must make application therefore to the Superintendent on forms prepared for that purpose, whereupon the Superintendent shall make report thereof to the City Council; and upon the

execution of a contract therefore between the applicant and the City when authorized by ordinance of the City Council and approved by the Board of Estimate and Apportionment, the Superintendent may arrange for furnishing water to such applicant at rates established by him or her and approved by the Board of Estimate and Apportionment.

- B. Any addition to or connection with such private mains or supply pipes for the purpose of supplying water to other premises shall not be made until a written permit is granted by the owner of said pipes to the party or parties desiring such connection, and a copy thereof filed with the Water Department, and said party or parties agree to comply with the rules and regulations of the Water Department. The Water Department reserves the right to refuse to permit such outside connections and to discontinue the supply of water from same at any time.
- C. All municipalities or outside water districts who have entered into an agreement with the City of Binghamton for the purpose of receiving water shall annually provide the City of Binghamton with detailed service area maps providing all mains and connections that connect to the City mains and served by said agreement. This information must be submitted to the City in electronic format of ArcView or mutually agreed upon GIS compatible formatting. If electronic format is not available, then this information must be submitted on paper. Plans for any proposed changes which may influence water distribution and needs, must be submitted as well. If there is no change from previous submission, a letter stating this will be acceptable. All required information in this section should be submitted to the Superintendent of Water.

§ 405-47. Supply of water to contractors. [Amended 4-15-1996 by Ord. No. 64-96]

- A. Permit required. Water will be furnished to builders or contractors as such for construction purposes only upon application to the Water Department for and receipt of a permit for each use in writing and personally signed by the Superintendent of Water.
- B. Charges; estimated amount of work; advance payment. Before receiving a permit the applicant shall pay to the Water Department an application fee as set from time to time (See Exhibit J). The estimated amount and payment for such water will be required by the Water Department to be made in advance before permit is granted.
- C. Hydrant wrenches and connection to hydrants. Where necessary to make temporary connections with fire hydrants, standard hydrant wrenches and reducing caps must be used. All wrenches, reducing caps, fittings, valves, etc., shall be approved by the Water Department and provided by the permittee. An approved backflow preventer must be installed. The type of device shall be determined by the degree of hazard presented. Final determination will be by the Water Superintendent.
- D. Termination, revocation of permit. Permits under this section shall terminate on November 1 of each year, and may be revoked at any time by the Superintendent of Water. Any person who shall be found guilty of using water or making connections with hydrants contrary to the provision of this section shall be punishable as provided in § 405-20.
- E. Supply of water by consumer. No consumer of water will be allowed to furnish City water for building purposes on his or her own or other premises without first paying for the same for said purposes and receiving a permit for such use from the Water Department. In case the builder is required to insert a special service pipe or fixture to enable him or her to procure said water for building purposes, the application for such service must be made by the owner or agent of the property, after which the permit for such use may be issued to the builder on his or her application;

and he or she must file an application to have the water turned off at the curb as soon as he or she has finished his or her work.

F. Issuance of permits. Permits shall be given at the discretion of the Superintendent of Water.

G. Penalty for violation. Any person who shall be found guilty of using water or making connections with hydrants contrary to the provisions of this section shall be punished as provided in § 405-20.

§ 405-48. Shutting off service; expense to be borne by owner. [Amended 6-2-08 by Ord. No. 28-2008]

When for any reason the use of a service is discontinued, such service shall be shut off at the corporation cock at the main and any branch abandoned shall be capped, and in case this section has not been complied with, such service may be so shut off and any such branch capped by the Water Department; and all expense connected therewith shall be borne by the owner and chargeable against the property at which such service was discontinued regardless of whether or not such owner owned such property at the time that such service was discontinued. If the owner refuses to reimburse the City for service so rendered, the water may be shut off until payment is made. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52. Any plumber violating this section will be subject to punishment under § 405-20 of this chapter.

§ 405-49. Yard hydrants prohibited. [Amended 4-15-1996 by Ord. No. 64-96]

No yard hydrant or standpipe will be allowed in any yard or lot with the exception of providing additional fire protection as required by building and fire codes. An aboveground service, adequately protected from frost and with adequate backflow protection, may be permitted at the Superintendent's discretion, based on special circumstances. Any such existing yard hydrant must be abandoned upon notification of the Water Department.

§ 405-50. Steam boilers.

The City or the Water Department will not be responsible for any accidents or damages that may result through supplying steam boilers directly from the service pipe, and depending upon the pressure from the distributing pipes of the waterworks to fill such boilers under working pressure; nor will the City be responsible for any accidents or damages that may result in consequence of house boilers being unprotected by vacuum or other valves, or the imperfect action of the same, nor for any lack of strength in the boilers or in their appurtenances to withstand the pressure in the distributing mains; neither will the City be responsible for any damage occasioned by reason of the breaking of any cock, valve or of service pipe or appurtenance thereto, nor for any accidents or damages arising from shutting off the water for the repairs of mains, for new work or for any purpose whatever.

§ 405-51. City not liable for change of pressure.

The City or the Water Department shall not be liable for any damage or loss of any kind to property or persons which may arise from or be caused by any change in or increase of water pressure from any cause whatever.

§ 405-52. Shutting off water. [Amended 6-2-08 by Ord. No. 28-2008; Amended 4-6-11 by Ord. No. 11-10]

A. Right of City. Water may be shut off by the Water Department from any service or main for the purpose of making or constructing new work or making repairs in the water system, or for enforcement of payment of moneys or charges due to the City for water supply and for other matters in accordance with the rules and regulations set forth in this chapter in order to enforce compliance with such rules and regulations, IN Case of making or constructing new work or in making repairs, the rift is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.

- B. Notice. In the event of shut off for nonpayment or violation of these rules and regulations, written notice shall be sent, prior to shutoff, by certified mail to the owners of the premises as shown by the latest assessment rolls of said City. Notice shall also be conspicuously posted on the front door of the building. Each notice shall be postmarked and posted not less than fifteen days prior to shut off. The notice shall include the anticipated date the water will be shut off, the reason for the shut off, and it shall notify the property owners and tenants of their right to request a hearing. The City may in its discretion provide additional notice, but failure to do so does not preclude shut off. It is understood and agreed, however, the City is not liable for any damage which may result to any person or premises from the shutting off of the water from any main or service for any purpose whatever, ever in cases where not notice is given.
- C. Right to Hearing. Upon receiving a shutoff notice either through the mail or posted on the front door of the building, a property owner or tenant of the premises may request a hearing in writing and sent by certified mail to the City Treasurer not less than five days prior to the shutoff date listed on the notice.
- D. Hearing. The Mayor shall designate a hearing officer who will conduct the hearing and make a decision as to whether the shut off of water at the premises should go forward. The hearing shall be scheduled by the hearing officer within thirty (30) days of the date the City receives the hearing request. Written notice of the hearing date shall be provided to the party requesting the hearing and shall also be provided to the property owner. The hearing officer shall not be bound by the technical rules of evidence. The parties shall have the right to submit relevant evidence, which shall be afforded the appropriate weight by the hearing officer. The hearing officer shall have discretion to make decisions on a case by case basis. The hearing officer shall issue a written decision that must be sent regular class mail within fifteen days from the date of the hearing to the property owner and tenants who appeared at the hearing. In the event that the decision is to move forward with the water shut off, the decision shall provide a date when the Department of Water will shut off the water at the property, and a new shut off date will be posted at the property.
- E. Charge for turning on water; compliance with rules required before service restored. A charge as established from time to time by the Superintendent of Water will be incurred for turning on water. Whenever the water supply has been shut off for a failure to comply with these rules and regulations, it shall not again be turned on, except by the Water Department, until compliance is made with these rules and regulations in the matter and/or payment made by the property owner to the City Treasurer.

§ 405-53. Opening fire hydrants. [Amended 4-15-1996 by Ord. No. 64-96]

All street hydrants are under control of the Water Department. No person shall use a wrench for opening hydrants except a wrench approved by the Bureau of Water for the purpose. No person, except an authorized agent or employee of the Water Department, or of the Fire Department, or street cleaning employees of the City, or a person holding a written permit signed by the Superintendent of Water, shall disturb any hydrant or any part thereof, or take any water therefrom under any circumstances whatever; and any person found guilty of violating any provision of this section shall be punished as provided in § 405-20 hereof, and in addition thereto such person shall pay to the City a penalty equal to the amount of damage done to said hydrant or the cost of restoring the same to its proper condition.

§ 405-54. Damage to hydrants or other water appurtenances.

In case any damage to a street hydrant, or any other water appurtenance, is done by any person having a permit and taking water from said hydrant for construction or other uses, the holder of the permit shall pay such damages and all cost and expenses that may be incurred by reason thereof, on demand, to the City or to the Water Department and in addition thereto his or her permit may be revoked.

§ 405-55. Obstructions to hydrants.

No person shall place any obstruction that would prevent free access to any fire hydrant or leave any vehicle standing within 15 feet of any hydrant. A violation of this section will be punished as provided in § 405-20.

§ 405-56. Change in size, type or location of hydrants.

If a property owner desires a change in the size, type or location of a hydrant, he or she shall bear the costs without refund.

§ 405-57. Use of hydrants by volunteer fire companies from districts outside City.

No hydrants shall be used by volunteer fire companies from districts outside of the City unless arrangements have been made by the Water Department, except in case of emergencies. The water used by such individuals must be paid for at the current rate or by special application to the Superintendent of Water.

§ 405-58. Purchase of wholesale water in tank facilities. [Amended 4-15-1996 by Ord. No. 64-96]

Any purchase of wholesale water in tank facilities shall be taken from hydrants designated by the Water Department and operated by personnel of the Water Department. A wholesale is required. A fee as set from time to time shall be paid prior to issuance of a permit (See Exhibit J). The permit shall expire November 1 of each year. The permit must be signed by the Water Superintendent. The Water Superintendent must be notified of each load of water taken. Payment will be made for all loads on a weekly basis. Failure to pay weekly charges will prohibit future use. All water will be billed at the current residential rate per 100 cubic feet. All tank facilities shall be equipped with an approved backflow preventer or a permanent air gap to prevent backflow and contamination.

§ 405-59. Street gates to be operated by employees only.

No person except an employee of the Water Department shall open, close, or in any way interfere with any street valve or gate in any water main, conduit or street pipe.

§ 405-60. Displacing or covering valve box; penalty.

Any person who has disturbed or displaced a valve box so that the valve stem cannot be reached by a key, or who has covered a valve box or manhole cover of a valve chamber with dirt, paving, plank or other material, shall immediately replace the valve box and remove the obstruction and shall be subject to a fine of not less than \$10 nor more than \$25, or to imprisonment for not less than 10 nor more than 30 days for each offense.

§ 405-61. Use of water for filling swimming pools and other purposes. [Amended 4-15-1996 by Ord. No. 64-96]

- A. The use of a fire hydrant for filling swimming pools or other purposes not defined in other sections is prohibited.
- B. Penalty for violation. Anyone found guilty of violating this section shall be punished as provided in § 405-20.

ARTICLE III, Meters

§ 405-62. Services to be metered; size of meters; installation and costs. [Amended 4-21-1997 by Ord. No. 35-97; Amended 6-2-08 by Ord. No. 28-2008]

- A. The Superintendent of Water shall, in granting applications for new connections, whether said connections are to replace old connections desired to be abandoned or are for the purpose of supplying new buildings, require that the connected services therewith be metered. Meters 3/4 inch or less in size shall be furnished and installed free by the Water Department. When the meter required is larger than the size specified in this section, the meter will be furnished and installed by

the Water Department; but the cost of any necessary asbestos remediation, required services of a licensed plumber, and the cost of the meter shall be borne by the owner. If the owner fails to make such payment, the water may be shut off until such payment is made. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

- B. In case it is necessary to install a meter in an outside setting, the extra expense of this setting must be borne by the owner and paid to the Water Department; and in default of such payment, the water supply may be shut off until such payment is made. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-63. Additional meters for submetering [Amended 6-2-08 by Ord. No. 28-2008]

Additional meters, for submetering, must be furnished, installed and maintained by the owner at his or her own cost and expense; and must be placed so as not to divert any water in passing through the meter belonging to the City.

§ 405-64. Space for meters.

- A. Plumbers installing new services or house plumbing shall leave sufficient horizontal space next to the stop and waste cock for the installation of meters as follows:

<u>Size of Meter (inches)</u>	<u>Space to be Left for Installation (inches)</u>
5/8	13 1/2
3/4	14 1/2
1	16
1 1/2	30
2	36

- B. The Water Department may refuse to install a meter or allow the water to be turned on to such services until this section is complied with.

§ 405-65. Condition of services prior to meter installation. [Amended 6-2-08 by Ord. No. 28-2008]

No meter shall be installed by the Water Department unless the service, service fixtures and plumbing adjacent to the proposed location of the meter are in good and serviceable condition. The curb box must be readily accessible; the curb cock, stop and waste cock in good working order; and any rusty or unsafe pipes next to the proposed locations of meters must be replaced. The Superintendent of Water shall notify the owner, as shown on the latest assessment roll of the City, of the property in writing by certified mail. Such written notice shall contain the date for completion, at the discretion of the Superintendent of Water, up to but not longer than 12 months from the date the written notice is issued. If repairs are not made before such date for completion, the water may be shut off until the necessary repairs are made. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-66. Installation of check valves and bypasses.

All meters installed by the Water Department shall, where it is deemed necessary, have check valves placed next to outlets, at the owner's expense, to prevent hot water from backing through the meter. If the owner of premises so desires, meters two inches or larger in size may be installed with bypasses, so that meters may be removed for testing or repairs without hindering the supply of water. The expense of such bypasses and additional work shall be borne by the owner. All such bypasses shall be locked and sealed and shall be under the exclusive control of the Water Department.

§ 405-67. Ownership and care of meters. [Amended 12-4-2006 by L.L. No. 2-2006; Amended 6-2-08 by Ord. No. 28-2008]

All meters installed by the Water Department shall remain the property of the City, and property owners in whose premises such meters are installed will be held responsible for their safekeeping. The property owner

shall be liable for any damage which said meters may sustain, resulting from the carelessness of the owner or his or her agent or tenant or from neglect of either of them to properly secure and protect the same, including any damage that may result from allowing said meters to become frozen, or to be injured by hot water or steam setting back through the boilers, and the amount of any such damage and labor shall be paid to the City by the owner. In default of such payment, the water supply may be shut off until such payment is made. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-68. Charge for resetting meter. [Amended 6-2-08 by Ord. No. 28-2008]

In the event a meter is frozen or damaged, a service charge as established from time to time by the Superintendent of Water will be incurred by the owner of the premises. Failure to pay such service charge may result in shut off of the water supply at the premises until all service charges are paid. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-69. Repairs to meters. [Amended 6-2-08 by Ord. No. 28-2008]

All repairs to meters, whether owned by the City or the consumer, shall be made by regular employees of the Water Department only. Repairs due to ordinary wear will be made free of charge, but repairs due to hot water, freezing or other internal sources must be paid for by the owner of the premises. If a meter is damaged beyond repair, such owner must pay the service charges incurred as established from time to time by the Superintendent of Water. Upon refusal of owner to pay for any such repairs, the water may be shut off and will not be turned on again until all charges are paid. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-70. Meters to be sealed; breaking seals.

All meters installed by the Water Department and all bypasses shall be sealed. Seals must not be broken by persons other than regular employees of the Water Department.

§ 405-71. Removal of meters.

No meter shall be removed or disturbed by persons other than regular employees of the Water Department without express permission being given by the Superintendent of Water.

§ 405-72. Testing of meters; correction of charges due to meter fault or incorrect reading. [Amended 6-2-08 by Ord. No. 28-2008]

Persons making complaint as to the correctness of meter bills and claiming to be overcharged can, by applying in writing to Water Billing Office within ten days after meter bills have been issued and paying a deposit at the Water Billing Office in an amount as established from time to time by the Superintendent of Water, request to have the meter taken out and tested. If the meter is found to be correct or to under-register, the deposit will be retained by the City as payment for testing the meter. Should the meter be found to over-register, the account will be credited in an amount equal to the deposit and the appropriate overcharge. The Superintendent of Water is authorized to correct any charge due to a fault in the meter.

§ 405-73. Reading of meters; identification of meter readers. [Amended 6-2-08 by Ord. No. 28-2008]

Meters will be read three times each year as specified by the Superintendent of Water, or so often as deemed necessary by the Superintendent of Water. Meters will be read only by regular authorized agents of the Department of Water wearing picture identification badges of the City. Only parties wearing such badges should be recognized.

ARTICLE IV, Bills and Billing

§ 405-74. Rendering of water bills. [Amended 6-2-08 by Ord. No. 28-2008]

- A. Water bills for metered or estimated water consumption for all consumers will be issued three times each year.

- B. Effective September 1, 2008, partial payments for water bills will be accepted at the Treasurer's Office and via mail. Water bills paid on-line must be paid in full.
- C. Water bills based on estimated consumption, as approved by the Superintendent of Water, may be required. Corrections of errors in any estimate will be corrected at the next scheduled meter reading and on the subsequent water bill.
- D. The Superintendent of Water is authorized to correct any charge due to a fault in the meter or to incorrect reading of the dial, but shall have no power to reduce water bills based on meter readings for any other reason whatsoever

§ 405-75. Meters to be billed separately.

In the event that more than one meter is furnished to a consumer, it shall be the policy of the Water Department to bill each meter individually.

§ 405-76. Owner responsible for payment of bills; failure to receive bill not waiver of payment.

The property owner shall be responsible for the payment of all bills rendered for water services. Failure to receive a bill shall not be considered an act or waiver of payment.

§ 405-77. Failure to pay water bill when due. [Amended 8-7-1989 by Ord. No. 88-89; Amended 6-2-08 by Ord. No. 08-28; Amended 4-6-11 by Ord. No. 11-10]

- A. Effective September 1, 2008, water bills will be issued on the first of the month.
 - 1. Water bills are due and payable without late fees by the 15th of the month following the month the water bill is issued.
 - 2. On the 16th of the month following the month the bill is issued, an 8% late fee (8% of the total outstanding water bill account balance) will be assessed and added to the account.
 - 3. On the 16th of the 2nd month following the month the bill is issued, a 4% late fee (4% of the total outstanding water bill account balance) will be assessed and added to the account.

Example:

Bill is issued January 1
 Due on February 15
 8% late fee added to outstanding account balance on February 16
 4% late fee added to outstanding account balance on March 16

- B. If a water bill account is delinquent with a balance that exceeds \$200.00 at any time, then water service shut off may occur in accordance with the provisions set forth in Section 405-52.
- C. A fee shall be required to turn the water back on after being shut off, which shall be established from time to time (See Exhibit J) by the Superintendent of Water. Service shall remain shut off until such time that the owner has paid the full amount owed to the City, including any late fees or penalties assessed. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.
- D. In the event the City should amend the water bill due dates, the Superintendent of Water may extend the time to pay during such transitional period.
- E. All outstanding water bill account balances on November 15th for bills issued through August 1st will be added to the real estate taxes for the following year. Water bill accounts that have outstanding

balances of less than \$50.00 will not be added to real estate taxes for the following year, but remain as an outstanding balance on the water bill account.

§ 405-78. Fee for closing statement. [Added 4-20-1981 by Ord. No. 55-81]

All closing statements of unpaid water rents and sewer rents shall be rendered by the Water Department in writing on a form prescribed by the Superintendent of Water. The Superintendent shall collect a fee in an amount as set from time to time for each certificate prepared by the Water Department (See Exhibit J).

§ 405-79. Special bills. [Amended 6-2-08 by Ord. No. 28-2008]

- A. When due and payable. All special bills and charges for services rendered, materials sold or expense incurred by the Water Department in connection with the rules and regulations set forth herein must be paid at the office of the City Treasurer within 45 days after the bill is rendered.
- B. Failure to pay. The supply of water may be shut off from the premises with reference to which such charges become due, in default of payment of such bills or charges and until such bills and charges are paid. Water service shut off shall occur in accordance with the provisions set forth in Section 405-52.

§ 405-80. Payment of delinquent water charges prior to restoration of service.

Whenever the owners of any premises which are supplied with water shall be charged for water supplied, for services rendered, water furnished or expense incurred by the Water Department pursuant to the rules and regulations set forth in this chapter, and if the charges are not paid and the water was turned off on account of such nonpayment, no application for water service for such premises need be granted by the Water Department (notwithstanding the premises may have changed ownership) until such charges shall have been paid in full to the City Treasurer.

§ 405-81. Application for rebate.

No application for rebate on any charge pertaining to water will be entertained unless such application be made on or within 30 days from date of the payment of such charge.

§ 405-82. Failure to make repairs.

No rebate from any water bill will be made in cases where the charges result from the failure on the part of the owner or consumer to promptly repair any broken, frozen or defective fixture or service.

Chapter 410, ZONING

[Adopted by the City Council of the City of Binghamton 8-7-2006 by Ord. No. 06-31 (Appendix A of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Commission on Architecture and Urban Design -- See Ch. 18, Art. VI.
- Landmarks Preservation Commission -- See Ch. 18, Art. XII.
- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Erosion control -- See Ch. 227.
- Flood damage prevention -- See Ch. 240.
- Housing and property maintenance -- See Ch. 265.
- Collateral loan brokers and secondhand dealers -- See Ch. 275, Arts. II and III.
- Noise -- See Ch. 292.
- Use of rights-of-way -- See Ch. 327.
- Sewer use -- See Ch. 342.
- Solid waste -- See Ch. 350.
- Subdivision of land -- See Ch. 360.
- Water -- See Ch. 405.

ARTICLE I, Title; Purpose and Intent

§ 410-1. Title.

This chapter shall be known and cited as the "Zoning Ordinance of the City of Binghamton, New York."

§ 410-2. Purpose and intent.

The purpose of this chapter is to implement the policies of the City of Binghamton as expressed in the Comprehensive Plan adopted by City Council on May 5, 2003. It is intended that the provisions of this chapter shall be held to be the minimum requirements adopted for, among others, the following purposes:

- A. To promote the public health, safety and general welfare of the citizens.
- B. To provide adequate light, air, and privacy, and to secure safety from fire and other dangers.
- C. To prevent the overcrowding of land and the undue concentration of population.
- D. To protect natural features such as forested areas and water and drainage courses, and to minimize the hazards to persons and damage to property resulting from the accumulation or runoff of storm and flood waters.
- E. To protect and conserve the existing or planned character of all parts of the City and, thereby, aid in maintaining their stability and value, and to encourage the beneficial development of all parts of the City.
- F. To provide a guide for public policy and action that will facilitate the economical provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to use of land and buildings throughout the City.
- G. To minimize conflict among uses of land and buildings, and to bring about the gradual conformity of uses of land and buildings throughout the City to the concepts of a well-considered plan.

- H. To divide the City into districts and to prescribe for each such district the trades, industries and land use activities that shall be permitted, excluded or subjected to special regulations before buildings are altered or erected, or land is used.
- I. Pursuant to and in accordance with the provisions of § 20(24) of the General City Law, to regulate and limit the height, bulk and location of buildings hereafter erected, to regulate and determine the area of yards, courts and other open spaces, and to regulate the density of population in any given area.
- J. To safeguard the heritage of the City of Binghamton by preserving significant districts and landmarks which reflect periods of its cultural, social, economic, political, artistic and architectural history.
- K. To promote the preservation, rehabilitation, restoration and use of historic landmarks and buildings for the education, pleasure and general welfare of City residents.

ARTICLE II, Definitions

§ 410-3. Applicability of article.

For the purpose of this chapter, meanings of the following words and phrases shall be as defined in this Article II.

§ 410-4. Interpretation.

Words used in present tense shall include the future tense. The singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure." The word "shall" is mandatory; the word "may" is permissive.

§ 410-5. Terms defined. [Amended 3-2-09 by Ord. No. 9-2009; Amended 7-20-09 by Ord. No. 23-2009; Amended 12-21-2011 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No. 13-49; Amended 2-3-2016 by Local Law 16-02]

As used in this chapter, the following terms shall have the meanings indicated:

ABUTS, ABUTTING -- Having a common property line or zoning district line; adjoining, touching.

ACCESSORY BUILDING -- A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

ACCESSORY USE -- A use that is customarily incidental and subordinate to the principal use on a lot, and located on the same zoning lot. An accessory use may not be accessory to another accessory use.

ADJACENT -- To lie near or close to; in the neighborhood or vicinity of but not necessarily touching.

ADULT BOOKSTORE -- An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals or coin-operated machines which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined in this section), or an establishment with the equivalent of 100 lineal feet of shelving or counter space devoted to the sale or display of such material.

ADULT ENTERTAINMENT ESTABLISHMENT -- An establishment having as a substantial or significant portion of its stock-in-trade, including, but not limited to, the presentation, characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities (as defined in this section), of the following activities: live shows; motion-picture films or sound recordings presented to a common audience in an enclosed common area; visual or audio material presented by coin- or slug-operated, or electronically or mechanically controlled, still or motion-picture machines, projectors or other image-producing devices to five or fewer persons per machine at any one time; any business enterprise serving food, beer, wine, or liquor whose entertainers, waiters, or waitresses appear in a state that displays any specified anatomical areas (as defined in this section); or any business enterprise that offers services requiring

or allowing the client or customers to display any specified anatomical areas, except medical and health establishments.

ADULT NOVELTY STORE -- An establishment having as a substantial or significant portion of its stock-in-trade, including, but not limited to, articles of clothing, mechanical devices and accessories which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined in this section), or an establishment with a segment or section exclusively devoted to the sale or display of such material.

ADULT RESIDENTIAL CARE FACILITY -- Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons who, by reason or limitations associated with age or physical disabilities, are unable to live independently.

A. There are two types:

- (1) Facilities for four or fewer adults: licensed and periodically inspected by the Broome County Department of Social Services.
- (2) Facilities for five or more adults: licensed and periodically inspected by New York State Department of Social Services.

B. See also "convalescent home" or "foster homes for adults."

AGRICULTURE -- The growing of crops, fruits, plants, vines, trees or shrubs for commercial sale and accessory uses customarily incidental to such activities. (See also "garden, noncommercial," "garden, community or neighborhood," and "greenhouse, commercial.")

ALLEY -- A dedicated public thoroughfare affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALL-TERRAIN VEHICLE or ATV -- Any recreation vehicle with three or more tires, weighing under 850 pounds, 48 inches or less in width, having a wheelbase of 61 inches or less, traveling on low-pressure tires of 10 psi or less. This includes: go-karts, motor scooters and midget autos.

ALTERATIONS -- Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another. Normal repairs and maintenance shall not be considered as alterations.

ALTERNATIVE DOMESTIC ENERGY SUPPLY INSTALLATION -- The installation of a device designed to provide alternative sources of energy, including but not limited to windmills and solar panels.

AMUSEMENT ARCADE -- An indoor amusement and recreation establishment wherein the principal use is the provision of electronic or mechanical game devices available to the public on a commercial (pay in order to play) basis, or a restaurant, bowling alley, billiard parlor, transportation terminal, hotel, or motel which contains eight or more such electronic or mechanical games.

AMUSEMENT GAME -- Any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game of skill by the insertion of a piece of money, coin, token or other article, or by paying money to have it activated. This definition does not include:

- A. A jukebox.
- B. Amusement park rides.
- C. Bowling alleys.
- D. Any device maintained within a private residence for use of the occupants thereof and their guests.
- E. Any device the possession or use of which is prohibited by law.

F. Pool tables.

G. Adult bookstores or novelty stores.

ANIMAL CLINIC -- Any structure where animals or pets are given medical or surgical treatment, but not including boarding or kenneling of animals.

ANIMAL HOSPITAL -- A building used for the treatment, housing, kenneling, or boarding of small household pets such as dogs, cats, rabbits, ferrets, and birds by a veterinarian.

ANTENNA AND SATELLITE DISH -- A structure or device utilized for the receiving and/or transmitting of communication signals, not enclosed within a building or structure, and any form of satellite receiving dishes. It shall specifically exclude customary VHF and UHF television antennas and television/radio transmission towers licensed for public broadcast by the Federal Communications Commission.

ART GALLERY -- A structure or building utilized for the display of artwork, including paintings, sculptures, and paintings for sale to the public.

AUTOMATIC TELLER MACHINE -- Any establishment or device whose purpose is the performance of financial transactions to a customer without the aid of a teller.

AUTOMOBILE BODY SHOP -- A shop in the business of making substantial repairs to the shell or body of any automobile, and of major or substantial painting of the shell or body, and where the following services may also be carried out: general auto repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, overall painting and undercoating. The shop must be licensed by New York State.

AUTOMOBILE DETAILING BUSINESS -- An establishment that specializes in the installation of pin striping, window tinting, and decals on passenger vehicles. Accessory cleaning, washing, and waxing may be performed, but no repairs of any kind are permitted.

AUTOMOBILE hand washing BUSINESS -- Any structure or land where the washing and/or waxing of automobiles or other motor vehicles is carried on manually by high-pressure spraying in a self-service manner.

AUTOMOBILE MECHANICAL WASHING BUSINESS -- Any structure or land where the washing and/or waxing of automobiles or other motor vehicles is carried out by a chain or other conveyor system with water jets, blowers and/or steam cleaning devices.

AUTOMOBILE REPAIR, PRIVATE NONRESIDENTIAL -- The repair of motor vehicles owned by anyone other than the registered owner of that vehicle.

AUTOMOBILE REPAIR SHOP -- A place where the following services may be carried out: general auto repair, engine rebuilding, and rebuilding or reconditioning of motor vehicles. Automobile repair stations shall not include collision services or painting and undercoating of motor vehicles. The sale of engine fuels may or may not also be carried on. The shop must be licensed by the New York State Department of Motor Vehicles.

AUTOMOBILE FUEL STATION -- Any establishment dispensing motor vehicle fuel from underground storage tanks, pipes, compressors, batteries or electrical transmission facilities, into vehicles including, but not limited to, gasoline, diesel fuel, Gasohol, hydrogen, compressed natural gas, electricity, or any combination thereof, or retailing minor accessories directly to the public on the premises and where minor mechanical repair of automobiles, may occur. Automobile service stations shall not include sale or storage of automobiles or trailers, new or used. The facility must be licensed by the New York State Department of Motor Vehicles.

AUTOMOBILE/VEHICLE SALES FACILITY -- A commercial establishment of which the principal use is sales of automobiles, light trucks and/or vans. [See the definitions of "motor vehicle sales, new," "motor vehicle sales, used (major)," and "motor vehicle sales, used (minor)."]

AUTOMOBILE WRECKING YARD -- See "vehicle salvage facility."

AUTOMOTIVE PARTS AND ACCESSORIES ESTABLISHMENT -- A business that sells new, used, and reconditioned automotive parts and accessories. Auto parts may be reconditioned on-site, but no auto repairs or installations are allowed. This definition shall be distinctive from "junkyard" and "vehicle salvage facility."

AWNING/CANOPY -- A roof-like cover made of canvas or similar material which projects from the wall of a building for the purpose of shielding a doorway or window from the elements, not including a marquee. An awning or canopy may or may not have signage.

BAKERY, RETAIL -- A building or structure utilized for the baking of breads and/or pastries for sale on-premises.

BAKERY, WHOLESALE -- A building or structure utilized for the baking of breads and/or pastries for sale off-premises.

BANK AND FINANCIAL INSTITUTIONS (WITH OR WITHOUT DRIVE-THROUGH) -- A building or structure utilized for direct transactional services to the public, including the maintenance of checking and savings accounts, certificates of deposits, etc., and the providing of related incidental financial services associated with a bank; does not including check cashing stores or collateral loan brokers. [Amended 12-4-2006 by L.L. No. 2-2006]

BANK, DRIVE-THROUGH -- A bank where transactions are made to customers within an automobile outside the confines of a building.

BANQUET/CATERING FACILITY -- An establishment which serves food and drink and provides entertainment to paying customers and their invited guests for weddings, bar mitzvahs, birthdays and other similar occasions.

BARBERSHOP/BEAUTY PARLOR -- An establishment for the cutting and care of hair and/or fingernails, tanning, facial make-up consulting, waxing, one or any combination of the above and other beauty-related services.

BASEMENT -- That habitable space of a building that is partly below grade which has more than half of its height, on average, measured from floor to ceiling, above the finished grade of the ground around the building (See also "cellar."); counted as 1/2 story in determining building height.

BED-AND-BREAKFAST HOME -- An owner-occupied one- or two-family home that provides one to five rooms for paying guests on an overnight basis. Guest occupancy periods shall not exceed 21 consecutive days. The occupancy of such a bed-and-breakfast home is limited to two persons or one family per lodging unit or guestroom.

BED-AND-BREAKFAST INN -- An owner-managed dwelling that provides six to 10 guest rooms, limited to two persons or one family per lodging unit or guest room, on an overnight basis for periods not to exceed 21 days. A bed-and-breakfast inn is not a multiple-family residence.

BEDROOM -- Any room in a dwelling that is to be used for sleeping.

BILLBOARD -- See Article XI, § 410-60B(2).

BILLIARD PARLOR/POOL HALL -- An establishment where more than 50% of the business is dedicated to billiards.

BIORETENTION -- An integrated stormwater management practice that uses the chemical, biological, and physical properties of plants, microbes and soils to remove or retain pollutants from stormwater. Bioretention areas may or may not have an under drain.

BIORETENTION AREAS -- shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses.

BOARDINGHOUSE -- An owner-occupied dwelling with up to three roomers or lodgers in the same household, who are lodged with or without meals, and in which there are provided such services as are incidental to the use of the dwelling as a temporary residence for part of the occupants. (See also "rooming house.")

BOWLING ALLEY -- A building or structure utilized primarily for the sport of bowling, and may include the incidental sale or dispensing of food and drink and the sale or rental of bowling equipment.

BREW PUB -- A restaurant containing a microbrewing facility for the brewing and storage of beer only, primarily for consumption on premises. Such brewing facilities shall be accessory to a restaurant.

BUFFER STRIP -- A strip of land, generally adjacent to a property line, in which a screen of plantings with or without solid fencing is installed and maintained by the owner of the property. Such screen shall be planted with deciduous or evergreen trees and shrubs in any combination deemed appropriate which is dense enough and high enough to be a buffer between properties. (See § 410-18.)

BUILDING -- A structure where space is covered or enclosed for the use, shelter, storage or protection of persons, animals, in-ground swimming pools or property of any kind, and which is permanently affixed to the land.

BUILDING AREA -- The total area, as measured on a horizontal plane at the main grade level, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, steps and paved areas.

BUILDING HEIGHT -- The vertical distance from finished grade to the highest point of a flat roof, the upper deck line of a mansard roof, or to the mean height between the low and high points of other roof types. For purposes of this definition, "finished grade" shall be the average between the high and low grade measured five feet from the structure.

BUILDING LINE -- The line formed by the intersection of the ground and a vertical plane that coincides with the most projected exterior surface of a building, on any side.

BUILDING, PRINCIPAL -- A building within which is conducted the principal use or activity of the lot on which said building is located.

BUILDING SUPPLY YARD -- A retail or wholesale establishment supplying building or lumber materials to contractors and the public where such materials stored, sold or displayed are located both indoors and outdoors.

BULK REGULATIONS -- Zoning requirements related to such things as lot area and size, yard dimensions, height, percentage of lot covered and regulations other than land use. Such requirements are generally set forth in §§ 410-28 and 410-33, Schedules IA and IIA, of this chapter.

BUS DEPOT -- A lot containing a building or structure utilized for the boarding and exiting of buses, the selling of transport tickets, and the incidental sale or dispensing of food and drink, but specifically excluding any bus garage or the servicing or repairing of buses.

BUSINESS -- An activity, occupation, employment or enterprise which requires time, attention, labor and materials and wherein merchandise is exhibited or sold, or services offered.

BUSINESS OFFICE -- A building or portion thereof utilized to accommodate the activities of a business. Uses include, but are not limited to, an insurance agency, real estate agency, abstract business, and computer-related services. (See "business.")

CANOPY -- See "awning."

CARPORT -- A roofed vehicle shelter with two or more open sides; an accessory building.

CATERING SERVICE -- Preparation and delivery of food and beverages exclusively for off-site service without provisions for on-site consumption by consumers.

CAUD -- Commission on Architecture and Urban Design created by Chapter 18, Art. VI.

CELLAR -- An uninhabitable space partly underground but having more than half of its floor-to-ceiling height below the average outside ground level. A cellar is not counted as a story in determining building height as required by §§ 410-28 and 410-33, Schedules IA and IIA. (See also "basement" and "dwelling, earth sheltered.")

CLINIC, MEDICAL, DIAGNOSTIC OR TREATMENT CENTER -- A building or portion thereof, the principal use of which is for offices of one or more practitioners and related support staff for the provision of medical, dental and/or optical services. This definition is meant to encompass a more intensive multiservice type of medical office in comparison to individual or group private practice of medicine. Services may include but are not limited to out-of-hospital examinations, on-site testing, treatment, including surgery, emergency room services, sophisticated testing equipment and twenty-four-hour accommodations for patients and their families. For the purpose of this chapter, this definition is also meant to include health maintenance organizations (HMOs) and medical surgery centers. (See also "professional office, health-related.")

CLUB OR LODGE, MEMBERSHIP -- An organization catering exclusively to members and their guests, or land and buildings used for recreational, social or athletic purposes. Such activity shall not be conducted primarily for gain, and no merchandising, business activities or commercial sales shall be conducted except as required generally for the membership and purposes of such club.

CLUSTER DEVELOPMENT -- The subdivision of an area into lots which are smaller than would customarily be permitted by this chapter; where the density of development is no greater than would be permitted in the district by conventional development, and where the residential land produced by the smaller lot size is used for common recreation and open space.

COMMUNITY CENTER -- A cultural, educational or recreational facility designed for neighborhood-wide or City-wide use and operated on a not-for-profit basis.

COMMUNITY RESIDENTIAL FACILITY -- Any noninstitutional residential facility that provides a supervised residence for children or adults and which is not subject to the New York State site selection law. Such residences may provide varying degrees of assistance, ranging from full or partial supervision, counseling, meals, and other services, which include but are not limited to:

- A. FAMILY CARE -- Residences in private homes in which a family or individual cares for a small number (three or fewer) of mentally ill adults.
- B. FAMILY CARE RESIDENCES -- Lodging and care for mentally retarded or developmentally disabled adults or children in private homes which are certified to provide such care by the State of New York. Existing family care residences have a maximum of 10 beds. Newly created residences are limited to six or fewer persons. The site selection law does not apply.
- C. COMMUNITY RESIDENCE FOR YOUTHS (GROUP HOME) -- Homes for youths above the number typically placed in a foster home, generally eight or more youths; not a residence for mentally or physically disabled children or youths; licensed by the New York State Department of Social Services, Division for Youth, or other sponsoring agencies. Typically, the state has a locally based sponsor that is often a nonprofit social service agency.
- D. CONTROLLED SUBSTANCE COMMUNITY RESIDENCE -- Group home or apartment for drug or alcoholic patients where there is periodic supervision by counselors; certified by the NY State Division of Alcoholism.
- E. COMMUNITY RESIDENCE, OTHER -- A community residence, other than those listed in Subsection A through D above, that is not subject to the New York State site selection law.

COMMUNITY RESIDENTIAL FACILITY FOR THE DISABLED -- A facility subject to licensing by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities which provides a residence for up to 14 mentally disabled persons, including residential treatment facilities for children and youth. Such facilities are subject to the New York State site selection law. Such facilities include, but are not limited to, the following: community residence, supervised; community residence, supportive; individual residential alternative; intermediate-care facility, family care, and residential school.

CONDOMINIUM -- A building project of single dwelling units, which may consist of one or more buildings wherein the real property title and ownership are vested in an owner having an interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for.

CONFORMING BUILDING -- Any building designed or intended for a land use or activity which is permitted by right or by special permit in the district in which such building is located and which complies with all the bulk regulations of this chapter, or any amendment thereof, for such district. (See also "bulk regulations.")

CONSERVATION -- The continuation of land in its natural state or any use that will maintain the land in essentially its natural state.

CONSTRUCTION EQUIPMENT SALES, STORAGE, AND MAINTENANCE -- A lot utilized for the purpose of storage, rental, and sales of construction equipment, including trucks associated with construction and the maintenance, repair, and servicing of the same. The facility must be licensed by the New York State Department of Motor Vehicles.

CONTIGUOUS -- See "abuts."

CONTRACTOR'S OFFICE AND YARD, BUILDING -- A property that is used as the office and yard of a building trade contractor. A building trade contractor shall be defined as any contractor who is in the

business of constructing or remodeling any building or structure. This definition includes electrical, plumbing, and HVAC contractors.

CONTRACTOR'S OFFICE AND YARD, HEAVY CONSTRUCTION -- A property that is used as the office and yard of a heavy construction contractor. A heavy construction contractor shall include, but is not limited to, bridge builders, water and sewer installers, concrete installers, blacktop paving companies, excavation and filling, building demolition, and road reconstruction contractors.

CONVALESCENT HOME -- Any licensed establishment where aged or infirm persons are provided with shelter, food and health care, on a twenty-four-hour basis, for compensation; corresponds to the New York State definition of "self-care or extended-care nursing home." Not included in this definition are establishments for the care of the mentally ill. There are two types of homes:

- A. **HEALTH-RELATED NURSING FACILITIES** -- For medically needy persons who do need medical care but not of the skilled variety. Residents are able to take limited care of themselves and even leave the home for periods of time.
- B. **SKILLED NURSING FACILITIES** -- These are nursing homes where the patient is in need of the attention of skilled medical professionals and is not able to attend to his or her own needs or can do so only to a very limited degree. Nursing homes can only be built or expanded with the approval of New York State. The state has very specific policies on the number of nursing home beds allowed various regions of the state. This definition does not include licensed care in private homes. (See also "adult residential care facility," "foster homes for adults," "community residential facility," and "community residential facility for the disabled.")

CONVENT -- A residence of a religious order, which may include facilities for assembly and education. (See also "monastery.")

CONVERSION -- The changing of use or occupancy by alteration, addition, or by other reorganization.

COVERAGE, BUILDING -- That percentage of a lot actually covered by the ground level area of a building and any upper floor projections where the projection is greater than five feet.

COVERAGE, LOT -- That percentage of a lot actually covered by the ground-level building area plus any structural upper floor extensions greater than five feet, plus any paved area used for parking and driveways.

CREMATORY -- A building containing facilities designed for or capable of incinerating deceased human or animal remains.

CRISIS RESIDENCE -- See "community residential facility" or "halfway house."

CULTURAL FACILITIES/MUSEUMS -- An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or primarily used for musical, dance, dramatic, or other live performances or a museum or gallery operated primarily for the display rather than sale of works of art.

DAY CARE -- Day care as regulated by the New York State Department of Social Services provides for day-care services as follows:

- A. **FAMILY DAY CARE** -- As used in § 390 of the Social Services Law, day care of children shall mean care provided for three or more children away from their own homes for less than 24 hours per day in a family home which is operated for such purpose, for compensation or otherwise, for more than five hours per week. A permit or certificate, as appropriate, is issued by the New York State Department of Social Services to regulate this type of care.
- B. **DAY-CARE CENTER (FACILITY)** --
 - (1) As used in 18 NYCRR § 418.1 et seq., day care of children shall mean care provided for three or more children away from their own homes in a day-care center, excluding those children receiving family day care as defined in "family day care." Such care shall be for more than three hours or fewer than 24 hours per day per child to any child accepted for care therein. The term "day care of children" includes services provided with or without compensation or payment.

- (2) Scope.
- (a) "Day-care center (facility)" shall mean a place, person, association, corporation, institution, or agency which provides day care as defined in 18 NYCRR § 418.1(a) and in which parents, guardians, or others responsible for care place children. The name, description, or form of the entity which operates a day-care center shall not affect its status as a day-care center.
 - (b) The term "day care center" shall not refer to care provided in:
 - [1] A day camp as defined in the State Sanitary Code (10 NYCRR Chapter 1).
 - [2] An after-school program operated for the primary purpose of religious education.
 - [3] A facility:
 - [a] Operated by a public school district; or
 - [b] Providing day services under an operating certificate issued by the Department of Social Services; or
 - [c] Providing day services under an operating certificate issued by the Department of Mental Hygiene.
- (3) Permit (license) is a document issued by the Department authorizing a place, person, association, corporation, institution, or agency to provide care for children in a day-care center in accordance with the regulations of the Department.

DAY CARE, ADULT GROUP -- Provision of daytime care in a residential or nonresidential structure to more than six adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities.

DAY CARE, ADULT HOME -- Provision of daytime care in a dwelling unit to adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities. The dwelling unit must be owner-occupied, and care cannot be provided to more than six adults at one time.

DEPARTMENT STORE -- A retail institution over 5,000 square feet that offers a variety of non-food goods for sale under one roof.

DEPENDENT RELATIVE -- A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of mobile buildings; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DORMITORY, OFF-CAMPUS -- A building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories.

DRIVEWAY -- That space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

DRY-CLEANING ESTABLISHMENT -- A retail establishment used primarily for the purposes of picking up or dropping off clothing by customers for dry-cleaning purposes, and in which only those clothes dropped off by the customers at such an establishment and no other are dry cleaned within the premises.

DRY-CLEANING PLANT -- An establishment in which clothing dropped off by customers at the establishment, and from other establishments, is dry cleaned within the premises.

DUST -- Solid particulate matter capable of being airborne or gasborne.

DWELLING

- A. A building or portion thereof which meets the following criteria:

- (1) Designed, used or intended to be used exclusively as year-around and complete living quarters for one family or household.
- (2) Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
- (3) Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.

B. For purposes of this chapter a dwelling does not include a hotel, motel, rooming house, dormitory, fraternity, sorority, camping trailer, tourist home or similar building.

DWELLING, ACCESSORY -- Living space located within an owner-occupied dwelling and containing no separate exterior entrance and not more than 325 square feet of area.

DWELLING, EARTH-SHELTERED -- A one- or two-unit dwelling specifically designed and constructed to use earth as a barrier and temperature moderator. In such dwellings, the roof and exterior walls may be covered by earth if at least one exterior wall is exposed to light and air and has the outside ground level at or below the lowest habitable floor level for at least half of the length of such exposed wall.

DWELLING, MANUFACTURED HOME -- A one-unit dwelling which has the following distinguishing characteristics:

- A. Manufactured as a movable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation, or a mobile home stand, or piers, with or without a basement or cellar.
- B. Designed to be transported on its own chassis and wheels and connected to utilities after placement on a stand, foundation or piers.
- C. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
- D. May be constructed in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.
- E. Bears the approval of the Department of Housing and Urban Development.

DWELLING, MODULAR -- A dwelling which is constructed by a method or system of construction whereby the basic structure or its components are wholly, or in a substantial part, manufactured in manufacturing facilities, designed to be transported to a lot, but not on its own chassis or wheels, for assembly and permanent installation on a foundation; a modular home. For purposes of this chapter, a manufactured home is not to be construed as a modular home. Modular dwellings must contain the insignia of approval from the State Fire Prevention and Building Code Council.

DWELLING, MULTIPLE-UNIT -- One or more buildings, or portions thereof, on a single lot, containing three or more dwellings. For purposes of this chapter, this definition includes apartments, elderly housing, rental townhouses, cooperative housing and condominiums.

DWELLING, ONE-UNIT -- A building or portion thereof containing no more than one dwelling.

DWELLING, TOWNHOUSE -- A dwelling containing two or more dwelling units each located on its own individual tax parcel, each of which has one or two side walls in common with side walls of abutting dwelling units and are party or lot-line walls.

DWELLING, TWO-UNIT -- A building or portion thereof containing no more than two dwellings; a duplex or twin.

EASEMENT -- The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

ELDERLY HOUSING -- See "dwelling, multiple-unit."

ELECTRIC VEHICLE CHARGING STATION—a public or private parking space that is served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle. For Electric Vehicle Charging Stations operating as a primary commercial use for retail to the public, see “AUTOMOBILE FUEL STATION.”

ELEEMOSYNARY/PHILANTHROPIC ORGANIZATION -- Any organization of, relating to, or supported by charity.

ESSENTIAL SERVICES (PUBLIC FACILITIES) -- The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electric, steam, fuel or water transmission or distribution system collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety and welfare. Telecommunications facilities and telecommunications towers are not public facilities.

EXTRACTIVE USE -- Any operation, other than in connection with foundations for a structure, or highway construction, which involves: (1) a volume of earth movement exceeding the average of one foot per square foot of lot area, or 1,000 cubic yards, whichever is the lesser; or (2) a change of 10 feet or more in ground elevation from previously existing grade. See also "quarry, sandpit, gravel pit, topsoil stripping."

FAMILY -- Any number of individuals related by blood, marriage or adoption; or any number of individuals not related by blood, marriage or adoption living together and who meet the indicia for a functional and factual family equivalent.

FUNCTIONAL AND FACTUAL FAMILY EQUIVALENT -- A group of unrelated individuals living together and functioning together as a traditional family. In determining whether or not a group of unrelated individuals comprise a functional and factual family equivalent, a petition shall be presented before the Zoning Board of Appeals, which will consider, among other things, the following factors:

- A. Whether the occupants share the entire dwelling unit or act as separate roomers.
- B. Whether the household has stability akin to a permanent family structure. The criteria used to determine this test may include the following:
 - (1) Length of stay together among the occupants in the current dwelling unit or other dwelling units.
 - (2) The presence of minor, dependent children regularly residing in the household.
 - (3) The presence of one individual acting as head of household.
 - (4) Proof of sharing expenses for food, rent or ownership costs, utilities and other household expenses.
 - (5) Common ownership of furniture and appliances among the members of the household.
 - (6) Whether the household is a temporary living arrangement or a framework for transient living.
 - (7) Whether the composition of the household changes from year to year or within the year.
 - (8) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

FAMILY CARE RESIDENCE -- See "community residential facility."

FAMILY DAY CARE -- See "day care."

FAST-TRACKING -- A type of construction which divides the design stage into component parts, with each story or stage of the building or structure requiring approval by the Supervisor of the Office of Building and Construction prior to construction. Each story or stage of the building or structure can be built before the design for any subsequent story needs to be completed or approved. Fast-tracking does not exempt the owner from any other provisions of this chapter or any other City ordinance. The initial application for fast-tracking shall include the submission of architectural preliminary drawings of the conceptual plan and design, including at least ground plan dimensions and building height, which shall not be altered at any later stage except by express written consent of the Supervisor of the Office of Building and Construction.

FEED WAREHOUSE -- An establishment that stores and sells bulk quantities of feed (corn, grain, etc.). The storage of products may include, but is not limited to, the use of silos.

FLEA MARKET, LONG-TERM -- A periodic market held in an open area or structure where an individual or group of individual sellers offer goods for sale to the public for a period of time greater than three consecutive days and less than 30 days.

FLEA MARKET, SHORT-TERM -- An occasional market held in an open area or structure where groups of individual sellers offer goods for sale to the public for a period of three consecutive days or less.

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry areas from an overflow of streams or rivers or other bodies of water caused by severe storms or unusual and rapid surface water runoff.

FLOOD BOUNDARY AND FLOODWAY MAP -- The official map of FEMA prepared as part of the flood insurance study for the City on which the boundaries of the five-hundred-year flood, the one-hundred-year or base flood and the floodway in the City of Binghamton have been delineated June 1, 1977, as noted on the map titled "Flood Hazard Boundary Map" or "Flood Insurance Rate Map" and including the flood hazard area and regulatory floodway area.

FLOOD HAZARD AREA -- The area of the one-hundred-year floodplain that, on the average, is likely to be flooded once every 100 years (i.e., that has a one-percent chance of being flooded each year) and is delineated on the Flood Insurance Rate Map (FIRM) and Flood Hazard Boundary Map issued by the Federal Insurance Administration, Department of Housing and Urban Development.

FLOODPLAIN MANAGEMENT AREA -- All that land adjacent to a body of water which has been or hereafter may be covered by a base flood.

FLOODPLAIN, SUBSTANTIAL IMPROVEMENT

- A. Any repair, reconstruction or improvement of a structure within the floodplain, the cost of which equals or exceeds 50% of the market value of the structure either:
 - (1) Before the improvement or repair; or
 - (2) If the structure has been damaged and is being restored, before the damage occurred.
- B. 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 structure.
- C. The term does not, however, include either:
 - (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a state inventory of historic places.

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOR AREA, GROSS -- The floor area within the inside perimeter of the exterior walls of the building, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot. When applicable, the floor area ratio designated for any district, when multiplied by the lot area in square feet, shall determine the maximum permissible total floor area of the building or buildings on the lot in such district.

FOOD DELIVERY ESTABLISHMENT -- A business serving ready-to-eat foods and supplying delivery services to customers via company and/or employee vehicles.

FOSTER CARE HOME -- Private single-family residences licensed by the Broome County Department of Social Services and/or the New York State Department of Social Services. There are two types of residences:

- A. FOSTER HOMES FOR YOUTHS, NONINSTITUTIONAL -- Residential and family-oriented living environments for up to six children below the age of 16, or age 21 if the child was in foster care prior to age 16. The number six includes any natural or adopted children already in the family unit and living at home. The number six limit may be waived by Social Services if the foster children are related. This would allow related foster siblings to reside together even though the household's total number of children might exceed the six-person limit. (For six or more children, see "community residential facility.")
- B. FOSTER HOMES FOR ADULTS -- Homes are intended to serve the more seriously medically ill adult who would otherwise qualify for nursing home care. The foster care provider would be trained to handle basic personal care services with supportive nursing services available; generally, four or fewer beds per home.

FOOD SALES, GENERAL -- the retail sales of food or beverages for off-site preparation and consumption. This classification includes but is not limited to the following:

- A. Supermarkets that offer a variety of food items for home consumption such as a combination of fresh fruits, vegetables, breads, meat, dairy products, cereals, pastas, and prepackaged foods. Generally, supermarkets are a minimum five thousand (5,000) square feet and have a minimum twenty percent (20%) of net retail floor area devoted to the display of fresh fruits and vegetables/and or fresh meats, whichever is greater.
- B. Food stores typically containing less than five thousand (5,000) square feet in floor area specializing in particular or distinctive food items, including, but not limited to retailers whose primary business maintains an inventory of specialty, gourmet, health, or ethnic food items. Examples of activities in this classification include but are not limited to the following:
 - (1) Gourmet food store
 - (2) Bakery, retail
 - (3) Butcher
 - (4) Specialty food store
 - (5) Fish and poultry shop
 - (6) Produce market
 - (7) Delicatessen (may include sandwich shops in conjunction with the sale of other delicatessen products)
 - (8) Health food store

FRATERNITY OR SORORITY HOUSES -- A place of residence or similar structure that is occupied by a nationally chartered membership organization or a local chartered organization and used, occupied and maintained for persons enrolled in a college, university, or other educational institution, and which may or may not be recognized and subject to controls by such educational institution.

FRONTAGE -- The greater of:

- A. The distance between side lot lines measured along the street right-of-way line; or
- B. A line parallel to the street right-of-way line at the distance specified for front yard depth.

FUNERAL HOME -- A building used for the preparation of the deceased for burial or cremation, which may also include facilities for the display of the deceased and ceremonies connected therewith before burial or cremation. (See also "crematory.")

GARAGE, PRIVATE RESIDENTIAL -- An accessory building, or part of a principal building if attached thereto by a wall or roof, intended primarily for the storage of one or more motor vehicles owned and used by the occupant of the dwelling to which it is accessory or attached.

GARAGE SALE -- Household goods and clothing for sale to the general public, which are displayed in the garage, yard or porch of a private residence; a yard, porch, lawn or rummage sale. (See also "flea market, short-term.")

GARAGE, STORAGE OR OFF-STREET PARKING -- A building or portion thereof, or land, used exclusively for the temporary storage of motor vehicles, and where motor fuel is not sold and vehicles are not equipped, repaired, hired or sold.

GARDEN, COMMUNITY OR NEIGHBORHOOD -- An area used by several individuals or families, operating in association with each other and under sponsorship by a nonprofit or voluntary organization, for seasonal production of vegetables and other garden produce for home consumption by the individuals or families directly engaged in such production.

GARDEN, NONCOMMERCIAL -- An area used for the individual growing of fruit, vegetables and flowers which are not to be sold commercially. (See also "garden, community or neighborhood" and "greenhouse, commercial.")

GARDEN POND -- A body of water used in part with the property's landscaping. Garden ponds are not to be considered as swimming pools.

GASOLINE, CONVENIENCE MARKET -- The retail sale of self-service motor fuel at a facility that also offers for sale convenience goods such as food, beverages and sundries, often on a twenty-four-hour-a-day basis.

GOLF COURSE -- A recreational facility consisting of at least nine holes, each with tee and green, located on a parcel of land containing at least 15 acres, as distinguished from golf driving ranges and miniature golf courses.

GRADE, ESTABLISHED STREET -- The permanently established elevation of the center line of a street in front of the midpoint of a lot.

GRADE, FINISHED -- The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.

GREENHOUSE, COMMERCIAL -- Any building or structure in which light, temperature and humidity can be controlled for the growing and protection of flowers and other plants which are to be sold commercially.

GREENROOF, VEGETATED ROOFTOP -- A layer of planting medium and vegetation, with a waterproof membrane and drainage system, integrated into the roof of a building in order to capture rainwater, reduce building energy consumption, and/or provide habitat or recreational amenity. Includes the following categories:

EXTENSIVE -- Lightweight veneer systems including a soil medium of approximately 2 to 3 inches planted within thin layers of drought tolerant self-seeding sedums, grasses, mosses and meadow flowers requiring little or no irrigation, fertilization or maintenance after establishment, not intended for recreation, or to accommodate the weights of people, larger shrubs nor trees. Depending on the plant selection, additional water collection cisterns, irrigation, fertilizations and/or maintenance may be necessary.

INTENSIVE -- Thicker soil medium supporting a wide variety of plant materials, including trees, shrubs, grasses and groundcovers, typically intended for human interaction.

GREEN SPACE -- That portion of any lot treated in such a manner as to provide light, air, and landscaped open space for the recreational and visual enjoyment of the occupants of any building on said lot. Green space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, fountains, pools, watercourses, and wooded areas, but shall not include required parking spaces and service areas or vehicular surfaces other than access drives which are not used for vehicular parking.

GROSS DENSITY -- The total number of persons or objects per unit of land area. "Land area" means all the land within the lot or area boundaries, including private roads, recreation areas, easements and natural features.

GROUP HOME -- See "community residential facility" and "community residential facility for the disabled."

HABITABLE ROOM -- Any enclosed room in a dwelling. For purposes of this chapter, a bathroom, closet, cellar, hallway, utility room or storage space shall not be considered a habitable room.

HALFWAY HOUSE (see also "COMMUNITY RESIDENTIAL FACILITY") -- A twenty-four-hour supervised residence for drug and alcoholic patients certified by the NY State Division on Alcoholism. Residents often hold jobs, use outside treatment services and are segregated by age and sex in the house. The site selection law does not apply.

HEALTH-RELATED NURSING FACILITIES -- See "convalescent home."

HEALTH/SPORT CLUB -- A building or portion of a building designed and equipped for the conduct of sports, exercise, instructional activities, leisure-time activities or other customary and usual recreational activities, operated for profit or not for profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.

HEAVY VEHICLE MAINTENANCE AND STORAGE FACILITY -- Any area, lot, parcel, building or structure or part thereof used primarily for the storage and maintenance of trucks, buses, and other heavy equipment.

HOME OCCUPATION -- A business, profession, occupation, or trade conducted by the occupant of a dwelling or accessory structure and which is clearly incidental and secondary to the use of the residence. See § 410-29N and O.

HOMELESS SHELTER -- See "mission."

HOMES FOR ADULTS -- See "adult residential care facility" or "foster homes for adults."

HOSPICE -- A community of both professional and lay volunteers whose goal is to care for people in the final stages of life and to help them live as fully and comfortably as possible until they die. Such service can occur in a private residence or a special facility used for the purpose.

HOSPITALITY HOUSE -- A residence similar in function to a bed-and-breakfast inn or bed-and-breakfast home which provides low-cost, short-term housing for the families of patients admitted to long-term care units at local hospitals or nursing homes.

HOSPITAL, MEDICAL CENTER -- A facility serving the comprehensive (preventative and illness-related) health needs of the community and region and providing health services, medical and surgical care to persons suffering from illness, disease, injury, abnormal physical or mental conditions or pregnancy. Services provided by the facility will include diagnosis, treatment, rehabilitation, research, education, health promotion and wellness. Such a facility may include diagnostic/research laboratories, emergency service, outpatient service, space and equipment for training and housing interns, nurses, medical technicians and other related personnel, professional medical offices, overnight accommodations for patients' relatives, child care, administrative offices and businesses related to the hospital function and not the public in general.

HOTEL -- A commercial, profit-oriented operation offering transient lodging accommodations to the general public and providing additional services such as restaurants, bars, meeting rooms, ballrooms, and recreation facilities.

HOUSING -- See "dwelling."

HOUSE TRAILER -- See "trailer, travel or camping."

HUMAN SERVICE AGENCY -- An organization providing assistance to people in obtaining services to meet their needs. Services provided may include, but are not limited to, one or more of the following: information, guidance, counseling, therapy, group social activity, remedial instruction, self-help, and support. Services may not include the provision of alcohol.

IMPERVIOUS SURFACE -- Any surface from which most water runs off, including, but not limited to, paved streets, graveled or paved areas such as driveways, parking areas, packed earth material, walkways, roof surfaces, and patios.

INDUSTRIAL, HEAVY -- An establishment that involves basic processing and manufacturing of materials or products predominantly from extracted or raw materials. Examples of activities in this classification included but are not limited to the following:

- A. Any manufacturing use with large-scale facilities for outdoor oil and gas storage
- B. Battery manufacturing and storage
- C. Lime and gypsum products manufacturing
- D. Non-ferrous metals production, processing, smelting and refining
- E. Painting, coating and adhesive manufacturing
- F. Synthetic dye and pigment manufacturing
- G. Urethane and other open-cell foam product manufacturing
- H. Petroleum, bi-fuel, and coal products manufacturing and refining
- I. Primary metal smelting
- J. Vinegar, yeast and other pungent, odor-causing items production
- K. Leather tanning
- L. Cement and asphalt manufacturing
- M. Explosives manufacturing
- N. Fertilizer and other agricultural chemical manufacturing

INDUSTRIAL, LIGHT -- An establishment engaged in the assembly, packaging, storage and distribution of products from finished products or parts and the small-scale production of artisan and/or custom products. This classification includes but is not limited to the production or assembly of:

- A. Cameras and photographic equipment
- B. Custom cabinets
- C. Custom clothing
- D. Custom sign-making
- E. Custom furniture and refinishing
- F. Professional, scientific, measuring, and controlling instruments
- G. Medical, dental, optical and orthopedic instruments and appliances, and similar items
- H. Handcraft, art objects, and jewelry
- I. Musical instruments
- J. Production apparel manufacturing
- K. Computer and electronic products
- L. Pharmaceutical production
- M. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast)
- N. Electrical equipment and appliances, and components
- O. Furniture and related products
- P. Sporting and athletic goods

INDUSTRIAL, MEDIUM -- An establishment engaged in the processing, fabrication, treatment, packaging, storage and distribution of predominantly previously prepared materials, or finished products or parts, but excluding basic processing or manufacturing from predominantly new or extracted materials. Examples of activities in this classification include but are not limited to the following:

- A. Glass manufacturing
- B. Metal foundries
- C. Wood product manufacturing
- D. Heavy equipment manufacturing
- E. Paper finishing
- F. Pipe production facilities
- G. Textile mills
- H. Tire retreading and recapping
- I. Wood product manufacturing

INDUSTRIAL, RESEARCH AND DEVELOPMENT – An establishment engaged in scientific research for the design, development, engineering, and testing of high technology electronic, industrial or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than for sale or distribution.

INDUSTRIAL PARK -- A tract of land that is planned, developed and operated as an integral facility for a number of individual industrial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics, and compatibility.

JUICE BAR -- See "tavern, nonalcoholic."

JUNKYARD -- A lot, with or without buildings, used for the collecting, dismantling, storage, salvaging, or sale of wastepaper, rags, scrap metal, junked automobiles, materials, equipment, machinery or vehicles or parts thereof. The deposit or storage of two or more wrecked or broken motor vehicles, which would not qualify for inspection by the State of New York, or the major parts of two or more such vehicles shall be deemed to make the lot a junkyard; an auto salvage yard.

KENNEL, COMMERCIAL -- Any lot or premises, or portion thereof, on which more than four dogs, cats, and other household domestic animals are kept for sale, or on which more than two such animals are boarded for compensation.

KENNEL, RESIDENTIAL -- The raising of domestic animals for private use only. No sales or breeding of the animals is permitted. Animals kept on the property shall be owned by the occupant of the property. See § 410-19C.

LABORATORY, RESEARCH AND TESTING -- See Industrial, Research and Development.

LANDSCAPED AREA -- An area of grass, trees, shrubs or other natural greenery, or containing any form of landscaping or architectural treatment.

LAND USE ACTIVITY -- The specific purpose for which land or a building is used or designed or intended to be used and maintained. (See also "use, principal.")

LAUNDROMAT -- A business that provides coin-operated self-service-type washing, drying, and ironing equipment, provided that no pick-up or delivery service is maintained.

LEAD AGENCY -- The agency which has responsibility to coordinate the environmental review of a proposed action in accordance with the New York State Environmental Quality Review Act and the regulations of the City of Binghamton.

LOADING SPACE -- Any off-street space available for the loading or unloading of goods. See Article X for dimensional requirements.

LODGING HOUSE -- See "rooming house."

LOT -- A parcel of land, with or without buildings or structures, delineated by lot lines and having access to a street as defined in this chapter.

LOT AREA -- An area of land the size of which is determined by the limits of the lot lines bounding said area and which is usually expressed in terms of square feet or acres. Acreage within a right-of-way for streets is excluded for purposes of determining gross area.

LOT, CORNER -- A lot fronting on two or more streets at their intersection.

LOT COVERAGE -- See "coverage."

LOT DEPTH -- The average horizontal distance between the front and rear lot lines.

LOT, FLAG -- A lot that meets the minimum area requirements of this chapter and is connected to a public right-of-way by a strip of land at least 20 feet wide and containing an access drive.

LOT, INTERIOR -- A lot other than a corner lot.

LOT LINE, FRONT -- In the case of a lot abutting only one street, it is the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street right-of-way line as the front lot line.

LOT LINE, INTERIOR -- A lot line which does not abut a street.

LOT LINE, REAR -- The lot line which is generally opposite the front lot line. If the lot comes to a point at the rear, the rear lot line shall be deemed to be the point of intersection of the side lot lines. Rear yard measurements shall be made from such point.

LOT LINES -- The property lines bounding a lot as defined herein.

LOT LINE, SIDE -- The property line or lines extending from the front lot line to the rear lot line.

LOT, THROUGH -- A lot having frontage on two parallel or approximately parallel streets. Both street lines shall be deemed front lot lines.

LOT WIDTH -- The average horizontal distance between the side lot lines, measured parallel to the front lot line. See also § 410-12D.

LOT OF RECORD -- A platted parcel of land, the dimensions of which are shown on a document or map on file with the City Assessor's Office and which parcel of land actually exists as so shown. In no case shall a portion of an original platted lot constitute a lot of record.

MAIN BUILDING FACADE -- That portion of a building which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets, the main building facade shall contain the main entrance to such building.

MARQUEE -- A permanent structure overhanging a walkway attached to or supported by a building advertising an event to be shown at the property.

MAUSOLEUM -- A building for interring human or animal remains above ground.

MENTALLY HANDICAPPED -- Having a subaverage intellectual functioning IQ of 70 or below.

MENTALLY ILL -- Having a variety of emotional, personality and psychotic conditions.

METHADONE FACILITY -- A facility licensed by the appropriate government agencies to use the drug methadone in the treatment, maintenance, or detoxification of persons.

MICROBREWERY -- A brewing establishment which brews fewer than 15,000 barrels or fewer than 30,000 kegs per year.

MISSION/HOMELESS SHELTER -- A nonprofit, charitable or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, homeless or transient persons.

MOBILE HOME -- See "dwelling, mobile home."

MONASTERY -- A residence of a religious order, which may include facilities for assembly and education. See also "convent."

MONUMENT MANUFACTURING -- An establishment that performs the cutting, etching, and grinding of masonry material for the purpose of sales to a retail outlet. Incidental retail sales are permitted.

MOTEL -- An establishment providing transient accommodations and containing six or more rooms with at least 25% of such rooms having immediate access to a parking lot without the necessity of passing through the main lobby of the building.

MOTOR TRUCK FREIGHT TERMINAL -- An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

MOTOR VEHICLE RENTAL/LEASING -- The use of any structure or land or portion thereof, for the rental/leasing of new or used automobiles, panel trucks, vans or recreational vehicles as licensed and regulated by the State of New York.

MOTOR VEHICLE SALES, NEW -- The utilization of land or buildings or portions thereof for the storage, display, and retail sale of new motor vehicles, including incidental leasing or rental of new or used motor vehicles. This term shall also include motor vehicle maintenance and repair service accessory thereto and shall include the incidental sale of used motor vehicles when such vehicles are stored and displayed on the same premises utilized for the retail sale of new motor vehicles. The business must be licensed and regulated by the State of New York.

MOTOR VEHICLE SALES, USED (MAJOR) -- The utilization of land or buildings or portions thereof for the retail sale of five or more used motor vehicles at any one time. This term shall not pertain to the incidental sales of used motor vehicles when such vehicles are stored and displayed on the same premises used for new motor vehicle sales. Incidental reconditioning, repair, and inspections are permitted. The business must be licensed and regulated by the State of New York.

MOTOR VEHICLE SALES, USED (MINOR) -- The utilization of land or buildings or portions thereof for the retail sale of four or fewer used motor vehicles at any one time. This term shall not pertain to the incidental sales of used motor vehicles when such vehicles are stored and displayed on the same premises

used for new motor vehicle sales. Reconditioning, repair, and inspection of motor vehicles are not permitted. The business must be licensed and regulated by the State of New York.

NEW CONSTRUCTION -- Construction on a parcel of land which has been completely cleared of previous construction or upon which no construction has previously occurred. An addition to an existing structure, whether attached or detached, shall be considered to be new construction; the restoration or remodeling of an existing structure shall not be considered new construction.

NIGHTCLUB -- An establishment where alcoholic beverages may be sold and consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area and/or designated dance floor. A nightclub does not include live dancing of undressed or semi-dressed persons.

NONALCOHOLIC NIGHTCLUB -- An establishment where no alcohol is served or consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area, and/or designated dance floor. A nonalcoholic nightclub does not include live dancing of undressed or semi-dressed persons.

NONCONFORMING LOT -- A lot of record existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the minimum frontage or area requirements for the zone in which it is located.

NONCONFORMING USE OR ACTIVITY -- A building or use of land existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the permitted use, setback, height, yard or other regulations of the zone in which said building or use is located.

NOXIOUS MATTER OR MATERIAL -- A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects to the physical or economic well-being of individuals.

NUISANCE -- An actionable activity arising from a use of land, producing a material annoyance, inconvenience, and/or discomfort to the detriment of the public health, safety, and/or welfare.

NURSERY -- Any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, for the purpose of sale or resale, including the replanting of said plants grown at places other than the nursery.

NURSING HOME -- This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a twenty-four-hour basis of more than five persons who are not capable of self-preservation.

PARCEL DELIVERY -- For the purpose of this chapter, any business supplying delivery services via company or employee vehicles.

PARISH HOUSE -- The residence of the clergy associated with a place of worship.

PARKING, ANCILLARY -- A parking area which is ancillary to the principal use not situated on the same lot as such parking area, which is not operated as a separate commercial enterprise available to the public at large and which is created to provide part of the required parking for the principal use.

PARKING AREA, PUBLIC -- A parking area that is not accessory to a principal use and is operated as a separate commercial enterprise available to the public at large.

PARKING SPACE, OFF-STREET -- A paved or surfaced space available for the parking of one motor vehicle on a transient basis and not located on an existing street or street right-of-way. (See Article X.)

PARK, PLAYGROUND and PLAYING FIELD -- A tract of land designated and used by the public for active and passive recreation.

PARTY WALL -- A common wall which extends from its footing below grade to, or through, the roof and divides two buildings.

PAWNSHOP/SWAP SHOP -- An establishment in which the proprietor licensed by the City of Binghamton trades merchandise or lends money on the security of personal property pledged in his or her keeping. See also Chapter 275, Licenses and Permits, Article II, Collateral Loan Brokers.

PERFORMANCE STANDARDS -- A set of criteria and measurements which:

- A. Establishes environmental controls by which proposed land uses and activities can be evaluated and which helps to encourage positive or neutral impacts on the community.

- B. Controls smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazard, glare or heat, or radiation hazard generated by or inherent in certain uses of land or buildings.

PERSONAL SERVICE ESTABLISHMENT -- A building or facility where personal services such as a dry cleaner, laundry, barber or beauty shop, tailor, shoe repair and similar activities are offered to the public for profit.

PERSONAL INSTRUCTION AND IMPROVEMENT -- The provision of informational, instructional, personal improvement and similar services. Examples of activities in this classification include, but are not limited to yoga, martial arts, driving school, job training, and other instructional classes.

PET GROOMING SHOP -- A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight.

PLACE OF PUBLIC ASSEMBLY -- All buildings or portions thereof, the spaces used or intended to be used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes. Manufacturing establishments and similar employment centers are not considered places of public assembly for purposes of this chapter. The facility is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity.

PLACE OF PUBLIC WORSHIP -- A building or area of public assembly for worship and qualifying for property tax exemption by the State of New York such as a church, synagogue, or mosque.

PORCH/DECK -- A structure, projecting out from or attached to the exterior wall of a principal building or structure, which may or may not have a roof but is often open to the weather.

PRESCHOOL DAY-CARE CENTER -- See "school, nursery."

PROFESSIONAL OFFICE -- The office of one or more members of a recognized profession maintained for the purpose of conducting the business of that profession. Retail or commercial sales are not permitted. The business is licensed by New York State to engage in the trade as certified by the issued license. Example uses include, but are not limited to, offices for lawyers, architects, engineers, and accountants. This definition does not include an office where the principal activity is medical, dental and/or optical treatment. (See also "business office" and "professional office, health-related.")

PROFESSIONAL OFFICE, HEALTH-RELATED -- A building or portion thereof accommodating the offices of an individual or group in the private practice of medicine, dental or optical services, physical therapy, and chiropractors. Primary services include examination, consultation and limited testing and treatment. For the purposes of this chapter these offices shall not provide emergency room or overnight patient service, any type of twenty-four-hour service, or retail sales. However, optical care products may be sold or serviced as part of an ophthalmologist's or optician's practice. For the purposes of this chapter, this definition is meant to distinguish between the larger and more diversified medical facility as defined in "clinic, medical, diagnostic or treatment center."

PROPRIETARY HOMES -- See "adult residential care facility."

PUBLIC BUILDING -- A structure, the majority of which is maintained and/or utilized by a public agency and allows access for the general public.

QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING -- A lot or land or part thereof, used for the purpose of extracting stone, sand, gravel, topsoil and similar material as an individual or commercial operation, and exclusive of the process of excavation and grading in preparation for the construction of a duly authorized building, parking area or roadway. (See also "extractive use.")

RADIO AND TELEVISION TRANSMITTING STATION -- A structure that is used for the transmission or reception of communication signals, but does not have a studio or production area. Accessory devices such as antennas and satellite dishes are permitted.

RADIO INSTALLATIONS, AMATEUR (HAMS) -- Any devices, including poles, antennas, support towers and wires, placed in the yard area of a lot to be utilized by amateur radio operators licensed by the Federal Communications Commission.

RAIL FREIGHT TERMINAL -- Any land or structure the use of which provides for the loading of cargo onto trains, the unloading of cargo from trains, or breaking down or aggregating freight into smaller or larger loads for transfer to other vehicles.

RAILROAD FACILITY -- An area of land and any structure or portion thereof used for the transfer of railroad cars from one engine to another, associated repair and maintenance of the railroad cars and engines, and accessory structures.

RAILROAD RIGHT-OF-WAY -- All of any area of land containing railroad tracks, sidings, car yards, classification yards and auxiliary facilities used or available to be used for train operations.

RAILROAD STATION -- Any land or structure used for the selling of transport tickets, and/or boarding or exiting of trains, and/or incidental selling or dispensing of food and drink.

RECOVERY HOME -- See "community residential facility."

RECREATION USE, COMMERCIAL INDOOR -- A building or group of buildings used for recreational purposes and operated as a business and open to the public for a fee, including, but not limited to, bowling alleys, skating and roller rinks, pool and billiard halls, indoor rifle and pistol ranges, indoor batting cages, recreation centers, indoor swimming pools, tennis courts, and similar uses.

RECREATION USE, COMMERCIAL OUTDOOR -- Land and structures used for recreational purposes and operated as a business and open to the public for a fee, including, but not limited to, a golf course or club, a swimming club, tennis and racquetball club, a miniature golf course, a golf driving range, outdoor batting cages, outdoor skating or roller rinks, sports or athletic fields and stadiums, canoeing, water skiing, and similar uses. Not included in this definition are outdoor or drive-in theaters or facilities for automobile or animal racing.

RECREATION USE, RACETRACK -- Any ground, area or track, whether paved or unpaved, upon which races, contests or demonstrations of skill or stunts are conducted for the enjoyment or entertainment of the residents of the parcel, and/or their invitees, or for the gratification of the contestants, which employ all-terrain vehicles, go-karts, motor scooters, midget autos, motorcycles, or other motorized vehicles; this definition shall not be read to include the operation of riding lawnmowers, when being used to cut grass or perform lawn work, motorized wheelchairs or snow blowers.

RECREATION VEHICLES -- Vehicles that can be used for recreation, such as boats, motor homes, all other types of campers, motorcycles, all-terrain vehicles, and personal watercraft.

RENTAL SERVICE STORE -- The use of any building or lot or portion thereof for the rental of new or used merchandise to the general public. Items to be rented include, but are not limited to, tents, wedding accessories, costumes, household cleaning equipment, and small machinery such as chain saws and weed whackers. This definition shall specifically exclude the rental of motor vehicles, recreational vehicles, and large heavy machinery.

REPAIR SHOP, SMALL APPLIANCES -- Any building or structure utilized for the repair of small equipment such as toaster ovens, VCRs, televisions, watches, clocks, and microwaves, but specifically excluding large appliances such as laundry machines, refrigerators, stoves, and lawnmowers.

RESIDENTIAL STORAGE SHED -- Any structure utilized for the storage of residential household equipment. See also § 410-19.

RESIDENTIAL VEHICLES -- All passenger vehicles used on a normal day-to-day basis for personal activity. Residential vehicles shall not include construction vehicles, nonresidential trailers, dump trucks, paneled trucks, semi-trucks, tractor-trailers, excavation equipment, tow trucks, job trailers, front-end loaders, bulldozers, construction compressors or any other similar vehicle.

RESPIRE CARE -- Short-term care for members of the general public whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment.

RESPIRE CARE FACILITY -- Residential facility that provides respite care to members of the general public.

RESTAURANT, DRIVE-THROUGH -- A use which, by design of facilities or procedures, encourages or permits customers to receive food service or products while remaining in their vehicle. A drive-through establishment may be either a primary or accessory use.

RESTAURANT, FULL SERVICE-- A restaurant serving customers who are seated principally at tables and where waited on when seated, or waiting on themselves by means of a buffet, for both food and beverages,

and where a variety of meals are offered. Further, where any bar area is secondary and incidental to food service, containing not more than one seat for every five table seats, and where the bar does not remain open for extended periods of time for alcohol consumption after the normal menu food service has closed, nor allows seated patrons to acquire beverages except by a waiter or waitress.

RESTAURANT LIMITED SERVICE/CAFE-- Restaurants that generally provide food or beverage services to patrons that order and pay before eating or drinking. Food and beverages may be serviced in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may not be provided. Examples of these activities include, but are not limited to, coffee shops and cafes and restaurants that do not fall under the definition of Full Service Restaurant or Drive-Through Restaurant.

RETAIL BEVERAGE/RECYCLING CENTER -- A facility whose principal purpose is the retail sale of beverages and the recycling of used cans and bottles. The recycling portion of the facility must occupy at least 25% of the building.

RETAIL CRAFT/HOBBY SHOP -- A retail establishment in which the goods or services available have been made or are performed by a skilled worker who practices a recognized trade or handicraft, including but not limited to coopers, cabinetmakers and furniture makers, potters, ceramists, glassblowers, silversmiths, jewelry makers, antique and furniture finishers, restorers or reupholsterers. Such establishments may include workshop areas as an accessory use, provided the establishment maintains a retail storefront.

RETAIL DRIVE THROUGH -- A use which, by design of facilities or procedures, encourages or permits customers to receive service or obtain products while remaining in their vehicle. A drive-in establishment may be either a primary or accessory use.

RETAIL NEIGHBORHOOD CONVENIENCE OUTLET -- A small retail facility established to accommodate the shopping needs of a limited area or neighborhood and providing basic commodities and personal services needed on a day-to-day basis. The total square footage of such facility shall not exceed 900 square feet.

RETAIL OR SERVICE BUSINESS, GENERAL -- A facility established and operated to provide for the broad or more specialized shopping and service needs of a large population base and drawing market support from several neighborhoods, the entire City or the surrounding region.

RETREAT HOUSE -- Any establishment which provides facilities generally including food and lodging, for group religious, meditation, instructional or other group study purposes.

RIFLE AND PISTOL RANGE, COMMERCIAL INDOOR -- A commercial establishment used for the firing of rifles or pistols aimed at targets, within a fully enclosed building.

RINGLEMANN CHART -- A chart described in the United States Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

RINGLEMANN NUMBER -- The number appearing on the Ringlemann Chart ascribed by the observer to the density of the smoke emission. Where the density of the light-obstructing capacity of the smoke as observed falls between two consecutive Ringlemann numbers, the lowest number shall be considered the density of the smoke observed.

ROOMING HOUSE -- A building other than a single-family residence, originally constructed for the provisions of lodging rooms with or without meals but with no cooking facilities in the individual rooms, for at least three but not more than 10 persons; a lodging house.

SCHOOLS, BUSINESS/COMMERCIAL/TRADE/VOCATIONAL -- Noncollegiate public or private institutions offering specialized business, commercial and/or clerical courses or similar curricula, but not academic training.

SCHOOLS, COLLEGES, UNIVERSITIES AND PROFESSIONAL -- Public or private institutions of higher learning authorized to grant academic degrees, associate academic degrees, certificates and/or diplomas, and requiring for admission at least a high school diploma or equivalent general academic training; also includes off-campus sites controlled by the college.

SCHOOL, NURSERY -- A facility established to provide daytime care or instruction for two or more children under six years of age and operated on a regular basis, whether or not for profit.

SCHOOL, PRIVATE -- A building or buildings, or part thereof, controlled and operated by a religious or other organization, whether or not for profit, and offering a program or curriculum which meets state requirements for kindergarten, primary, secondary or higher education and which does not secure the major part of its funding from property taxation or governmental agencies.

SEASONAL SALES -- The sale of seasonal items such as Christmas trees, holiday and seasonal decorations, and lawn ornaments for a period of less than one month per year from a residence or commercial establishment.

SELF-SERVICE STORAGE WAREHOUSE -- Any building or group of buildings comprised of one or more individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.

SETBACK -- The required minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building, including terraces or any covered projection thereof, excluding steps.

SHOPPING CENTER -- Any group of more than two commercial uses which:

- A. Are designed as a single commercial group, whether or not located on the same lot;
- B. Are under common ownership or management;
- C. Are connected by common party walls, partitions, canopies or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walkways and access ways designed to facilitate customer interchange between the uses;
- D. Share a common parking area; and
- E. Otherwise present the appearance of one continuous commercial area.

SIGN -- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixture, colors, illumination or projected images. "Sign" does not include the flag of any nation, state or city, or fraternal, religious or civic organizations. "Sign" does not include merchandise, pictures or models of products or services incorporated in a window display, works of art which in no way identify a product or scoreboard located on an athletic field.

SITE PLAN -- A rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in Article IX of this chapter, which shows the arrangement, layout and design of the proposed use as shown on said plan. A detailed site plan shall be submitted with each application for a permit. The site plan must include but is not limited to: all buildings, structures, and appurtenances on site and their use or function; all uses adjacent to the property lines of the site; the locations of all storm drain openings, adjacent waterways or wetlands; information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and the scale of the site plan.

SITE SELECTION LAW (PADAVAN BILL) -- State legislation designed to set out procedures superseding local zoning ordinances for the site selection of certain types of community residence (group home) facilities in municipalities. The procedure involves the sponsoring agency notifying the chief executive officer of the municipality where the proposed residence is to be located and giving the officer the opportunity to comment on the proposal. Once a residence has successfully completed the site selection process, it is considered a family unit and is subject only to the regulations in this chapter governing those units. Those community residences governed by the site selection law are noted in this chapter. Other residences not subject to this law must comply with the special conditions associated with their use.

SKILLED NURSING FACILITIES -- See "convalescent home."

SOBERING-UP CENTER -- See "crisis residence."

SOLAR ACCESS -- A property owner's right to have sunlight shine on his or her property.

SORORITY HOUSE -- See "fraternity/sorority house."

SPECIAL CONDITION -- A use which will be permitted in a particular zoning district only when it is determined that any conditions or standards which may be applied to such use have been met. (See §§ 410-29 and 410-34.)

SPECIAL USE or SPECIAL USE PERMIT -- An authorization, with or without specific accompanying conditions, given via the permit process as outlined in this chapter, allowing utilization of land in a way specifically delineated therein, as a permitted exception to this chapter.

SPECIFIC ANATOMICAL AREAS

- A. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock; and
 - (3) Female breast below a point immediately above the top of the areola; and
- B. Human male genitals in discernibly turgid state, even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse, sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

SPONSORING AGENCY -- A person, nonprofit agency or governmental unit that plans to establish a residential facility to care for mentally ill, retarded or developmentally disabled persons or persons with alcohol and substance abuse problems.

STADIUM -- An open air area where sporting events, contests, concerts, and other similar events are held and which provides permanent seating.

STORAGE, OUTDOOR -- Land outside any building or roofed area used for the keeping of goods, supplies, raw materials or finished products.

STREET -- An existing federal, state, county, or City highway, road or street, or a way shown upon a subdivision plat approved by the City Planning Commission, or on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the City Planning Commission and the grant to such Commission of the power to approve subdivision plats.

STREET FRONTAGE -- See "frontage."

STREET LINE -- The right-of-way line separating the street area from abutting property.

STRUCTURE -- A building or anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURE ALTERATION -- See "alterations."

STUDIO -- The workshop of an artist, sculptor, or photographer.

STUDIO, BROADCAST -- A place where radio, television or movies are produced.

STUDIO/EFFICIENCY APARTMENT -- A one-bedroom efficiency dwelling used as a single housekeeping unit, containing complete kitchen, bathroom, and toilet facilities.

SUBDIVISION -- The division of any parcel of land into four or more lots, plots, sites, or other divisions of land for immediate or future sale or for building development with or without streets or highways, and including resubdivision; a redivision of a lot, tract or parcel of land by any means, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs of devisees, transfers of ownership or building or lot development.

SUPERMARKET -- See "Food Sales, General"

SUPPORTIVE LIVING FACILITY -- See "community residential facility."

SWIMMING POOL, PRIVATE -- Any body of water or receptacle for water having a depth at any point greater than two feet, constructed, installed or maintained in or above ground, outside a residential building as an accessory use to a residence for swimming or bathing by the occupants thereof and guests.

TAVERN -- An establishment where alcoholic beverages are sold to be consumed on the premises, but not including restaurants where the principal business is the serving of food; may or may not have live entertainment.

TAVERN, NONALCOHOLIC -- Often referred to as "juice bars"; an establishment which exclusively serves nonalcoholic beverages. Clientele can include adults or minors below the age of 21. A nonalcoholic tavern may or may not have live dancing of undressed or semidressed persons.

TAXICAB/PERSONAL TRANSPORT BUSINESS -- A business that transports passengers by vehicle from one location to another location for a fee.

TELECOMMUNICATIONS FACILITY -- See § 410-42.

TELEPHONE SWITCHING FACILITY -- A telephone facility containing switching equipment where no public business offices, no repair facilities, except for equipment maintained in the building, and no storage or warehouse is maintained.

TEMPORARY STRUCTURE -- Any structure which is erected to be in place for not more than six months, including but not limited to tents, portable bandstands, reviewing stands, bleachers, mobile office units, construction sheds, sales offices for lots or dwellings, or other structures of a similar character.

TERRACE -- An uncovered flat platform of earth with or without a surface material or retaining walls.

THERAPEUTIC MASSAGE OFFICE -- A business whose principal function is massage therapy. The business must be licensed by New York State to engage in the trade as certified by the issued license.

THRIFT SHOP/SECONDHAND STORE -- A retail establishment that specializes in the sale of used merchandise.

TOWING SERVICE -- A business that specializes in towing or transporting disabled or wrecked vehicles, freeing vehicles stuck in the snow or mud, and similar activities. A towing service may also be an accessory use to an automobile repair shop.

TOWNHOUSE -- A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

TRAILER, TRAVEL OR CAMPING -- A vehicle or portable structure designed and constructed for temporary dwelling purposes which may contain cooking, sanitary and electrical facilities and is normally transported from place to place by its owner. A trailer is not to be used as for residential occupancy and is limited to temporary use only; a recreation vehicle or motor home.

TRANSFER STATION, SOLID WASTE OR CONSTRUCTION AND DEMOLITION DEBRIS -- An establishment utilized for the temporary storage of debris from demolished buildings or structures, from which such material is transported to landfill and other disposal sites.

TRANSFER STATION/REDEMPTION CENTER, RECYCLABLE MATERIALS -- A completely enclosed facility for the bulk sorting and/or packaging of glass, paper, and other light recyclable materials.

TRANSIENT RESIDENT -- A person who pays for sleeping accommodations in a commercial, profit-making hotel, motel or tourist home for a period of seven or fewer consecutive nights; a transient guest.

UNREGISTERED AND/OR UNLICENSED VEHICLES -- Any vehicle, including a tractor and/or trailer, without a currently valid license plate or plates or which is in either a wrecked, discarded, dismantled, inoperative or abandoned condition and is not in a condition where it may be used on a public highway. An expired inspection sticker or lack of current inspection sticker shall be presumptive evidence that a vehicle is not in a condition capable of being used on a public highway. Vehicles capable of being driven on a public highway and offered for sale by an automobile dealer duly licensed or not licensed by the New York State Department of Motor Vehicles to sell automobiles shall not be considered "unregistered and/or unlicensed vehicles" when offered for sale at the dealer's place of business as stated in its application for an automobile dealer's license to the Commissioner of Motor Vehicles.

USE, NONCONFORMING -- See "nonconforming use or activity."

USE, PRINCIPAL -- The primary or principal purpose for which land, water, or a building is designed, arranged or intended to be used, or for which it is or may be occupied or maintained; land use or activity.

VARIANCE, AREA -- Zoning Board of Appeals authorization of a deviation(s) from restrictions concerning the dimensional or physical requirements of applicable zoning regulations and/or upon construction and placement of buildings and/or structures which are employed to serve a permitted statutory use.

VARIANCE, USE -- Zoning Board of Appeals authorization of a departure from the literal requirement(s) of this chapter in utilization of land for a purpose prohibited herein.

VEHICLE IMPOUND YARD -- Any lot or piece of land, including buildings, at which registered motor vehicles are impounded awaiting reclamation by their owners or transfers of vehicle title resulting from failure of reclamation by the owners. This term shall not include any vehicle dismantling or scrap metal processing and shall be distinguished from "junkyard" and "off-street parking garage."

VEHICLE SALVAGE FACILITY -- A building in which motor vehicles or parts thereof are dismantled in accordance with state regulations and licensing. This term shall not include dismantling conducted outdoors, with the exception of fuel tank removal as may be required by applicable fire safety regulations, nor shall this term include the outside storage of unregistered motor vehicles, motor vehicle hulks or parts, or other junk or discarded material. This term shall be distinct from the term "junkyard." The facility must be licensed by New York State Department of Motor Vehicles.

VENDING MACHINE -- A device or mechanism for dispensing merchandise or services to the public and designed to be operated by the purchaser.

VIDEO RENTAL SHOP -- A business specifically limited to the rental and sale of videos and games for home viewing, rental of VCRs, DVDs, and other similar equipment, and the sale of accessory equipment (blank tapes, dust covers, head cleaners, etc.). The sale of VCRs, VCR cameras, DVDs, televisions, stereos, computers and similar consumer home entertainment sales are strictly prohibited for video rental shops. This shall not include video booths for short-term previewing of videos.

VISION CLEARANCE TRIANGLE -- An area at street intersections which is to be kept free from visual obstructions so as to promote the safe movement of vehicular traffic. (See also § 410-17A.)

WAREHOUSE -- An establishment for the storage of goods and/or merchandise. See also "self-service storage warehouse."

WAYSIDE STAND -- A temporary structure, generally seasonal with the exception of a tent, designed for the display and sale of agricultural products, including barbecues and lunch stands.

WHOLESALE TRADE AND STORAGE -- An establishment or place of business engaged in the storage and selling of merchandise for or to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers, or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies. This shall exclude lumber yards, building supply and garden supply centers engaged in sales of such materials primarily to the public.

YARD -- An open area on a lot which is open to the sky and is unoccupied by any land use or activity except as may otherwise be provided in this chapter.

YARD, FRONT -- A yard extending across the entire width of the lot between the front lot line and the front yard line.

YARD LINE -- An imaginary line which is parallel to the lot line along which a required yard must extend and which is not nearer to said lot line than the required minimum yard width or depth as set forth in this chapter.

YARD, REAR -- A yard extending across the full width of the lot between the rear yard line and the rear lot line.

YARD, SIDE -- A yard extending from the front yard to the rear yard and between the side yard line and the side lot line.

ZONING MAP -- The map or maps that are part of this chapter as set forth in Article III.

ZOO/AQUARIUM -- An establishment that displays living animals or plants to the public, usually for a fee.

ARTICLE III, Zoning Map; Types of Districts

§ 410-6. Zoning district map. [Amended 12-19-11 by LL. No. 11-005]

Zoning districts are bounded and defined as shown on the map entitled "Zoning Map, City of Binghamton, New York," dated March 2008, which map, and all amendments thereto, is adopted as part of this chapter and which, with all explanatory matter and dimensions thereon, is hereby made a part of this chapter and included herein.

§ 410-7. Certification and inspection of map.

The original of the Zoning Map, City of Binghamton, New York, dated, March 2008, shall be certified by the Director of the Planning Department. All changes and amendments to said map shall be promptly made by the Planning Department staff as directed by the City Council. The original of such Zoning Map and all amendments thereto shall remain on file in the Planning Department. Copies of the map shall be on file in the Office of the City Engineer, the Office of Building and Construction, and the Office of the City Clerk and shall be made available for public inspection and use during City office hours.

§ 410-8. Establishment of boundaries.

The following principles are intended to apply to the location of zoning district boundaries:

- A. Boundary lines are intended to follow lot lines or the center line of streets, highways, alleys, railroads, watercourses or easements, or such lines as they may be extended, or to be parallel or perpendicular thereto, unless such boundary lines are otherwise fixed by dimensions, as shown on the Zoning Map.
- B. Where a boundary is indicated as approximately following the edge of a river, pond or similar public water body, the mean high water line thereof shall be construed to be such boundary.
- C. Where a boundary is indicated as approximately following a lot line or an extension thereof, such lot line or extension shall be construed to be such boundary.
- D. Questions or disagreements concerning the exact location of a district boundary line shall be resolved by the Zoning Board of Appeals. (See Article XIV.)

§ 410-9. Annexed land.

Any land added to the incorporation area of the City of Binghamton by annexation shall be automatically classified in the R-1 Residential Single-Unit Dwelling District for zoning purposes pending adoption of a permanent zoning district designation.

§ 410-10. Types of districts. [Amended 12-19-11 by LL. No. 11.005]

The following types of zoning districts are hereby created and established in the City of Binghamton for the intent and purpose described below:

- A. R-1 Residential Single-Unit Dwelling District. The intent of the R-1 Residential Single-Unit Dwelling District is to designate areas where low-density, one-unit dwellings constitute the existing and desired future developmental character and where substantial restriction on the use of land and the density of development is necessary to preserve present character and protect the economic value of existing and future investment. Development which occurs in the R-1 Residential Single-Unit Dwelling District should be comparable with existing population density and the environmental character of the surrounding area.
- B. R-2 Residential One- and Two-Unit Dwelling District. The intent of the R-2 Residential One- and Two-Unit Dwelling District is to designate areas where a mixture of one-unit dwellings, two-unit dwellings, and townhouses creates a low to moderate population density. Restrictions on the intensity and type of residential and nonresidential development are necessary to preserve the desirable residential qualities of neighborhoods, to prevent overcrowding, and to reduce traffic congestion on existing streets. In some locations, the absence of appropriate utilities and access roads or extreme topographic conditions may restrict the intensity or type of development.
- C. R-3 Residential Multi-Unit Dwelling District. The intent of the R-3 Residential Multi-Unit Dwelling District is to designate those areas where multiple-unit housing predominates and where a broad

range of available housing options and a moderate to high population density is the existing and desired future developmental character. Development restrictions will be aimed at achieving the highest concentration of population and the broadest range of housing opportunities in the City while improving land use efficiency, safety and environmental quality.

- D. C-1 Service Commercial District. The intent of the C-1 Service Commercial District is to designate those areas where a concentrated mixture of commercial service, storage and light industrial processing activities, of City-wide or regional significance, is to be found. Restrictions and development standards are aimed at accommodating a variety of such commercial service uses while improving land use efficiency, safety, and environmental quality, particularly adjacent to residential areas and important natural features.
- E. C-2 Downtown Business District. The intent of the C-2 Downtown Business District is to designate those areas where large retail stores, specialty shops and services, business services, financial institutions, offices, theaters, hotels, government buildings, and sports and entertainment facilities, which have primarily City-wide and regional significance, will be permitted at a relatively high level of development intensity. It is further intended that zoning regulations recognize, preserve, and promote the historic importance of large portions of the C-2 District and reflect the viability and desirability of downtown residential development.
- F. C-3 Medical District. The intent of the C-3 Medical District is to designate those areas where medical services and facilities have developed within existing residential neighborhoods and where the continued availability of such services is desired. Restrictions and controls are aimed at promoting development which will be commensurate with the services needed but will not be detrimental to the character of adjacent residential neighborhoods.
- G. C-4 Neighborhood Commercial District. The intent of the C-4 Neighborhood Commercial District is to designate those areas where general retail, service, and office activities provide convenience goods and service to several surrounding neighborhoods but not usually on a City-wide or regional scale. Nonresidential land uses have mixed with, and often superseded, residential development. Restrictions which discourage encroachment of nonresidential activities into adjacent residential areas and gradually improve traffic safety, land use efficiency, and visual quality will be in the best interest of the community.
- H. C-5 Neighborhood Office District. The intent of the C-5 Neighborhood Office District is to designate those areas where professional offices and specialized commercial, personal service, civic, and cultural activities of City-wide and regional significance will be encouraged as alternative uses of existing large residential structures. Land use restrictions are aimed at preserving the architectural and historical character and visual quality of existing development while providing for compatible, efficient, and more intensive use of land and structures for housing and office purposes.
- I. C-6 Limited Neighborhood Commercial District. The intent of the C-6 Limited Neighborhood Commercial District is to designate those areas where small-scale, commercial establishments coexist with residential neighborhoods for the purpose of providing adjacent residents with convenience goods and personal services. Restrictions and controls are aimed at limiting the size and range of permitted uses, assuring compatibility, and limiting further expansion of such districts into surrounding residential areas.
- J. I-1 Urban Business Park District. The intent of the I-1 Urban Business Park District is to designate those areas which are appropriate for technology-based business and industrial uses. Regulations such as design standards will be used to manage the scale and character of development.

- K. I-2 Light and Medium Industrial District. The intent of the I-2 Light and Medium Industrial District is to designate those areas which are suitable for light- and medium-density industrial development. Regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.
- L. I-3 Heavy Industrial District. The intent of the I-3 Heavy Industrial District is to designate those areas which are suitable for heavy industrial uses. Like the I-2 District, regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.
- M. Urban Village Overlay District. The intent of the Urban Village Overlay District is to protect housing stock and property values in the City of Binghamton, as well as designate those areas that are appropriate for mixed uses and subject to design guidelines to create a vibrant and cohesive neighborhood.

ARTICLE IV, General Regulations

§ 410-11. Applicability.

Except as may be provided elsewhere in this chapter to the contrary, the general regulations set forth in this Article IV shall apply to land use and development in the City of Binghamton. No land or building shall hereafter be used or occupied and no building or part thereof shall hereafter be constructed, enlarged or its use altered unless such action is in conformance with applicable regulations specified in this Article IV, in addition to the general and special regulations for the zoning district in which said action occurs.

§ 410-12. Lot regulations. [Amended 8-7-2013 by Ord. No 13-49]

- A. Reduction. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this chapter.
- B. Subdivision of a lot. Where a lot is hereafter formed by subdividing a lot already occupied by a building, such subdivision shall not create a nonconforming situation for the lot on which the existing building is located. No zoning or building and use permit shall be issued for a building or land use on the new lot thus created unless it complies with all the applicable provisions of this chapter.
- C. Irregularly shaped lot. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of such lot or parcel, the Board of appeals shall determine how the requirements shall be applied.
- D. Undersized lots. When a lot of record which is legally in existence at the time of enactment of this chapter does not comply with the minimum lot regulations as specified in Schedule IA (§ 410-28) or IIA (§ 410-33), such undersized lot may be used for any of the uses listed in said schedules if side, rear and front yard setbacks, off-street parking and density requirements can be met, and access from a public street can be provided. The use of such lots shall be subject to any special conditions which might be applicable in the district.

- E. Lot measurements. Measurements for lot depth and for setbacks shall be made from the property lines
- F. Through lot. On through lots (see definition in § 410-5) both property lines shall be front lot lines, and front yard setbacks shall apply. For purposes of siting accessory buildings, such as a private garage, the requirements for front yard setback shall also be applied.
- G. Lot in multiple districts. Where one or more district boundary lines divide a lot or land in single ownership at the time of adoption of the Zoning Map, or any amendments thereto, the regulations applying in any one district may be extended into the remainder of the lot, but only when such extension has been approved by the Planning Department. See § 410-45B.
- H. Two or more uses on one lot. When a residential and nonresidential use or activity occupy the same parcel (e.g., a business and a house), the more restrictive bulk regulations shall be applied.

§ 410-13. Yards and open space. [Amended 8-7-2013 by Ord. No 13-49]

- A. Location. No yard or other open space provided for a specific building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or other open space on one lot shall be considered as a yard or open space for a building on any other lot.
- B. Front yard setback. New buildings shall not be required to have front yards greater in depth than the average of the front yard setbacks of the two adjacent properties.
- C. Side yard setback. When residential construction is in the form of a townhouse development, where each dwelling unit has one or both side walls in common with an adjacent unit, the side yard requirements of Schedules IA (§ 410-28) and IIA (§ 410-33) shall apply only to the end units in the row.
- D. Terraces and porches. A terrace or porch shall not be considered in the determination of lot coverage or yard requirements, except as may be otherwise specified in this chapter, provided that such terrace or porch is without roof, awnings, screens, walls, parapets or other forms of enclosure. Such terrace or porch may have a guard railing or low wall which does not exceed 30 inches in height measured from the lowest level of the terrace or porch. No terrace or porch shall be located less than five feet from any side lot line and may not extend into the front yard by more than 10 feet. Under no circumstance shall the terrace or porch have less than a five-foot setback from the front property line. For lot coverage considerations, a terrace or porch will not be included in lot coverage calculations as long as the terrace or porch is not used as habitable space.
- E. Projecting architectural features. Architectural features such as windowsills, belt courses, chimneys, cornices, eaves or bay windows may project into any required yard area by up to five feet, provided that no such projection shall not be located five feet to any line. The total length of any bay window projections on any wall shall not exceed 1/4 of the overall length of said wall.
- F. Other projections. Open fire escapes, outside stairways, balconies and solar energy systems may project up to five feet into a required yard space, provided that such projections shall not be located five feet from any lot line.

§ 410-14. Fences, hedges and walls.

- A. A fence of masonry, wood or other material which creates a barrier may be located on the property or along any lot line when such fence is not greater than eight feet in height in any residential district and 10 feet in any nonresidential district. The eight-foot-high fence in residential districts may be installed beginning at the rear face of the residence or the rear face of the adjacent residence, whichever is greater, and extend to and along the rear property line. A six-foot-high fence is permitted from the rear face of the residence to the front property line, except as noted in Subsection A(6). The rear face of the residence shall not include any decks, porches, or enclosed porches.
- (1) All fencing shall be erected with standard fencing material consistent with the fencing industry.
 - (2) Any nonstandard proposed fence is permitted, provided that a plan detailing the proposed fence is submitted for review and approval by the Building Bureau and/or Planning Department.
 - (3) No fence shall be located within three feet of any door or window, unless the top of the fence is below the bottom sill of the window.
 - (4) Barbed wire is permitted in any nonresidential property within any residential district or along any boundary line separating a residential and nonresidential district, provided it does not violate the provisions of § 410-17 of this chapter. (See also § 410-15B.)
 - (5) No fence shall be erected so that any part of the fence will exceed the height requirements within Subsection A. This does not apply to decorative posts associated with the fence.
 - (6) Fences surrounding tennis courts or recreation courts are limited to 12 feet in height.
 - (7) Within 12 feet of the front property line or the distance to the front face of the residence, whichever is less, no solid fence, wall, natural plantings, or barrier with a height greater than three feet may be installed, constructed, or planted along any side property line when the solid fence, wall, natural plantings, or barrier is within 10 feet of a driveway.
 - (8) On any corner lot, the height of any solid fence, wall, natural plantings, or barrier shall not exceed four feet along the front and side property lines adjacent to the street. The fence height must be reduced to three feet within the triangular area formed by the intersecting street lines and the straight line joining said street lines in accordance with § 410-17.
- B. It shall be unlawful for any person to plant, set, have or maintain upon his or her premises adjacent to any street, sidewalk or footpath within the City any hedge fence unless the same shall be set at least two feet back from the line of the street, and be kept so trimmed not to project into or over said street, sidewalk, or footpath, or be separated from said street, sidewalk or footpath by a fence.

§ 410-15. Exceptions to height regulations.

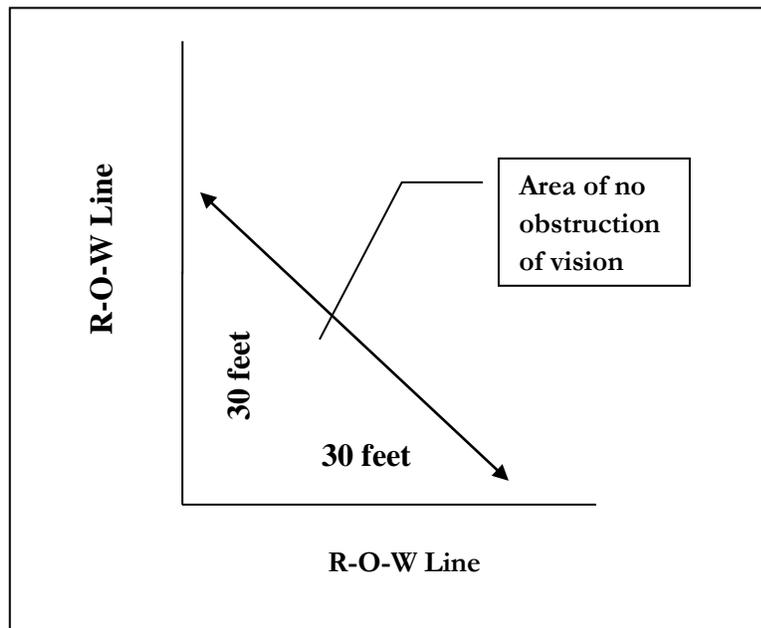
- A. Height. Unless such features are specifically regulated otherwise in this chapter, the height limitations of §§ 410-28 (Schedule IA) and 410-33 (Schedule IIA) shall not apply to flagpoles, monuments, church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, solar and mechanical equipment, radio antennas, amateur radio installations, utility lines and similar installations.
- B. Fences, hedges and walls. The provisions of this chapter shall not apply to fences, walls, steps or natural plantings which are no higher than three feet above the natural grade where such features are located, except that there shall be no plantings between the sidewalk and curb on any lot. (See § 410-17.)

§ 410-16. Street frontage.

No permit shall be issued for any land use or structure unless the lot on which such land use is to be established, or structure is to be built, has at least 20 feet of frontage on, or a twenty-foot easement giving access to, an improved public street, which frontage or easement provides direct vehicular access to such land use or structure. For purposes of this chapter this twenty-foot width limitation does not apply to a townhouse subdivision.

§ 410-17. Visibility at intersections. [Amended 8-7-2013 by Ord. No 13-49]

- A. Obstruction to vision. No solid fence, plantings, or other such barrier, between three (3) feet and seven (7) feet above the grade of the adjacent street line, shall be erected, planted, parked, or otherwise placed on any corner lot or at the intersection of a public or private driveway and a street within the triangular area formed by the intersecting right-of-way lines and the straight line joining said right-of-way lines at points which are a distance of 30 feet from their intersection.
- B. The provision of subsection A of the section shall not apply to a permanent building or to trees which are trimmed to eliminate foliage for a distance of more than seven (7) feet above the grade of the adjacent street line.



- C. Conformity. Any obstruction that was erected without proper approvals and does not conform to the requirements of this § 410-17, and which results in a dangerous obstruction to vision of motorists, shall be made to conform after an official notice of noncompliance has been issued by the Supervisor of Building and Construction.

§ 410-18. Buffer areas. [Amended 8-7-2013 by Ord. No 13-49]

- A. Whenever a buffer strip is required by this chapter, it shall meet the following standards:
 - (1) It shall be a minimum width of five feet along a lot line unless otherwise specified in this chapter as a special condition.
 - (2) It shall contain a dense screen of plantings which will rapidly attain a height of at least six feet. The plantings shall have a minimum height of three feet at the time of planting.
 - (3) Plantings shall be at least 50% evergreen and shall be of such spacing and arrangement as, in the judgment of the Planning Commission or Planning Department, will effectively screen the activities of the lot from adjacent areas.
 - (4) The plan and specifications for such buffer shall be filed with the approval plan for the use of the lot.

- (5) Required planting shall be properly maintained throughout the continuance of the use on the lot.
- B. Notwithstanding the above, a buffer strip may be substituted by a wall or fence with a five-foot-wide landscaped strip of low plantings if approved by the Planning Department and/or Building Bureau.

§ 410-19. Accessory buildings and uses. [Amended 8-7-2013 by Ord. No 13-49]

- A. Limitation. Any accessory building or use shall be limited such that it is compatible with, and incidental to, the principal building or use permitted on the lot. Such accessory structures or use shall not be established prior to establishment of the principal building or use. Only one private garage or carport is allowed per residential lot. In addition, only one accessory shed is allowed per residential lot, with a maximum area of 200 square feet and no dimension greater than 16 feet. Maximum height shall not exceed 10 feet.
- B. Special permit. When a principal building or use requires a special permit, as set forth in §§ 410-27 and 410-32, any accessory use to such principal building or use shall also require a special permit. (See Article VIII.)
- C. Keeping of animals. An accessory use in any district shall not include the sheltering, keeping or maintaining of hogs, goats, sheep, horses, ponies, mules, donkeys, cattle, chickens, rabbits or any animal not commonly considered a domestic pet, except that up to four chickens or rabbits may be kept and maintained in a manner that does not create odors or noise disturbing to occupants of adjacent properties.
- D. Standards. Except as may be otherwise regulated elsewhere in this chapter, an accessory building hereafter erected, enlarged or moved on a lot shall comply with the following standards:
 - (1) Detached building. For purposes of providing fire separation a detached garage or other accessory building shall:
 - (a) Be at least five feet from the nearest principal building. If less than five feet, the proposed structure shall meet the standards of the New York Uniform Fire Prevention and Building Code.
 - (b) Be not more than 16 feet in height if detached from a one-story building and not more than 20 feet in height if detached from a two-story building.
 - (c) Be located not less than five feet from any rear lot line or any interior side lot line.
 - (d) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.
 - (e) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.
 - (f) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met:
 - [1] A minimum setback of one foot can be provided.
 - [2] There are no existing encroachments onto neighboring lots.
 - (2) Attached building. Garages or other accessory buildings attached to a principal building shall:
 - (a) Be no higher than the principal building.

- (b) Comply with the yard requirements which would be applicable to any principal building on the lot.
- (c) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.
- (d) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.
- (e) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met
 - [1] A minimum setback of one foot can be provided.
 - [2] There are no existing encroachments onto neighboring lots.

§ 410-20. Preexisting conditions.

Nothing in this chapter or any amendment thereto shall be construed as changing the plans or use of present buildings, or the construction, use or occupation of any building for which a building permit has heretofore been issued. All plans heretofore filed and approved, ratified, and confirmed and the rights to construction thereunder are hereby vested in the holders thereof.

ARTICLE V, Special Purpose Regulations

§ 410-21. Intent.

The intent of this Article V is to protect public health, safety and general welfare in the City of Binghamton by:

- A. Restricting development in areas that are periodically subject to the damaging impact of flooding and high water;
- B. Establishing a series of standards, measurements and thresholds designed to regulate the performance and operation of land use activities within the City and to minimize potentially negative environmental impacts of such activities;

§ 410-22. Applicability.

Standards and procedures set forth in this Article V shall apply to all affected land use activities, as applicable, in all zoning districts in the City of Binghamton. No land use activity regulated by the provisions of the article shall be construed to be permitted, and no building and use permit issued, until there is compliance with the specific provisions as set forth herein.

§ 410-23. Floodplain management.

A floodplain development permit shall be obtained from the Planning Commission before the start of construction or any other development within the area of special flood hazard as set forth in Chapter 240, Flood Damage Prevention.

§ 410-24. Performance standards. [Amended 7-20-09 by Ord. No. 23-2009; Amended 12-19-11 by LL. No. 005; Amended 8-7-2013 by Ord. No 13-49]

- A. Purpose. The purpose of these performance standards is to regulate the potentially objectionable aspects of land uses or activities in the City of Binghamton by the application of specific standards

whenever possible. The objectives of these standards are consistent with the promotion of public health, safety and general welfare and include:

- (1) To reduce to a minimum dissemination of smoke, gas, dust, odor or any other atmospheric pollutant outside the building in which the use or activity is conducted.
- (2) To control noise perceptible beyond the boundaries of the immediate site of the use or activity.
- (3) To prevent the discharge of any waste material into any watercourse.
- (4) To prevent the dissemination of vibration or heat or electromagnetic interference beyond the immediate site of the use or activity.
- (5) To eliminate physical hazard by reason of fire, explosion, radiation, or any similar cause, to property in the same or an adjacent district.

B. Noise control.

- (1) All land uses shall comply with the noise standards established in Chapter 292, Noise. Maximum permissible continuous sound levels are listed in the following table:
- (2) In addition, no person shall make, cause, allow, or permit the operation of any impulsive source of sound within any and all property in the City which has a peak sound pressure level in excess of 80 dBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently in any hour, the levels set forth in Table 1 shall apply.

Table 1
Maximum Permissible Continuous Sound Levels by Receiving Property Category
(DBA)

Sound Source Project Category	Another Dwelling within a Multi-Dwelling-Unit Building		Residential		Commercial or Public Service Community Facility	Industrial or Public Service Community Facility	City Park
	7:00 am – 10:00pm	10:00pm – 7:00am	7:00 am – 10:00pm	10:00pm – 7:00am	All times	All times	8:00am – 9:00pm
Any location within a multi-dwelling unit building	50	45	55	50	65	70	65
Residential (or public spaces or rights-of- way	55	50	55	50	65	70	65
Commercial, public service, or community service facility	55	50	55	50	65	70	65
Industrial or public service <i>industrial</i>	55	50	55	50	65	70	65

C. Vibration. No vibrations are permitted which are discernible to the human sense of feeling without instruments at any point along the property lines of the subject premises. The standard shall not apply to vibrations created during temporary construction work or from transportation facilities. In the event of a complaint, the Supervisor of the Office of Building and Construction shall measure the vibration using an appropriate measuring system.

(1) Maximum permitted steady state and impact vibration displacement (in inches):

Frequency (cycles per second)	Vibration Displacement (inches)	
	Steady State	Impact
Under 10	0.0005	0.0010
10 to 19	0.0004	0.0008
20 to 29	0.0003	0.0006
30 to 39	0.0002	0.0004
40 and over	0.0001	0.0002

(2) No activity shall cause or create a steady state or impact vibration on a lot line with a vibration displacement by frequency bands in excess of that indicated in the table above.

D. Fire and explosive hazards. All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of Chapter 235, Fire Prevention, of the Code of the City of Binghamton, as well as state and local laws and regulations, shall also apply.

E. Fly ash, dust, fumes, and other forms of air pollution. Uses shall be so operated as to control the emission of particulate matter to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such regulations shall also comply with applicable federal and state regulations.

- F. Smoke. Uses shall be so operated as to control the emission of smoke to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such activities shall also comply with applicable federal and state regulations. For purposes of grading the density of smoke, the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. Any emission of smoke shall not be of a density equal to or greater than number two on the Ringelmann Chart. In cases of smoke other than black in color, an approved density scale equivalent to the Ringelmann Chart shall be used.
- G. Radiation. No operation, whether or not licensed by the United States Department of Energy, shall be conducted so as to exceed the standards established by said Commission for protection against radiation or which violates any regulation of any other administrative body charged with the responsibility of controlling radiation.
- H. Electromagnetic radiation and interference. No activity, operation or use shall cause electromagnetic radiation interference that:
- (1) Adversely affects persons or the operation of any equipment across property lines; and
 - (2) Is not in conformance with the regulations of the Federal Communications Commission.
- I. Humidity and heat. Any activity producing humidity, in the form of steam or moist air, or producing heat, shall be carried on in such a manner that the steam, humidity, or heat is not perceptible at any lot line.
- J. Outdoor lighting.
- (1) Purpose. The purpose of these standards is to require and set minimum standards for outdoor lighting which:
 - (a) Provide for and control lighting in outdoor public places where public health, safety, and welfare are potential concerns.
 - (b) Protect drivers and pedestrians from the glare of nonvehicular light sources.
 - (c) Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.
 - (d) Promote energy-efficient lighting design and operation.
 - (e) Protect and retain the intended visual character of the various City of Binghamton venues.
 - (2) Applicability.
 - (a) All uses within the City of Binghamton where there is outdoor lighting, including, but not limited to, residential, multifamily residential, commercial, industrial, public and private recreational/sports, institutional uses, and sign, billboard, architectural and landscape lighting, shall be subject to these regulations.
 - (b) Temporary seasonal decorative lighting and emergency lighting are exempt from all but the glare-control requirements of this chapter.
 - (c) Emergency lighting, as may be required by any public agency while engaged in the performance of its duties, is exempt.
 - (3) Criteria.
 - (a) Illumination levels. Lighting, where required by this chapter, or otherwise required or allowed by the Supervisor of the Office of Building and Construction, shall have intensities, uniformities and glare control in

accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA).

- (b) Lighting fixture design.
 - [1] Fixtures shall be of a type and design appropriate to the lighting application.
 - [2] For the lighting of predominantly horizontal surfaces such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, culs-de-sac, active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, fixtures shall be aimed straight down and shall meet IESNA full-cutoff criteria. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty-watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirements of this subsection.
 - [3] For lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays, and statuary, fixtures shall be fully shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty-watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirement of this subsection.
 - [4] "Barn lights," also known as "dusk-to-dawn lights," where visible from other properties, shall not be permitted unless fully shielded.
- (c) Control of nuisance and disabling glare.
 - [1] All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
 - [2] Floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way.
 - [3] Parking facility and vehicular and pedestrian way lighting (except for safety and security applications and all-night business operations) for commercial, industrial and institutional uses shall be automatically extinguished no later than one hour after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of 33% of the number of fixtures required or permitted for illumination during regular business hours.
 - [4] Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises for a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.
 - [5] Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

- [6] The illumination projected from any use onto a residential property shall at no time exceed 0.5 footcandle, measured line-of-sight from any point on the receiving residential zoning district.
 - [7] The illumination projected from any property to a nonresidential property district shall at no time exceed 1.0 footcandle, measured line-of-sight from any point on the receiving property.
 - [8] Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and aimed to place the light output onto and not beyond the sign or billboard.
 - [9] Except for certain recreational lighting, fixtures meeting IESNA full-cutoff criteria shall not be mounted in excess of 20 feet above finished grade. Fixtures not meeting IESNA full-cutoff criteria shall not be mounted in excess of 16 feet above finished grade.
 - [10] The United States and the state flag shall be permitted to be illuminated from dusk until dawn. All other flags shall not be illuminated past 11:00 p.m. Flag lighting sources shall not exceed 10,000 lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.
 - [11] Under-canopy lighting, for such applications as gas/service stations, hotel/theater marquees, or fast-food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles. The average illumination intensity in the area directly below the canopy shall not exceed 20 maintained footcandles, and the maximum intensity shall not exceed 40 maintained footcandles.
- (d) Installation.
- [1] Electrical feeds for lighting standards shall be run underground, not overhead.
 - [2] Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces, or where they could be hit by snow plows, shall be placed a minimum of five feet outside paved area or tire stops, or placed on concrete pedestals at least 30 inches high above the pavement, or suitably protected by other means approved by the Supervisor of the Office of Building and Construction or the Planning Department.
 - [3] Pole-mounted fixtures for lighting horizontal tasks shall be aimed straight down.
- (e) Maintenance. Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this chapter.
- (4) Plan submission. Lighting plans, when requested by the Supervisor of the Office of Building and Construction or the Planning Department, shall be submitted for building permits, variances, Series A Site Plan exception review, special use permits, and Series A plan review applications for review and approval.
- (5) Compliance monitoring.
- (a) Safety hazards.
 - [1] If the Supervisor of the Office of Building and Construction or any relevant City department judges that a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action.
 - [2] If appropriate corrective action has not been effected within 15 days of notification, the City of Binghamton may take appropriate legal action.

- (b) Nuisance glare and inadequate illumination levels. When the Supervisor of the Office of Building and Construction or any relevant City department judges that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this chapter, the City of Binghamton may cause notification of the person(s) responsible for the lighting and require appropriate remedial action
- (6) Nonconforming lighting. Any lighting fixture or lighting installation existing on the effective date of this chapter that does not conform with the requirements of this chapter shall be considered as a lawful nonconformance. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this chapter when:
 - (a) Minor corrective action, such as reaiming or shielding, can achieve conformity with the applicable requirements of this chapter.
 - (b) It is deemed by the City of Binghamton to create a safety hazard.
 - (c) It is replaced by another fixture or fixtures, abandoned, or relocated.
 - (d) There is a change in use.
- K. Odor. No land use or establishment shall be permitted to emit odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the lot from which they are emitted, either at ground level or habitable elevation. Any process involving creation or emission of any odors shall be provided with a secondary safeguard system, so control will be maintained if primary safeguard systems should fail.
- L. Storage of unregistered and/or unlicensed vehicles. See Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton, §§ 265-1 and 265-13H(1)(f).
- M. Urban Village Overlay District in addition to the other requirements in this Chapter, shall include the following design guidelines.
 - (1) Public Right-of-way “Complete Streets”
 - (a) Guiding Principles: The public right-of-way is the term used to describe the publicly owned area between property lines. It can include a variety of elements, such as lanes for vehicle travel, parking, bicycling, walking areas, street furniture, bus stops, utility poles, planting strips, with landscaping and trees, and signs. Streets must balance the needs of pedestrians, bicycles, transit and the automobile in creating an attractive and viable neighborhood. Streets are for people first, commercial activity second, parking third, and through-traffic fourth. They should be "Complete Streets" which respect the pedestrian, bicycle, transit, automobile hierarchy. Urban Streets are the stages on which the public life of the community is acted out. Streets are the most important and pervasive public space and common ground, when it comes to making the Urban Village Overlay District a destination. Likewise, visible caring and upkeep are critical to the vitality of urban street life.
 - (b) Recommendations:
 - Sidewalks: The most profound way to change our streets is to change the balance between people and cars by seeking the widest possible sidewalks and calming traffic.
 - Crosswalks: Crosswalks should favor pedestrian movement at all major intersections.

Bike Lanes: Where bike lanes are desired, it should be at the expense of a care lane or a parking strip rather than at the expense of sidewalk width. Ideally, most streets in the Urban Village Overlay District should be "calm" enough to allow bike traffic in car lanes rather than in a separate bike lane.

Lighting: Lighting exists at two levels — street lighting and sidewalk lighting. Street lighting provides a base level of illumination. Sidewalk lighting provides lighting for pedestrians. Both should meet dark sky guidelines and define the street space. Sidewalk lighting should define the pedestrian space and be of pedestrian scale.

Street Trees: Trees should be consistently used to define the street space, provide shade in the summer, and create great environments for sidewalk cafes. The Binghamton Shade Tree Commission should be consulted for all street tree plantings.

Transit Stops: Transit stops should be provided with amenities, public services and proper signage to increase the use of public transportation.

(2) Parking

(a) General

[1] Where uses have different peak parking demands, shared parking agreements should be facilitated.

[2] Enclosed parking is encouraged. Parking lots are discouraged, but may be permitted when they adhere to design guidelines.

(b) Off-Street Parking

[1] Parking areas should not front on pedestrian oriented streets

[2] Parking should be located at the rear of the principal building with access from a driveway or shared alley, if possible

[3] For parcels located on the corner, parking shall be located to the rear of the structure

[4] Parking otherwise visible from the street should be screened with a wall or screening compatible with the building design and in accordance with §410-55 below. The City of Binghamton Planning Commission shall determine the effectiveness of the screening measures and their compatibility with the building

(3) Retaining Existing Buildings

(a) Background: The Greenest building is the one already built, according to Carl Elefante, FAIA. The reuse of existing buildings is inherently sustainable. Preservation maximizes the use of existing materials and infrastructure, reduces waste, and preserves the historic character of older towns and cities. The energy embedded in an existing building can be 30% of the embedded energy of maintenance and operations for the entire life of the building. Sustainability begins with preservation. Historic buildings were traditionally designed with many sustainable features that responded to climate and site. When effectively restored and reused, these features can bring about substantial energy savings. Taking into account historic buildings' original climatic adaptations, today's sustainable technology can supplement inherent sustainable features without compromising unique historic character

(b) Guiding Principles: The Urban Village Overlay District is intended to be a destination that attracts the community, visitors, workers and residents with these characteristics: unique, healthy, environmentally friendly and memorable. Retaining existing buildings supports each of these characteristics. Older buildings, properly maintained, enhance the uniqueness of the built environment and pedestrian scale; attract unique uses with architectural detail and small bay sizes; and conserve energy and natural resources (the greenest building is the one already built). Additionally, many people choose to visit and live in places that recognize the importance of saving the places that document our history and heritage with physical structures.

(c) Objectives

- [1] Recognize existing contributing (character/cultural heritage) buildings as an economic development asset in the Urban Village Overlay District.
- [2] Develop means to revitalize and retain existing contributing (character/cultural heritage) buildings in the Urban Village Overlay District.
- [3] Use adaptive reuse of existing buildings to further neighborhood goals: create vibrant, attractive housing options, and celebrate the Westside experience.

(4) Residential Structures

- (a) Guiding Principles: The character and quality of the Urban Village Overlay District is very dependent on internal flow and street patterns. This is necessary to create a neighborhood which encourages pedestrian circulation, reduces auto dependency and fosters interaction among neighbors. This approach to neighborhood creation will also foster the unity of the Urban Village Overlay District with a larger integrated community of the Westside Neighborhood
- (b) Residential Walls and Façades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of the Urban Village Overlay District is to provide a clear and appropriate visual aesthetic for the area. The use of traditionally appropriate façade treatments and designs is a vital aspect of achieving this aesthetic.
 - [1] Large surface expanses on walls should be articulated with varied reveal patterns (control joints), material/texture/color changes, architectural detailing, changes in plane/direction of siding materials, or other means. These measures create distinct shadow patterns resulting in the increased perception of depth and variety
 - [2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, concrete and concrete block are encouraged along the ground plane at pedestrian levels
 - [3] Exterior walls and facades should include a combination windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and/or other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control
 - [4] Replacement windows should match existing openings, window styles and materials. If it is necessary to change window materials, traditionally appropriate materials should be used
 - [5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.
 - [6] Building facades should have a balance of solid and transparent surfaces.
 - [7] Wood and composite siding painted in historically appropriate colors is encouraged.
 - [8] "Plinth" blocks at building bases and corners in poured concrete, cut stone, or masonry are encouraged.
 - [9] Corrugated fiberglass or metal ("tin") panels are not allowed.
 - [10] Plywood, hardboard or dimensional lumber is discouraged, especially on the front façade.
- (c) Residential Accent Materials: Accents and architectural details are features on buildings that provide added visual interest, emphasis, variety and quality in appearance.
 - [1] Brick masonry, high quality man-made stone and natural stone in medium to light earth toned colors may be appropriate for the first-floor of the building

- [2] The use of decorative columns, porch rails and spindles, decorative brackets, and other architectural ornamentation appropriate for the architectural style of the building is encouraged.
- (d) Residential Refuse and Trash Enclosures
 - [1] Locate refuse container enclosures in rear and/or interior side yards to minimize their visibility from adjacent uses, streets and upper story uses.
 - [2] Refuse collection areas and enclosures should be six feet in height, should be architecturally compatible with the overall design theme of adjacent buildings using similar durable and non-combustible materials, textures, colors and form.
 - [3] The use of lattice or other roof structures should be incorporated into refuse enclosures design where possible.
- (e) Residential Structure Orientation
 - [1] Residential buildings should have pedestrian access and visual orientation to the adjacent roadways. Front entrances shall face the street.
 - [2] Residential buildings should be oriented on the site to create interesting and safe common open space areas that promote neighborly interaction.
 - [3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both of the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and lots across the street, as well as adjacencies to parks and other open spaces or urban design features. The driveway may access either, but orientation to the minor street is preferred.
 - [4] Porches. The purpose of providing a porch is to create a buffer and human scale layer between the sidewalk and the house. It is also to provide a social edge to the private dwelling in which people can choose to “see and be seen” along the neighborhood streets. It is recommended that the porch is raised 8”---12” or at least one step above adjacent grade. The porch can be integrated with second floor elements to provide balconies and decks. The front door must be clearly visible from the street.
- (f) Residential Circulation and Parking
 - [1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings. Parking is not allowed between the building and the street.
 - [2] All parking shall be in accordance with the City of Binghamton Zoning Code.
 - [3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged
- (g) Residential Landscaping
 - [1] Front yards should consist of grass and include shrubs, low-plantings, and/or trees. Front yards should not be paved, except for areas required for driveways.
 - [2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged.
 - [3] Tree species within utility strip should be installed per the recommendations of the City of Binghamton Shade Tree Commission
 - [4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

- [5] Trees should be located as to preserve sight lines at intersections and near signage
 - [6] Water-conserving plant materials should be used where practical.
 - [7] Clear sight lines should be maintained at entry drives and intersections per City standards
 - [8] Decorative rocks, cobble, crushed rock, permanent wood chips or gravel are not to be in lieu of ground cover material; however they may be used as accent material to stabilize drainage swales and channels
- (h) Residential Fencing
- [1] Front Yard (includes side yard areas 10 feet behind front façade)
 - [a] Front yard fencing is discouraged. Front yard fences and side yard fences within the front yard setback should not exceed a height of three (3) feet
 - [b] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the home.
 - [c] Chain link fencing is discouraged
 - [2] Rear/Side Yard
 - [d] If residential side and rear yard fences are used, they should not exceed 6 feet in height.
 - [e] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the homes.
- (i) Residential Lighting: The lighting within the Urban Village Overlay District will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the neighborhood without crating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.
- [1] Light sources with a white color within the color temperature range of 2,700 – 4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.
 - [2] Light standards should be attractive to look at during daylight hours.
 - [3] Light sources should be located and directed to minimize glare to adjacent uses. Indirect wall lighting or “wall washing” is strongly encouraged rather than spot lighting from great distances.
 - [4] Building lighting should be carefully integrated into the building or concealed in the landscape as to hide the source at night and obscure the fixture in daylight
 - [5] Light fixtures should not project above the façade or roofline of the building
 - [6] Energy saving devices such as solar sensors and timers should be utilized. The use of energy efficient bulbs is encouraged
 - [7] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.
 - [8] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code
- (5) Non-Residential Structures

- (a) Guiding Principles: To establish an effective and vibrant Urban Village Overlay District, it is necessary allow for a mixed-used neighborhood which balances residential and commercial use. These design guidelines will help integrate non-residential use structures into the area while still allowing for the creation of a mixed-used neighborhood.
- (b) Non-residential Walls and Facades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of this guideline is to provide a balance between the residential character of the neighborhood and the desire for and requirements of commercial development.
 - [1] Large surface areas on exterior walls should be articulated to create distinct shadow patterns, depth, and variety. Wall surfaces should not exceed 250 square feet or have continuous runs greater than 50 linear feet without some form of articulation. At a minimum, wall surfaces should have clearly defined vertical divisions at approximately 15 to 30 foot intervals
 - [2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, poured concrete and decorative concrete block are encouraged along the ground plane and at pedestrian levels.
 - [3] Exterior walls and facades, especially at ground level, should include windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control. "Blank" walls are discouraged
 - [4] Any articulation and/or detailing of exterior walls at ground level should be integrated with landscape features (trees, plants, walls, trellises and unique land forms) to ensure appropriate transition from ground to wall plane.
 - [5] Any redesign of existing structures for non-residential uses should take into consideration any existing architectural elements or designs of the building in the new plans
 - [6] For new construction, the minimum height of a ground floor commercial space should be fifteen (15) feet measured from finished grade to the ceiling plate.
- (c) Non-Residential Structure Openings: Building openings refers to windows, doors, skylights, storefronts, and other interruptions/penetrations in a building façade. The character and quality of a building is highly influenced by the size, scale proportion, edge detail, material and color of these elements.
 - [1] Fabric awnings are encouraged on storefronts and windows. Awnings' shapes and colors must complement the overall building
 - [2] Windows and/or doors located above the first level should be stacked over those on the first level
 - [3] Ground floor window openings for new construction of non-residential structures should be a minimum of 50-80% of the ground floor façade area. Second level and above windows should not exceed 50% of the total exterior wall surface.
 - [4] Ground floor windows openings for formerly residential structures converted to non-residential use should maintain the size, shape, and location of existing window openings.
 - [5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.
- (d) Non-Residential Utilities and Services
 - [1] For new construction of non-residential use structures, the burying of utilities lines is strongly encouraged whenever possible

- [2] Locate refuse and recycling container enclosures in rear or interior side yards or parking lot landscape areas to minimize their visibility from adjacent uses, streets and upper story uses
 - [3] Refuse and recycling collection areas and enclosures should be six feet in height, shall be architecturally compatible with the overall design theme of adjacent buildings, using similar durable and non-combustible materials, textures, colors, and form
 - [4] The use of trellis or other substantial roof structures should be incorporated into refuse and recycling enclosure's design where possible.
 - [5] Refuse recycling collection areas and enclosures should be located for the convenience of users and refuse collection agencies while maintaining concealment from public right-of-way.
- (e) Non-Residential Energy Conservation
- [1] Building and related structures are encouraged to provide ample shade and air circulation for pedestrian users in the hot summer months, as well as thermal mass walls for natural heating in the cool winter months. This can most easily be accomplished by planting shade trees in the utility strip and on the south and west sides of the structure.
 - [2] All buildings are encouraged to incorporate energy-efficient technologies, e.g., photo voltaic solar energy collection panels, and construction systems and technologies to provide the highest possible energy efficient buildings
 - [3] The use of energy efficient light-bulbs is encouraged
- (f) Non-Residential Structure Orientation: A key ingredient for creating a pedestrian-oriented development in the guidelines is the creation of distinctive buildings within the core commercial/retail parcels. These buildings provide opportunities for retail, office, and other facilities to co-exist in close proximity allowing residents to accomplish daily routines as a pedestrian rather than a motorist.
- [1] Non-residential buildings should have pedestrian access and visual orientation to the adjacent roadways and/or open-space features
 - [2] Parking should be to the rear of the site with primary entrances oriented to public roadway. A secondary entrance off the rear parking lot is encouraged. This rear entrance is often an ideal location for an ADA accessible entrance.
 - [3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and lots across the street, as well as adjacencies may access either street, but orientation to the minor street is preferred.
 - [4] Commercial buildings should be oriented to maximize pedestrian linkages to adjacent transit stops.
- (g) Non-residential Circulation and Parking
- [1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings
 - [2] All parking shall be in accordance with the City of Binghamton Zoning Code
 - [3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged.
- (h) Non-Residential Street Tree Planting
- [1] The intent is to create a heavy "canopy" over the sidewalk and to provide a visual buffer between residential and non-residential uses. Yard trees should

be located a minimum of 4'0" and a maximum 6'0" from the sidewalk; in utility strips, trees should be located in the middle of the strip between the street curb and the sidewalk

[2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged

[3] Tree species within utility strips should be installed per the recommendation of the City of Binghamton Shade Tree Commission

[4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

[5] Trees should be located as to preserve sight lines at intersections and near signage.

(i) Non-Residential Lighting: The lighting within the guidelines will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the project area without creating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.

[1] Light sources with a white color within the color temperature range of 2,700-4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.

[2] Light standards should be attractive to look at during daylight hours.

[3] Light sources should be located and directed to minimize glare to adjacent uses and adjacent roadways.

[4] Shoebox style light fixtures are prohibited.

[5] Light standards should be located in planters on grade where possible. Large concrete footings that exceed 12 inches above grade are discouraged.

[6] Energy saving devices such as solar sensors and timers are strongly encouraged. The use of energy efficient bulbs is encouraged.

[7] Light fixtures should not project above the façade or roofline of the building

[8] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.

[9] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code.

(6) General Provisions. These Guidelines shall not supersede any other applicable City of Binghamton Codes, Ordinances, or General Laws. All projects located within the Urban Village shall comply with any other applicable City of Binghamton Codes, Ordinances, or General Laws.

N. Evidence of conformity. With respect to any application for a building permit, special use permit or variance and before a certificate of occupancy can be issued for any use, the Supervisor of the Office of Building and Construction may require the applicant, at his or her own expense, to provide such evidence as he or she may deem necessary to determine whether or not the proposed use will conform to the performance standards set forth above and, in connection therewith, the Supervisor of the Office of Building and Construction may obtain expert advice at the expense of the applicant, and payment in advance of the amount of such expense shall be a condition of further consideration of the application. Where appropriate, the Supervisor of the Office of Building and Construction

may require the installation, maintenance and operation by the applicant, at applicant's expense, of continuous recording instruments to demonstrate the operation or effect of operations of any machines, or devices used to control or lessen noise, vibration, glare, air pollution, water pollution, fire hazards or safety hazards.

- O. Zoning Board of Appeals action. Upon receipt of the Supervisor of the Office of Building and Construction's report on a violation of performance standards, the Zoning Board of Appeals shall hold a public hearing to consider the matter in accordance with § 410-94. Upon a finding of the Zoning Board of Appeals that a violation exists or that corrective action is necessary to prevent the recurrence of a violation, the operator of the violating facility shall be ordered to cease and desist; and all permits, zoning clearances of any other approvals for the operation shall be voided and terminated until such time as the corrective action is taken and such action approved by the Zoning Board of Appeals.
- P. Tobacco Sales Near Schools Prohibited. The sale of tobacco and tobacco products (including but not limited to: cigarettes, cigars, pipe tobacco, chewing tobacco, and electronic cigarettes) is prohibited within 500 feet of any property boundary of any public or private elementary or secondary school. The provisions of this section shall not preclude the occupancy, maintenance, and occupancy of any tobacco retailer that existed lawfully prior to the effective date of this Section. Such uses shall be subject to a nonconforming use regulations in Article XII.

ARTICLE VI, Residential Districts

§ 410-25. Intent. [Amended 8-7-2013 by Ord. No 13-49]

The intent of this Article VI is to identify the types of land uses which are permitted in the three residential zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-26. General provisions. [Amended 8-7-2013 by Ord. No 13-49]

- A. Schedule of regulations. Regulations relating to land uses in residential districts are set forth in Schedule I (§ 410-27). Regulations relating to lot size, setbacks, and similar bulk requirements are set forth in Schedule IA (§ 410-28). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.
- B. Excluded uses or activities. A land use which is not set forth in Schedule I (§ 410-27) is not permitted in residential districts in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed by district in Schedule I (§ 410-27) may be processed in accordance with the appropriate provisions of this chapter. (See Article XIV.)
- C. Site plan approval. When Schedule I (§ 410-27) specifies that a special use permit/Series A site plan review is required for a land use in a residential district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VI and IX of this chapter.
- D. Any dwelling unit within any residential district must meet the definition of a family or the equivalent of a family (See definitions in § 410-5.)

§ 410-27. Schedule I: Land Uses in Residential Zoning Districts. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

The following uses are permitted in residential zoning districts:

A. R-1 Residential Single-Unit Dwelling District.

(1) Permitted by right, subject to Article IX

(a) Principal uses:

Adult residential care facility – four or fewer beds, subject to 410.29B
Community residential facility –family care residences, subject to 410.29F
Community residential facility--family care
Community residence facility for the disabled
Convent
Dwelling, modular
Essential services (public facilities)
Foster care home
Garden, community or neighborhood, subject to 410.29L
Parish house, subject to 410.29R
Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
One-unit dwelling

(b) Accessory uses:

Accessory buildings
Accessory dwelling, subject to 410.29A
Alternative domestic energy supply installation, subject to 410.29C
Amateur radio installations, subject to 410.29D
Antenna and satellite dish
Day care, family
Electric Vehicle Charging Station, subject to 410.29W
Garage sales, subject to 410.29W
Garden, noncommercial
Garden pond
Hospice
Kennel, residential private
Minor home occupations, subject to 410.29O
Private swimming pools and tennis courts
Respite care (private residence)
Storage of recreational vehicles, subject to 410.29X
Storage of residential vehicles
Temporary structures, subject to 410.29U

(2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).

(a) Principal uses

Conversion or Construction of a Dwelling Unit resulting in or containing more than Four Bedrooms, subject to 410.29G
Construction of a Structure with Dwelling Units with more than Four Bedrooms
Dwelling, manufactured home, subject to 410-41A(10)
Place of worship, subject to 410-41A(16)
Private school: primary and secondary
Public buildings, including elementary and secondary schools
Townhouses with two units, subject to 410-41A(25)

(3) Permitted with Planning Commission approval (special use permit and Series A site plan).

- (a) Principal uses:
 - Conversion of Dwelling Unit to More than Four Bedrooms
 - Construction of a Structure with Dwelling Units with more than Four Bedrooms
 - Dwelling, manufactured home
 - Place of worship
 - Private school; primary and secondary
 - Public buildings, including elementary and secondary schools
 - Townhouses with two units

B. R-2 Residential One- and Two-Unit Dwelling District.

(1) Permitted by right, subject to Article IX.

- (a) Principal uses:
 - Adult residential care facility--four or fewer beds, subject to 410.29B
 - Community residential facility--family care
 - Community residence facility for the disabled
 - Community residential facility--family care residences, subject to 410.29F
 - Convent
 - Dwelling, modular essential services
 - Dwelling, manufactured home, subject to 410.29K
 - Essential services (public facilities)
 - Foster care home
 - Garden, community or neighborhood, subject to 410.29L
 - Monastery
 - Parish house, subject to 410.29R
 - Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
 - One-unit dwelling
 - Townhouses with two units
 - Two-unit dwelling

(b) Accessory uses:

- Accessory dwelling, subject to 410.29A
- Accessory buildings
- Alternative domestic energy supply installation, subject to 410.29C
- Amateur radio installations, subject to 410.29D
- Antenna and satellite dish
- Day care, family
- Electric Vehicle Charging Station, subject to 410.29W
- Garage sales, subject to 410.29W
- Garden, noncommercial
- Garden pond
- Hospice
- Kennel, residential private
- Minor home occupations, subject to 410.29O
- Private swimming pools and tennis courts
- Respite care (private residence)
- Storage of recreational vehicles, subject to 410.29X
- Storage of residential vehicles
- Temporary structures, subject to 410.29U

(2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).

(a) Principal uses:

- Conversion or Construction of a dwelling Unit resulting in or containing More than Four Bedrooms, subject to 410.29G
- Places of worship, subject to 410-41A(16)
- Private school: primary and secondary
- Public buildings, including elementary and secondary schools
- Townhouse with four or fewer dwelling units, subject to 410-41A(24)
- (3) Permitted with Planning Commission approval (special use permit and Series A site plan).
 - (a) Principal uses:
 - Conversion of Dwelling Unit to More than Four Bedrooms
 - Construction of a Structure with Dwelling Units with more than Four Bedrooms
 - Place of worship
 - Private school; primary and secondary
 - Public buildings, including elementary and secondary schools
 - Townhouses with four or fewer dwelling units

C. R-3 Residential Multi-Unit Dwelling District.

- (1) Permitted by right, subject to Article IX.
 - (a) Principal uses:
 - Adult residential care facility – four or fewer beds, subject to 410.29B
 - Bed-and-breakfast home, subject to 410.29E
 - Community residential facility – family care residences, subject to 410.29F
 - Community residential facility--family care
 - Community residence facility for the disabled
 - Convent
 - Day-care, adult group, subject to 410.29H
 - Day-care, adult home, subject to 410.29I
 - Day-care facility, subject to 410.29J
 - Dwelling manufactured home, subject to 410.29K
 - Dwelling, modular
 - Essential services (public facilities)
 - Foster care home
 - Garden, community or neighborhood, subject to 410.29K
 - Hospitality house, subject to 410.29M
 - Monastery
 - Multi-unit dwelling: new construction or conversion of existing building into three or more units
 - Parish house
 - Parking, ancillary, subject to 410.29S
 - Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
 - Single-unit residences
 - Townhouses with two units
 - Townhouse with four or fewer dwelling units, subject to 410.29V
 - Two-unit residences
 - (b) Accessory uses.
 - Accessory buildings
 - Accessory dwelling, subject to 410.29A
 - Alternative domestic energy supply installation, subject 410.29C
 - Amateur radio installations, subject to 410.29D
 - Antenna and satellite dish
 - Day care, family
 - Electric Vehicle Charging Station, subject to 410.29W

- Garage sales, subject to 410.29W
- Garden, noncommercial
- Garden pond
- Hospice
- Kennel, residential private
- Major home occupations, subject to 410.29N
- Minor home occupations, subject to 410.29O
- Private swimming pools and tennis courts
- Respite care (private residence)
- Seasonal sales, subject to 410.29T
- Storage of recreational vehicles, subject to 410.29X
- Storage of residential vehicles
- Temporary structures, subject to 410.29U
- (2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).
 - (a) Principal uses:
 - Adult residential care facility—five or more beds
 - Bed-and-breakfast inn
 - Boardinghouse
 - Community residential facility—community residences for youth (group homes)
 - Community residential facility—alcohol or drug user community support residences
 - Community residential facility—community residence, other
 - Convalescent/Nursing home: health-related nursing facility
 - Convalescent/Nursing home: skilled nursing facility
 - Conversion or Construction of Dwelling Unit resulting in or containing More than Four Bedrooms, subject to 410.29G
 - Construction of a Structure with Dwelling Units with more than Four Bedrooms
 - Hospice facility
 - Multi-unit dwelling: new construction or conversion of existing building into five or more units
 - Parking area, public, subject to 410-41A(15)
 - Place of worship, subject to 410-41A(16)
 - Private school: primary and secondary
 - Public buildings, including elementary and secondary schools
 - Recreation use, racetrack, subject to 410-41A (18)
 - Respite care facility
 - Retreat house
 - Rooming house, new construction or conversion of existing building
 - Townhouse with five or more dwelling units (subject to 410-41A(23))
- (3) Permitted with Planning Commission approval (special use permit and Series A site plan).
 - (a) Principal uses:
 - Adult residential care facility – five or more beds
 - Conversion of Dwelling Unit to More than Four Bedrooms
 - Construction of a Structure with Dwelling Units with more than Four Bedrooms
 - Bed-and-breakfast inn
 - Boardinghouse

§ 410-27.1 Urban Village Overlay District [Added 12-19-11 by LL No. 11-5]

UVO Urban Village Overlay District. The use permitted by right and with Planning Commission approval in the underlying zoning districts are permitted in the Urban Village Overlay District, subject to the same

reviews and conditions; additionally, uses within the Urban Village Overlay District shall be subject to the Urban Village Overlay District design guidelines, as listed in §410-24 above.

§ 410-28. Schedule IA: Bulk Requirements in Residential Zoning Districts.

The following bulk requirements apply to residential zoning districts:

Schedule IA			
Bulk Requirements in the Residential Zoning Districts			
Minimum lot area per dwelling unit (square feet)	R-1	R-2	R-3
Single	10,000	6,000	6,000
Two-unit	NP	3,500 per DU	2,500 per DU
Multi-unit	NP	NP	2,000 per DU
Townhouse	5,000	3,000	2,000
Other permitted uses	10,000	10,000	10,000
Minimum lot width (feet)	R-1	R-2	R-3
Single	75	50	50
Two-unit	NP	60	60
Multi-unit	NP	NP	100
Townhouse	40	30	20
Other permitted uses	75	75	75
Minimum setbacks (feet)	R-1	R-2	R-3
Front	30	25	25
Side one	5	5	10
Total sides	15	15	25
Rear	15	15	25
Maximum lot coverage	40%	50%	70%
Maximum building height (feet)	35	35	45

Notes:
 NP = Not permitted
 DU = Dwelling unit

§ 410-29. Special conditions for certain land uses in residential districts. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

Land uses listed in Schedule I as being "Permitted or "Permitted with Planning Commission approval" shall not be considered permitted until the Supervisor of the Office of Building and Construction or the Planning Commission is satisfied that there is compliance with applicable conditions as set forth below.

- A. An accessory dwellings in the R-1, R-2, and R-3 Districts is permitted when:
 - (1) Such dwelling is occupied by a person or persons included in the household residing in the principal dwelling on the lot.
 - (2) Living space is located within an owner-occupied dwelling and contains no separate exterior entrance and no more than 400 square feet of area.
 - (3) There is only one such dwelling on the lot.
 - (4) There are no separate utilities (i.e., electric and heat).

- B. An adult residential care facility (four or fewer beds) in R-1, R-2 and R-3 Districts is permitted when:
 - (1) The facility is owner-occupied.
 - (2) The facility is licensed by the appropriate agency.

- C. An alternative domestic energy supply installation in the R-1, R-2, and R-3 Districts is permitted when:
- (1) No solar energy device which is not an integral part of the dwelling is located in any front yard area or on the front of the building.
 - (2) Fencing or landscaping with a minimum height of four feet is provided around any ground-mounted solar device to partially screen it from public view.
 - (3) The device has a minimum setback of five feet from any side or rear property line.
- D. Amateur radio installations in the R-1, R-2, and R-3 Districts are permitted when:
- (1) A building permit is obtained from the Office of Building and Construction. An application for a permit shall include, at minimum, the following information:
 - (a) A site plan, drawn to scale, showing the location of all buildings on the lot, lot lines, easements, if any, on the lot, and location of any existing poles on the lot (utility, flag, etc.).
 - (b) Manufacturer's specifications for antenna support structures, details of footings, guys and braces.
 - (c) The plan shall also clearly indicate the exact location of the radio installation devices on the lot and their dimensional characteristics such as height, width, safety mechanisms to prevent children or other trespassers from climbing the installation and a picture of the device.
 - (d) Other information as the Supervisor of the Office of Building and Construction may deem relevant to meet all applicable City and state building codes.
 - (2) Any installation shall only be placed in the rear and side yard area or on any roof of an existing structure and must conform to all side and rear setbacks. Additionally, any antenna span shall not encroach into any setback area.
 - (3) The applicant shall provide the Office of Building and Construction with a copy of its operating license from the Federal Communications Commission (FCC) within 30 days of installation.
 - (4) The permit is for the initial construction of the radio installation's support system. Future additions/replacements to the installation which do not affect its structural integrity do not require additional construction permits as long as they comply with all of the aforementioned conditions.
- E. A bed-and-breakfast home in an R-3 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.
 - (3) The required front yard area may not be used for parking.
 - (4) Lighting and landscaping shall be designed to maintain the residential character of the property.
- F. A community residential facility (family care residences) in the R-1, R-2, and R-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) The facility is licensed by the appropriate agency.
 - (3) The facility is owner-occupied.
 - (4) There is no signage for the facility.
- G. Conversion or Construction of Dwelling Units to more than Four Bedrooms.

- (1) Intent. The intent of this section is to establish standards for the conversion of existing dwelling units to increase the number of bedrooms per dwelling unit and the construction of dwelling units containing more than four bedrooms. These standards are intended to reduce the overcrowding of dwelling units and buildings and overly dense development of neighborhoods and to ensure satisfactory amenities as conversions or construction takes place.
- (2) Standard for Creating More than Four Bedrooms per dwelling unit. Conversion of existing buildings or construction of new buildings to create more than four bedrooms per dwelling unit presents issues surrounding overcrowding, parking, open space and neighborhood character. Dwelling units that do not meet the standards established in this section may be permitted only after a Series A Plan/Special use permit review pursuant to Article 8 of the Zoning Ordinance.
 - (a) Minimum unit size. The dwelling unit, after conversion or construction, must meet all applicable specifications of the New York State Uniform Fire Prevention and Building Code, including minimum unit size.
 - (b) Minimum building size. No dwelling unit conversion or construction shall be permitted in a dwelling unit with less than 1,500 square feet of gross floor area.
 - (c) Minimum lot area requirements. No bedroom may be added to a dwelling unit, if the property does not comply with the lot area requirements of the district in which the property is located.
 - (d) Parking regulations. No dwelling unit conversion shall be permitted unless the dwelling shall, following such conversion, comply with all off-street parking required by Article X of the Zoning Ordinance.
- (3) Notwithstanding anything herein to the contrary, the Building Inspector may waive the requirements for a Series A Site Plan review for the temporary use of dining room, den, or living room as a bedroom as may be medically necessary and prescribed by an attending physician.

H. A day care, adult group, in the R-3 District is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A drop-off area is designated on the site plan.

I. A day care, adult home, in the R-3 District is permitted when:

- (1) The facility is owner-occupied.
- (2) There can be no more than six clients at any one time.

J. A day-care facility in the R-3 District is permitted when:

- (1) A site plan is approved in accordance with applicable provisions of Article IX of this chapter.
- (2) For new construction, an appropriate buffer strip shall be provided between such use and any abutting residential district or residential property.
- (3) The facility must be licensed by the appropriate agency.
- (4) The location of the recreation area must be identified on the site plan.

- K. A dwelling, manufactured home, in the R-2 and R-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A permanent foundation is installed. No posts, pillars, columns, etc. are permitted.
 - (3) No skirting is permitted.
- L. A garden, community or neighborhood, in the R-1, R-2, and R-3 Districts is permitted when:
- (1) A site plan is approved in accordance with applicable provisions of Article IX of this chapter.
 - (2) Any compost piles must be located so as not to create a nuisance to adjoining residences.
 - (3) The gardens must have a five-foot setback from all property lines.
- M. A hospitality house in the R-3 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.
 - (3) The required front yard area may not be used for parking.
 - (4) Lighting and landscaping shall be designed to maintain the residential character of the property.
- N. Major home occupations in the R-3 District.
- (1) Purpose and intent. This subsection is designed to protect and maintain the character of established residential neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in residential dwellings. Furthermore, this subsection intends to ensure the clearly incidental or secondary status of the home occupation in relation to the residential use of the dwelling.
 - (2) General requirements.
 - (a) The home occupation is carried on wholly within the dwelling or accessory building.
 - (b) There is no storage of materials or equipment associated with the home occupation outside the dwelling or accessory building. No home occupation shall have storage as its primary function.
 - (c) There is no internal or external alteration of the dwelling that changes the character and appearance thereof as a dwelling.
 - (d) No separate entrance is provided exclusively for the home occupation.
 - (e) No offensive odor, noise, vibration, smoke, dust, heat, glare, or other objectionable emissions are produced. No home occupation shall produce magnetic or electrical interference or cause fluctuation in line voltage off the premises. In no case shall explosives or extremely hazardous materials be allowed on-premises in connection with a home occupation.
 - (f) The home occupation does not generate traffic in any greater volume than would normally be expected in the surrounding residential neighborhood. This includes the use of delivery services to or from the premises. No deliveries shall be made from any vehicle having a gross vehicle weight greater than eight tons. Deliveries shall not be made before 7:00 a.m. or after 9:00 p.m.
 - (g) No more than one additional off-street parking space shall be provided on-premises for clients and customers.
 - (h) The occupation does not occupy more than 20% of the dwelling unit, with a maximum of 300 square feet, including accessory structures.
 - (i) No more than one person who does not reside in the household can be employed or participate in the home occupation.

- (j) No retail sales or displays for retail sale of commercially manufactured items are permitted on the premises.
 - (k) Signage is limited to one nonilluminated wall sign not exceeding one square foot. The sign must be compatible with the character of the residence, and it must be approved by the Planning Department. No other signage associated with the home occupation is permitted on-premises, except for vehicular signage that is limited to a total area of two square feet. Vehicular signage must be compatible with the character of the residence, and it must be approved by the Planning Department.
- (3) List of major home occupations. The following is an illustrative list of uses that may meet the requirements of a major home occupation:
- (a) Teacher/Instructor (such as dance, music, crafts) with a maximum ratio of one teacher to two students.
 - (b) Beauty salon/barber shop with a maximum of two chairs.
 - (c) Real estate agent or insurance agent.
 - (d) Family or marriage counselor.
 - (e) Office of a lawyer, engineer, accountant, or architect.
 - (f) Other similar uses which meet the requirements of a major home occupation.
- (4) Permission to conduct a home occupation is not transferable to any other person or property, and shall expire upon discontinuance for a period of one year.
- (5) The City of Binghamton reserves the right to inspect the premises at any reasonable time to determine if the home occupation is in compliance with the regulations of this subsection.
- (6) Failure to comply with the regulations of this subsection shall result in the revocation of the home occupation permit.
- (7) Fees for a major home occupation shall be as set from time to time by the City Council (See Exhibit J).

O. Minor home occupations in the R-1, R-2, and R-3 Districts.

- (1) Purpose and intent. This subsection is designed to protect and maintain the character of established residential neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in residential dwellings. Furthermore, this subsection intends to ensure the clearly incidental or secondary status of the home occupation in relation to the residential use of the dwelling.
- (2) General requirements.
- (a) The home occupation is carried on wholly within the dwelling or accessory building.
 - (b) There is no storage of materials or equipment associated with the home occupation outside the dwelling or accessory building. No home occupation shall have storage as its primary function.
 - (c) There is no internal or external alteration of the dwelling that changes the character and appearance thereof as a dwelling.
 - (d) No separate entrance is provided exclusively for the home occupation.
 - (e) There are no exterior displays or signs identifying the home occupation. Vehicle signage not exceeding one square foot may be allowed by special condition approval.
 - (f) No offensive odor, noise, vibration, smoke, dust, heat, glare, or other objectionable emissions are produced. No home occupation shall produce magnetic or electrical interference or cause fluctuation in line voltage off the premises. In no case shall explosives or extremely hazardous materials be allowed on-premises in connection with a home occupation.

- (g) The home occupation does not generate traffic in any greater volume than would normally be expected in the surrounding residential neighborhood. This includes the use of delivery services to or from the premises. No deliveries shall be made from any vehicle having a gross vehicle weight greater than eight tons. Deliveries shall not be made before 7:00 a.m. or after 9:00 p.m.
 - (h) The occupation does not occupy more than 20% of the dwelling unit or accessory structure, with a maximum of 300 square feet, including related storage.
 - (i) No individual who does not permanently and legally reside in the household may be employed or participate in the home occupation.
 - (j) No customers, clients, colleagues, or members of the public shall visit the residence in connection with the home occupation.
 - (k) No retail sales or displays for retail sales of commercially manufactured items are permitted on the premises.
 - (l) Commercial newspapers, radio, or television services shall not be used to advertise the location of the home occupation to the public.
- (3) List of minor home occupations. The following is an illustrative list of uses that may meet the requirements of a minor home occupation:
- (a) Office of a computer programmer, draftsman, typist, or copy reader.
 - (b) Office of a salesperson, provided that no retail or wholesale transactions are made on the premises.
 - (c) Telephone answering service.
 - (d) Workshop or studio for an artist, sculptor, photographer, craftsperson, writer, composer, musician, seamstress, dressmaker, or tailor.
 - (e) Homebound employment of a physically or mentally handicapped person who is unable to work away from home by reason of disability.
 - (f) Other similar uses which meet the requirements of a minor home occupation.
- (4) Permission to conduct a home occupation is not transferable to any other person or property, and shall expire upon discontinuance for a period of one year.
- (5) The City of Binghamton reserves the right to inspect the premises at any reasonable time to determine if the home occupation is in compliance with the regulations of this subsection.
- (6) Failure to comply with the regulations of this subsection shall result in the revocation of the home occupation permit.
- (7) Fees for a minor home occupation shall be as set from time to time by the City Council (See Exhibit J).

P. Monastery in the R-1, R-2, and R-3 Districts: see requirements for a convent.

Q. Multi-unit dwelling: new construction or conversion of existing building into three or four units in the R-3 District; permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) Each of the dwelling units thus created conforms to the minimum habitable floor area requirement of the State Building Code.
- (3) To preserve the aesthetic quality of the street, no upper story means of egress shall be permitted on the street side of the building unless there is no feasible alternative.
- (4) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.

R. A parish house in the R-1, R-2, and R-3 Districts is permitted when:

- (1) The parish house may include an office and related religious accessory uses of the church.
 - (2) The parish house shall only be inhabited by clergy and members of their family.
- S. Parking, ancillary in the R-3 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A five-foot-wide landscaped strip is provided along all property lines.
 - (3) The parking lot must be adjacent to and controlled by the principal use.
- T. Seasonal sales in the R-3 District are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) The sale of seasonal merchandise is limited to 30 days each sale and may not occur more than twice a year.
 - (3) Hours of operation are limited to 8:00 a.m. to 8:00 p.m.
 - (4) Any signage must be approved by the Planning Department.
 - (5) There is no outdoor storage of merchandise after the sale is finished.
- U. Temporary structures in the R-1, R-2, and R-3 Districts are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) The structure must comply with setback requirements.
 - (3) The structure must be removed within six months of installation.
 - (4) Only one temporary structure may be located on a property at any given time.
 - (5) Approval to install a temporary structure may not be renewed for at least six months from the removal of any previous temporary structure. For unusual or complex projects, the Planning Department may determine that conditions warrant the waiving of this provision.
- V. A townhouse with four or fewer dwelling units in the R-3 District is permitted when:
- (1) A site plan is approved in accordance with Article IX of this chapter.
- W. A garage sale in all residential districts is permitted when:
- (1) Such activity is for a period not exceeding three (3) days and occurs not more than two (2) times in any calendar year.
- X. Open, off-season storage of recreation vehicle, snowmobile, boat, trailer, and similar vehicle in all residential districts is permitted when:
- (1) Such storage is not located in any front or side yard area in all districts.
 - (2) No more than three (3) such vehicles are stored on any single residential property.
 - (3) If such vehicle is stored on the same lot as a dwelling it shall be owned by the occupant of said dwelling.
- Y. An Electric Vehicle Charging Station in the R-1, R-2, and R-3 districts is permitted when:
- (1) If located in a private residential lot, the charging station is located within a legal garage or carport
 - (2) If located in an ancillary, public or commercial parking lot or garage, the charging station shall be:
 - (a) Illuminated during evening business hours
 - (b) Located in a legal parking space reserved exclusively for electric vehicles
 - (3) The charging station has complete instructions and appropriate warnings posted in an unobstructed location on or adjacent to the charging station

ARTICLE VII, Commercial and Industrial Districts

§ 410-30. Intent [Amended 8-7-2013 by Ord. No 13-49.]

The intent of this Article VII is to identify the types of land uses which are permitted in the commercial and industrial zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-31. General provisions [Amended 8-7-2013 by Ord. No 13-49.]

- A. Schedule of regulations. Regulations relating to land uses in commercial and industrial districts are set forth in Schedule II (§ 410-32). Regulations relating to lot size, yard setbacks, lot coverage, and similar bulk requirements for nonresidential uses are set forth in Schedule IIA (§ 410-33). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.
- B. Excluded uses. Any land use which is not set forth in Schedule II (§ 410-32) is not permitted in a commercial or industrial district in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed in said Schedule II (§ 410-32) may be processed in accordance with the appropriate provisions of this chapter.
- C. Site plan approval. When Schedule II (§ 410-32) specifies that a special use permit/Series A site plan review is required for a land use in a commercial or industrial district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VII and IX of this chapter. Other agencies involved in issuing required permits must be contacted by the applicant.

§ 410-32. Schedule II: Land Uses in Commercial and Industrial Zoning Districts. [Amended 8-7-2013 by Ord. No 13-49; Amended 10-23-2013 by Ord. No 13-77; Amended 2-3-2016 by Local Law 16-02; Amended 05-09-2018 by Ord. No 187-48]

- A. C-1 Service Commercial District.
 - (1) All uses listed in the R-3 District. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.
 - (2) Permitted by right, subject to Article IX:
 - Animal hospital, subject to 410-34B
 - Animal clinic
 - Antiques
 - Art gallery
 - Automotive detailing business
 - Automotive parts and accessories establishment
 - Auction house or gallery, subject to 410-34E.

Automatic teller machine (drive-up), subject to 410-34F
Automobile sales, used (minor), subject to 410-34G
Bank and financial institutions, subject to 410-34I
Bank, drive-through, subject to 410-34J
Bakery, retail
Banquet/Catering facility
Barbershop/Beauty parlor
Brew pub
Catering service
Cultural facilities/museums, subject to 410-34Q
Dry-cleaning establishment
Flea market, short term
Flea market, long term, subject to 410-34R
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility
Pawnshop/swap shop
Parcel delivery, subject to 410-29DD
Parking ancillary, subject to 410-29EE
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full service
Restaurant drive-through, subject to 410.29FF
Restaurant, limited service, cafe
Retail beverage/recycling center
Retail or service business, general
Retail neighborhood convenience outlet
Retail drive-through, subject to 410.29II
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Tire, muffler, brake, shock absorber, and related sales and service, subject to 410.29GG
Therapeutic massage office
Thrift shop/secondhand store
Towing service (with no accessory storage)

Travel agency
Video rental shop
Wayside stand, subject to 410.29OO
Wholesale trade and storage, subject to 410.29PP

- (3) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan):

Alcohol or drug rehabilitation facility
Automobile fuel station, subject to 410-41A(7)
Automobile hand washing business
Automobile mechanical washing business
Automobile rental/leasing facility
Automobile repair shop, subject to 410-41A(4)
Automobile sales, new, subject to 410-41A(5)
Automobile sales, used (major), subject to 410-41A(6)
Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Crematory
Department store
Dormitory, off-campus
Dry-cleaning plant
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Gasoline, convenience market
Halfway house
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial, research and development
Laboratory, research and testing
Machine, sheet metal and welding shop, subject to 410-41A(12)
Microbrewery
Mission/Homeless shelter
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Recreation vehicles, sales and repair
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Self-service storage warehouse, subject to 410-41A(19)
Shopping center, subject to 410-41A(20)
Supermarket
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)

Zoo/Aquarium

B. C-2 Downtown Business District.

- (1) All uses listed in the R-3 District. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.

- (2) Permitted by right, subject to Article IX:
 - Animal clinic
 - Animal hospital, subject to 410-34B
 - Antiques
 - Art gallery
 - Automotive detailing business
 - Automotive parts and accessories establishment
 - Auction house or gallery, subject to 410-34E
 - Automatic teller machine (drive-up), subject to 410-34F
 - Bakery, retail
 - Bank and financial institutions, subject to 410-34I
 - Bank, drive-through, subject to 410-34J
 - Banquet/Catering facility, subject to 410-34K
 - Barbershop/Beauty parlor
 - Brew pub
 - Catering service
 - Cultural facilities/museums, subject to 410-34Q
 - Dry-cleaning establishment
 - Flea market, short-term
 - Flea Market, long-term, subject to 410-34R
 - Food delivery establishment
 - Food sales, general, excluding Supermarkets
 - Greenhouse, commercial
 - Health/sport club, subject to 410-34S
 - Human service agency
 - Laundromat
 - Liquor store
 - Nightclub
 - Nonalcoholic nightclub
 - Office, business
 - Office, professional
 - Office, professional health-related
 - Parking, ancillary, subject to 410-29EE
 - Pawnshop/Swap shop
 - Personal instructions and improvement
 - Personal service establishment
 - Pet grooming shop
 - Photocopy and related printing service
 - Rental service store
 - Repair shop and sales, small appliances and office equipment
 - Restaurant, full-service
 - Restaurant, limited service, cafe

Retail or service business, general
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Therapeutic massage office
Thrift shop/secondhand store
Travel agency
Video rental shop
Wayside stand, subject to 410-2900
Wholesale trade and storage, subject to 410-29PP

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):

Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Department store
Dormitory, off-campus
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Halfway house
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial, research and development
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Shopping center, subject to 410-41A(20)
Supermarket
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)
Zoo/Aquarium

C. C-3 Medical District.

- (1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.
- (2) Permitted by right, subject to Article IX:
Animal clinic, subject to 410-34A
Health/sport club, subject to 410.34S
Office complex (business/professional health-related), subject to 410.29Y

- Office, business
- Office, professional
- Office, professional health-related
- Parking, ancillary, subject to 410.29EE
- Therapeutic massage office
- (3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
 - Alcohol or drug rehabilitation facility
 - Clinical, medical, diagnostic or treatment center
 - Hospital, medical center
 - Laboratory, medical-related research and testing
 - Methadone facility
 - Parking area, public, subject to 410-41A(15)

D. C-4 Neighborhood Commercial District.

- (1) All uses listed in the R-3 All uses listed in the R-3 District. Residential uses shall not be located within the first thirty (30) feet of the ground floor of any building, measured from the front façade of the building towards the rear, with the exception of incidental pedestrian entrances that lead to a dwelling elsewhere in the building. Notwithstanding the above, residential uses shall be permitted anywhere on the ground floor of existing building originally constructed as dwellings, as determined by the Planning Department and the Office of Building and Construction.
- (2) Permitted by right, subject to Article IX:
 - Animal clinic
 - Animal hospital, subject to 410-34B
 - Antiques
 - Art gallery
 - Automotive detailing business
 - Automatic teller machine (drive-up)
 - Automobile sales, used (minor), subject to 410-34G
 - Automotive parts and accessories establishment, subject to 410-34H
 - Bakery, retail
 - Bank and financial institution, subject to 410.34I
 - Bank, drive-through, subject to 410-34J
 - Banquet/catering facility, subject to 410-34K
 - Barbershop/Beauty parlor
 - Billiards hall, subject to 410-34L
 - Brew pub
 - Catering service
 - Dry-cleaning establishment
 - Flea market, short-term
 - Flea market, long-term, subject to 410-34R
 - Food delivery establishment
 - Food sales, general, excluding Supermarkets
 - Greenhouse, commercial
 - Health/sport club, subject to 410-34S
 - Human service agency
 - Kennel, commercial, subject to 410-34U
 - Laundromat
 - Liquor store
 - Nightclub, subject to 410-34V
 - Nonalcoholic nightclub, subject to 410.29X

Office complex (business/professional health-related), subject to 410.29Y
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility, subject to 410.29CC
Parking, ancillary, subject to 410.29EE
Pawnshop/Swap shop
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, drive-through, subject to 410.29FF
Restaurant, full service
Restaurant, limited service, café
Retail drive-through, subject to 410.29II
Retail beverage/recycling center
Retail craft/hobby shop
Retail neighborhood convenience outlet
Retail or service business, general
Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Therapeutic massage office
Thrift shop/secondhand store
Travel agency
Video rental shop
Wayside stand, subject to 410.29OO

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):

Automobile fuel station, subject to 410-41A(7)
Automobile hand washing business
Automobile mechanical washing business
Bowling alley
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Crematory
Cultural facilities/museums
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Gasoline, convenience market
Microbrewery
Miniature golf establishment, subject to 410-41A(13)
Parking area, public, subject to 410-41A(15)
Shopping center, subject to 410-41A(20)

Supermarket

Tire, muffler, brake, shock absorber, and related sales and service, subject to 410-41A(22)

E. C-5 Neighborhood Office District.

- (1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.
- (2) Permitted by right, subject to Article IX:
 - Antiques, subject to 410-34C
 - Art Gallery, subject to 410-34D
 - Bank and financial institutions, subject to 410-34I
 - Bank, drive-through, subject to 410-34J
 - Bakery, retail
 - Catering service, subject to 410-34P
 - Human service agency, subject to 410-34T
 - Office, professional, subject to 410-29AA
 - Office, professional health-related, subject to 410-29BB
 - Parking, ancillary, subject to 410-29EE
 - Personal service establishment
 - Restaurant, full service, subject to 410-29GG
 - Restaurant, limited service/café, subject to 410-29HH
 - Retail craft/hobby shop
 - Retail neighborhood convenience outlet
 - Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
 - Studio
 - Therapeutic massage office, subject to 410-29KK
 - Travel agency, subject to 410-29NN
- (3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
 - Cultural facilities/museums
 - Eleemosynary/Philanthropic organization
 - Funeral home
 - Parking area, public, subject to 410-41A(15)

F. C-6 Limited Neighborhood Commercial District.

- (1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.
- (2) Permitted by right, subject to Article IX:
 - Antiques, subject to 410-34C
 - Art gallery, subject to 410-34D
 - Bakery, retail
 - Catering service, subject to 410-34P
 - Food sales, general, excluding Supermarkets
 - Laundromat
 - Liquor store
 - Office, business, subject to 410-29Z
 - Office, professional, subject to 410-29AA
 - Office, professional health-related, subject to 410-29BB
 - Personal instruction and improvement
 - Personal service establishment
 - Retail craft/hobby shop
 - Retail neighborhood convenience outlet
 - Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
 - Restaurant, full service, subject to 410-29GG

Restaurant, limited service/café, subject to 410-29HH

Studio

Tavern, subject to 410-29JJ

Therapeutic massage office, subject to 410-29KK

Thrift shop/secondhand store, subject to 410-29LL

Travel agency, subject to 410-410.29NN

Wayside stand, subject to 410-410.29OO

- (3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):

Eleemosynary/Philanthropic organization

G. I-1 Urban Business Park District.

- (1) Permitted by right, subject to Article IX:

Essential services

Health/sport club, subject to 410-34S

Monument manufacture and sales, subject to 410-34V

Multi-unit dwelling: new construction or conversion of existing building into three or four units

Parcel delivery, subject to 410-29DD

Parking, ancillary, subject to 410-29EE

Office, business

Office, professional

Office, professional health-related

Photocopy and related printing service

Restaurant, full service

Restaurant, limited service, cafe

Single-unit residences

Telephone switching facility

Two-unit residences

Wholesale trade and storage, subject to 410-29GG

- (2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):

Clinic, Medical, Diagnostic or Treatment Center

Convalescent/Nursing home: health-related nursing facility

Convalescent/Nursing home: skilled nursing facility

Hotel and motel, subject to 410-41A(11)

Industrial, light

Industrial, medium

Industrial park

Industrial, research and development

Laboratory, research and testing

Multi-unit dwelling: new construction or conversion of existing building into five or more units

Parking area, public, subject to 410-41A(15)

School, business/commercial/trade/vocational

Schools, colleges, universities, and professional

Telecommunications facility, subject to 410-41A(21)

H. I-2 Light and Medium Industrial District.

- (1) Permitted by right, subject to Article IX:

Animal clinic

Animal hospital, subject to 410-34B

Antiques

Auction house or gallery, subject to 410-34E

Art gallery
Automotive detailing business
Automotive parts and accessories establishment
Automotive sales, used (minor), subject to 410-34G
Automatic teller machine (drive-up), subject to 410-34F
Bank and financial institution, subject to 41034I
Bank, drive-through, subject to 41034J
Bakery, retail
Banquet/Catering facility, subject to 410-34K
Barbershop/Beauty parlor
Building contractor office and yard, subject to 410-34M
Brew pub
Catering service
Contractor's office and yard, heavy construction, subject to 410-34O
Cultural facilities/museums, subject to 410-34R
Dry-cleaning establishment
Flea-market, short term
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Monument manufacture and sales, subject to 410-34V
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility
Parcel delivery, subject to 410-29DD
Parking, ancillary, subject to 410-29EE
Pawnshop/Swap shop
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full service
Restaurant, limited service/cafe
Restaurant drive-through, subject to 410-29FF
Retail drive-through, subject to 410-29HH
Retail beverage/recycling center
Retail or service business, general
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility

- Therapeutic massage office
- Thrift shop/secondhand store
- Tire, muffler, brake, shock absorber, and related sales and service, subject to 410-29MM
- Towing service (with no accessory storage)
- Travel agency
- Video rental shop
- Wayside stand, subject to 410-29OO
- Wholesale trade and storage, subject to 410-29PP
- (2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
 - Adult bookstore subject to 410-41A(1)
 - Adult entertainment establishment, subject to 410-41A(2)
 - Adult novelty store, subject to 410-41A(3)
 - Automobile fuel station, subject to 410-41(7)
 - Automobile mechanical washing business
 - Automobile rental/leasing facility
 - Automobile repair shop, subject to 410-41A(4)
 - Automobile sales, new subject to 410—41A(5)
 - Automobile sales, used (major), subject to 410-41(6)
 - Automotive hand washing business
 - Bakery, wholesale
 - Building supply yard, subject to 410- 41A(8)
 - Bus depot
 - Clinic, medical, diagnostic or treatment center
 - Club or lodge, membership
 - Community center
 - Construction equipment sales, storage, and maintenance, subject to 410-41A(9)
 - Crematory
 - Department store
 - Dry-cleaning plant
 - Eleemosynary/Philanthropic organization
 - Feed warehouse
 - Fraternity/Sorority house
 - Funeral home
 - Gasoline, convenience market
 - Heavy vehicle maintenance and storage facility
 - Hotel and motel, subject to 410-41A(11)
 - Industrial, light
 - Industrial, medium
 - Industrial park
 - Industrial, research and development
 - Laboratory, research and testing
 - Machine, sheet metal and welding shop, subject to 410-41A(12)
 - Microbrewery
 - Motor truck freight terminal, subject to 410-41A(14)
 - Parking area, public, subject to 410-41A(15)
 - Printing or publishing facility
 - Radio and television transmitting station
 - Rail freight terminal, subject to 410-41A(17)
 - Railroad facility
 - Railroad station
 - Recreation use, commercial indoor

Recreation use, commercial outdoor
Recreation use, racetrack
Recreation vehicles, sales and repair
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Self-service storage warehouse, subject to 410-41A(19)
Shopping center, subject to 410-41A(20)
Supermarket
Tavern, nonalcoholic
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)
Transfer station/redemption center, recyclable materials, subject to 410-41A(26)
Transfer station, solid waste or construction and demolition debris, subject to 410-41A(27)
Vehicle impound yard, subject to 410-41A(28)
Zoo/Aquarium

I. I-3 Heavy Industrial District.

- (1) Permitted by right, subject to Article IX:
 - Animal clinic
 - Animal hospital, subject to 410-34B
 - Antiques
 - Art gallery
 - Automotive detailing business
 - Automotive parts and accessories establishment
 - Auction house or gallery, subject to 410-34E
 - Automatic teller machine (drive-up) , subject to 410-34F
 - Automobile sales, used (minor) , subject to 410-34G
 - Bank and financial institutions, subject to 410-34I
 - Bank, drive-through, subject to 410-34J
 - Bakery retail
 - Banquet/Catering facility, subject to 410-34K
 - Barbershop/Beauty parlor
 - Brew pub
 - Building contractor office and yard, subject to 410-34M
 - Catering service
 - Contractor's office and yard, building, subject to 410-34N
 - Contractor's office and yard, heavy construction, subject to 410-34O
 - Cultural facilities/museums, subject to 410-34Q
 - Dry-cleaning establishment
 - Flea market, short-term
 - Flea market, long-term, subject to 410-34R
 - Food delivery establishment
 - Food sales, general, excluding Supermarkets
 - Greenhouse, commercial
 - Health/sport club, subject to 410-34S
 - Human service agency
 - Kennel, commercial, subject to 410-34U
 - Laundromat
 - Liquor store
 - Monument manufacture and sales, subject to 410-34V
 - Nightclub
 - Nonalcoholic nightclub
 - Office, business

- Office, professional
- Office, professional health-related
- Oil change, lube, and related sales and service facility
- Pawnshop/Swap shop
- Parcel delivery, subject to 410-29DD
- Parking, ancillary, subject to 410-29EE
- Personal instruction and improvement
- Personal service establishment
- Pet grooming shop
- Photocopy and related printing service
- Rental service store
- Repair shop and sales, small appliances and office equipment
- Restaurant, full service
- Restaurant, drive-through, subject to 410-29FF
- Restaurant, limited service, cafe
- Retail beverage/recycling center
- Retail or service business, general
- Retail drive-through, subject to 410-29II
- Studio
- Studio, broadcast
- Tavern
- Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
- Telephone switching facility
- Tire, muffler, brake, shock absorber, related sales and service, subject to 410-29MM
- Therapeutic massage office
- Thrift shop/secondhand store
- Towing service (with no accessory storage)
- Travel agency
- Video rental shop
- Wayside stand, subject to 410-29OO
- Wholesale trade and storage, subject to 410-29PP
- (2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
 - Adult bookstore, subject to 410-41A(1)
 - Adult entertainment establishment, subject to 410-41A(2)
 - Adult novelty store, subject to 410-41A(3)
 - Automobile fuel station, subject to 410-41(7)
 - Automobile mechanical washing business
 - Automobile rental/leasing facility
 - Automobile repair shop, subject to 410-41A(4)
 - Automobile sales, new, subject to 410-A(5)
 - Automobile sales, used (major) , subject to 410-41(6)
 - Automotive hand washing business
 - Bakery, wholesale
 - Building supply yard, subject to 410-41A(8)
 - Bus depot
 - Clinic, medical, diagnostic or treatment center
 - Club or lodge, membership
 - Community center
 - Construction equipment sales, storage, and maintenance, subject to 410-41A(9)
 - Crematory
 - Department store

Dry-cleaning plant
 Eleemosynary/Philanthropic organization
 Feed warehouse
 Fraternity/Sorority house
 Funeral home
 Gasoline, convenience market
 Heavy vehicle maintenance and storage facility
 Hotel and motel, subject to 410-41A(11)
 Industrial, heavy
 Industrial, light
 Industrial, medium
 Industrial, research and development
 Industrial park
 Laboratory, research and testing
 Machine, sheet metal and welding shop, subject to 410-41A(12)
 Microbrewery
 Motor truck freight terminal, subject to 410-41A(14)
 Parking area, public, subject to 410-41A(15)
 Printing or publishing facility
 Radio and television transmitting station
 Rail freight terminal, subject to 410-41A(17)
 Railroad facility
 Railroad station
 Recreation use, commercial indoor
 Recreation use, commercial outdoor
 Recreation use, racetrack
 Recreation vehicles, sales and repair
 Schools, business/commercial/trade/vocational
 Schools, colleges, universities, and professional
 Self-service storage warehouse, subject to 410-41A(19)
 Shopping center, subject to 410-41A(20)
 Supermarket
 Tavern, nonalcoholic
 Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
 Telecommunications facility, subject to 410-41A(21)
 Transfer station/redemption center, recyclable materials, subject to 410-41A(26)
 Transfer station, solid waste or construction and demolition debris, subject to 410-41A(27)
 Vehicle impound yard, subject to 410-41A(28)
 Vehicle salvage facility, subject to 410-41A(29)
 Zoo/Aquarium

§ 410-33. Schedule IIA: Bulk Requirements in Commercial and Industrial Zoning Districts.

The following bulk requirements apply to commercial and industrial zoning districts:

Schedule IIA						
Bulk Requirements in Commercial and Industrial Zoning Districts						
Commercial	C-1	C-2	C-3	C-4	C-5	C-6
Minimum lot area (feet)	6,000	6,000	6,000	6,000	6,000	6,000
Minimum lot width (feet)		50	50	50	50	50
Minimum front setback (feet)	15		15	15	15	15
Minimum side setback (feet)	10*		10*	5*	5*	5*

Minimum rear setback (feet)	20	20	20	20	20	20
Maximum lot coverage	70%**	90%	70%	70%	70%	70%
Maximum building height, principal (feet)	65	120	65	45	45	35
Maximum building height, accessory (feet)	24	24	24	24	24	24
Industrial	I-1	I-2	I-3			
Minimum lot area (feet)	6,000	6,000	6,000			
Minimum lot width (feet)	50	50	50			
Minimum front setback (feet)	1	20	25			
Minimum side setback (feet)	10*	10*	20*			
Minimum rear setback (feet)	20	20	25			
Maximum building height, principal (feet)	65	65	65			
Maximum building height, accessory (feet)	24	24	24			

Note:

* Minimum setback required, plus five feet per story or 15 of building height.

** Maximum lot coverage may be increased to 90% provided that any existing and/or proposed roof tops are vegetated greenroofs. A greenroof system shall cover the entire rooftop surface area of all principle buildings on site, except for areas necessary for rooftop equipment and access and were roof slopes exceed 30% for extensive greenroofs and 3% for intensive greenroofs.

§410-34. Special conditions for certain land uses in commercial and industrial zoning districts. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]

Certain land uses listed in Schedule II as being "Permitted by right shall not be considered permitted until the Supervisor of the Office of Building and Construction is satisfied that there is compliance with applicable conditions as set forth in this § 410-34.

- A. An animal clinic in the C-3 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) There shall be no boarding of animals other than those recovering from medical procedures.
 - (3) There shall be no outdoor exercise facilities.
 - (4) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.
 - (5) There shall be no outdoor storage of refuse, feed, or other materials.
 - (6) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
 - (7) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- B. An animal hospital in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) There shall be no outdoor boarding.
 - (3) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.
 - (4) There shall be no outdoor storage of refuse, feed, or other materials.

- (5) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
 - (6) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- C. Antiques in the C-5 and C-6 Districts are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) Any single establishment has a retail floor area no greater than 1,200 square feet, and the total building coverage of all establishments on the lot is no greater than 2,000 square feet.
 - (3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- D. An art gallery in the C-5 and C-6 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- E. An auction house or gallery in the C-1, C-2, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- F. An automatic teller machine (drive-up) in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) Off-street stacking of patrons' cars in any drive-in facility shall be provided at the rate of five cars per teller station.
 - (3) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
 - (4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- G. Automobile sales, used (minor) in the C-1, C-4, I-2, and I-3 districts are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
 - (3) No motor vehicles which are unregistered and/or unlicensed, or wrecked, or being disassembled shall be parked or stored longer than 10 days, and such vehicles shall be enclosed within solid fencing.
 - (4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (5) No business not incidental to the normal conduct of the used automobile sales business shall be conducted on the lot except as required by New York State law.
 - (6) Off-street parking spaces shall be clearly designated for employee parking, customer parking, and display vehicle parking. All parking spaces must comply with the dimensional requirements described in Article X of this chapter.
 - (7) The business shall be licensed by the New York State Department of Motor Vehicles.

- (8) The maximum number of unregistered and/or unlicensed vehicles allowed on site at any given time is one per every 250 square feet of enclosed fencing.
- H. An automotive parts and accessories establishment in the C-4 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) There shall be no repair of motor vehicles on the property.
 - (3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- I. Bank and financial institutions in the C-1, C-2, C-4, C-5, I-2, and I-3 Districts are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- J. A bank, drive-through, in the C-1, C-2, C-4, C-5, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) Off-street stacking of patrons' cars in any drive-in facility shall be provided at the rate of five cars per teller station.
 - (3) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
 - (4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side property lines.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- K. A banquet/catering facility in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- L. A billiards hall in the C-4 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- M. A building contractor office and yard in the I-2 and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
 - (3) All outside storage of equipment and materials shall be enclosed by solid fencing.
 - (4) No required front yard shall be used for outdoor storage of equipment or materials.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- N. A contractor's office and yard, building, in the I-2 and I-3 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
 - (3) All outside storage of equipment and materials shall be enclosed by solid fencing.
 - (4) No required front yard shall be used for outdoor storage of equipment or materials.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- O. A contractor's office and yard, heavy construction, in the I-2 and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
 - (3) All outside storage of equipment and materials shall be enclosed by solid fencing.
 - (4) No required front yard is used for outdoor storage of material or equipment.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- P. Catering service in the C-5 and C-6 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- Q. Cultural facilities/museums in the C-1, C-2, I-2, and I-3 Districts are permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- R. A flea market, long-term, in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and alongside and property lines.
 - (3) A vendor's permit shall be obtained from the City Clerk's office.
 - (4) Visibility for pedestrians and motorists shall not be obstructed.
 - (5) All display tables shall have a minimum setback of five feet from all property lines.
- S. A health/sport club in the C-1, C-2, C-3, C-4, I-1, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and - along side and rear property lines.
- T. A human service agency in the C-5 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- U. A kennel, commercial, in the C-1, C-4, I-2, and I-3 Districts is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) There shall be no outdoor boarding.
 - (3) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.
 - (4) There shall be no outdoor storage of refuse, feed, or other materials.
 - (5) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
 - (6) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- V. Monument manufacture and sales in the I-1, I-2, and I-3 Districts is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) All manufacturing operations shall occur within an enclosed building.
 - (3) There shall be no outdoor display or storage in any required front yard area.
 - (4) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
 - (5) All outside storage of equipment and materials must be enclosed by solid fencing.
 - (6) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

- W. A nightclub in the C-4 District is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- X. A nonalcoholic nightclub in the C-4 District is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- Y. An office complex in the C-3 and C-4 Districts is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

- Z. An office, business, in the C-5 and C-6 Districts is permitted when:
 - (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- AA. An office, professional, in the C-5 and C-6 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

BB. An office, professional health-related, in the C-5 and C-6 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

CC. An oil change, lube, and related sales and service facility in the C-4 District is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- (3) There shall be no outdoor storage of any items.
- (4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- (5) No motor vehicles shall be stored or parked on site for more than 24 hours.

DD. Parcel delivery in the C-1, I-1, I-2, and I-3 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- (3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

EE. Parking, ancillary, in the C-1, C-2, C-3, C-4, C-5, I-1, I-2, and I-3 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- (3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- (4) The parking lot shall be accessory to a principal use located on a different lot.
- (5) The parking lot shall not be operated as a separate commercial venture.

FF. A restaurant, drive-through, in the C-1, C-4, I-2, and I-3 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (2) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
- (3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- (4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
- (5) There shall be no outside storage of garbage or waste material which is visible from the street.
- (6) All businesses which provide drive-through facilities for serving customers in their automobiles shall provide adequate off-street stacking spaces and lanes which meet the following requirements: See the requirements for "restaurant, drive-through" in Schedule III in § 410-53B.

GG. A restaurant, full-service, in the C-5 and C-6 Districts is permitted when:

- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (3) There shall be no outside storage of garbage or waste material which is visible from the street.
- HH. A restaurant, limited service, cafe, in the C-5 and C-6 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (3) There shall be no outside storage of garbage or waste material which is visible from the street.
- II. A retail drive-through in the C-1, C-4, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
 - (3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
 - (5) There shall be no outside storage of garbage or waste material which is visible from the street.
- JJ. A tavern in the C-6 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (3) There shall be no outside storage of garbage or waste material which is visible from the street.
- KK. A therapeutic massage office in the C-5 and C-6 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- LL. A thrift shop/secondhand store in the C-6 District is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side or rear property lines.
- MM. Tire, muffler, brake, shock absorber, and related sales and service in the C-1, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

- (3) No storage of vehicle parts, waste products, or other materials shall be located in any required front yard area.
 - (4) All outside storage of equipment and materials shall be enclosed by solid fencing.
 - (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
 - (6) No outdoor storage of tires shall be permitted at any time.
- NN. A travel agency in the C-5 and C-6 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
- OO. A wayside stand in the C-1, C-2, C-4, C-6, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A vendor's permit shall be obtained from the City Clerk's office.
 - (3) Visibility for pedestrians and motorists shall not be obstructed.
- PP. Wholesale trade and storage in the C-1, C-2, C-6, I-1, I-2, and I-3 Districts is permitted when:
- (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
 - (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
 - (3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
 - (4) Outdoor storage of material and parking or loading facilities shall be located no less than 10 feet from any front lot line and no less than five feet from any other lot line.

ARTICLE VIII, Special Use Permit/Series A Site Plan Review Requirements

§ 410-35. Intent.

The intent of this Article VIII is to set forth supplemental regulations, procedures and conditions which shall apply to certain land uses in the City of Binghamton. No land use requiring a special use permit/Series A site plan review is permitted by right and such is considered to be sufficiently distinctive in terms of its nature, location, and potential impact on the general welfare of the surrounding area as to warrant special review and evaluation of each individual permit application.

§ 410-36. Applicability. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49]

- A. Special Use Permit/Series A Site Plan approval from the Planning Commission pursuant to § 410-39 of this Article VIII is required for all uses requiring a special permit, for and as required by § 410-27 or § 410-32 of this Chapter. No building permit shall be authorized or issued by the Supervisor of Building, Construction, or his designee for any use which requires site plan approval except upon determination of conformity with plans approved by the Planning Commission.
- B. A special use permit/Series A site plan review which has been authorized for a specific land use is not transferable and does not apply to any other land use.

§ 410-37. Jurisdiction.

Building and use permits for a land use requiring a special use permit/Series A site plan review shall be authorized by the Planning commission, except for those uses which require City Council authorization, as specifically set forth in § 410-41 of this Article VIII.

§ 410-38. Existing uses.

Where the use of a building, structure or lot lawfully exists on the effective date of this chapter, or any amendment thereto, and is classified in Schedule I (§ 410-27) or II (§ 410-32) as a use requiring a special use permit/Series A site plan review, such use shall continue as a legally preexisting use. Any expansion or major alteration of such legally preexisting use shall, however, require a special use permit/Series A site plan review authorized in accordance with the provisions of § 410-39 of this chapter and shall comply with the applicable requirements of this Article VIII.

§ 410-39. Procedure. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No. 13-49; Amended 10-4-2017 by Ord. No. 17-59]

- A. Application. Application for a special use permit/Series A site plan review shall be made to the Planning Department for processing.
- B. Material to be submitted. An application for a special use permit/Series A site plan review shall be accompanied by any written and graphic material which will best support and illustrate the request. Processing of the application by the Planning Department may be delayed until adequate descriptive and illustrative material is provided. At a minimum, the information specified on the special use permit/Series A site plan review application shall be submitted.
- C. Review. The Planning Department shall review the Special Use Permit/Series A site plan review application for completeness and shall comment as to the planning and environmental impact of the proposal. The completed application, the staff report, and any other relevant materials shall be transmitted to the Planning Commission for action.
- D. Public hearing and public notices.
 - (1) Public hearing. The Planning Commission shall hold a public hearing on the Series A Site Plan review application within 45 days from the date a complete application is received by the Planning Department and the Planning Commission completes the required State Environmental Quality Review. The Planning Commission may, but it not required to, waive a public hearing for accessory uses, accessory structures, or proposals that are not subject to State Environmental Quality review according to 6 CRR-NY 617.5 of the New York States Codes, Rules and Regulations, e.g. a Type II action.
 - (2) Public Notice by Planning Department. Upon receipt of payment of a notification fee, as set by the City Council, from an applicant, the Planning Department shall provide public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete required notice mailings.
 - (a) Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.
 - (b) Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 200 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.
 - (c) Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of review required, and the proposed

action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed in either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed in each front yard.

- (d) Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.
 - (e) Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.
- E. Decision. Within 45 days from the date of the closing of a public hearing, a decision to approve, with or without modification, or disapprove the application for a special use permit/Series A site plan review shall be made by the Planning Commission. Such forty-five-day period may be extended by written mutual consent of the applicant and the Planning Commission. Any decision of the Planning Commission shall include a brief written report outlining the major factors and conditions upon which such decision was made.

F. Referrals.

(1) To the Broome County Planning Department.

- (a) Before taking final action on certain applications for a special use permit/Series A site plan review, such applications shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-m(3)(b) of the General Municipal Law:
 - [1] The boundary of any City, village, or town; or
 - [2] The boundary of any existing or proposed county or state park or any other recreation area; or
 - [3] The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway; or
 - [4] The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - [5] The existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated; or
 - [6] The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subsection shall not apply to the granting of area variances.
- (b) If the County Department of Planning fails to make such report within 30 days after receipt of a full statement of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239-m(4)(b) of the General Municipal Law. However, any County Department of Planning report received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of § 239-m(5). If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Planning Commission may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Planning Commission shall file a report of its action with the County Department of Planning within seven days after such action is taken.

- (2) To Commission on Architecture and Urban Design (CAUD). Before taking final action on an application for a special permit involving a parcel or structure located in any designated historic district, or which is a duly designated landmark, or which is identified as an historic structure or site in an urban cultural park, such application shall be referred to CAUD for review and action in accordance with the provisions of the Landmarks Ordinance of the City of Binghamton. EN
- G. Relevant comments. In reviewing an application for a special use permit/Series A site plan review, it shall be the responsibility of the Planning Department to obtain relevant comments or approvals, in writing, from other City departments before a decision is made on such application.
- H. Environmental assessment. In reviewing applications for approval of special use permit/Series A site plan review applications, the environmental impact of such a proposed action shall be considered. Approval shall not be given until a draft environmental impact statement, if required, has been prepared. See § 410-84F.
- I. Modifications. In reviewing an application for a special use permit/Series A site plan review, the Planning Commission may modify or waive the requirements set forth in § 410-41 if this is deemed appropriate and in the best interest of the City, and if the spirit and intent of this chapter can be maintained.
- J. Issuance of a building and use permit. When an application for approval of a special use permit/Series A site plan review has been approved in accordance with the provisions of this Article VIII, with or without modifications, a building and use permit shall be issued by the Supervisor of the Office of Building and Construction if there is also compliance with all other pertinent code requirements. All required modifications shall be conditions of the building and use permit.
- K. Filing. The decision of the Planning Commission shall, within five days, be filed in the Office of the City Clerk, the Office of Building and Construction, and the Planning Department. A copy of the decision shall also be given or mailed to the applicant.
- L. Term. Except as set forth to the contrary in this Subsection L, a special use permit/Series A site plan review shall become void 12 months from the date of issuance unless substantial progress has been made on the project described on such permit. Upon application, the special use permit/Series A site plan review may be renewed by the Planning Commission for an additional six months. For unusually large and complex projects, the Planning Commission may determine that conditions warrant the waiving of this provision.
- M. Violation of the above procedure or any provision, requirement or condition of site plan approval shall be cause to deny or revoke a certificate of occupancy and shall be considered an offense and punishable by a fine of \$250 for the first offense and \$500 for any subsequent offense. Each day shall constitute a separate violation until the violation is corrected. In addition, the Building Inspector may require the violation to be corrected. This section will be enforced by the Building Inspector and subject to the jurisdiction of the City Court of the City of Binghamton or the Broome County Supreme Court, as applicable.

§ 410-40. General requirements [Amended 8-7-2013 by Ord. No 13-49.]

- A. Approval of any application for a special use permit/Series A site plan review may be conditioned on the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property. To this end, before a special use

permit/Series A site plan review application is approved, the Planning Commission shall determine that the following general requirements have been met, as well as any other applicable specific requirements for certain land uses as may be set forth in § 410-41 and Article IX of this chapter.

- (1) That the land use is to be designed, located and operated so as to protect the public health, safety and welfare.
- (2) That the land use will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
- (3) That the land use will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.
- (4) That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot area not used for structures or access drives shall be improved with grass, shrubs, trees and other forms of landscaping, the location and species of which shall be specified on the site plan.
- (5) That a site plan shall be approved in accordance with applicable provisions of Article IX of this chapter.
- (6) That adequate off-street parking and loading are provided in accordance with Article X of this chapter or other requirements as may be set forth in § 410-41 below, and ingress and egress to parking and loading areas are so designed as to minimize the number of curb cuts and not unduly interfere with traffic or abutting streets.
- (7) That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.
- (8) That existing public streets and utilities servicing the project shall be determined to be adequate.
- (9) That significant existing vegetation shall be preserved to the extent practicable.
- (10) That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
- (11) That the land use conforms with all applicable regulations governing the zoning district where it is to be located, and with performance standards set forth in § 410-24 of this chapter, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of § 410-41 below. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of this chapter.

B. If the conditions thought to be necessary by the Planning Commission to accomplish the purpose of this Article VIII cannot be complied with by the applicant for a special use permit/Series A site plan review, the application shall be denied.

§ 410-41. Additional requirements for certain land uses. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]

- A. In addition to the general requirements specified in § 410-40 above and the provision of Article IX of this chapter, which are applicable to all special use permit/Series A site plan review requests, the specific requirements for certain land uses as set forth in this section shall be complied with unless such requirements are modified by the Planning Commission. Additional requirements are as follows:
- (1) An adult bookstore in the I-2 and I-3 Districts is permitted when:
 - (a) No such facility shall be located less than 500 feet from the boundary of any residential district or residence, place of worship, school, church or playground in any district.

- (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult bookstore, adult novelty store, or adult entertainment establishment.
- (2) An adult entertainment establishment in the I-2 and I-3 Districts is permitted when:
 - (a) No such facility shall be located less than 500 feet from the boundary of any residential district.
 - (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult entertainment establishment, adult bookstore, or adult novelty store.
- (3) An adult novelty store in the I-2 and I-3 Districts is permitted when:
 - (a) No such facility shall be located less than 500 feet from the boundary of any residential district.
 - (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult novelty store, adult bookstore, or adult entertainment establishment.
 - (c) Required stacking spaces shall not interfere with the entrance and exit of vehicles and shall not extend onto any public street.
- (4) An automobile repair shop in the C-1, I-2, and I-3 Districts is permitted when:
 - (a) No outside storage of materials is permitted in the required front and side setback areas.
 - (b) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
 - (c) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
 - (d) No outdoor storage of tires shall be permitted at any time.
- (5) Automobile sales, new, in the C-1, I-2, and I-3 Districts is permitted when:
 - (a) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number of equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
 - (b) No outdoor storage of tires shall be permitted at any time.
 - (c) No outdoor storage of materials is permitted in the required front and side setback areas.
 - (d) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
- (6) Automobile sales, used (major), in the C-1, I-2, and I-3 Districts is permitted when:
 - (a) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
 - (b) No outdoor storage of tires shall be permitted at any time.
 - (c) No outside storage of materials is permitted in the required front and side setback areas.
 - (d) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
- (7) An automobile service station in the C-1, C-4, I-2, and I-3 Districts is permitted when:
 - (a) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
 - (b) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that

- property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
- (c) No outdoor storage of tires shall be permitted at any time.
 - (d) No outside storage of materials is permitted in the required front and side setback areas.
- (8) A building supply yard in the I-2 and I-3 Districts is permitted when:
- (a) No outside storage of materials is permitted in the required front and side setback areas.
- (9) Construction equipment sales, storage, and maintenance in the I-2 and I-3 Districts is permitted when:
- (a) No outside storage of materials is permitted in the required front and side setback areas.
- (10) A dwelling manufactured home, in the R-1 District is permitted when:
- (a) No permanent foundation is required. No posts, pillars, columns, etc. are permitted.
 - (b) No skirting is permitted
- (11) A hotel and motel in the C-1, C-2, I-1, I-2, and I-3 Districts is permitted when:
- (a) No building shall be located less than 50 feet from the lot line of an existing residence.
 - (b) No off-street parking shall be located less than 15 feet from the lot line of an existing residence.
- (12) A machine, sheet metal and welding shop in the C-1, I-2, and I-3 Districts is permitted when:
- (a) No outdoor storage of parts, waste products, or other materials is permitted unless appropriately screened from view.
 - (b) The provisions of Chapter 292, Noise, of the Code of the City of Binghamton, are complied with.
- (13) A miniature golf establishment in the C-4 District is permitted when:
- (a) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter
 - (b) Hours of operation shall not extend after 12:00 midnight or begin before 8:00 a.m.
- (14) A motor truck freight terminal in the I-2 and I-3 Districts is permitted when:
- (a) No vehicles shall be parked overnight with their motors running.
 - (b) No vehicles shall leave their motors running or idling for longer than a period of 15 minutes.
- (15) A parking area, public, in the R-, C-1, C-2, C-3, C-4, C-5, I-1, I-2 and I-3 Districts is permitted when:
- (a) If the use is proposed in the R-3 District, the site plan must comply with a lot coverage requirements for the C-4 District.
- (16) A place of worship in the R-1, R-2, and R-3 Districts is permitted when:
- (a) No structure shall be located less than 30 feet from an abutting residential lot line.
 - (b) In the R-1 and R-2 Districts, approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.
- (17) A rail freight terminal in the C-1, C-2, I-2 and I-3 Districts is permitted when:
- (a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.

- (18) A recreation use, racetrack, in the R-3 District is permitted when:
- (a) The lot on which such facility is located shall be at least 10,000 square feet in area with a frontage of at least 100 feet.
 - (b) No portion of the track area shall be located less than 20 feet from any residential lot line or an abutting public street.
 - (c) An appropriate buffer strip shall be provided between such use and any abutting residential district or residential property.
 - (d) A solid fence shall be constructed around such track with a minimum height of three feet and a maximum height of four feet.
 - (e) Such track shall be solely recreational and no business, including the sale of motor oil, fuel, gasoline, small engine replacement parts, prepackaged foods, soft drinks and/or snack foods, shall be permitted.
 - (f) No more than five gallons of fuel or two gallons of used or new motor oil may be stored on the property at any time, and if stored must be at all times be maintained in containers meeting or surpassing all state and/or federal regulations applicable to storage of fuels and motor oil.
 - (g) The permit must be displayed at all times.
 - (h) The racetrack is limited to motorized vehicles that are owned and maintained by the owner or lessee of the subject property.
 - (i) The Planning Commission has the authority to prevent the construction of viewing areas and/or grandstands for the protection of the residents as well as the aesthetics of the neighborhood.
 - (j) No track lighting is permitted.
 - (k) Hours of operation are limited to 10:00 a.m. through 8:00 p.m.
 - (l) The track must be located to the rear of the residential structure and shall not be located in any required front and side yard setback areas.
- (19) A self-service storage warehouse in the C-1, I-2, and I-3 Districts is permitted when:
- (a) No outside display of rental items shall be located in any required front yard setback area.
- (20) A shopping center in the C-1, C-2, C-4, I-2 and I-3 Districts is permitted when:
- (a) No portion of a lot submitted as a shopping center shall subsequently be subdivided into individual lots without Planning Commission approval.
- (21) A telecommunications facility in the C-1, C-2, I-1, I-2 and I-3 Districts is permitted when:
- (a) The facility complies with § 410-42, Telecommunication facilities and towers.
- (22) Tire, muffler, brake, shock absorber, and related sales and service in the C-4 District is permitted when:
- (a) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
 - (b) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
 - (c) No outdoor storage of tires shall be permitted at any time.
- (23) A townhouse with five or more dwelling units in the R-3 District is permitted when:
- (a) No parking space shall be less than five feet from the side lot line of any end unit.
- (24) A townhouse with four or fewer dwelling units in the R-2 District is permitted when:
- (a) No parking space shall be less than five feet from the side lot line of any end unit.
- (25) Townhouses with two units in the R-1 District is permitted when:

- (a) No parking space shall be less than five feet from the side lot line of any end unit.
- (26) A transfer station/redemption center, recyclable materials, in the I-2 and I-3 Districts is permitted when:
 - (a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.
- (27) A transfer station, solid waste or construction and demolition debris, in the I-2 and I-3 Districts is permitted when:
 - (a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.
- (28) A vehicle impound yard in the I-2 and I-3 Districts is permitted when:
 - (a) Unlicensed vehicles must be contained within a screened lot by means of a privacy fence.
- (29) A vehicle salvage facility in the I-3 District is permitted when:
 - (a) All unlicensed vehicles must be contained within a screened lot.

§ 410-42. Telecommunications facilities and towers.

- A. Intent. The City Binghamton recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a communications tower and/or similar facilities. The intent of this section is to regulate the location, construction and modification of the telecommunications facilities in accordance with the guidelines of the Telecommunications Act of 1996 and other applicable laws by:
 - (1) Accommodating the need for telecommunications towers/antennas while regulating their locations and number in the community.
 - (2) Minimizing adverse visual impacts of these tower/antennas through proper siting, design and screening.
 - (3) Preserving and enhancing the positive aesthetic qualities of the natural environment and current development in the City of Binghamton.
 - (4) Providing for the health, safety and welfare of the community by avoiding potential damage or other negative impact to adjacent properties from power failure, falling ice, etc., through proper siting and engineering.
 - (5) Requiring the joint use of towers when available and encouraging the placement of antennas on existing structures to minimize the number of such structures in the future.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

COLLOCATED/EXISTING STRUCTURE ANTENNA -- Any antenna that is attached to an existing telecommunications tower.

NONCOLLOCATED/NEW STRUCTURE ANTENNA -- An antenna that will not be mounted on an existing structure as defined above or that is located 15 feet higher than the existing structure on which it is mounted. Such is permitted in accordance with the requirements set forth in this section.

- C. Approvals and bulk requirements. No telecommunications facility shall be sited, located, constructed, erected or modified without the issuance of a building permit, tower special use permit and a Series A site plan approval, and such other permits or approvals as are prescribed by this chapter.
 - (1) Collocated/Existing structure antennas. A collocated or existing structure antenna is permitted without a tower special use permit upon issuance of a Series A site plan approval from the Planning Commission and a building permit. The applicant shall also be

responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any legal fees relative thereto. The Series A site plan review and building permit application shall include the following:

- (a) A structural analysis/report, certified by a New York State licensed professional engineer or architect, verifying the ability of the structure to handle the antenna.
- (b) Certification by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer or architect) that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.
- (c) The height of the new antenna shall extend no more than 15 feet above the height of the existing structure.
- (d) The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.

(2) Noncollocated/New structure antennas.

- (a) A noncollocated or new structure antenna is permitted with the issuance of a tower special use permit, a Series A site plan review approval from the Planning Commission and a building permit. No application for a noncollocated or new structure antenna shall be considered complete unless and until the applicant shall have submitted a report that establishes to the satisfaction of the City of Binghamton Planning Commission the following:

- [1] That the applicant is required to provide service to locations which it is not able to serve through existing facilities which are located either within or outside of the City of Binghamton, showing the specific locations and/or areas the applicant is seeking to serve.

- [2] The report shall set forth an inventory of existing facilities and/or structures, within or outside of the City, which might be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve and shall include a report on the possibilities and opportunities for collocation as an alternative to a new site. The applicant must demonstrate that the proposed facility cannot be accommodated on any such existing facility or structure either within or outside of the City of Binghamton due to one or more of the following reasons:

- [a] The proposed equipment would exceed the existing reasonably potential structural capacity of existing facilities or structures within or outside of the City, considering existing and planned use for those facilities or structures.

- [b] The existing or proposed equipment would cause interference with other existing or proposed equipment that could not reasonably be mitigated or prevented.

- [c] Said existing facilities or structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and/or the applicant has not been able, following good faith efforts, to reach an agreement with the owner(s) of such facilities or structures.

- [d] Other reasons which make it impractical to locate or place the proposed equipment on said facilities or structures.

- (b) Bulk requirements. In all zoning districts new or relocated towers and antennas shall be set back from all property lines a minimum distance equal to their height (measured from their base). The Planning Commission may require an

additional setback area in the case of guy wires, taking into consideration the length of the guy wires and the location of ground anchors.

- (3) All applications for telecommunications facilities in all zoning districts shall comply with the requirements of the State Environmental Quality Review Act (SEQRA).

D. Application for tower special use permit.

- (1) Application required. All applicants shall make a written application for special use permit and Series A site plan approval to the City of Binghamton Planning Commission, through the City of Binghamton Planning Department.

- (2) Said application shall include:

- (a) A completed tower special use permit application form. In addition to the requirements set forth herein, all applications shall be processed in accordance with the requirements of § 410-40 of this chapter generally applicable to special use permits. The application shall be accompanied by the payment of the tower special use permit application fee as set from time to time by City Council (See Exhibit J). In addition to the tower special use permit application fee, the applicant shall also be responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any related legal fees.

- (b) A special use permit application form, including long-form environmental assessment form (EAF). The application shall not be deemed complete unless accompanied by the propagation studies and search ring analysis described in Subsection D(2)(d) and (e) of this section.

- (c) A site plan, in the form and content acceptable to the City, prepared to scale and in sufficient detail and accuracy. In addition to the site plan requirements set forth in § 410-47, the site plan shall include:

- [1] The exact location of the proposed tower, together with guy wires and ground anchors, if applicable, and any accessory structures.
- [2] The maximum height of the proposed tower and antennas.
- [3] A detail of tower type (monopole, guyed, freestanding or other).
- [4] The color or colors of the tower.
- [5] The location, type and intensity of any lighting on the tower and antennas.
- [6] A survey, showing the boundary of the property and any easements, and a topographical map of the property with contour lines not exceeding two-foot intervals.
- [7] Proof of ownership of the land by the applicant or the landowner's consent if the applicant will not own the property. A copy of the final lease agreement, plus any amendments thereto, must also be provided if the applicant will not own the property.
- [8] The location of all current and proposed structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures to the tower and antennas.
- [9] Identification of adjacent landowners.
- [10] The location, nature and extent of any proposed fencing and landscaping or screening. Existing on-site vegetation shall be preserved to the maximum extent possible.
- [11] The location and nature of proposed utility easements and access roads, if applicable. The applicant must demonstrate that all private access roads will be maintained in order to ensure access by emergency vehicles on a year-round basis.
- [12] Building elevations of accessory structures or immediately adjacent buildings.

- [13] A visual study showing where, within a two-mile radius, any portion of the proposed tower/antenna could be seen.
- (d) Before-and-after propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) demonstrating existing signal coverage resulting from the proposed telecommunications facility.
- (e) Search ring analysis.
 - [1] A search ring analysis prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide proper signal strength and coverage to the target cell.
 - [2] The applicant must be prepared to explain to the City of Binghamton Planning Commission how and why it selected the proposed site, discuss the availability (or lack of availability) of a suitable structure, within the search ring, which would have allowed for collocated antenna(s), and to what extent the applicant explored locating the proposed tower and antennas in a more desirable use district. Proof of correspondence with other telecommunications companies concerning collocation shall be part of this requirement.
- (3) The City of Binghamton Planning Commission, upon reviewing the application, may request reasonable additional visual, aesthetic and site information, as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, visual impact statements, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from viewpoints selected by the City staff.
- (4) For sites in close proximity to significant historical sites or important preservation/conservation areas, the City will request additional site plans and tower special use permit requirements. These requirements can include specially designed towers, additional screening, greater setbacks and improved landscaping. Siting in these areas should be avoided to the maximum extent possible.

E. Telecommunications facility permit standards.

- (1) The following criteria will be considered by the City prior to the approval/denial of a request for a tower special use permit. The criteria listed may be used as a basis to impose reasonable conditions on the applicant. Tower special use permits are not assignable and are not transferable, except upon approval of the Planning Commission.
- (2) The City may express a preference for an alternative site(s) and/or that the proposed telecommunications facility be located in a higher-intensity-use district or on higher-intensity-use property, provided that there is a technologically feasible and available location. A guideline for the City's preference, from most desirable to least desirable zoning district/property, is as follows:
 - (a) Property with an existing structure suitable for collocation.
 - (b) Municipal or government-owned property.
 - (c) Industrial, Heavy (I-3), Industrial, Light/Medium (I-2), Urban Business Park (I-1), Downtown Business (C-2), Service Commercial (C-1), Neighborhood Commercial (C-4), Medical (C-3), Neighborhood Office (C-5), and Limited Neighborhood Commercial (C-6).
 - (d) Residential Multi-Unit Dwelling (R-3), Residential One- and Two-Unit Dwelling (R-2), and Residential One & Two Family.
 - (e) Sites which are in close proximity to significant historic sites and/or important preservation/conservation areas.

- (3) Any request by the City for information or technical analysis on a preferred alternate site shall be provided by the applicant at its sole cost and shall not unreasonably delay the application.
- (4) Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent that is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the City of Binghamton Planning Commission may impose reasonable conditions on the applicant, including, but not limited to, the following:
- (a) Tower height, including antennas, and design are matters of primary public concern. The Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design. The Board may impose reasonable restrictions and/or conditions on height. For example, the Board may reasonably determine that adverse impact upon the community will be best mitigated by requiring the applicant to construct multiple towers of lower height at several different locations to meet the applicant's demonstrated service coverage requirement(s) or that the tower height be reduced in the future if the applicant is unable to demonstrate a continuing need for the approval height in light of changes in the applicant's service coverage needs or technological advances.
 - (b) The Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and antennas and/or to screen the tower and any accessory structure or buildings to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
 - (c) The Board may require the applicant to show that it has made good-faith efforts to collocate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances. However, such request shall not unreasonably delay the application.
 - (d) The Board may require the tower and any antenna to be camouflaged; for example the Board may reasonably require the tower and antenna to appear to be a flagpole or tree.
 - (e) The type of finish, color and lighting shall be subject to City and/or Federal Aviation Administration (FAA) approval. The City may require lights to be shielded to minimize ground visual impact.
 - (f) No tower shall contain any signs or advertising devices. Notwithstanding the foregoing, the Board may require appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency.
 - (g) The applicant must submit a copy of its policy regarding collocation on the proposed tower with other potential future applicants. Such policy should allow collocation under the following conditions:
 - [1] The new antenna(s) and equipment do not exceed structural loading requirements, interfere with City space used or to be used by the applicant or pose any technical or radio frequency interference with existing equipment.
 - [2] The party desiring to collocate pays the applicant an appropriate and reasonable sum to collocate.
 - [3] The party desiring to collocate has a similar policy of collocation for the applicant.
 - (h) All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited

from the site unless otherwise permitted in the zoning district in which the facility is located.

(5) Radio frequency; inspections.

- (a) The City of Binghamton Planning Commission shall impose a condition on the applicant that the communications antenna will be operated only at Federal Communication Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits and may periodically require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.
- (b) Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for radio emissions, and a copy of the report shall be promptly delivered to the Building Inspector. A licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities shall perform radio emission inspections. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits stated with applicable FCC or ANSI standards or other applicable federal or state guidelines in effect at the time of inspection, the applicant shall cease all use of the facility until such time as it proves, to the satisfaction of the Building Inspector or pertinent City consultant, that the power density levels of the electromagnetic energy to be generated at the facility are below the applicable standards.

(6) Traffic, access, and safety.

- (a) A road turnaround and one parking space shall be provided to assure adequate year-round emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road rights-of-way for the siting of a tower or antenna(s) accessory structures is prohibited.
- (b) All towers and ground anchors, if applicable, shall be enclosed by a fence not less than eight feet in height and otherwise sufficiently protected from trespassing or vandalism.
- (c) The applicant must comply with all applicable state and federal regulations, including, but not limited to, FAA and FCC regulations, and from time to time may be required to provide certification of such compliance.
- (d) All towers and antennas shall include anti-climbing devices for a minimum of 25 feet extending above ground level.

(7) Removal of tower.

- (a) The applicant shall agree to remove the tower and antenna if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The City of Binghamton Planning Commission shall require the applicant to provide an appropriate and adequate demolition bond for the purpose of removing the telecommunications facility and restoration of the land in case the applicant fails to do so as required above.
- (b) The sufficiency of the demolition bond shall be confirmed at least every five years by analysis and report of the cost of removal and property restoration, which is to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If the

analysis and report determine that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

(8) Structural safety.

(a) During the application process and after construction of the tower, the applicant shall provide a certification from a qualified New York State licensed professional engineer, certifying that the tower and antennas meet applicable New York State and ANSI structural safety standards.

(b) Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for structural integrity. A copy of the report shall be promptly delivered to the Building Inspector. A New York State licensed professional engineer specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Building Inspector. Upon the applicant's failure to do so, the permit may be revoked.

(9) Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair. The City may require that reasonable records of such maintenance be kept and available for City review upon request.

F. Exemptions.

(1) Exemptions are as follows:

(a) Antennas and satellite antennas used solely for residential household television and radio reception.

(b) Satellite antennas measuring two meters or less in diameter and located in commercial and industrial districts and satellite antennas one meter or less in diameter regardless of location.

(2) Towers and antennas may be repaired and maintained without restriction.

G. Procedure.

(1) In the event of any conflicts or inconsistencies between this section and any other local law, including any other provision of this chapter, this section is meant to control for telecommunications towers and similar facilities in the City unless otherwise specifically referenced in this section.

(2) In the event that there is a change in technology that alters the use of the telecommunications facilities cited pursuant to this section, the City reserves the right to require a new application to be submitted, which complies with the above requisites, from all owners of such telecommunications facilities.

ARTICLE IX, Site Plan Review and Approval

§ 410-43. Intent.

The intent of this Article IX is to provide for the review of site plans for certain uses in the City of Binghamton for the purpose of preserving and enhancing the character of a neighborhood, achieving compatibility with adjacent development, mitigating potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improving the overall visual and aesthetic quality of the City and increasing the capability of this chapter to adapt to a variety of unique circumstances.

§ 410-44. Applicability.

Any land use or activity which is not listed in Schedule I (§ 410-27) or II (§ 410-32) as a use permitted by right, and for which a site plan is required, shall comply with the standards and procedures of this Article IX. No building or use permit shall be issued by the Supervisor of the Office of Building and Construction until approval of such site plan, with or without conditions, has been given.

§ 410-45. Categories of review. [Amended 8-7-2013 by Ord. No 13-49]

Those uses for which site plan approval must be obtained in accordance with the provisions of this Article IX shall fall into one of the following categories:

- A. Series A: that group of land uses and activities which is likely to have a broad and significant impact on the physical, environmental, social or economic character of the surrounding neighborhood and the City. Review of, and decision on, any Series A site plan approvals shall be made by the Planning Commission.

Series A Site Plan approval from the Planning Commission pursuant to § 410-46 of this Article IX is required for all new construction, for all commercial uses, for all uses requiring a special use permit, for all principal permitted and accessory uses, for all changes of use, and as required by § 410-27 or §410-29 of this Chapter. No building permit shall be issued by the Building Inspector for any such use which requires site plan approval except upon authorization of an in conformity with plans approved by the Planning Commission.

- B. Series A Exception: that group of land uses and activities which will have limited effect on the physical, environmental, social or economic character of the surrounding neighborhood but which could seriously impact adjacent properties. Review of, and decision of, any series A site plan exceptions, shall be made by the Planning Department in accordance with the provisions of §410-36B, except that the staff may request that such review and decision be made by the Planning Commission. No public hearing shall be held on Series A exception reviews unless the Planning Department requests that review and decisions be made by the Planning Commission. In such case, the hearing provisions of §410-46D shall be applied. For projects that do not involve or require exterior alterations or additions, an approved site plan may not be required, except in the case where a site plan is necessary to verify compliance with any provision of the City of Binghamton Code of Ordinances or the NYS Code.
- C. Exception. Notwithstanding Subsection A of this section, no Series A Site Plan is required for:
 - (i) Single and two family dwellings and accessory uses thereto, except as may be required by §41-27 or §410-29 of this Chapter.
 - (ii) Any change of use from one principal permitted or accessory use to another principal permitted or accessory use, including changes of use within a permitted multiple use, e.g. a shopping center, except when involving new construction then §410-36A shall apply, and provided that the Planning Department and Building Official have determined that the proposed change of use will not have any significant impact on:
 - (1) Traffic volume
 - (2) Site access
 - (3) On-site and off-site parking
 - (4) Internal circulation
 - (5) Neighborhood noise levels
 - (6) Green space (The proposed project will not have created a need for additional landscaping, screening, or buffering)
 - (7) Drainage
 - (8) Character of the neighborhood
 - (9) Lighting

The list of items to be considered above is inclusive, but not exclusive, and the Planning Department and Supervisor of Building Construction, or designee, may consider any environmental or development issues that could have a significant impact on the parcel and/or the surrounding area.

§ 410-46. Procedure. [Amended 8-7-2013 by Ord. No 13-49]

- A. Application. Application for a site plan review and approval shall be made to the Planning Department for processing.
- B. Presubmission conference. Prior to the preparation and submission of a final plan for site plan review and approval, the applicant may prepare a sketch plan and meet with the Planning Department staff to consider specifics of the proposed use or development, neighborhood characteristics and features of the site. Such sketch plan should be submitted in duplicate and include enough information to enable a clear understanding of the proposal.
- C. Plan requirements.
 - (1) A final plan for any land use or activity requiring site plan review and approval shall be prepared and submitted to the Planning Department. Such final plan shall, at the minimum, contain the following information as applicable:
 - (a) A bulk table (generally a bulk table lists pertinent information of the property, such as required and proposed square footage, setbacks, number of parking spaces, etc.);
 - (b) The shape and dimensions of the lot;
 - (c) The existing zoning for the lot and for all adjacent lots;
 - (d) The existing and proposed physical characteristics of the site, including topography, vegetation and drainage;
 - (e) The location and size of all existing buildings that are to remain and all proposed new buildings and location of structures on adjoining lots within 25 feet;
 - (f) The existing and proposed use of each building or part thereof, and of the lot;
 - (g) The number of dwelling units proposed for each building;
 - (h) The layout of required off-street parking and loading space with access and egress thereto;
 - (i) The location and type of any screening and landscaping;
 - (j) The location and type of proposed signage, exterior lighting, and proposed improvements other than a building;
 - (k) Dimensions of all items on the plan, including buildings, lots, parking spaces (handicapped spaces must be designated on site plan), and curb cuts;
 - (l) Any other information with respect to the lot, buildings or adjacent lots that may be necessary to determine compliance with the provisions of this chapter.
 - (2) Any of the above plan requirements may be waived by the Planning Department if conditions warrant.
- D. Plan approval.
 - (1) Decision. Within 45 days from the date a complete final plan is submitted to the Planning Commission or Planning Department a decision to approve, with or without modification, or disapprove the application shall be made by the Planning Commission or the Planning Department, as appropriate. Such forty-five-day period may be extended by mutual consent of the applicant and the deciding body.
- E. Referrals.

- (1) To County planning. Before taking final action on certain applications for site plan approval, such applications shall be referred to the Broome County Planning Department for review and report in accordance with the provisions of §§ 239 l and 239-m of the General Municipal Law.
 - (2) To Commission on Architecture and Urban Design (CAUD). Before taking final action on an application for site plan approval for a parcel located in the Susquehanna Heritage Area or in any designated historic district or park, such application shall be referred to CAUD for review and action in accordance with the provisions of the Landmarks Ordinance of the City of Binghamton.EN
- F. Relevant comments. In reviewing site plans, it shall be the responsibility of the Planning Department to obtain relevant comments or approvals, in writing, from other City departments/divisions before a decision on approval is made.
- G. Environmental assessment. In reviewing an application for approval of a site plan, the environmental impact of such a proposed action shall be considered. For any proposed building or land use which is determined to be a Type I or an unlisted action, the provisions of § 410-84F of this chapter shall apply.
- H. Issuance of building and use permit. When an application for approval of a site plan has been approved in accordance with the provisions of this Article IX with or without modifications, a building and use permit shall be issued by the Supervisor of the Office of Building and Construction if there is compliance with all other pertinent code requirements. All required modifications established as a result of the site plan review procedure shall be conditions of the building and use permit.
- I. Filing. The decision of the Planning Commission or the Planning Department, as appropriate, shall immediately be filed in the Office of the City Clerk and Office of Building and Construction within five business days and a copy thereof shall be given or mailed to the applicant.

§ 410-47. Standards for approval of site plans.

In reviewing applications for approval of site plans, the reviewing agency will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include, but not be limited to:

- A. Movement of vehicles and people.
- B. Public safety.
- C. Off-street parking and service.
- D. Lot size, density, setbacks, building size, coverage and height.
- E. Landscaping, site drainage, buffering, views or visual character.
- F. Signs, site lighting.
- G. Operational characteristics.
- H. Architectural features, materials and colors.
- I. Compatibility with the general character of the neighborhood.

J. Other considerations that may reasonably be related to health, safety and general welfare.

§ 410-48. Modification of certain regulations.

A. Review by the Planning Department. In reviewing an application for a Series B site plan approval, the Planning Department shall disapprove any proposal not meeting the requirements of this chapter. Notwithstanding the foregoing, the minimum bulk requirements (lot area, frontage, setback, height, etc.) specified in Schedules IA (§ 410-28) and IIA (§ 410-33) may be modified in site plan review when the Planning Department determines that such a modification would not adversely affect the site development or alter the essential character of the locality. Such authority to modify bulk requirements shall be limited as follows:

Requirement	Percent Change
Minimum front yard: reduce by no more than	10%
Minimum side and rear yard: reduce by no more than	10%
Maximum percentage of lot covered : increase by adding no more than	5%

B. Review by Planning Commission. When the Planning Commission determines that special conditions or circumstances exist which make the site development conditions and requirements set forth in this chapter inappropriate, the Commission, in acting on any site plan approval application, or on an appeal from a site plan decision of the Planning Department, may modify such condition or requirement if the best interest of the City would be served and the spirit of this chapter can be maintained. Such modification by the Planning Commission shall not, however, be such as to permit a land use which would not otherwise be possible in the district. In addition, such authority to modify bulk requirements shall be limited as follows:

Requirement	Maximum Percent Change
Minimum lot area: reduce by no more than	10%
Minimum lot area per dwelling unit: reduce by no more than	10%
Minimum lot width: reduce by no more than	10%
Minimum front yard: reduce by no more than	15%
Minimum side and rear yard: reduce by no more than	10%
Maximum building height: increase by no more than	5%
Maximum percentage of lot covered: increase by adding no more than	5%
Maximum floor area: increase by no more than	5%
Minimum off-street parking: reduce by no more than	20%

C. Justification. Justification for any modifications by the Planning Department or the Planning Commission, as authorized by this § 410-48, shall be documented in writing and filed in the records of the application for site plan approval.

§ 410-49. Appeals.

- A. Appeal of Planning Department decision. An applicant for a Series B site plan review, or any other aggrieved party, may appeal to the Planning Commission for a review and modification of a decision made by the Planning Department. Such appeal shall be treated by the Planning Commission in the same manner as a Series A site plan review and follow the provisions of § 410-46 of this chapter.
- B. Appeal of a Planning Commission decision. Any persons, or any officer, department, division, board or bureau of the City, aggrieved by any decision of the Planning Commission related to site plan review may appeal such decision as follows:
 - (1) Decision affecting modification of bulk requirements: may appeal to the Zoning Board of Appeals for an area variance in accordance with the provisions of Article XIV of this chapter.
 - (2) Any other decision: may apply to the Supreme Court for review under provisions of Article 78 of the Civil Practice Law and Rules.

ARTICLE X, Off-Street Parking, Loading and Storage

§ 410-50. Intent. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]

It is the intention of this article that all land uses and activities in the City of Binghamton be provided with sufficient off-street motor vehicle parking to meet the needs of persons associated with such land uses and activities and sufficient off-street loading facilities that are designed and maintained to adequately serve the needs of such land uses and activities while protecting the health, safety and general welfare of the citizens and environment of the City of Binghamton

- A. Scope. Off-street parking and loading facilities shall be provided for all buildings, structures and land uses in accordance with the provisions of this Article X and amendments thereto.
- B. Existing buildings, structures, and land uses. Buildings, structures and land uses in existence, or for which building permits have been approved, at the time of adoption of this article shall not be subject to the parking and loading requirements contained herein. In such cases, any existing parking and loading facilities shall not be subsequently reduced in area or number if such reduction causes the existing facility(ies) to fall below the minimum requirements of this article.
- C. Changes to existing buildings, structures and land uses. Whenever the current use of a building, structure or land shall hereafter be expanded or changed to a new use, parking and loading shall be provided in an amount equal to the requirements contained in §410-53 for such expanded or new use. Additional off-street parking and loading spaces shall only be required to serve the enlarged or expanded area, not the entire building or use. For buildings containing multiple uses, additional parking and loading shall only be required for the portion of the building to be expanded or the portion of a use to be expansion or for a new use.
- D. Damage or destruction of nonconforming use. When a structure or use, which is nonconforming in terms of the parking and loading requirements of this Article X, is totally destroyed or damaged by any cause to an extent which exceeds 50% of the physical structure on the property, restoration or reconstruction of such structure or use shall include sufficient off-street parking and loading to bring it into compliance.
- E. Facilities dedicated and accepted by the City. Required off-street parking facilities which, after development, are then dedicated and accepted by the City shall be deemed to continue to serve the uses or structures for which they were originally provided.
- F. Certificate of occupancy. No certificate of occupancy shall be issued for any building or land use unless the required off-street parking space has been provided.

- G. New variance. In case of practical difficulty or special conditions arising out of the parking and loading requirements of this Article X, such requirements may be modified through an application to the Zoning Board of Appeals for an area variance in accordance with the provisions of § 410-94 of this chapter.

§ 410-51. Standards. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]

Off-street parking and off-street loading provisions of the article shall apply as follows:

- A. Use of required spaces. Required parking spaces and any portion of the area on a site encompassing the required parking and the required landscaping within the parking area on a site shall not be rented or leased to any party on or off the site or be used for some purpose other than that permitted or allowed on the site; these spaces shall be made available and maintained in a safe, usable condition for the tenants and their clients or customers, at no charge.
- B. Computation. Where the determination of the number of off-street parking spaces results in a requirement of a fractional space, any fraction of less than 1/2 may be disregarded, while any fraction equal to or in excess of 1/2 shall be counted as one parking space.
- C. Square footage. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations for rest room(s), hall(s), and lobby area(s), but shall exclude area for vertical circulation, stairs, elevators, or upper-story atriums. (See Section 202(120)).
- D. Multiple uses encouraged.
- (1) Cross-access encouraged. Applicants for commercial and industrial developments should be encouraged to provide cross-access to adjacent nonresidential properties for convenience, safety, and efficient circulation of motor vehicles. A mutual access agreement shall be executed where cross-access is provided.
 - (2) Combined facilities. Off-street parking facilities for independent uses, which uses may or may not be on the same lot, may be combined if the total number of spaces so provided is not less than the sum of the separate requirements for each such use. There shall be adherence to all regulations governing the location of parking, in relation to the use it serves. No parking spaces or portion thereof shall serve as required spaces for more than one use.
 - (3) Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be set forth in Schedule III (see § 410-53), which schedule is hereby adopted and made part of this article.
- E. Location.
- (1) Except as may otherwise be specified in this chapter, all required parking spaces in R-1 and R-2 Residential Districts shall be located on the same lot as the building or use to be served. In other districts, required off-street parking space may be provided in a private or public off-site facility. The distance from the lot line of such off-site parking facility to the closest lot line of the building or use it is intended to serve shall be no greater than 250 feet for the R-3 Residential District, and 800 feet from all commercial and industrial districts.
 - (2) When all or part of required parking facilities are to be provided on private land, remote from the lot on which the building or use to be served is located, use of such off-site parking shall be approved only when written assurance is made that the private off-site parking will continue to be available to the building or use it is intended to serve. The form of such assurance shall be determined by the Corporation Counsel.
- F. Yards. Off-street parking space, open to the sky, may be located in any required yard space, except that:

- (1) In any residential district and the C-5 District, required yard area adjacent to a street may not be used for parking. This restriction shall not apply to driveways to one- and two-unit dwellings.
 - (2) In any residential district, no more than 50 percent of the area of the required rear setback shall be utilized for off-street parking and in no case shall off-street parking be located within three (3) feet of a rear lot line. A minimum three (3) foot wide landscaped area shall be located between a rear lot line and off-street parking areas and shall not be used for parking spaces, service areas, vehicular surfaces, driveways or maneuvering aisles.
 - (3) In the C-3, C-4, C-5, and C-6 Districts, parking may not be located less than five feet from any lot line adjacent to a street or any sidewalk. Such five-foot strip shall be landscaped. (See § 410-55B.)
 - (4) In any zoning district off-street parking areas containing or resulting in more than four parking spaces shall be setback a minimum five (5) feet from any lot line adjacent to a street or sidewalk and shall be setback five (5) feet from any side and or rear lot line(s) adjoining a residential district or a residential facility. Such five-foot setback shall be landscaped. (See §410-55B.)
- G. Tandem parking. Tandem parking of two or more vehicles will not be considered in the determination of the total amount of off-street parking available if such tandem parking blocks the driveway for other vehicles. This provision shall not apply to one- and two-unit dwellings. Tandem parking of not more than 50% of parking spaces is permitted for multiple-family dwellings.
- H. Turnover. To determine the total number of off-street parking spaces available in a public parking area or structure, the number of physical spaces actually existing shall be multiplied by a factor of five to account for daily vehicle turnover unless the Planning Department has determined that the capacity of said public parking facility, including the turnover factor, has already been reached. Thus, a public facility containing 100 actual spaces would have 500 off-site spaces which could be assigned to meet the off-street parking requirements of Schedule III (§ 410-53). The Planning Commission may establish a turnover factor for private off-street parking facilities if conditions warrant.
- I. Maximum number of parking spaces. No use other than one or two-family dwellings shall provide parking in excess of 110% of parking minimums contained in Schedule III.
- J. Pedestrian Circulation Plan. Any land use which requires a minimum of 50 parking spaces shall be required to provide a pedestrian circulation-plan for the proposed site prior to the issuance of permits.

§ 410-52. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DUMPSTER -- A watertight container constructed of impervious material and provided with a cover or covers of like material which is intended and designed to be used for the retention or storage of garbage, refuse or recyclable materials. This term shall not include containers having a maximum capacity of 60 gallons or less.

FLOOR AREA -- For the purposes of determining the required number of parking spaces, floor area shall be measured in accordance with the definition provided for "floor area ratio."

FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot.

FOOTCANDLE -- One lumen per square foot; unit of illuminance used to measure the amount of light emitted by lamps.

IMPERVIOUS -- Any nonorganic material that prohibits penetration by liquids or other soluble materials.

OPAQUE -- Any nontranslucent, nonliving material that provides a visual barrier from one side to the other.

§ 410-53. Off-street parking requirements by land use. [Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]

Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be as set forth in Schedule III, which is hereby adopted and made part of this article.

- A. Downtown Business (C-2) District. Off-street parking requirements shall not apply to any existing buildings located in the Downtown Business (C-2) District where no parking presently exists and there is no opportunity to provide it.
- B. IN all Zoning Districts except in the C-2, off-street parking requirements contained in Schedule III shall not apply to a non-residential land use occupying two-thousand five-hundred (2,500) square feet or less in gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto.
- C. In all Zoning Districts except the C-2, a non-residential land use occupying greater than two-thousand five-hundred (2,500) square feet of gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto, shall only be required to provide off-street parking as prescribed in Schedule III for the portion of the floor area that exceeds 2,500 square feet.
- D. Existing Parking and Loading to be Maintained. No existing parking space(s) or loading space(s) serving any activity or use shall be reduced in amount or changed in design, location, or maintenance that would result in non-compliance with the Zoning Code, or if providing an amount of off-street parking or loading area less than required, shall not be further reduced below the requirements prescribed in Schedule III for such activity or use, unless equivalent substitute parking and/or loading space(s) are provided.
- E. Reduction of off-street parking requirements for Landmark Properties. The Planning Commission may reduce or waive the minimum off-street parking requirement for a permitted use in a designated Local Landmark structure or structure listed in the National Register of Historic Places, subject to the following criteria and procedures:
 - (1) In making any such reduction or waiver, the Planning Commission shall assess area parking needs. The Commission may require a survey of on and off street parking availability. The Commission may take into account the level of transit service in the immediate area; the probable relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.
 - (2) The Planning Commission may also consider the types and scale of uses proposed or practical in the Landmark structure and any standards, specifications or guidelines applicable to the structure or site.
 - (3) Such a reduction or waiver may be allowed only if the Planning Commission also determines that there is no feasible way to meet parking requirements on the lot.
 - (4) Prior to the approval of such reduction or waiver, a public hearing shall be held by the Planning Commission pursuant to §41—39D(2).
- F. In any district, regardless of land use, a Series A site plan review is required for any parking area that is proposed to be located between an existing or new building and the public right-of-way.
- G. Every parking space served by an electric vehicle charging station shall count as 2 parking spaces when calculating the minimum parking requirement for a land use.
- H. Schedule III.

Residential Use Classifications

Land Use or Activity	Space(s) Required
Single-unit dwelling	2.00 spaces per unit
Two-unit dwelling	2.00 spaces per unit
Accessory dwelling	1.00 space per unit
Multi-unit dwelling	1.50 spaces per unit
Studio or efficiency	1.0 space per unit
Multi-unit four or more bedrooms	2.33 spaces per unit
Elderly housing	1.00 space per three living units
Fraternity or sorority	1.00 space for each 200 square feet of rooms designed for sleeping
Rooming house	1.00 space plus 0.50 space for each room used for sleeping
Boardinghouse	2.00 spaces for owner-occupant plus 1.00 space for each room used as a temporary residence
Auto rental	1.00 space per 400 square feet of gross floor area, plus 1.00 space per fleet vehicle
Automobile fuel station, convenience store	1.00 space per 500 square feet of gross retail floor area, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Automobile fuel station	1.00 stacking space, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Bakery	1.00 space per 50 square feet of patron space
Bank, credit union	1.00 space for each 250 square feet of gross floor area Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows
Bank, drive-in	Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows
Bar, tavern	1.00 space per six persons based on maximum capacity as determined by the Binghamton Fire Department
Beauty shop, barber shop	1.50 spaces per beauty or barber chair plus 1.00 space per each two employees
Bed-and-breakfast	2.00 spaces, plus 1.00 space per guest room
Bicycle sales/repair	3.00 spaces per 1,000 square feet of gross floor area
Billiard hall	1.00 space for each 10 persons based on maximum capacity as determined by the Binghamton Fire Department
Bowling alley	4.00 spaces for each lane
Car, motor vehicle, motorcycle sales	1.00 space per 600 square feet of enclosed floor space, plus 1.00 space per vehicle for sale
Car wash, full-serve	1.00 space per washing module, plus 3.00 stacking spaces
Car wash, self-serve	3.00 stacking spaces for each washing stall, plus 1.00 drying space for each washing stall
Cartage, express, parcel delivery	1.00 space per each three employees, plus 1.00 space per service counter window
Club, membership	1.00 space for each five seats based on the design capacity of the largest meeting room as determined

Communication studio	by the Binghamton Fire Department 1.00 space per 400 square feet of gross floor area
Convenience store	1.00 space per 200 square feet of gross floor area
Dance hall	1.00 space for every three persons allowed within the maximum occupancy load
Day care (commercial)	1.00 space per employee plus 1.00 space per facility vehicle, plus 1.00 space per 15 children
Dry-cleaning service	1.00 space per 200 square feet of gross floor area used by the general public
Emergency medical service, private	Adequate space to accommodate all motor vehicles operated in connection with such use, plus 2.00 additional parking spaces per each such vehicle
Food store, supermarket	1.00 space per 200 square feet of sales area
Furniture, appliance store	1.50 spaces per 1,000 square feet of gross floor area
Funeral parlor, mortuary	1.00 space per four seats, plus 1.00 space per two employees, plus 1.00 space reserved for each hearse, ambulance, or company vehicle
Garden supply	1.00 space per 400 square feet of gross floor area
Golf driving range	1.00 space for each driving tee
Golf course, miniature	1.00 space per hole, plus 1.00 space per employee on busiest shift
Health club	1.00 space per each 200 square feet of leasable area
Laundry	1.00 space for each three washing or drying machines
Liquor store	3.00 spaces, plus 1.00 space per 300 square feet of gross floor area over 500 square feet
Mini warehouse/storage	1.00 space per 10 storage units, plus 1.00 space per employee
Medical/Dental office	2.00 spaces per treatment room
Nightclub	1.00 space per 50 square feet of patron space
Office, general	1.00 space per 250 square feet of gross floor area
Oil change shop	2.00 spaces per service station, plus 2.00 spaces per service bay
Outpatient clinic	1.50 spaces per 50 square feet of gross floor area in any waiting or reception room
Pet store	1.00 space per 500 square feet of gross floor area
Photo studio/lab	1.00 space per 300 square feet of gross floor area
Printing/Publishing	1.00 space per 600 square feet of gross floor area
Produce stand	3.00 spaces per 1,000 square feet of gross floor area
Rail storage services	1.00 space per employee
Resource recycling	1.00 space per employee, plus 1.00 space per facility
Restaurant, full service	1.00 space per each three seating accommodations, plus 1.00 space per each two employees on the shift of greatest employment
Restaurant, fast-food	1.00 space per 50 square feet of eating area, plus 1.00 space per employee on busiest shift
Restaurant, limited service/cafe	1.00 space per 50 square feet of customer area
Restaurant, drive-through	5.00 stacking spaces, plus 1.00 space per employee, plus 1.00 space per 50 Square feet of eating area
Research facility	1.00 space per 250 square feet of gross floor area
Retail, general	1.00 space per 250 square feet of retail area
Retail, outdoor	1.00 space per 500 square feet of gross floor area
Service business	1.00 space per 300 square feet of gross floor area

Skating rink	1.00 space per 250 square feet of floor area
Swimming pool	1.00 space per four persons, based on the capacity of the pool
Tailor shop	1.00 space per 300 square feet of gross floor area
Taxi service	1.00 space per fleet vehicle
Terminal, bus	5.00 spaces, plus 1.00 space per 100 square feet of waiting space
Terminal, truck	1.00 space per 1,000 square feet of gross floor area
Theater	1.00 space per five seats based on maximum capacity as determined by the Binghamton Fire Department

Commercial Use Classifications

Land Use or Activity	Space(s) Required
Adult Entertainment	1.00 space per 200 square feet of gross floor area
Amusement arcade	1.00 space for each one game table and 1.00 space for each amusement device and off-street bicycle racks with capacity for one bicycle per each two tables and devices
Animal boarding/hospital	1.00 space per 400 square feet of gross floor area, but no fewer than four spaces
Art gallery	1.00 space per 600 square feet of gross floor area
Auction house	1.00 space for each four patron seats
Auto body shop/repair garage	3.00 spaces for each service bay
Auto parts store	3.30 spaces for every 1,000 square feet of gross floor area
Automobile fuel station, convenience store	1.00 space per 500 square feet of gross retail floor area, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Automobile fuel station	1.00 stacking space, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Bakery	1.00 space per 50 square feet of patron space
Bank, credit union	1.00 space for each 250 square feet of gross floor area
Bank, drive-in	Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows
Bar, tavern	1.00 space per six persons based on maximum capacity as determined by the Binghamton Fire Department
Beauty shop, barber shop	1.50 spaces per beauty or barber chair plus 1.00 space per each two employees
Bed-and-breakfast	2.00 spaces, plus 1.00 space per guest room
Bicycle sales/repair	3.00 spaces per 1,000 square feet of gross floor area
Billiard hall	1.00 space for each 10 persons based on maximum capacity as determined by the Binghamton Fire Department
Bowling alley	4.00 spaces for each lane
Car, motor vehicle, motorcycle sales	1.00 space per 600 square feet of enclosed floor space, plus 1.00 space per vehicle for sale
Car wash, full-serve	1.00 space per washing module, plus 3.00 stacking spaces

Car wash, self-serve	3.00 stacking spaces for each washing stall, plus 1.00 drying space for each washing stall
Cartage, express, parcel delivery	1.0 space per each three employees, plus 1.00 space per service counter window
Club, membership	1.00 space for each five seats based on the design capacity of the largest meeting room as determined by the Binghamton Fire Department
Communication studio	1.00 space per 400 square feet of gross floor area
Convenience store	1.00 space per 200 square feet of gross floor area
Dance hall	1.00 space for every three persons allowed within the maximum occupancy load
Day care (commercial)	1.00 space per employee plus 1.00 space per facility vehicle, plus 1.00 space per 15 children
Dry-cleaning service	1.00 space per 200 square feet of gross floor area used by the general public
Emergency medical service, private	Adequate space to accommodate all motor vehicles operated in connection with such use, plus 2.00 additional parking per each such vehicle
Food store, supermarket	1.00 space per 200 square feet of sales area
Furniture, appliance store	1.50 spaces per 1,000 square feet of gross floor area
Funeral parlor, mortuary	1.00 space per four seats, plus 1.00 space per two employees, plus 1.00 space reserved for each hearse, ambulance, or company vehicle
Garden supply	1.00 space per 400 square feet of gross floor area
Golf driving range	1.00 space for each driving tee
Golf course, miniature	1.0 space per hole, plus 1.00 space per employee on busiest shift
Health club	1.00 space per each 200 square feet of leasable area
Laundry	1.00 space for each three washing or drying machines
Liquor store	3.00 spaces, plus 1.00 space per 300 square feet of gross floor area over 500 square feet
Mini warehouse/storage	1.00 space per 10 storage units, plus 1.00 space per employee
Medical/Dental office	2.00 spaces per treatment room
Nightclub	1.00 space per 50 square feet of patron space
Office, general	1.00 space per 250 square feet of gross area
Oil change shop	2.00 space per service station, plus 2.00 per service bay
Outpatient clinic	1.50 spaces per 50 square feet of gross floor in any waiting or reception
Pet store	1.00 space per 500 square feet of gross floor area
Personal Instruction and Improvement	1.00 space per each 300 square feet of leasable area
Photo studio/lab	1.00 space per 300 square feet of gross floor area
Printing/publishing	1.00 space per 600 square feet of gross floor area
Produce stand	3.00 spaces per 1,000 square feet of gross floor area
Rail storage services	1.00 space per employee
Resource recycling	1.00 space per employee, plus 1.00 space facility
Restaurant, full service	1.00 space per each three seating accommodation, plus 1.00 space per each two employees on the shift of greatest employment
Restaurant, fast –food	1.00 space per 50 square feet of eating area, plus

Restaurant, limited service/cafe	1.00 space per employee on busiest shift
Restaurant, drive-through	1.00 space per 50 square feet of customer area
	5.00 stacking spaces, plus 1.00 space per employee, plus 1.00 space per 50 feet of eating area
Research facility	1.00 space per 250 square feet of gross floor area
Retail, general	1.00 space per 250 square feet of retail area
Retail, outdoor	1.00 space per 500 square feet of gross floor area
Service business	1.00 space per 300 square feet of gross floor area
Skating rink	1.00 space per 250 square feet of floor area
Swimming pool	1.00 space per four persons, based on the capacity of the pool
Tailor shop	1.00 space per 300 square feet of gross floor area
Taxi service	1.00 space per fleet vehicle
Terminal, bus	5.00 spaces, plus 1.00 space per 100 square feet of waiting space
Terminal, truck	1.00 space per 1,000 square feet of gross floor area
Theater	1.00 space per five seats based on maximum capacity as determined by the Binghamton Fire Department

Industrial Use Classifications

Land Use or Activity	Space(s) Required
Manufacturing	1.00 space per 800 square feet of gross floor area
Warehouse/Wholesale Facility	1.00 space per 1,200 square feet of gross floor area

Institutional/Public Use Classification

Land Use or Activity	Space(s) Required
Auditorium	1.00 space per 3.3 fixed seats
College/University	1.00 space per 5 students enrolled full-time
Community residential facility	1.00 space per employee, plus 1.00 space per service vehicle
Community residential facility for the disabled	1.00 space per employee, plus 1.00 space per service vehicle
Correctional facility	1.00 space for each 10 inmates at maximum capacity
Education facility, other	1.00 space per 4 students
Fire station	2.00 spaces per engine
Hospital, medical center	2.50 spaces per bed
Library	1.00 space per 400 feet of gross floor area, plus 1.00 space per 2 employees
Museum	1.00 space per 600 square feet of gross floor area
Nursing home/convalescent home	2.00 spaces for each 4 patient beds
Place of worship	1.00 space per 4 fixed seats in the principal place of worship, provided that the number of spaces thus required may be reduced by not more than 50% if the place of worship is located within 500 feet of any public parking lot
Police station	1.00 space per 300 square feet of gross floor area
Public assembly, other	1.00 space per 4 fixed seats
Public utility, yard, garage	1.00 space per 500 square feet of gross floor area

§ 410-54. **Size and access.** [Amended 12-21-11 by Ord. No. 11-51] Each required off-street parking space shall conform to the dimension requirements outlined in Section 410.54. Each parking space shall have direct and functional access to a street and, except for one-and two-family dwellings, shall not require the backing of any vehicle across a sidewalk or into a street right-of-way.

- A. Driveway width requirements. The width of driveways, measured at the nearest points of the radius return, shall meet the following requirements:

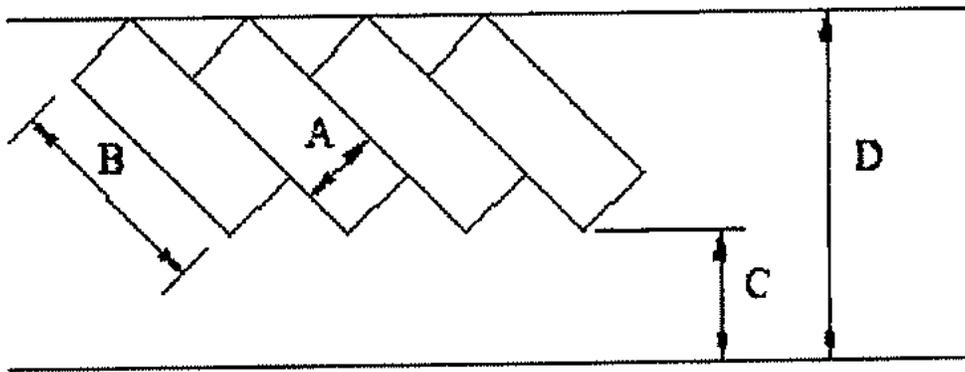
Use	Driveway Width	
	Minimum (feet)	Maximum (feet)
Office, commercial, institutional, multi-family dwelling, apartment complex		
One-way traffic	12	18
Two-way traffic	24	30
Industrial		
One-way traffic	15	25
Two-way traffic	25	40
One-and two-family dwellings	9	18

- B. Dimensional parking requirements.

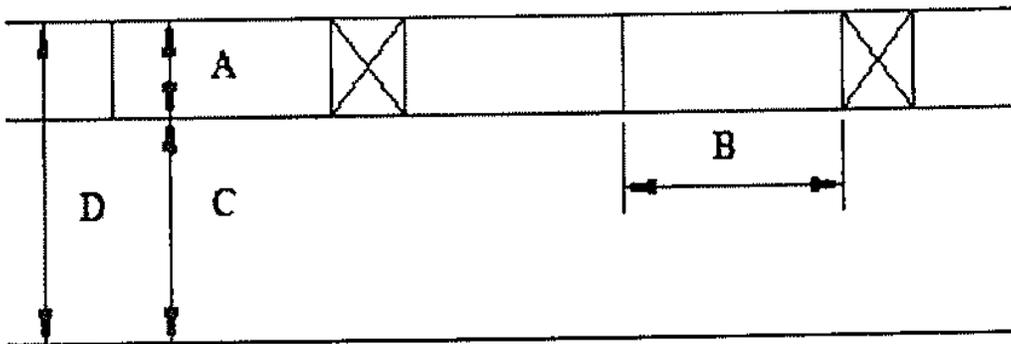
- (1) Parking space sizes. Full-size parking spaces shall be nine feet wide and 18 feet in length. Compact parking spaces shall be eight feet wide and 17 feet in length. Oversize parking spaces shall be 12 feet wide and 20 feet in length. Compact and oversize parking spaces shall generally be located in one or more continuous areas, and shall generally not be intermixed with spaces designed for full-size cars unless required by design problems. Up to 5% of total parking spaces shall be of compact parking space size, and no more than 10% of total parking spaces required shall be of oversize parking space dimensions.

Angle	Parking Types	Dimensional Parking Requirements				
		A Stall Width (feet)	B Stall Width (feet)	C Aisle Width (feet)	D One Row Plus Aisle (feet)	E Two Rows Plus Aisle (feet)
Parallel	Full Size	8.0	22.0	12.0	20.0	40.0
	Compact	8.0	20.0	12.0	20.0	40.0
20°	Full Size	9.0	18.0	16.0	34.0	52.0
	Compact	8.0	17.0	16.0	33.0	50.0
30°	Full Size	9.0	18.0	16.0	34.0	52.0
	Compact	8.0	17.0	16.0	33.0	50.0
45°	Full Size	9.0	18.0	13.0	31.0	49.0
		10.0	18.0	12.0	30.0	48.0
		11.0	18.0	11.0	29.0	47.0
60°	Compact	8.0	17.0	16.0	33.0	50.0
	Full Size	9.0	18.0	19.00	37.0	55.0
		10.0	18.0	18.0	36.0	54.0
		11.0	18.0	17.0	35.0	53.0

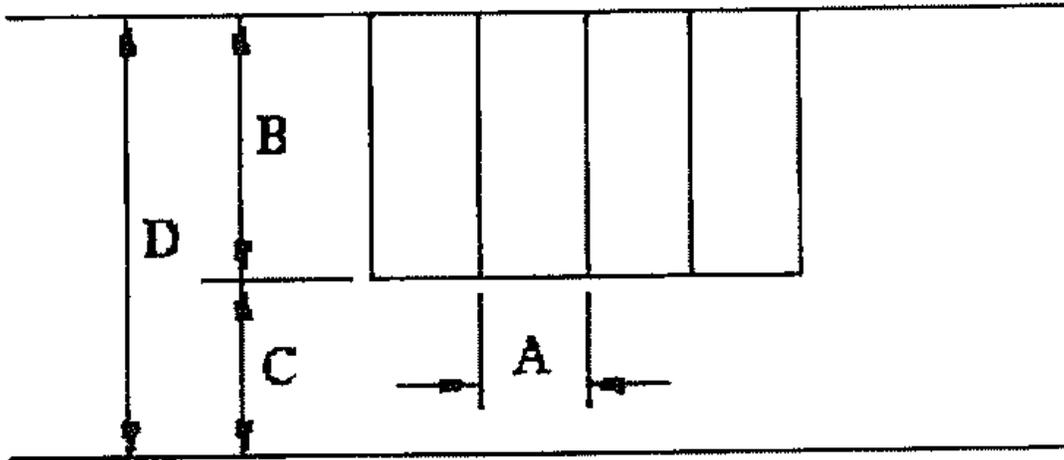
70°	Compact	8.0	17.0	19.0	36.0	53.0
	Full Size	9.0	18.0	20.0	38.0	56.0
80°	Compact	8.0	17.0	20.0	37.0	54.0
	Full Size	9.0	18.0	24.0	42.0	60.0
90°	Compact	8.0	17.0	24.0	41.0	58.0
	Full Size	9.0	18.0	24.0	42.0	60.0
		10.0	18.0	23.0	41.0	59.0
		11.0	18.0	22.0	40.0	58.0
	Compact	8.0	17.0	24.0	41.0	58.0



ANGLED PARKING
NO SCALE



0° PARALLEL PARKING
NO SCALE



90° PERPENDICULAR PARKING
NO SCALE

(2) Accessible space dimensions.

- (a) Standard accessible spaces must be eight feet wide and must have a five-foot-wide demarcated accessible aisle adjacent to it. Two accessible spaces may share the same accessible aisle except in the case of angle parking; in that instance, each space must have an adjacent accessible aisle. Only in the case of ninety-degree parking can a vehicle back into a parking space and still have access to an oversized aisle.
- (b) Van-accessible parking spaces. One out of every eight accessible spaces must be van-accessible wherever accessible spaces are provided.
- (c) Passenger loading zones, which are mandatory with valet or attendant parking, must be at least 20 feet long by eight feet or more in width, with a five-foot accessible aisle adjacent to the space. A raised curb must not be located within the accessible aisle, and a curb ramp must lead from the parking space, via the accessible aisle, to any raised curb. Furthermore, all accessible parking spaces and loading zones, including the accessible aisle, must not have slopes exceeding 2% and must be connected to an accessible route.

Required Number of Accessible Spaces

(or current applicable standard of the New York State Building Code)

<u>Total Parking Spaces in Lot</u>	<u>Required Minimum Number of Accessible Spaces^{1,2}</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total

1,001 and over

20, plus 1 for each 100 over 1,000

NOTES:

¹One and two unit dwellings are exempt from the accessibility requirements

²Medical facilities have higher requirements:

- (1) 10% of spaces should be accessible for outpatient facilities.
- (2) 20% of spaces should be accessible if a facility specializes in treatment of persons with mobility impairments.
- (3) 20% of spaces should be required for hospitals

§ 410-55. Design and maintenance. [Amended 12-21-11 by Ord. No. 11-51]

- A. Surfacing. Any off-street parking and/or loading area, including driveways and maneuvering aisles, shall be surfaced with pervious pavement, asphaltic or Portland cement binder pavement, grasscrete, concrete pavers, or other surface approved by the Supervisor of the office of Building and Construction or the Planning Department, so as to provide a durable, dustless and continuous (from point of access to edge of public street) all-weather surface that is appropriately structured and bordered for permanence, shall be graded and drained so as to retain or dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of vehicles. Gravel shall not be permitted as a surfacing material.
- B. Screening and perimeter landscaping. Off-street parking areas containing or resulting in more than four parking spaces shall be screened on each side adjoining a residential district or a residential facility or facing a street by a minimum five (5) foot-wide perimeter landscape strip planted with shrubs and trees in accordance with the following standards.
 - (1) Landscaping materials shall include a combination of trees, shrubs, vegetative ground cover, grasses, and, to less extent, mulch. The use of decorative stones and rocks shall be allowed as a decorative feature only, subject to review and approval by the Planning Department.
 - (2) Landscaped areas shall have a minimum of 12 inches of topsoil, tilled into noncompacted subbase base soils. Landscape areas shall be sufficiently sized to support trees and other vegetation.
 - (3) Except as provided by section 410.17, landscaping shall reasonably be expected to form a year-round dense screen at least four feet high within two years the initial planting. All plant materials shall be climate appropriate, preferable native species, and salt and drought tolerant.
 - (4) One minimum tree two (2) inch caliper tree shall be planted within the perimeter landscape strip for every four (4) parking spaces. Fractions of a tree shall be rounded up to the next whole number.
 - (5) On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six (6) feet, street trees shall be provided to the satisfaction of the Planning Department. A minimum of on two (2) inch caliper tree shall be planted per every 30 feet of street frontage. Selection of street tree species shall be based upon compatibility with the existing tree plantings on the street, the mature size of the tree, space available for the tree to grow, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants. Trees shall be planted in accordance with Chapter 391, Trees and Shrubs.

- (6) All required planting shall be permanently maintained to good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree, including street trees, and landscaping maintenance in perpetuity.
- (7) Curb-cuts to allow water to flow into the landscape areas, in combination with grading to deliver runoff from parking lot to landscaped areas, shall be used to create bio-retention and infiltration areas for water quality protection and groundwater recharge.
- (8) All plantings shall comply with Section 410.17, Visibility at Intersections.
- (9) A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

C. **Interior landscape islands.** In addition to the perimeter landscaping requirements, Off-street parking and/or loading areas, including automobile/vehicle sales facilities, containing or resulting in 20 or more parking spaces or 5,000 feet in area shall include internal landscaped islands subject to the following provisions:

- (1) A minimum of five (5) percent of the interior of the parking area shall be landscaped. Landscape areas shall be sufficiently sized to support trees and other vegetation.
- (2) Landscaped area shall have a minimum of 12 inches of topsoil, tilled into noncompacted subbase base solids.
- (3) Landscaping materials shall include a combination of native trees, shrubs, vegetative ground cover, grasses, and to a less extent, mulch. The use of decorative stones and rocks shall be allowed as a decorative feature only, subject to review and approval by the Planning Department.
- (4) A minimum of one two (2) inch caliper tree shall be planted for every 5 parking spaces. Trees shall be planted within interior landscape islands such that they result in canopy coverage of 50% of the parking area at the time of maturity.
- (5) All plant materials shall be climate appropriate, native species, and sale and drought tolerant.
- (6) All landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree and landscaping maintenance in perpetuity.
- (7) Depressions in interior landscaped areas, curb openings and grading shall be designed to allow stormwater runoff from the parking area to flow into the landscape areas to create bio-retention and infiltration areas for water quality protection and groundwater recharge.
- (8) Internal landscape islands designed to meet the above provisions and the provisions of Chapter 227-6 shall count toward the required twenty (20) percent stormwater reduction requirement for off-street parking areas as required by Chapter 227.6.
- (9) Curb-cuts to allow water to flow into the landscape areas, in combination with grading to deliver runoff from parking lot to landscaped areas, shall be used to create bio-retention and infiltration areas for water quality protection and groundwater recharge.
- (10) All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree, including street trees, and landscaping maintenance in perpetuity.
- (11) A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

D. **Urban runoff reduction plan.** In addition to the requirements set forth in this Article, an Urban Runoff Reduction Plan shall be required for (1) an ancillary parking area or public off-street parking area of any size, (2) new off-street parking and/or loading areas, including driveways and

maneuvering aisles, containing 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less, and (3) additions, and alterations or resurfacing of existing off-street parking and/or loading areas, including driveways and maneuvering aisles, resulting in or involving 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less. See Chapter 227 Erosion Control and Stormwater Management, Article III Section 227.6 for Urban Runoff Reduction Plan requirements.

- E. Wheel stops. Wheel stops of masonry, steel or timber, or similar stopping devices, shall be anchored and used to prevent vehicles from parking closer to a lot line than permitted by this chapter. This restriction shall not apply to one- and two-unit dwellings.
- F. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed 0.2 footcandle measured at the lot line, as certified by a licensed engineer.
- G. 410-55 G. Bicycle racks. Off-street parking areas containing or resulting in 20 or more spaces shall provide one bicycle rack for each 20 vehicular parking spaces. Bicycle racks shall be designed to provide a minimum of four bicycle spaces in each rack and so that a bicycle can be secured to the rack. The location of the bicycle rack shall not encroach into the sidewalk such that it would reduce the unencumbered width of the sidewalk to less than five feet. Bicycle racks shall be placed in a location where they shall have adequate lighting and can be surveyed by the occupants.
- H. **Snow storage.** Off-street parking and/or loading areas shall include a snow storage area located to prevent damage to small landscaping materials and sensitive stormwater management features.

§ 410-56. Dumpsters and dumpster enclosures.

- A. Notwithstanding any other provisions contained in this chapter, residential lots containing four or more dwelling units shall not be required to provide and maintain dumpsters and dumpster enclosures so long as there are either carports, garages, or other enclosed areas suitable for storage or waste containers and provided that the residents utilize the enclosed storage areas to store their waste containers when not being made accessible for trash pick-up.
- B. Dumpsters shall be maintained free of jagged or sharp edges or inside parts that could prevent the free discharge of their contents.
- C. All dumpster pads shall be at least two feet larger than the dumpster on all sides. Wheel stops or posts shall be permanently affixed to the pad at least one foot inside the perimeter of the pad to prevent the dumpster from striking the enclosure during collection.
- D. The dumpster, dumpster enclosure and all surrounding areas shall be maintained by the property owner in accordance with this section, and shall be free of overflowing refuse at all times except at a scheduled pick-up date. If a continuous problem of insufficient dumpster capacity is proven to exist, additional or larger capacity dumpsters and enclosures or increased frequency of pick-up shall be required in order to eliminate the overflow problem.
- E. Dumpsters and dumpster enclosures shall be located in a position accessible for collection by the equipment of the collector.
- F. In addition to the requirements set forth in the previous subsections, dumpsters and dumpster enclosures on developed residential lots shall comply with the following requirements:

- (1) Dumpsters may be placed in the ground, provided the floor and walls of the enclosure are constructed of an impervious material. Any portion of the dumpster which is visible above the ground shall be screened with landscape material.
 - (2) Dumpsters not placed in the ground shall be stored on a concrete pad at all times except 12 hours before or after scheduled refuse collection and 24 hours before or after special bulk waste collection.
 - (3) The perimeter of the dumpster pad shall be enclosed on three sides by an enclosure not less than the height of the dumpster plus six inches. The enclosure must provide a visual barrier between the interior and exterior of the dumpster area. The remaining side of the dumpster enclosure shall be enclosed with gates.
 - (4) Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials.
- G. In addition to the requirements set forth, dumpsters and dumpster enclosures on nonresidential lots shall comply with the following requirements:
- (1) Dumpsters shall be kept within opaque enclosures a minimum of 12 feet wide and 12 feet long which shall be of sufficient height to visually screen the dumpster from the street or from abutting properties. The enclosure shall be located at least five feet inside any lot line, except that no dumpster or dumpster enclosure shall be located in a yard area or within any recorded easement.
 - (2) Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials. The enclosure shall be constructed so as to accommodate recycling bins, if over 60 gallons.
 - (3) The gates of the enclosure shall be constructed of a frame with opaque walls affixed thereto, and both frame and walls shall be of a material of sufficient strength to withstand normal use. Gates shall be attached to metal posts at least three inches in diameter with at least two hinges. Each gate shall have a wheel at the bottom to prevent sagging and shall have drop pins or rods to hold the gates in place in both open and closed positions.
 - (4) The base of the enclosure must be poured concrete, in accordance with the requirements of the Building Code. The base shall extend three feet beyond the front opening of the enclosure as an apron, and all concrete must be level with the adjacent asphalt.

§ 410-57. Off-street loading requirements.

- A. Applicability. Off-street loading berths shall be provided in accordance with Subsection G(2) of this section in connection with any building or structure which is to be erected or enlarged, and which requires the receipt or distribution of materials or merchandise by truck or similar vehicle.
- B. Location. All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project across a public street, sidewalk, or alley. No permitted or required loading berth shall be located less than 25 feet from the nearest point of intersection of any two streets, nor shall it be located in a required front yard or side yard adjoining a street. This restriction shall not apply in any C-1, C-2 or industrial district.
- C. Size. Unless otherwise specified in this chapter, a required off-street loading berth shall be at least 12 feet in width and at least 30 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.
- D. Access. Each required off-street loading berth shall be provided with appropriate means of direct vehicular access to a public street or alley which is paved and located in a manner which will least interfere with traffic movement.

- E. Storage and repair. No outdoor storage, nor motor vehicle repair work or service, shall be permitted within any required loading berth area.
- F. Space allocation. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any other off-street parking facilities or portions thereof.
- G. Space requirements.
 - (1) For nonresidential uses in all districts except C-1 and industrial districts: one space for the first 10,000 square feet of gross floor area, or major portion thereof, plus one additional space for each additional 100,000 square feet of gross floor area or major portion thereof. Such space is not required when gross ground floor area is 5,000 square feet or less.
 - (2) For uses in C-1 and industrial districts, off-street loading shall be provided in accordance with the following table:

<u>Floor Area of Establishment (square feet)</u>	<u>Required Number of Spaces</u>	<u>Minimum Size (feet)</u>
5,000 to 25,000	1	12 x 30
25,001 to 50,000	2	12 x 65 each
50,001 to 100,000	3	12 x 65 each
100,001 to 150,000	4	12 x 65 each

- (3) For each additional 100,000 square feet of gross floor area, or major fraction thereof, one additional loading space shall be provided. Such additional loading space shall be at least 12 feet in width by 65 feet in length, and have a vertical clearance of not less than 15 feet.

ARTICLE XI, Sign Regulations [Amended 4-23-2014 by Ord. No. 14-20]

§ 410-58. Purpose and intent.

The purpose of this article is to promote the public health, safety, and welfare by establishing content neutral standards and criteria for the construction, installation, maintenance, and operation of outdoor advertising, outdoor advertising signs, and outdoor signs of all types in the City of Binghamton, which are subject to the provisions of this article. It is the further purpose to provide for the removal of those signs that do not comply with these regulations. More specifically, this article is intended to:

- A. Promote the creation of a an attractive visual environment that promotes a healthy economy by:
 - 1. Permitting businesses to inform, identify, and communicate effectively; and
 - 2. Directing the general public through the use of sign while maintaining attractive and harmonious application of signs on the buildings and sites.
- B. Protect and enhance the physical appearance of the City of Binghamton in a lawful manner that recognizes the rights of property owners by:
 - 1. Encouraging appropriate design, scale, and placement of signs;
 - 2. Encouraging the orderly placement of signs on the building while avoiding regulations that are so rigid and inflexible that all signs are in a series are monotonously uniform;
 - 3. Assuring that the information displayed on a sign is clearly visible, conspicuous, legible, and readable so that the sign achieves the intended purpose;
 - 4. Reducing sign clutter and the distractions and obstructions that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way; and
 - 5. Preserving scenic views and the visual character of neighborhoods, historic districts and parkland.
- C. Foster public safety along public and private streets within the City of Binghamton by assuring that all signs are in safe and appropriate locations.

- D. Establish review procedures that are the minimum necessary to:
 - 1. Balance the City's objectives and regulatory requirements with the reasonable advertising and way finding needs of businesses;
 - 2. Allow for consistent enforcement of the Sign Ordinance;
 - 3. Minimize the time required to review a sign application; and
 - 4. Provide flexibility as to the number and placement of signs so the regulations are more responsive to business needs while maintaining the City's standards.
- E. Prohibit all signs not expressly permitted by this article.

§410-59. Application Process; Categories of Review.

- A. Signs for which a permit must be obtained in accordance with the provisions of this Article XI shall fall into one of the following categories:
 - 1. CAUD Review: any sign within a designated Local Historic District or involving a designated Local Landmark Property. Review of, and decision on, any sign application shall be made by the Commission on Architecture and Urban Design (CAUD) pursuant to §18-78.
 - 2. Standard Review: any sign that is located within the City of Binghamton that is outside a designated Local Historic District and does not involve a designated Local Landmark Property. Review of, and decision on, any Standard Review shall be made by the Department of Planning, Housing, and Community Development, except that the staff may request that such review and decision be made by the Commission on Architecture and Urban Design (CAUD)
- B. Permit applications shall be filed with the Department of Planning, Housing, and Community Development. The application shall contain:
 - 1. The name and address of the sign owner, the owner of the premises on which the sign is to be erected and the sign erector.
 - 2. Scaled drawings showing the design and location of the sign, including an accurate plot plan and such other pertinent information as may be required to determine that the required standards are met. A photograph or rendering including all dimensions is required. The City reserves the right to approve, approve with modifications, or deny an proposed sign plan.
 - 3. Insurance for Signs Extending Over the Public Right-of-Way.
 - a. The applicant shall place on file with the City, without cost to the City, satisfactory proof of general liability insurance in the minimum amount of one million dollars (\$1,000,000.00) naming the City of Binghamton as an additional insured on a primary non-contributory basis, along with any appropriate endorsements, including state of indemnification to hold the City of Binghamton harmless from any liability incurred or caused by the sign.
 - b. Such insurance shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give prior written notice to the City of Binghamton Office of the Corporation Counsel of any modification or cancellation of such insurance.
 - c. The provisions of this subsection shall not in any way limit the rights of the City to bring any action or proceeding against the applicant, his or her agents or employees to recover damages suffered by the City and caused by the applicant, his or her agents or employees.

§410-60. Sign Permit Required; Fees.

- A. Permit required. Except as expressly provided herein, no sign shall be erected, enlarged, altered or relocated unless an application for a sign permit evidencing the compliance of such work with the provisions of this section and other applicable provisions of this chapter shall have first been issued by the Supervisor of Building and Construction or their designee.

1. A sign permit shall be required whenever there is any change in the structural form or sign face of any preexisting sign regardless of whether there is a change in ownership of the sign or the premises on which it is located.
 2. Routine sign maintenance or changing of parts designed to be changed shall not be considered an alteration requiring a sign permit.
- B. Fees.
1. The permit and license fees for the erection, maintenance and continued operation of signs shall be as set from time to time by the City Council (See Exhibit J). An additional fee shall be charged for illuminated signs. Signage exempt from fees is limited to those found in §410-64.
 2. Where there is more than one sign on a property, a separate fee shall be collected for each sign.

§410-61. Definitions.

- A. As used in this article, a “sign” is any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or project images. “Sign” does not include the flag of any nation, organization of nations, state or city, or fraternal, religious or civic organizations. “Sign” does not include merchandise; works of art which in no way identify a product; or scoreboards located on athletic fields.
- B. The following words and phrases used in this Sign Code shall have the following meanings:

Abandoned Sign. A sign which for a period of at least 30 consecutive days or longer no longer advertises or identifies a legal business establishment, product, or activity. See also “Landmark Status Sign.”

Accessory Sign. A sign which is intended solely for the purposes of providing information to pedestrians and vehicles, and which does not include any commercial or advertising content.

1. **Directional Sign.** A permanent accessory sign located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified locations on the property.
2. **Instructional Signs.** A sign clearly intended for instructional purposes, as determined by the Zoning Enforcement Officer, shall not be included in the permitted sum of the sign area of identification wall signs, provided such sign is not larger than necessary to serve the intended instructional purpose, and such sign is not in a location, nor includes design characteristics, that constitute or serve the purposes of an identification sign.
3. **On-Site Informational Sign.** A sign commonly associated with, and limited to, information and directions necessary or convenient for persons coming on the property, including signs marking entrances and exits, parking areas, one-way drives, rest rooms, pickup and delivery areas and the like.

Alteration. Any change in copy, color, size or shape, which changes appearance of a sign, or a change in position, location, construction or supporting structure of a sign, except that a copy change on a sign is not an alteration.

Animated Sign. A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance in a manner that is not permitted by these regulations.

Area of Sign. The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, or forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Refer to measurement standards in §410-61 below.

Awning. A shelter extending from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

Awning Sign. Any sign painted on or attached to or supported by an awning.

Banner Sign. A lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constricted of non-durable materials, including, but not limited to, cardboard, cloth and/or plastic, and is subject to the requirements of §410-67.2. Banner signs are typically considered temporary, but may be considered as permanent signage under special circumstances, such as when used for vertical, projecting signs.

Billboard or Poster Panel. An off-premises advertising sign.

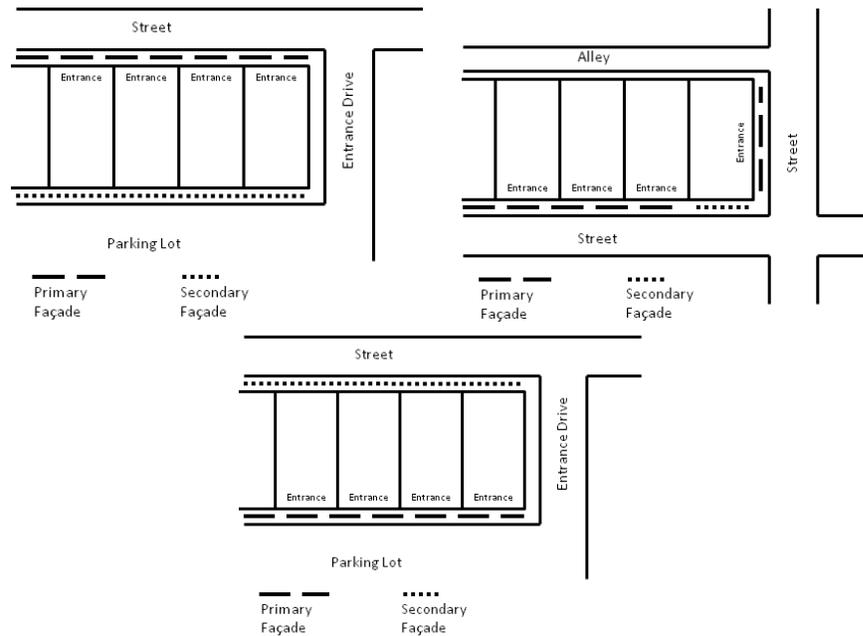
Building Identification Sign. Any sign containing the name or address of a building and may include hours of operation and emergency information, such sign being located on the same site as the structure.

Business Façade. The linear length of a business unit's space. For multi-tenant buildings, the portion of such building that is owned, or leased by a single tenant, shall be considered a separate business façade.

Business Façade, Primary. The primary façade shall be considered the portion of any façades containing primary public entrance(s) to the building or building units.

Business Façade, Secondary. The secondary façade shall include façades containing secondary public entrances to the building or building units, and all walls facing a public street or primary parking area not designated as the primary façade by above.

Primary and Secondary Façade examples



Business Unit. The area in a building, or portion thereof, occupied by a single business entity; tenant space.

Cabinet Sign. A permanent sign that is mounted on the face of a building that provides for internal illumination and changing the message of the sign by replacing a single transparent or translucent material such as a Plexiglas/lexan face; may be roughly rectangular in shape or may roughly follows the shape of the text of the sign. Also known as a “lightbox” sign.

Canopy. A permanently roofed shelter, other than the building roof, covering a sidewalk, driveway, or other similar area, which is supported by the building to which it is attached.

Canopy Sign. Any permanent sign attached to or constructed underneath a canopy. These signs are below a projecting structure which extends over the pedestrian walkway which effectively prevents the wall signs for being visible to the pedestrian walking under the canopy.

CAUD. Commission on Architecture and Urban Design; see Chapter 18, Boards, Commissions and Committees, Article VI, of the Code of the City of Binghamton.

Changeable Copy Sign. A sign or portion thereof on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system. See also Electronic Messaging Center sign.

Construction Sign. A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Electronic Messaging Center (EMC) Sign. A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text, including any sign or portion of a sign that uses changing lights or similar form of electronic display such as LED to form a sign message or messages with text and or images wherein the sequence of messages and the rate of change is electronically

programmed and can be modified by electronic processes. This definition includes without limitation television screens, plasma screens, digital screens, flat screens, video boards, and holographic displays. See also "Static LED Display."

Freestanding Sign. Any sign which is permanently affixed in or upon the ground, supported by one or more structural members; this shall include Ground Signs, Pole Signs, and similar.

Freestanding Vertical Banner Sign. A temporary, freestanding vertically-oriented banner sign attached to a single vertical pole, supported by crossbar base or tipped with a ground spike.

Footcandle. A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

Governmental Sign. A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

Grade. The level of the site at the property line located at the closest distance to the sign.

Ground Sign. A sign erected on a freestanding base or structure (such as, but not limited to: concrete, masonry, wood, or stone) approximately the same dimensions as the sign face, and not attached to any building. See also Freestanding Sign and Pole Sign.

Halo Lighting. A method of sign illumination that consists of a light source external to the sign or sign elements and mounted behind the sign or sign elements. A halo lit sign shall be comprised solely of opaque letters or other sign elements, so that the light does not appear to emit from within or through the letters or other sign elements.

Height of Sign. The measurement from the base of the sign to its highest element; measured as set forth in §410-61 below.

Historic District. The regulation of signs in historic districts shall be subject to the additional provisions provided in Chapter 18, Boards, Commissions and Committees, Article XII, Landmarks Preservation Commission, of the Code of the City of Binghamton.

Holiday Decorations. Signs or displays including lighting which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

Illegal Sign. Any sign placed without proper approval or permits as required by this Code at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit and any nonconforming sign which has not been brought into compliance with any applicable provisions of this Code.

Illuminated Sign. Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing or radiating signs.

Landmark Status Sign. Abandoned signs which have been determined by the Commission on Architecture and Urban Design (CAUD) to have historical significance for the City; these signs are exempt from the removal requirements of other abandoned signs.

Length of Façade.

1. For measurement purposes, the length of any primary or secondary façade as defined herein, shall be the sum of all wall lengths parallel, or nearly parallel, to such façades excluding any such wall length determined by the Zoning Enforcement Officer or Planning Commission as clearly unrelated to the façade criteria.
2. The business façade for a building unit shall be measured from the centerline of the party walls defining the building unit.

Logo, Logogram, or Logotype. An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

Marquee. A permanent rooflike shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

Marquee Sign. Any sign painted on or attached to or supported by a marquee. A marquee sign shall not project beyond the supporting marquee more than six (6) inches.

Merchandise Advertising Sign. Any point-of-purchase sign or advertisement located in immediate proximity to merchandise for sale or the business or service offered, describing such merchandise or service, its price and any terms of sale. This shall not include the following: any labeling or product information applied by the manufacture directly to the product; any changeable copy type signage or off-premises advertising signage; or any political and/or noncommercial sign.

1. Exterior merchandise advertising sign. Any merchandise advertising sign located outside of a structure; may be attached to an exterior façade of a structure or secured to a freestanding pole or other support structure.
2. Window merchandise advertising. Any merchandise advertising sign applied or attached the exterior or interior surface of the window, or within 12 inches of the window through which it can be seen. These sign include, but are not limited to: product signs, illuminated and neon alcohol advertising signs, illuminated ATM signs, Western Union or similar signs.

Mural. A picture on an exterior surface of a structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Neon Sign. A sign with tubing that is internally illuminated by neon or other electrically charged gas.

Noncommercial Sign. Any sign (including, but not limited to: political signs, statements of opinion, no trespassing signs, and similar) designed for the purpose of any noncommercial expression not related to the advertisement of any product, item for sale, or service or the identification of any business.

Nonconforming Sign. A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Code.

Off-Premises Advertising Sign. Any sign identifying or advertising goods, products, services or facilities offered at a different location from where the sign is installed.

On-Premises Advertising Sign. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises on which the sign is installed.

Pole Sign. A sign that is mounted on a freestanding pole or similar supports, with air space between the ground and the sign face. See also Freestanding Sign and Ground Sign.

Political Sign. See “Noncommercial Sign.”

Portable Reader Sign. A sign which is not structurally attached to the ground or to a building, but which is mounted on a trailer, platform, legs or other device which may be moved from one location to another. This does not include Sandwich Board signs or Vertical Banner signs as separately defined herein.

Projecting Sign. A sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See also Canopy sign.

Real Estate Sign. Any nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Revolving or Rotating Sign. An animated sign.

Roof Sign. Any sign erected upon a roof, parapet, or roof-mounted equipment structure and extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.

Sandwich Board Sign. A freestanding temporary sign, with no moving parts or lights, displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion or special, et cetera (excluding real estate signage). It is not intended as permanent business signage.

Sign. Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include any architectural or landscape features that may also attract attention.

Sign Face. An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

Site. All the contiguous ground area legally assembled into one development location which is a zoning lot. A zoning lot is defined as a permanent parcel (lot of record), multiple lots of record, or a portion of a lot of record.

Static LED Display. A single-color light emitting diode (LED) display used for limited, infrequently changing sign content (including, but not limited to: time and temperature displays, fuel prices, and similar) which is incorporated into a freestanding sign as a subservient, accessory feature. The displayed content shall not move, scroll, flash, or in any other way simulate motion. This type of display shall be distinct from EMC signs.

Special Event Sign. Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic or special event of general public interest.

Temporary Sign. Any sign which is installed for a period not to exceed 30 days. This does not include Noncommercial signs as defined above.

Wall Sign. Any sign attached to or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.

Window, Area of. The area of a single window includes all of the window panes in an area that is separated by mullions, muntins, or other dividers which are less than three (3) inches wide.

Window Sign. Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the outside of the building.

§410-62. General standards.

The following general standards shall apply to all signs:

- A. Unless specifically stated otherwise, the signage for each business unit in a multi-tenant building or development site shall be considered independently.
- B. Sign Measurements and Dimensions.
 1. For a sign which is framed, outlined, painted, or otherwise prepared and intended to provide a background for the sign display, the area and dimensions shall include the entire portion within such background or frame.
 2. For a sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements.

Sign Area examples



Individual letters with no background
Sign Area = 14.25 square feet

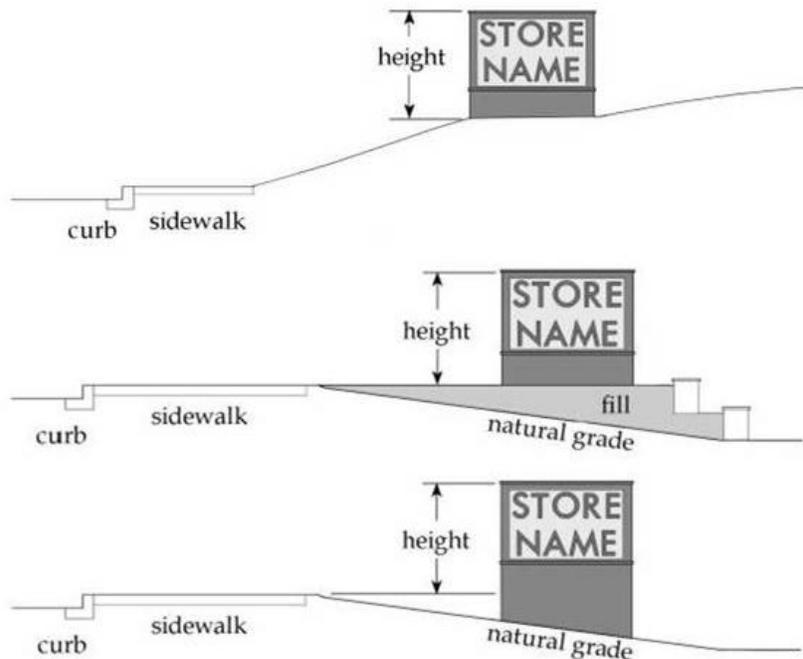


Framed sign with background
Sign Area = 22.5 square feet

3. For a freestanding sign, the sign area shall include the frame, if any, but shall not include:
 - a. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.
 - b. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building, or structural form complementing the site in general.
4. Multi-faced Signs.
 - a. Signs with two (2) faces. If the interior angle between the two (2) sign faces is 15 degrees or less, the sign area is of one sign face only. If the angle between the two

- (2) sign faces is greater than 15 degrees, the sign area is the sum of the area of the two sign faces.
- b. Signs with more than two (2) faces. The sign area is the sum of the areas of all sign faces.
- C. **Maximum Total Sign Area.** The total sign area of a business unit shall be limited to two (2) square feet of sign per one (1) linear foot of business façade. Only primary and secondary business façades shall be included in this calculation. Except for freestanding signs, area allowances for signs may be utilized only on the side of the building from which they are calculated. Specific sign types included in the maximum total signage area are established in §410-67 below.
- D. **Minimum Transparency.** The total area of each window covered or obscured shall not exceed 50%. The calculation of this area shall include, but is not limited to, all signs, permanent or temporary, and all notices, flyers, posters, and merchandise advertisements. Address signs, hours of operation, and similar shall not be included in this calculation. The total area of each door window covered or obscured shall not exceed 10%. Temporary signs, including but not limited to notices, flyers, posters, merchandise advertising signs, et cetera, shall not be permitted in any windows located in doors used by the public.
- E. **Sign Height.**
1. **Freestanding Signs (Ground Signs and Pole Signs).** The sign height is measured as the vertical distance from the average elevation of the finished grade within an eight-foot radius from all sides of the sign at its base to the top of the sign, exclusive of any filling, berming, mounding, or landscaping solely for the purpose of locating the sign (e.g. – man-made grade change).
 - a. If the natural grade at the base of a sign is higher than the grade of the adjacent road, the sign height shall be measured from the base of the sign.
 - b. If the natural grade at the base of a sign is lower than the grade of the adjacent road, the height of the sign shall be measured from the top of the curb elevation.

Freestanding Sign Height examples

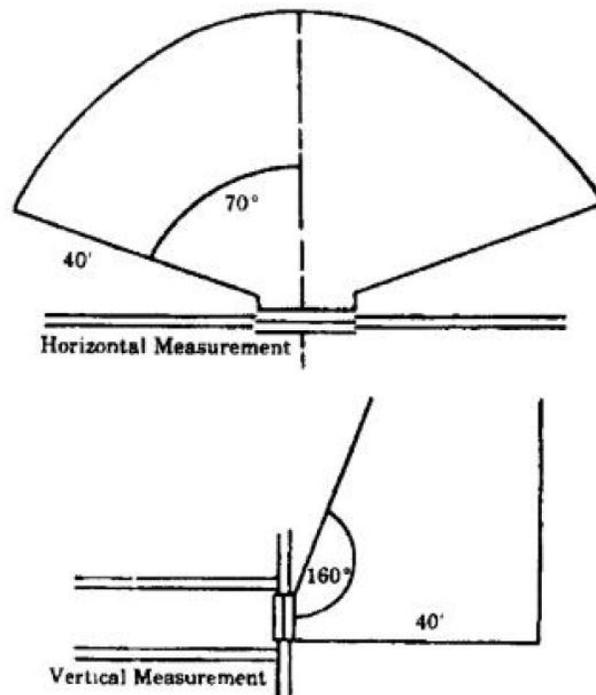


- F. Sign Illumination. Unless otherwise specified in this Article, allowed permanent signs may be non-illuminated, or illuminated by internal light fixtures, halo illuminated, or external indirect illumination; temporary signs may not be illuminated.
1. Electrical elements. All wiring, fitting and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of §225-4 of the Code of the City of Binghamton.
 2. All illumination for signs shall comply with the regulations as set forth in §410-24(J) of the City of Binghamton Zoning Ordinance.
 3. All electrical signs must be manufactured by a licensed electronic sign company and shall be labeled with the appropriate UL or ETL label as required by the NEC Code and the UL 48 Standards, or their most recent addendum, prior to the installation of the sign.
 4. Externally Illuminated Sign Standards
 - a. Except as provided in subsection b, externally illuminated signs shall be illuminated only with steady, stationary, shielded light source, directed so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
 - b. Bare bulb illumination. Permitted for a theatre/cinema as accent lighting around the outside edge of a changeable copy sign.
 5. Neon Sign Standards. Neon tubing may be used in conjunction with other types of materials to artistically emphasize the business name or logo.
 6. Static LED Display Standards. Static LED displays may be used in conjunction with a freestanding sign, provided it does not occupy more than 15% of the freestanding sign's area. A static LED display may not change more than once per 60 seconds.
 7. Electronic Message Center (EMC) Signs.
 - a. Any message or portion of an image or message must have a static display for a minimum duration of 10 seconds.
 - b. Transition time between content may not exceed 2 seconds.
 - c. No portion of the image or message may flash, scroll, twirl, change color, or in any manner imitate movement.
 - d. All EMC signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and must be programmed to automatically dim according to ambient light conditions. The nighttime illuminance of an electronic message center shall not increase ambient lighting conditions by more than 0.3 footcandles, as measured by a footcandle meter (also known as a "luxmeter"), when measured perpendicular to the electronic message center face at a distance determined by the following formula:

$$\text{Measure distance (ft)} = \sqrt{[\text{area of EMC sign (in sq ft)} \times 100]}$$
 - e. EMC signs must have an automatic dimmer control to produce a distinct illumination change from the higher illumination level to a lower illumination level.
- G. Setbacks. All minimum setbacks for signage shall be measured from any property line to the closest portion of the signage structure, including, but not limited to any: sign face; frame; supporting pole(s) or structure(s); or lighting devices attached to the sign or its structure.
- H. Structure and Installation
1. Supporting Structures. The construction and structural components of all signs shall be in accordance with the standards and regulations of the New York State Building Construction Code, Fire Code of New York State, Mechanical Code of New York State and the Electrical Code of New York State.
 2. Raceways and Cabinets.

- a. Raceways shall not be included in the sign area measurement, provided the raceway does not extend beyond any letters, symbols, or images included in the sign.
 - b. Where a raceway or cabinet provides contrast background color to the sign copy, the colored area is counted in the sign area measurement.
 - c. Signs with raceways or cabinets cannot extend beyond the face of the building façade by more than ten (10) inches.
3. All signs shall be secured in a manner sufficient to ensure that they will remain attached to the building or structure.
 4. Obstruction of accessways. No sign or sign structure shall obstruct free ingress or egress from a fire escape door, window, sidewalk or other required accessway.
 5. Obstruction of light, air or ventilation. No sign shall be erected or maintained within the zone of light obstruction for any window opening into any habitable room of any residential unit. The zone of light obstruction is a segment of a cone described horizontally by an arc drawn from the center line to the window, measured horizontally, extending to 70° on either side of the center line, at a radius of 40 feet, and described vertically by the space between a plane extending horizontally from the window sill and a plane extending from the top of the window at an angle of 160° to the face of the building.

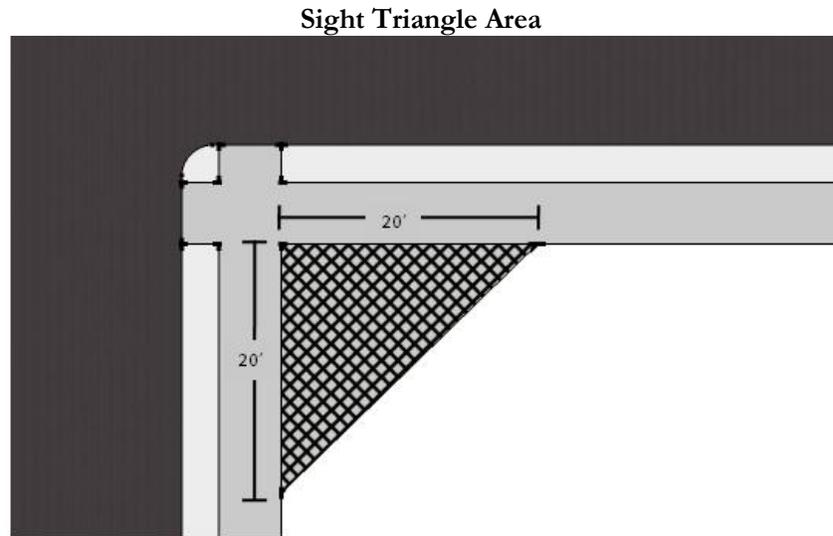
Obstruction of Air and Light



I. Traffic Safety.

1. Traffic control. No sign shall be maintained at any location where, by reason of its position, size, shape, content, lighting, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic-control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
2. Sight Triangle.. For parcels located at the corner of two intersecting streets, a clear sight triangle shall be maintained. The sight triangle shall be the area formed by measuring a distance of 20 feet from the corner of the parcel along the lot lines and connecting the end

points so as to establish a triangle on the area of the lot adjacent to the street intersections. No sign, nor any part of a sign, other than a supporting pole or brace measuring 18 inches or less in width or diameter, shall be located between three (3) feet and 10 feet above the grade within this sight triangle



J. Sign Maintenance

1. Responsibility. The owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times, and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign. This includes graffiti, peeling paint, faded colors and damaged materials.
2. Unsafe signs. Unsightly, damaged, deteriorated sign or signs in danger of falling shall be put in order or removed upon written notice from the Building Inspector. Immediate compliance is expected for the repair or removal of unsafe signs. If compliance is not achieved within the time period specified in such notice, the sign shall be repaired or removed by the City and the costs assessed to the sign owner.

K. Abandoned Signs, Removal. The property owner is responsible for the removal of signage upon termination of occupancy or use of premises. Written permission of the owner of a property is required in the application for a permit to erect any sign. In giving written permission, the owner of the property assumes full financial responsibility for removal of the signage within 30 days from termination of occupancy or use. Failure to remove may result in removal by the City, with all charges incurred assessed to the property owner.

§410-63. Design Criteria. [Amended 2-4-2015 by Ord. No. 15-5]

- A. Minimum Design Criteria. Sign applications shall be reviewed according to the following minimum design standards:
1. Signs shall enhance the overall appearance, image, and design character of the building and site.
 2. Signs shall be simple and clear so as not to distract moving traffic.
 3. Signs shall be architecturally integrated into the building by relating scale, location, sign type, style, materials, and colors to the architectural style and size of the building or business unit.
 4. Placement of signage shall not obscure or overlap architectural elements.

5. Illuminated signs should be oriented away from adjoining residential properties whenever possible.
 6. Raceway cabinets, where used as an element of wall mounted signs, shall match the building color at the location of the building where the sign is located.
 7. Signage in designated Historic Districts and signage located on designated Local Landmark Historic properties shall be in conformance with the City of Binghamton Historic Design Guidelines.
- B. Preferred Design Criteria and Incentives. Applicants are encouraged to take proactive steps to improve the quality and design of signage in the City of Binghamton. The following are the City's preferred design standards. Sign applications meeting these optional, increased standards shall be eligible for the incentives as specified below. The incentive bonuses shall be increased signage area based on the square foot allowed for each sign as established in §410-67.1 below. Any bonus shall be applied only to the specific sign meeting the preferred standards; area bonuses shall not be applied to the maximum total sign area permitted for the business unit as established in §410-62 above.

Example:

<u>Max. Area</u>	<u>Bonus #1</u>	<u>Bonus #2</u>	<u>Bonus #3</u>	<u>Total Area</u>
100 sq ft	10% of 100 = 10 sq ft	N/A	N/A	110 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	N/A	125 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	20% of 100 = 20 sq ft	145 sq ft

1. Incorporation of a Distinctive Logo. Distinctive or unique logos or images provide visual interest to the streetscape and help attract the attention of customers, and are encouraged. Signs that incorporate a unique and distinctive logo, rather than a generic image, shall receive a maximum area bonus of 10% of the allowed square footage. Common, widely used trademarked corporate logos are not eligible for this bonus.
2. Use of Individually Cut Letters. Panel or box signs, or signs with a single cabinet containing all of the content, are discouraged. Signs which use individual cut letters, such as pan channel cut letters, or projecting or ground signs with a three-dimensional textured surface that is integral to its design, such as extensively carved, routed, or sandblasted signs, shall receive a maximum area bonus of 15% of the allowed square footage.
3. Simplified Content. Signs which include information such a telephone numbers, general business information, or other secondary content, are discouraged. Signs which limit the content to the business name and/or a distinctive image or logo, if any, shall receive a maximum area bonus of 5% of the allowed square footage.
4. External or Halo Lighting. Internally illuminated signs can become a distraction and a visual nuisance, so they are discouraged. Signs which use properly shielded external illumination or backlit, or halo, illumination as strongly encouraged. Signs which use either properly shielded external illumination or halo lighting shall receive a maximum area bonus of 10% of the allowed square footage.
5. Signs on Awning Valences. Awning signs located on an awning valence, instead of the awning face, shall not be counted toward the total signage area for the business unit, provided the valence does not hang more than nine (9) inches down from the bottom of the awning frame.
6. Voluntary Removal of a Legally Non-Conforming Sign. Any applicant voluntarily removing an active pre-existing non-conforming sign in order to comply with these regulations, shall receive a maximum area bonus of 20% of the allowed square footage. This area bonus shall only apply to signs replaced beginning from the effective date of this legislation until 31 December 2015.

§410-64. Signs Specifically Prohibited, All Districts.

The following signs are prohibited in all districts and new signs shall not be erected. Existing signs are grandfathered and must be maintained or removed at the request of the Building Inspector.

- A. Off-Premise Advertising signs (“Billboards”). Off-Premise Advertising signs are expressly prohibited except upon permit issued by the Common Council as provided herein.
 1. Common Council approval. Within 30 days, or such longer period as may be agreed upon by the applicant, of receipt and review of the written recommendations of the Planning Commission, the Common Council shall either deny the permit or, by ordinance duly adopted, approve the permit, with or without modifications to be accepted by the applicant as a condition of such approval. The failure of City Council to act within the aforementioned time period shall be deemed a final denial of the permit.
 2. Review by the Planning Commission. Before consideration of the Common Council, an applicant shall first submit an application to the Planning Commission for review. The Planning Commission shall consider the application at the next regularly scheduled meeting and thereafter forward to the Common Council its written recommendation within 30 business days following such meeting. In its report, the Planning Commission may recommend approval, approval with modification or denial. In reaching its decision, the Planning Commission shall consider:
 - a. Whether the proposed sign will have a substantial or undue adverse effect upon adjacent properties, the character of the neighborhood, traffic safety, and other matters affecting the public health, safety and general welfare.
 - b. Whether the proposed sign will be constructed or arranged so as not to dominate the immediate vicinity or interfere with the development or use of neighboring property.
 - c. Whether the proposed design will result in the destruction, loss or damage of any natural, scenic or historic features of significant importance.
 - d. Whether the proposed design will be compatible with the physical environment and aesthetically harmonious with the surrounding area.
 - e. Whether the proposed location and placement of the sign will create any traffic or safety hazards.
 - f. Whether the placement of the sign is necessary or desirable to provide a service which is in the interest of public convenience or which contributes to the general welfare of the community.
 - g. Whether the proposed sign, when considered with all other signage in the vicinity, will result in an excessive number of signs so as to result in a negative impact on the visual aesthetic of the area.
- B. Signs posted on public property per Chapter 163 of the City of Binghamton Code of Ordinances, except as provided for in §410-67.2 below (“Standards for Temporary Sign Types”) and Chapter 327 of the City of Binghamton Code of Ordinances, “Rights-of-Way, Use Of.” The City reserves the right to remove any such unauthorized sign on public property immediately and without notice.
- C. Mechanically moving signs including but not limited to: signs which spin or rotate; signs which, in whole or in part, pivot or wave; tri-vision signs or signs with multiple faces which periodically rotate into view; signs with multiple faces on a roll.
- D. Portable reader signs as defined in §410-61 above.
- E. Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal.
- F. Signs which, by reason of their size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device or the light of an emergency vehicle, or which obstruct the visibility of any traffic or street sign or signal device.

§410-65. Signs Allowed by Right.

The following signs are permitted in any district without design review, sign permit, or fee:

- A. Address signs, provided that such signs are limited to no more than one sign per occupancy, and shall be limited to not more than two square feet, and if a ground sign or pole sign not more than four (4) feet above grade.
- B. Signs required by law.
- C. Governmental signs.
- D. Flags and emblems: flags and emblems of a governmental, civic, philanthropic, educational or religious organization. Shall not contain any advertising content.
- E. Historical or architectural designation signs: limited to not more than one wall or ground sign per structure, building or site. Such sign may not be more than three square feet in area and, if a ground sign, shall be not more than four feet above grade to top of sign, and shall be set back at least five feet from any lot line. Such signs must be approved by CAUD.
- F. Memorial signs, provided that such signs are an integral part of the building or structure, or are made of a durable material such as bronze, stone, or concrete. Such signs must be approved by CAUD.
- G. Holiday decorations, provided that such signs shall be displayed for a period of not more than 60 consecutive days, nor more than 10 days following the holiday in connection with which they are displayed.
- H. Noncommercial signs, provided that such signs are not more than 32 square feet in area if located in a commercial or industrial district or four (4) square feet in a residential district; are limited to not more than one message or topic per street frontage; are located entirely on private property pursuant to the owner's consent; and are maintained as so to prevent any corrosion, rotting or other deterioration in the physical appearance or safety of such sign in accordance with §410-62(J) above..
- I. Private event signs: temporary signs advertising private events, such as bingo games, fairs, and the like; provided that such signs are no more than 32 square feet in area; and are erected no more than 30 days prior to the event; and removed within 10 days following the conclusion of the event.
- J. Private sale signs, provided that such signs are no more than five (5) square feet in area; are located entirely on the premises where such sale is to be conducted or on other private property pursuant to the owner's consent; are clearly marked with the name, address and telephone number of the person responsible for the removal of such sign; are erected not more than 24 hours in advance of such sale; and are removed on the day following the conclusion of such sale.
- K. Real estate signs: one real estate sign per street frontage per lot, provided that the sign does not exceed four (4) square feet in area per residential lot, 32 square feet in area per commercial lot, or 50 square feet in area per industrial lot. Real estate signs shall be removed within two weeks following the sale or rental of the property.
- L. Warning signs, provided that such signs are wall or ground signs, are not more than three square feet in area each, and are illuminated only by an indirect source of light.
- M. Roadside mailbox bearing a name and/or address number and installed according to U.S. Postal Service requirements.

§410-66. Allowable Sign Type and Location Matrix.

Except as specified above in §410-65, signs allowed in each Zoning District shall be as follows:

Schedule IV-A. Permanent Signs

	R-1	R-2	R-3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
Accessory Signs				X	X	X	X	X	X	X	X	X
Awning Signs				X	X	X	X	X	X	X	X	X
Canopy Signs				X	X	X	X	X	X	X	X	X
Changeable Copy Signs				X	X	X	X				X	X
EMC Signs				X								X
Ground Signs				X	X	X	X	X		X	X	X
Marquee Signs				X	X	X	X	X		X	X	X
Pole Signs	#	#	#	X		X	X				X	X
Projecting Signs				X	X	X	X				X	X
Wall Signs	#	#	#	X	X	X	X	X	X	X	X	X
Window Signs				X	X	X	X	X	X	X	X	X

Schedule IV-B. Temporary Signs

	R-1	R-2	R-3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
Banner Signs				X	X	X	X	X	X	X	X	X
Construction Signs				X	X	X	X	X	X	X	X	X
Free-Standing Vertical Banner Signs				X	X		X				X	X
Merchandise Advertising Signs, Exterior				X			X				X	X
Merchandise Advertising Signs, Window				X	X		X	X			X	X
Sandwich Board Signs				X	X	X	X	X	X		X	X

X – Allowed Sign Type

– Strictly as accessory to an approved Home Occupation. Limit 1 sign per parcel, maximum area of 2 square feet, no more than 4 feet above grade. Illumination prohibited.

§410-67.1. Standards for Permanent Sign Types.

All permanent signs require a valid permit, as set forth above in §410-59. Maximum sign area per business unit shall be determined as set forth in §410-62 above. Except as specified for residential districts in §410-66 above, the following standards shall apply to all permanent sign types.

A. Accessory Signs.

- | | |
|---------------------------------------|------------------------------|
| 1. Maximum sign area: | 5 square feet |
| 2. Maximum height, building mounted: | 8 feet from grade |
| 3. Maximum height, freestanding: | 4 feet from grade |
| 4. Maximum number of accessory signs: | 2 per business unit frontage |
| 5. Illumination: | Permitted |
| 6. Counts toward total signage area: | No |

B. Awning Signs.

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|-----------------------|------------------------|
| 1. Maximum sign area: | 50% of the awning area |
|-----------------------|------------------------|

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|--|---|
| 2. Minimum height to bottom of the awning: | 8 feet above grade |
| 3. Maximum height of awning: | Top of the awning may not extend beyond the first floor of the building |
| 4. Maximum number of awning signs: | 1 per awning face |
| 5. Illumination: | Permitted. |
| 6. Counts toward total signage area: | Yes |

C. Canopy Signs.

- | | |
|--|------------------------------------|
| 1. Maximum sign area: | 8 square feet |
| 2. Minimum height at the bottom of the sign: | 10 feet above grade |
| 3. Maximum projection: | 5 feet from building |
| 4. Maximum number of canopy signs: | 1 per business unit |
| 5. Minimum spacing: | 10 feet from any other canopy sign |
| 6. Illumination: | External illumination only |
| 7. Counts toward total signage area: | Yes |

D. Changeable Copy Signs.

- | | |
|---|---|
| 1. Maximum sign area: | 75% of permitted sign face area, see below |
| 2. Maximum number of changeable copy signs: | 1 per parcel |
| 3. Illumination: | Permitted |
| 4. Counts toward total signage area: | Yes |
| 5. Additional Requirements: | |
| a. | Permitted only as an integral part of a wall sign or a freestanding (pole or ground) sign. |
| b. | The allowed area of the changeable copy sign shall be limited to 75% of the allowed area of the wall sign or freestanding sign of which it is a part. |
| c. | Area incentives as established in §410-62.2 shall not apply to changeable copy signs. |

E. Electronic Message Center (EMC) Signs.

- | | |
|--------------------------------------|--|
| 1. Maximum sign area: | 32 square feet |
| 2. Maximum height, pole-mounted: | 25 feet from grade |
| 3. Minimum height, pole-mounted: | 10 feet from grade |
| 4. Maximum height, ground: | 8 feet from grade |
| 5. Minimum setback: | 5 feet from any property line |
| 6. Minimum spacing: | 50 feet from another other EMC sign |
| 7. Maximum number of EMC Signs | 1 per parcel |
| 8. Illumination: | Permitted, in accordance with §410-61. |
| 9. Counts toward total signage area: | Yes |
| 10. Additional Requirements | |
| a. | An EMC sign may be installed an integral part of, or in place of, a freestanding (pole or ground) sign; an EMC sign shall not be installed as a separate sign on the same parcel as another freestanding sign. |
| b. | Cannot be located within 200 feet of a residential district or designated historic district. |
| c. | Applicant must demonstrate compliance with §410-61(F) above. |
| d. | Area incentives as established in §410-62.2 shall not apply to EMC signs. |

F. Ground Signs.

1. Maximum sign area: 40 square feet
2. Maximum height: 8 feet from grade, as established in §410-61
3. Minimum setback: 5 feet from any property line and/or driveway
4. Maximum number of ground signs: 1 per street frontage
5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
 - a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

G. Marquee Signs.

1. Maximum sign area: 75% of marquee structure's height; 75% of its width
2. Maximum number of marquee signs: 1 per marquee; maximum 1 per business unit façade
3. Allowed Locations: Primary façades only
4. Minimum height at the bottom of the sign: 10 feet above grade
5. Maximum projection from marquee: 10 inches
6. Illumination: Permitted
7. Counts toward total signage area: Yes

H. Pole Signs.

1. Maximum sign area: 50 square feet
2. Maximum height at the top of the sign: 25 feet from grade
3. Minimum setback: 5 feet from any property line
4. Maximum number of pole signs: 1 per parcel
5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
 - a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

I. Projecting Signs.

1. Maximum sign area: 20 square feet
2. Minimum height at the bottom of the sign: 10 feet above grade
3. Maximum projection: 5 feet from building
4. Maximum number of projecting signs: 1 per business unit
5. Minimum spacing: 10 feet from any other projecting sign
6. Illumination: External illumination only
7. Counts toward total signage area: Yes
8. Additional Requirements
 - a. Projecting signs shall not extend beyond the top of the building.

J. Wall Signs.

1. Maximum sign area, primary frontage: 2 square feet per linear foot of business frontage
2. Maximum sign area, secondary frontage: 1 square foot per linear foot of business frontage
3. Maximum number of wall signs: 1 sign per frontage

- | | |
|--|----------------------------|
| 4. Maximum length of sign: | 80% of the business façade |
| 5. Maximum projection from building façade: | 10 inches |
| 6. Illumination: | Permitted |
| 7. Counts toward total signage area: | Yes |
| 8. Additional Requirements | |
| a. The wall sign shall not extend beyond the top of the wall to which it is attached | |

K. Window Signs.

- | | |
|--------------------------------------|---|
| 1. Maximum sign area: | 50% of the window |
| 2. Maximum number of window signs: | 1 sign per window, 2 signs per frontage |
| 3. Illumination: | External illumination only |
| 4. Counts toward total signage area: | Yes |

§410-67.2. Standards for Temporary Sign Types.

The following standards shall apply to all temporary sign types. Temporary signs are not eligible for the incentives established in §410-62.2.

A. Banner Sign.

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|---|---|
| 1. Maximum sign area: | 1 square foot per linear foot of primary frontage |
| 2. Maximum number of banner signs: | 1 per business unit |
| 3. Maximum length of banner sign: | 50% of the business façade |
| 4. Maximum display period: | Up to 30 days, not more than 3 times in 12 months |
| 5. Illumination: | No |
| 6. Temporary Sign Permit: | Required |
| 7. Counts toward total signage area: | No |
| 8. Additional Requirements | |
| a. All banners must be anchored at all corners so as to keep the banner secured to the structure. | |

B. Construction Signs.

- | | |
|---|-----------------------|
| 1. Maximum sign area: | 32 square feet |
| 2. Maximum number of construction signs: | 1 per street frontage |
| 3. Illumination: | No |
| 4. Temporary Sign Permit: | Required |
| 5. Counts toward total signage area: | No |
| 6. Additional Requirements | |
| a. All such construction signs must be removed within 7 days after construction is completed. | |

C. Free-Standing Vertical Banners.

- | | |
|--|----------------------------|
| 1. Maximum sign width: | 2 feet at the widest point |
| 2. Maximum sign height: | 8 feet above grade |
| 3. Maximum number of vertical banners: | 1 per business unit |
| 4. Maximum display period: | During business hours only |
| 5. Illumination: | No |
| 6. Temporary Sign Permit: | Required |
| 7. Counts toward total signage area: | Yes |
| 8. Additional Requirements | |

- a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
- b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

D. Merchandise Advertising Signs, Exterior.

- | | |
|--------------------------------------|---|
| 1. Maximum sign area: | 4 square feet |
| 2. Maximum number of signs: frontage | 1 per 300 feet of business frontage |
| 3. Minimum set back: | 10 feet from any property line and/or driveway |
| 4. Minimum spacing: | 100 feet from any other exterior merchandise sign |
| 5. Illumination: | No |
| 6. Temporary Sign Permit: | Required |
| 7. Counts toward total signage area: | Yes |

E. Merchandise Advertising Signs, Window.

- | | |
|--------------------------------------|--|
| 1. Maximum sign area: | 25% of the window |
| 2. Maximum number of signs: | 1 per window, maximum 4 per business unit |
| 3. Illumination: | Permitted, no flashing, scrolling, or moving |
| 4. Temporary Sign Permit: | Required |
| 5. Counts toward total signage area: | Yes |
| 6. Additional Requirements | |

- a. Window Merchandise Advertising Signs are not permitted in any door windows.

F. Sandwich Board Sign.

- | | |
|--|----------------------------|
| 1. Maximum sign area: | 8 square feet |
| 2. Maximum number of sandwich board signs: | 1 per business unit |
| 3. Maximum display period: | During business hours only |
| 4. Illumination: | No |
| 5. Temporary Sign Permit: | Required |
| 6. Counts toward total signage area: | Yes |
| 7. Additional Requirements | |

- a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
- b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

§410-68. Variance Procedure.

Where a sign permit application is denied, the applicant is entitled to petition the Zoning Board of Appeals, which shall hear and decide all appeals pursuant to Article XIV of this chapter. Such appeals shall be taken by filing for such a variance with the Zoning Board of Appeals through the Department of Planning, Housing,

and Community Development. In making a decision, the Zoning Board of Appeals shall consider the standards applicable to an area variance.

§410-69. Violations and Penalties.

- A. Violations. The Office of Building and Construction shall have the authority to enforce the removal of any signs that are in violation of this chapter. Any person, firm, corporation or other entity who uses or maintains or causes to be used or maintained any sign or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any sign or any part thereof, except in accordance with the provisions of this chapter or any regulation made under authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any sign or any part thereof which has been erected, enlarged, moved or altered, other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter, or who allows any violation of this chapter on premises owned or leased by him, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation.
- B. Procedure. In the event that any sign is erected, constructed, reconstructed, altered, converted, relocated or maintained, or any sign or premises is used in violation of this chapter, or any regulation made pursuant thereto, or any authority conferred thereby, the Supervisor of Building and Construction, or their designee, shall serve written notice, either by personal service or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same. Unless action to correct the violation is taken within 10 days from the date of service of the notification, that person or entity shall be considered in violation of this chapter. If, after 30 days from the aforementioned date, the violations have not been corrected, the Supervisor of Building and Construction, or their designee, shall cause the removal of such sign and charge the owner of the sign and/or premises for the cost of removal.
- C. Penalties. The City may bring a civil action to recover a penalty, which shall not exceed \$1500, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, for any violation of any provision of this chapter; each day's failure to comply with such provision shall constitute a separate violation. The City may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation.

§410-70. Nonconforming signs.

- A. All permanent signs existing at the time of adoption of this chapter may continue although not in conformity with the provisions herein.
- B. All temporary signs existing at the time of adoption of this chapter must be removed or brought into compliance the requirements of §410-67.2 above within 90 days of the adoption of this chapter.
- C. Removal of nonconforming on-premises signs. Any sign, except advertising signs, lawfully existing and erected prior to the effective date of this ordinance, but which becomes nonconforming by virtue of this chapter, shall be removed, including all support structures, when the business to which such sign is related ceases or is sold or transferred to a new owner. No nonconforming sign shall be structurally altered, enlarged, moved or replaced, except as to bring the sign into conformance with this chapter.

ARTICLE XII, Nonconforming Use of Buildings, Structures and Land

§ 410-71. Intent.

The intent of this Article XII is to provide regulations for the use of buildings, structures and land which do not comply with the provisions of this chapter and to specify the circumstances and conditions by which such nonconforming use may be continued or shall be discontinued. It is the intent of this article to permit these nonconforming uses to continue until they are removed, but not to encourage their survival.

§ 410-72. Continuance of existing buildings, structures and uses.

The lawfully permitted use of any building, structure or land existing at the time of adoption of this article, or any subsequent amendment thereto, may be continued in accordance with the provisions of this Article XII even though such use does not conform to the regulations and standards specified herein for the district in which such building, structure or land is located. For the purposes of this chapter, a nonconforming use will be vested if at the time of adoption of this chapter, or any subsequent amendment thereto, the property owner has expended substantial sums in reliance on valid permits issued by the City of Binghamton for a use which was permitted prior to the adoption of this chapter, or any subsequent amendment thereto, and shall not be required to comply with the site plan review procedure as set forth in Article IX of this chapter. For projects under construction, the entire building must be completed according to filed plans within two years from the effective date of this article.

§ 410-73. Transfer of rights.

Nonconforming use rights, subject to the provisions of this Article XII, remain with the land when title is transferred.

§ 410-74. Additions and enlargements.

- A. Modifications. Except as otherwise set forth in this § 410-74, the nonconforming use of any building, structure or land shall not be extended, enlarged, moved or added to in any manner unless such nonconforming use is changed to conform to the regulations of the district in which it is located.
- B. Nonconformity other than use. A building or structure which contains a permitted use but is nonconforming as to lot size, setback, coverage or height may be added to or enlarged if any such addition will be in compliance with the yard and height requirements of the district in which it is located and if any off-street parking nonconformity is not thereby increased.
- C. Garage. An attached or detached garage may be constructed on a lot which contains a nonconforming dwelling unit, provided that such garage complies with the height and yard requirements for the district in which it is located.

§ 410-75. Permission to enlarge nonconforming use.

Notwithstanding the provisions of § 410-74, the Zoning Board of Appeals may grant permission for the alteration, enlargement, reconstruction, moving, replacement of, or addition to a nonconforming building, structure, or land use activity, provided:

- A. The owner of such nonconforming building or structure can show that, unless such permission is granted, hardship and injustice will result.
- B. The proposed alteration, enlargement, reconstruction, moving, replacement or addition will not substantially reduce neighboring property values or otherwise substantially alter the character of the neighborhood.
- C. The proposed enlargement or addition does not exceed more than 25% of the total square footage of the building, based on the total square footage of the building at the time this chapter was adopted.
- D. Such permission may be granted only after notice and public hearing as provided in §§ 410-93 and 410-94 of this chapter.

§ 410-76. Destroyed or damaged nonconforming building, structure or land use activity. [Amended 9-9-09 by Ord. No. 31-2009; Amended 5-23-12 by Ord. No.37-2012]

A. Discontinuance of nonconformity. A building, structure or land use activity which is nonconforming in the district in which it is located and which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure on the land shall not thereafter be restored, rebuilt or continued unless there is compliance with the regulations of said district. Notwithstanding the foregoing:

- (i) In the R-1 Zoning District a two-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may be restored, rebuilt or continued with the same, or less, floor area and cubic content, with the same number of bedrooms, or less, as provided in the most current assessment roll or for which the owner has received a certificate of occupancy and with the same, or an improved general site layout as that of the original structure or use and;
- (ii) In the R-1 Zoning District a three-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may not be restored, rebuilt or continued as a three-unit dwelling; however, it may be restored, rebuilt or continued as a two-unit dwelling with the same, or less, floor area and cubic content, with the same number of bedrooms as previously approved for two units ¹ and all as established in the most current assessment roll or for which the owner has received a certificate of occupancy and with the same, or an improve, general site layout as that of the original structure or use. Reconstruction must be substantially complete within one year of the date of such damage and the owner must obtain a certificate of occupancy within eighteen months of said date. The failure to complete reconstruction within such time frame will be deemed abandonment of the nonconforming use.

¹ If the three-unit dwelling had one unit with 3 bedrooms, one unit with 2 bedrooms and one unit with one bedroom, then the renovated one or two-unit dwelling would be limited to five bedrooms. If the three-unit dwelling two bedrooms in each unit, then the renovated one or two-unit dwelling would be limited to four bedrooms.

B. Restoration of nonconformity. A nonconforming building, structure or land use activity which is damaged to the extent of 50%, or less, of the physical structure on the land may be rebuilt or restored with the same, or less, floor area and cubic content and with the same, or an improved, general site layout as that of the original structure or use. Reconstruction must be commenced within one year of such damage and be completed within two years of said date.

C. Unsafe buildings. Notwithstanding the above provisions, any damaged nonconforming structure which is determined to be unsafe or a hazard to public health or safety shall be subject to all other regulations of the City of Binghamton Code related to unsafe buildings.

§ 410-77. Change of use of nonconforming building, structure or land.

- A. When a nonconforming use has been changed to a conforming use, it shall not subsequently be changed back to any nonconforming use unless a use variance is granted by the Zoning Board of Appeals.
- B. Upon application, any nonconforming use of land, building, or structures may be changed to a less intensive nonconforming use upon approval by the Zoning Board of Appeals. A less intensive use shall mean a use in which there will be fewer people either as customers or employees, less vehicular traffic, shorter hours of operation, or more compatibility with the surrounding land uses.

§ 410-78. Cessation of use of nonconforming building, structure or land.

- A. If any nonconforming use of a building, structure or land ceases, for any reason, for a period of 12 consecutive months, such nonconforming use shall not thereafter be reestablished. Any future use of

such building, structure or land shall be in conformity with the standards specified by this chapter for the district in which such building, structure or land is located.

- B. Upon application, prior to the expiration of the 12 consecutive months, the Zoning Board of Appeals may extend the period for up to six additional months, provided that the owner of said building or premises can demonstrate that he or she has made reasonable effort to resume the nonconforming use during the one-year period.

§ 410-79. Termination of nonconforming use for cause.

The Supervisor of the Office of Building and Construction may revoke a certificate of occupancy issued to a nonconforming use upon satisfactory proof that the conditions of operation or maintenance of premises are such as to constitute a public nuisance, by reason of injury to the adjacent property or to the general neighborhood.

§ 410-80. Removal of building or structure.

If any building or structure in which a nonconforming use is conducted or maintained is hereafter removed, the subsequent use of land on which such building was located, and the use of any building subsequently built thereon, shall be in conformity with the standards specified by this chapter for the district in which such land is located.

§ 410-81. Maintenance and repair.

Nothing in this article shall prevent the renovation or repair of nonstructural members or the maintenance of a structure made necessary by ordinary wear and tear.

ARTICLE XIII, Administration and Enforcement

§ 410-82. Compliance required prior to issuance of permits.

No commission, board, agency, officer or employee of the City of Binghamton shall issue, grant or approve any permit, license, certificate or other authorization for any construction, reconstruction, alteration, enlargement or relocation of any building, or for any use of land or building that would not be in compliance with the provisions of this chapter and Local Law No. 3 of 1987, where applicable. Any permit or certificate issued for an application that does not comply with the provisions of this chapter shall be null and void.

§ 410-83. Enforcement.

This chapter, and any rules and regulations which have been or may be made in furtherance thereof, shall be enforced by the Office of Building and Construction of the City of Binghamton. Such enforcement shall be in compliance with applicable provisions of this chapter. For purposes of enforcement and public health, safety and general welfare, a duly designated inspector from the Building and Construction Division may, from time to time, upon notice thereof and receipt of permission, enter and inspect any building or premises and may perform any other act or duty necessary for the proper enforcement of this chapter.

§ 410-84. Building and use permit.

A. Issuance.

- (1) Building permits shall be required for any work which must conform to the Building Code of New York State, Residential Code of New York State, Energy Conservation Code of New York State, Plumbing, Mechanical and Fuel Gas Code of New York State or the Fire and Property Maintenance Code of New York State and shall also include but are not limited to the following:
 - (a) New residential, commercial, and industrial buildings;
 - (b) Additions to existing residential, commercial, and industrial buildings;
 - (c) Interior and exterior structural repairs;
 - (d) Alterations, improvements, and remodeling of existing buildings;

- (e) Garages, carports, and sheds greater than 100 square feet;
 - (f) Roofing (including reshingling), siding, decks, porches, stairs, and fences;
 - (g) In-ground and aboveground swimming pools with over two feet of water;
 - (h) Signs;
 - (i) Building heating systems (new or replacement), fire sprinkler systems, fire alarm systems, solid-fuel appliances, gas-fired decorative appliances;
 - (j) Parking lots approved by the Planning Commission; and
 - (k) Demolition of any existing structure.
- (2) The application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.
- (3) Exceptions to the requirements for building permits may be allowed for the following:
- (a) Necessary repairs which do not materially affect structural features.
 - (b) Alterations to existing buildings, provided that the alterations:
 - [1] Cost less than \$10,000;
 - [2] Do not materially affect structural features;
 - [3] Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations, and exits;
 - [4] Do not involve the installation or extension of electrical systems; and
 - [5] Do not include the installation of solid-fuel-burning heating appliances and associated chimneys and flues.
 - (c) Small noncommercial structures not intended for use by one or more persons as quarters for living, sleeping, eating, or cooking; for example, a small storage building.
- B. Excavation. Within one year after work on any excavation for a building has begun such excavation shall be covered over or filled by the owner to the normal grade. Any excavation or cellar hole, including those remaining after the demolition or destruction of a building from any cause, shall be fenced in immediately and covered over or filled within one year. If the owner fails to cover over or fill such excavation within 10 days of notice by the Supervisor of the Office of Buildings and Construction, the City Council may order said excavation to be covered or filled and may charge the owner of said property any costs connected therewith.
- C. Filling/Grading. Any activity which deposits, moves, or rearranges natural material such as rock, gravel, sand and soil so as to modify the normal surface or subsurface condition of land, water bodies or watercourses shall be subject to applicable provisions of Chapter 227, Erosion Control, Part 1, Filling, Grading, Terracing and Drainage Work, of the City of Binghamton Code.
- D. Denial. Where the proposed construction, alteration, or use of the building or land does not comply with the provisions of this chapter, the building and use permit shall be denied by the Supervisor of the Office of Building and Construction. Denial shall be in writing, stating the reasons thereof, a copy of which shall be given to the applicant.
- E. Modification of minimum standards for permitted uses only. Notwithstanding Subsection B above, the Supervisor of the Office of Building and Construction, in reviewing the proposal for construction, alteration or use of a building or land for a permitted residential use only, may modify the minimum or maximum bulk requirements (lot area, frontage, setback, height, etc.) specified in Schedules IA (§ 410-28) and IIA (§ 410-33) when the Supervisor determines that such modification would not adversely impact adjacent properties or alter the essential character of the locality. Such authority to modify requirements shall be limited as follows:

<u>Requirement</u>	<u>Percent Change</u>
Minimum front yard:	

reduce by no more than	10%
Minimum side and rear yard:	
reduce by no more than	10%
Maximum percentage of lot covered:	
increase by adding no more than	5%

- F. Environmental assessment. For any proposed building or land use which is determined by the Supervisor of the Office of Building and construction to be a Type I or an unlisted action in accordance with the State Environmental Quality Review Act of 1975 (SEQR), EN and local regulations enacted pursuant thereto, the following provisions shall apply:
- (1) Referral. The permit application for such building or land use shall be referred to the Planning Department or the Planning Commission, as appropriate, for an assessment as to whether or not the proposed action may have a significant effect on the environment and require preparation of the draft environmental impact statement (DEIS).
 - (2) Determination. Within 15 working days from receipt of the permit application by the lead agency, such application shall be processed and a written determination returned to the Supervisor of the Office of Building and Construction.
 - (3) Procedure for DEIS. If, in the initial assessment of the application, it is determined that a DEIS is required, such determination will be transmitted in writing to the Supervisor of the Office of Building and Construction. Such determination letter will contain a procedure for preparation of the DEIS and identify the lead agency.
 - (4) The Supervisor of the Office of Building and Construction shall not issue a building and use permit until either it is determined that there would be no significant environmental impact (a negative declaration) or the environmental impact process has been completed.
- G. Revocation. The Supervisor of the Office of Building and Construction shall revoke a building and use permit if it is found that there is a deviation from the plans for which such permit was issued.
- H. Term. Except as set forth to the contrary in Subsection F, a building and use permit shall become void 12 months from the date of issuance unless substantial progress has been made on the project described on such permit. The building and use permit shall be extended by the Supervisor of the Office of Building and Construction for an additional six months. Upon expiration of the building permit, the applicant shall apply for another building permit to complete the project. Only one such additional permit shall be granted, and the project must be completed within the allotted time frame of the second permit. For unusually large and complex projects, the Supervisor may determine that conditions warrant the waiving of this provision.

§ 410-85. Certificates of occupancy.

- A. Issuance. To assure that all construction, enlargement, alteration and moving of any building, and all uses of land and buildings, including any changes in use, are in accordance with the authorized building and use permit and the terms of this chapter, a certificate of occupancy shall be required prior to occupancy. Such certificate shall be issued by the Supervisor of the Office of Building and Construction upon a determination of compliance with the standards and regulations of this chapter and any conditions that may have been attached to any required building and use permit.
- B. Term. A certificate of occupancy shall be deemed to authorize, and is required for, initial or changed occupancy and use, or structural alteration of the building or changes to the land to which it applies. It shall continue to be in effect as long as such building or land, and the use thereof, remains in compliance with the provisions of this chapter, and pertinent amendments thereto, and with any attached conditions that were applicable when the certificate of occupancy was issued.

- C. Temporary certificate of occupancy. Pending the issuance of a certificate of occupancy, a temporary certificate may be issued by the Supervisor of the Office of Building and Construction for a period not exceeding six months. Such temporary certificate shall be issued only under such conditions and restrictions as will adequately assure safety of the occupants and completion of all unfinished improvements required by this chapter and terms of the building and use permit.
- D. Violation. Upon a determination by the Supervisor of the Office of Building and Construction that there is a violation of any of the provisions or requirements of this chapter with respect to any building or use, and upon service of notice in writing to the owner of record of such structure or land, the certificate of occupancy shall be null and void.

§ 410-86. Application for permit and certificate.

- A. Procedure. Application for a building and use permit shall be made to the Supervisor of the Office of Building and Construction on forms provided. Upon completion of the project, the building permit applicant or an authorized agent shall request a certificate of occupancy inspection to determine compliance with all applicable codes, rules, and regulations prior to the issuance of the certificate of occupancy.
- B. Requirements. Applications for a building and use permit shall be accompanied by the following information unless the need for such information is waived by the Supervisor of the Office of Building and Construction and so noted on the application form:
 - (1) Two copies of a plan, drawn to scale, which clearly shows:
 - (a) The shape and dimensions of the lot to be built upon or used.
 - (b) The existing zoning for the lot and for all adjacent parcels.
 - (c) Physical characteristics of the site, including topography, vegetation and drainage.
 - (d) The location and size of all existing buildings that are to remain and all proposed new buildings.
 - (e) The existing and proposed use of each building or part thereof, and of the lot.
 - (f) The number of dwelling units proposed for each building.
 - (g) The layout of required off-street parking and loading space with access and egress thereto.
 - (h) The location and type of any required screening and landscaping, including site drainage.
 - (i) The location and type of any proposed sign, exterior site lighting, and any proposed improvements other than a building.
 - (j) Any other information with respect to the lot, buildings or adjacent lots that may be necessary to determine compliance with the provisions of this chapter.
 - (2) Estimated cost of the buildings and other improvements proposed.
 - (3) Seal of a licensed architect or engineer pursuant to § 410-84A.
- C. Refusal of application. Failure to prepare adequate information and plans needed to review a proposal shall be cause for the Supervisor of the Office of Building and Construction to refuse to accept the application. Denial shall be in writing, stating the additional information and plans needed, and a copy shall be given to the applicant.

§ 410-87. Special permit and site plan approval procedure.

- A. Referral. An application for a building and use permit for a proposed land use or activity which requires a special permit or site plan approval, as specified in Schedule I (§ 410-27) or Schedule II (§ 410-32) shall forthwith be referred by the Supervisor of the Office of Building and Construction to the Planning Department for processing and review. The Supervisor of the Office of Building and Construction shall inform the applicant of the provisions of this chapter for special permits (Article XIII) and site plan approvals (Article IX).
- B. Authorization. No building and use permit shall be issued by the Supervisor of the Office of Building and Construction until the special permit or site plan review process of this chapter has been carried out and the application, with or without conditions, has been duly approved.

§ 410-88. Designated landmark and historic district and urban cultural park.

For any building or use permit related to land and or structure which is a designated landmark or in an historic district or an urban cultural park area, the provisions of § 410-39F(2) shall apply.

§ 410-89. Penalties for offenses.

- A. Violations. Any person, firm, corporation or other entity who or which uses or maintains, or causes to be used or maintained, any building or premises or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any building or any part thereof, or fails to comply with any or all conditions imposed by the Zoning Board of Appeals, Planning Commission, or Planning Department with regards to a site plan approval, except in accordance with the provisions of this chapter or any regulation made under authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any building or any part thereof which has been erected, enlarged, moved or altered other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter on premises owned or leased by him or her, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation of this chapter.
- B. Penalties. Any violation of any provision of this chapter shall be deemed a violation, and any person found guilty thereof shall be liable to a minimum fine of \$50 and which shall not exceed \$1,000, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, and each day's failure to comply with such provision shall constitute a separate violation.
- C. Complaints of violations. Whenever a violation of this chapter occurs, any person may file a written complaint in regard thereto with the Office of Building and Construction, which shall properly record such complaint and immediately investigate.
- D. Procedure. In the event that any building or structure is erected, constructed, reconstructed, altered, converted, located, relocated or maintained, or any building, structure, land or premises is used in violation of this chapter or any regulation made pursuant thereto or any authority conferred thereby, in addition to other lawful remedies, any appropriate legal action or proceedings may be instituted to prevent the occupancy of such building, land or premises, or to prevent any illegal act, conduct, business or use in or about such premises. The Office of Building and Construction shall serve written notice, either by personal service, regular mail, or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same, and, if such violation does not cease within such time as the Building Inspector shall specify, he or she may institute such action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

- E. Maintenance of action by City. The City may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

§ 410-90. Records and reports.

- A. The Supervisor of the Office of Building and Construction shall keep a permanent record, including all pertinent maps and plans, of all applications for building and use permits and certificates of occupancy.
- B. The Supervisor of the Office of Building and Construction shall also keep a permanent record of all violations of this chapter, whether reported by private citizens or by any commission, board, agency, officer or employee of the City, and such records shall show the disposition of all such violations.
- C. The Supervisor of the Office of Building and Construction shall make a report to the Mayor and City Council, in writing, not less than every 12 months, reporting the number and type of building and use permits and certificates of occupancy issued.

ARTICLE XIV, Appeals

§ 410-91. Zoning Board of Appeals-organization. [Amended 5-19-08 by Ord. No. 25-2008; Amended 12-21-11 by Ord. No. 11-52]

- A. Establishment. As part of the administration of this chapter a Zoning Board of Appeals is hereby established.
- B. Appointment and term. The Zoning Board of Appeals shall consist of five members appointed by the Mayor, each to serve a term of five years. At the expiration of the members now in office, the appointment of succeeding members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall expire at the end of each year thereafter. At the expiration of each succeeding member's appointment, the replacement member shall be appointed for a term of five years. Vacancies occurring in said Board shall be filled in a like manner, but only for the unexpired period of such term.
- C. Alternate members. The Mayor shall have the power to appoint one alternate Zoning Board of Appeals member in the event a member is unable to participate because of a conflict of interest. The alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. The alternate Board member will serve a term of five years.
- D. Removal of members. The Mayor shall have the power to remove, after a public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with any minimum requirements relating to meeting attendance and training as established by City Council by local law or ordinance.
- E. Chairperson. The Zoning Board of Appeals shall select a Chairperson and Vice Chairperson from among its own members. In the absence of such Chairperson, the Vice Chairperson will serve as the Acting Chairperson. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as such Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

- F. Meetings. Regular meetings shall be held at least once each month but may be cancelled if there is no action pending. Special meetings may be held at such other times as the Chairperson may determine. All meetings shall be open to the public.
- G. Voting requirements.
- (1) Decision of the Board. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Supervisor of the Office of Building and Construction acting as the official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter upon which it is required to pass, or to approve any variance in the provisions of this chapter.
 - (2) Default denial of appeal. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision, or determination of the enforcement official within the time allowed, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process.
- H. Minutes. Minutes of all proceedings shall be recorded and shall show the action of the Board and the vote of each member on every motion or, if absent or failing to vote, indicating such fact. All proceedings shall be filed in the Planning Department and shall be a public record.
- I. Filing requirements. Every rule, regulation, amendment, or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals, shall be filed in the office of the City Clerk within five business days and shall be a public record.
- J. Board rules. The Zoning Board of Appeals shall adopt any rules and regulations as may be necessary or proper to the performance of its duties, and may amend or repeal such rules and regulations as necessary.
- K. Compatibility of offices. The municipal officials or employees on such Board shall not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties, or receive the compensation of the municipal office or position held by them during such membership. No municipal officer or employee shall be appointed to the Zoning Board of Appeals in the event such officer or employee cannot carry out the duties of his or her position without a conflict in the performance of his or her duties as a member of the Zoning Board of Appeals. In accordance with General City Law § 81(2), no person who is a member of the legislative body of the City of Binghamton shall be eligible for membership on said Zoning Board of Appeals.
- L. Each member of the Zoning Board of Appeals shall be paid an annual stipend of four hundred (\$400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Zoning Board of Appeals other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed pursuant to the Code of the City of Binghamton Article I, *Vacancies due to nonattendance*; § 16-1, *Application*; § 16-2, *Determination of vacancy*; or § 410-91.D, *Removal of members*, shall not be paid for any missed meetings leading to dismissal.

§ 410-92. Zoning Board of Appeals powers and duties.

- A. General. The Zoning Board of Appeals shall have all the powers and duties prescribed by the General City Law of the State of New York and this chapter. None of the provisions set forth in this § 410-92, or elsewhere in this chapter, shall limit any of the powers of the Zoning Board of Appeals conferred by General City Law.

B. Interpretation. On appeal from any person, firm or corporation, or from any official or agency of the City of Binghamton, the Zoning Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this chapter made by the Superintendent of Building and Construction acting as the official responsible for its enforcement. (See § 410-93.)

C. Use variance.

(1) Where there is unnecessary hardship created by carrying out the strict letter of this chapter as to permitted use of a building or land, the Zoning Board of Appeals may vary the use regulations so that the spirit of the chapter shall be observed. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused necessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) Reasonable return: the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
- (b) Unique hardship: the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.
- (c) Essential character of the neighborhood: granting the variance will not alter the essential character of the neighborhood.
- (d) Not self-created hardship: the alleged hardship has not been self-created.

(2) The Zoning Board of Appeals, in the granting of the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

(3) The granting of a use variance does not relieve the applicant of the responsibility for meeting the bulk requirements for permitted uses in the applicable district.

D. Area variance.

(1) Where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height, solar access or any other regulations pertaining to bulk and not specifically related to use of land or buildings unreasonable or impossible to comply with, the Zoning Board of Appeals may vary or modify these regulations as long as the spirit of the regulation to be altered is observed. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- (a) Undesirable change in neighborhood character: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- (b) Alternative cure sought: whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (c) Substantiality: whether the area variance requested is substantial;
- (d) Adverse effect or impact: whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (e) Not self-created: whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

- (2) The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- E. Nonconforming use. Upon application, the Zoning Board of Appeals may authorize the alteration, enlargement, reconstruction, moving, replacement of, or additions to, a nonconforming building or structure, subject to the provisions specified in § 410-75 of this chapter.
- F. Conditions and safeguards. In all cases where the Zoning Board of Appeals acts pursuant to powers established by law or this chapter, the Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 410-93. Applications to Zoning Board of Appeals.

- A. Application for variance, notice of appeal. Any request for a variance or for relief from an order, requirement, decision or determination of the Supervisor of the Office of Building and Construction acting as the official responsible for enforcement of this chapter, or any request for a Zoning Board of Appeals interpretation or approval as may be required by the provisions of this chapter, shall be submitted by filing an application for a variance or a notice of appeals with the Planning Department. Such application or notice shall be in writing on forms prescribed by the Board.
- B. Content of application for a variance or notice of appeal. Each application for a variance or notice of appeal shall fully set forth the circumstances of the case, shall refer to specific provisions of this chapter involved, and shall set forth the interpretation claimed, or the details of the use or area variance requested and the grounds on which it is believed that the interpretation or variance should be approved.
- C. Graphic description. When appropriate, the written application for a variance or notice of appeal shall also contain graphic material (maps, surveys, photographs, etc.) which clearly illustrates the nature of the application or appeal. The Zoning Board of Appeals may refuse to consider any application for a variance or notice of appeal which does not contain adequate graphic documentation to fully explain the relief requested.
- D. Record. The application for a variance or notice of appeal, and all the papers constituting a record of the application or action being appealed, shall forthwith be transmitted to the Zoning Board of Appeals by the Planning Department. (See also § 410-94C.)
- E. Stay. An application for a variance or notice of appeal stops all further proceedings on the matter in question unless the Supervisor of the Office of Building and Construction certifies to the Board that, for reason set forth in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall be stopped only by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on notice to the official or agency from whom the appeal is taken and on due cause shown.

§ 410-94. Procedure for appeals. [Amended 8-7-2013 by Ord. No. 13-49; Amended 10-4-2017 by Ord. No. 17-59]

- A. Public hearing. The Zoning Board of Appeals shall hold a public hearing on any application or appeal within a reasonable time after such application or appeal is received by the Board. At such public hearing any party may appear in person or by agent or attorney.
- B. Public notice.

- (1) Public Notice by Planning Department. Upon receipt of payment of a notification fee, as set by the City Council, from an applicant, the Planning Department shall provide public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete required notice mailings (See Exhibit J).
 - (a) Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.
 - (b) Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 200 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.
 - (c) Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed in either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed in each front yard.
 - (d) Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.
 - (e) Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

C. Referrals.

- (1) To the Planning Department. At least 20 business days prior to any public hearing on an application for any use or area variance, or a modification of a nonconforming use, such appeal shall be filed with the Planning Department for review as to conformance with the City's planning objectives and for an environmental assessment of Type I and unlisted actions. The Planning Department shall review the application for conformance with the City's planning objectives and for an environmental assessment on the proposed action prior to the public hearing.
- (2) To the Broome County Department of Planning.
 - (a) All applications for an area or use variance or expansion of a nonconforming use affecting real property lying within a distance of 500 feet of the following shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-m(3)(b) of the General Municipal Law:
 - [1] The boundary of any city, village, or town; or
 - [2] The boundary of any existing or proposed county or state park or any other recreation area; or
 - [3] The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway; or
 - [4] The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - [5] The existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated; or

[6] The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subsection shall not apply to the granting of area variances.

- (b) If the County Department of Planning fails to make such report within 30 days after receipt of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239-m(4)(b) of the General Municipal Law. If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Zoning Board of Appeals may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Zoning Board of Appeals shall file a report of its action with the
- (c) County Department of Planning within seven days after such action is taken.

D. Adjournment. The hearing for any application or appeal to the Zoning Board of Appeals may be adjourned for a period not to exceed 45 days for the purpose of obtaining additional information or clarification, or to provide further opportunity for the applicant and any opposing view to present more detailed evidence, or to cause such further notice to be served upon other property owners as may be deemed necessary or desirable by the Board.

E. Board decision. The Zoning Board of Appeals shall decide on applications or appeals, or any other matter upon which it is required to act, within 62 days after the conclusion of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

§ 410-95. Reconsideration.

Any decision, determination or order previously made by the Zoning Board of Appeals may be reconsidered as follows:

- A. Motion. A motion for such reconsideration may be made by any member of the Board and shall be adopted unanimously by all members present. Such motion to reconsider shall not be made less than 90 days after the initial Board action on the matter to be reconsidered.
- B. Notice. Notice of such reconsideration shall be given in the same manner as the original hearing. (See § 410-94B.)
- C. Action on notice to reconsider. Upon such reconsideration, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

§ 410-96. Reapplication.

Unless the Zoning Board of Appeals determines, by the unanimous vote of members present, that substantial new evidence has become available, a second application on any previously decided case will not be heard.

§ 410-97. Environmental assessment.

If the advisory report from the City Planning Department indicates that approval of an application submitted to the Zoning Board of Appeals could have a significant environmental impact, no such approval shall be given until an environmental assessment and declaration have been made by the lead agency.

§ 410-98. Invalidation.

Any building and zoning permit issued in conformance with an action of the Zoning Board of Appeals shall be subject to the provisions of § 410-84H of this chapter. Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned the appeal or application, and such permission or variance granted shall be deemed automatically rescinded and invalidated by the Zoning Board of Appeals unless an extension of time is granted by such Board.

§ 410-99. Compliance with other regulations.

Zoning Board of Appeals approval of any action applied for does not remove the applicant's responsibility to comply with all other applicable regulations of the City of Binghamton.

ARTICLE XV, Amendments and Changes

§ 410-100. Authority.

Pursuant to § 83 of the General City Law, and other applicable provisions of the law, the City Council may, from time to time on its own motion or on petition, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this chapter.

§ 410-101. Amendment by petition.

Whenever the owners of 50% or more of the frontage in any district, or part thereof, shall present a petition, duly signed and acknowledged, to the Council requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Council to vote upon said petition within 90 days after filing of the same by the petitioners with the City Clerk.

§ 410-102. Protest.

- A. If a protest against any proposed amendment, supplement, repeal, or change be presented, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by a three-fourths vote of the entire membership of the City Council.
- B. In order to determine whether or not any ordinance rezoning a district or a portion of a district shall require a majority vote or a three-fourths vote for the passage of such ordinance, the Planning Department shall make a written report certifying whether or not a protest as set forth in Subsection A has been made.

§ 410-103. Referral to Planning Commission.

Every proposed amendment or change initiated by City Council or by petition shall be referred to the Planning Commission for report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Commission may state its reasons for such recommendation, describing any conditions that it believes made the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the City, and be in furtherance of the purposes set forth in Article I of this chapter. In recommending the rejection or revision of any proposed amendment or change, the Planning Commission may similarly state its reasons. Failure on the part of the Commission to report its recommendations with respect to any proposed amendment or change to the City Council within 45 days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

§ 410-104. Changes in zoning regulations.

Pursuant to § 37 of General City Law, the Planning Commission may make any reasonable changes in applicable zoning regulations when this is done as part of subdivision plat approval. Such changes by the Planning Commission shall be based on the submission and approval of a detailed site plan indicating land use, building type, density, coverage, yards, parking, drainage, landscaping, and any other information required by the Planning Commission. In considering such changes, and after a public hearing thereon, the Planning Commission may require clustering of structures and may permit nonresidential land uses in the subdivision when this is deemed to be consistent with public welfare. While dwelling unit types can be modified, the development density cannot exceed that which would normally be permitted in the district in which the proposed subdivision is located.

§ 410-105. Environmental assessment.

Before adopting any proposed amendment to this chapter, the City Council shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review Act^{EN} and may determine that an environmental impact statement on such amendment shall be prepared.

ARTICLE XVI, Miscellaneous Provisions

§ 410-106. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare and, more particularly, for the purposes set forth in Article I. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties, or any lawfully adopted rules, regulations or ordinances; provided, however, that when this chapter imposes a greater restriction on the use of land or buildings, or on the height of buildings, or requires larger open spaces, or makes other greater requirements than are imposed or required by any other ordinance, rule or regulation, or by easements, covenants or agreements, the provisions of this chapter shall control.

§ 410-107. Fees.

For the purpose of defraying administrative and other costs involved in review of applications and appeals, fees as set from time to time by the City Council for permits and applications shall be required, in addition to any and all other fees required by any other section of this or any other ordinance, local law or regulation of the City (See Exhibit J).

§ 410-108. Short title.

This chapter shall be known as, and may be cited as, the "Zoning Ordinance of the City of Binghamton."

§ 410-109. Repeal.

This chapter shall repeal the ordinance entitled, "Zoning Ordinance of the City of Binghamton," duly adopted by Binghamton City Council on April 6, 1987, and as subsequently amended.