

**AN ORDINANCE AMENDING CHAPTER 24 ENTITLED "BUILDING CODE"  
OF THE CITY OF ELMHURST MUNICIPAL CODE ADOPTING  
"IMPERVIOUS SURFACE REGULATIONS FOR RESIDENTIALLY ZONED PROPERTIES"**

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**WHEREAS**, the City of Elmhurst ("City") is a home rule unit of local government under the provisions of Article VII, Section 6 of the Illinois Constitution; and

**WHEREAS**, pursuant to Section 11-109-1 of the Illinois Municipal Code (65 ILCS 5/11-109-1), the City may regulate the use of culverts, drains and sewers located within the City; and

**WHEREAS**, pursuant to Section 11-30-2 of the Illinois Municipal Code (65 ILCS 5/11-30-2), for purposes of lessening or avoiding the hazards to persons and damage to property resulting from flooding, the City may prescribe rules and regulations for the construction and alteration of buildings and structures and parts and appurtenances thereof; and

**WHEREAS**, the City has adopted Chapter 24 of the City of Elmhurst Municipal Code entitled "Building Code" with the purpose stated in Section 24.20 "to provide minimum standards to safeguard life, limb, health, property and public welfare by regulating and controlling the design, construction, quality of material, use and occupancy, location and maintenance of all buildings and structures within the City and certain equipment specifically regulated herein;" and

**WHEREAS**, the City has not previously adopted any ordinances regulating the amount of impervious surface on a residential lot in the City; and

**WHEREAS**, the City retained Christopher B. Burke Engineering, Ltd. ("CBBEL") to perform an analysis of the City's current stormwater practices and to prepare a Comprehensive Flood

Plan to recommend modifications to current stormwater practices required by the City to improve the performance of the City's stormwater collection system and to lessen or avoid the hazards to persons and damage to property resulting from flooding in the City; and

**WHEREAS**, the Comprehensive Flood Plan prepared by CBBEL recommended certain revisions be made to the Elmhurst Municipal Code (1) specify a maximum percentage of allowable impervious area that may exist per lot located in the City; and (2) remove the requirement presently contained in the Elmhurst Municipal Code of directly connecting sump pumps and downspouts to the City's stormwater collection system; and

**WHEREAS**, the City's Development Planning and Zoning Committee has conducted public hearings to discuss and consider the recommendations of CBBEL contained in the Comprehensive Flood Plan and to discuss and consider the public comments made in relation thereto; and

**WHEREAS**, after completion of the City's Development Planning and Zoning Committee's public hearings related to the recommendations of CBBEL contained in the Comprehensive Flood Plan and deliberation thereon, the City's Development Planning and Zoning Committee has recommended the City adopt "Impervious Surface Regulations for Residentially Zoned Properties"; and

**WHEREAS**, the City has adopted Chapter 22 of the City of Elmhurst Municipal Code entitled "Zoning Code" which provides regulations as to the maximum lot coverage of permanent structures, (homes, garages, porches, sheds, *et seq.*) on property zoned for residential uses: RE Residential Estate, structures cannot exceed 25% lot coverage; R1, R1A, R2 Single Family Residence Districts and R3 Two-Family Residence District, structures cannot

exceed 30% lot coverage; R4 General Residence District and R5 Specialty Residence District, structures cannot exceed 40% lot coverage; and

**WHEREAS**, the City's regulations in Chapter 22 of the City of Elmhurst Municipal Code as to the maximum lot coverage of permanent structures, however, do not address the impervious surfaces of sidewalks, driveways, patios, sports courts and other impervious lot surfaces; and

**WHEREAS**, the City's "Impervious Surface Regulations for Residentially Zoned Properties" amends Chapter 24 entitled "Building Code" of the Elmhurst Municipal Code to include a new Section in Chapter 24 entitled "Impervious Surface Regulations for Residentially Zoned Properties" that provides as follows:

**"24.10 Impervious Surface Regulations for Residentially Zoned Properties**

**(a) Impervious Surface Definition:**

Impervious surface is land covered that cannot effectively absorb or infiltrate water, including, but, not limited to, non-porous asphalt or asphalt sealants, non-porous concrete, roofing materials, and gravel surfaces used as roadways or parking lots.

**(1) "Impervious surfaces shall also include:**

- (i) Ponds;
- (ii) Wooden or composite planked decks and patios without spacing between the planks and impervious area underneath;
- (iii) Swimming pools, except as other provided for under the definition of "pervious surfaces".

**(2) "Pervious surfaces" shall include:**

- (i) The water surface of swimming pools that are constructed to allow for the storage of a minimum of six (6) inches of water in a rain event;
- (ii) Permeable pavers and other permeable surfaces (*NOTE: Pavers and other surfaces must be installed according to manufacturer's specifications to achieve permeability*);
- (iii) Wooden or composite planked decks and patios with spacing between the planks and permeable area underneath;
- (iv) Planted rooftops ("Green roofs") designed to reduce runoff.

**(3) The determination of whether a surface is impervious or pervious shall be determined by the City's Director of Public Works. Any appeal for the determination**

of the Public Works Director shall be made to the Architectural and Building Commission within thirty (30) days of the date of determination

**(b) Impervious Surface Regulations for Residentially Zoned Properties:**

- (1) Lots up to nine thousand (9,000) square feet would be allowed up to 60% impervious surface.
- (2) Lots up to nine thousand (9,000) and twelve thousand (12,000) square feet would be allowed up to 55% impervious surface.
- (3) Lots greater than twelve thousand (12,000) square feet would be allowed up to 50% impervious surface.
- (4) Exception: Lots may exceed maximum impervious coverage by ten (10) percentage points above permitted maximum by providing a City approved stormwater management system that includes 1.5 times the required storage volume for the percentage points above the permitted maximum (e.g., a lot below 9,000 square feet may increase impervious lot coverage to 70% with a city approved stormwater management system that provides 1.5 times the required storage volume for the ten (10) percentage points above the 60% permitted maximum). Lots may exceed maximum impervious coverage by twenty (20) percentage points above permitted maximum for the first ten (10) percentage points above the permitted maximum and two (2) times the required storage volume for the percentage points above ten (10). Stormwater management required storage volume shall be in accordance to the "New Single Family Home Stormwater Management Ordinance". Any variation to the above stated requirements shall be decided by the City Council after a recommendation by the Architectural and Building Commission to the City Council."

**WHEREAS**, it is advisable, necessary, and in the best interest of the City to amend Chapter 24 of the Elmhurst Municipal Code by adopting the "Impervious Surface Regulations for Residentially Zoned Properties" as a new Section of Chapter 24, Section 24.10; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, as follows:

**Section 1:** The statements contained in the preamble hereto are found to be true and correct and are hereby incorporated as part of this Ordinance.

**Section 2:** That Chapter 24 entitled "Building Code" of the Elmhurst Municipal Code is amended as follows:

By adding Section 24.10 entitled "Impervious Surface Regulations for Residentially

Zoned Properties" to read as follows:

**"24.10 Impervious Surface Regulations for Residentially Zoned Properties**

**(a) Impervious Surface Definition:**

Impervious surface is land covered that cannot effectively absorb or infiltrate water, including, but, not limited to, non-porous asphalt or asphalt sealants, non-porous concrete, roofing materials, and gravel surfaces used as roadways or parking lots.

**(1) "Impervious surfaces shall also include:**

- (i)** Ponds;
- (ii)** Wooden or composite planked decks and patios without spacing between the planks and impervious area underneath;
- (iii)** Swimming pools, except as other provided for under the definition of "pervious surfaces".

**(2) "Pervious surfaces" shall include:**

- (i)** The water surface of swimming pools that are constructed to allow for the storage of a minimum of six (6) inches of water in a rain event;
- (ii)** Permeable pavers and other permeable surfaces (*NOTE: Pavers and other surfaces must be installed according to manufacturer's specifications to achieve permeability*);
- (iii)** Wooden or composite planked decks and patios with spacing between the planks and permeable area underneath;
- (iv)** Planted rooftops ("Green roofs") designed to reduce runoff.

**(3) The determination of whether a surface is impervious or pervious shall be determined by the City's Director of Public Works. Any appeal for the determination of the Public Works Director shall be made to the Architectural and Building Commission within thirty (30) days of the date of determination**

**(b) Impervious Surface Regulations for Residentially Zoned Properties:**

- (1)** Lots up to nine thousand (9,000) square feet would be allowed up to 60% impervious surface.
- (2)** Lots up to nine thousand (9,000) and twelve thousand (12,000) square feet would be allowed up to 55% impervious surface.
- (3)** Lots greater than twelve thousand (12,000) square feet would be allowed up to 50% impervious surface.
- (4)** Exception: Lots may exceed maximum impervious coverage by ten (10) percentage points above permitted maximum by providing a City approved stormwater management system that includes 1.5 times the required storage volume for the percentage points above the permitted maximum (e.g., a lot below 9,000 square feet may increase impervious lot coverage to 70% with a city approved stormwater management system that provides 1.5 times the required storage volume for the ten (10) percentage points above the 60% permitted maximum). Lots may exceed

maximum impervious coverage by twenty (20) percentage points above permitted maximum for the first ten (10) percentage points above the permitted maximum and two (2) times the required storage volume for the percentage points above ten (10). Stormwater management required storage volume shall be in accordance to the "New Single Family Home Stormwater Management Ordinance". Any variation to the above stated requirements shall be decided by the City Council after a recommendation by the Architectural and Building Commission to the City Council."

**Section 3:** All ordinances or parts of ordinances in conflict with this Ordinance are hereby amended to the extent of the conflict.

**ADOPTED** this 20<sup>th</sup> day of October, 2014, pursuant to a roll call vote as follows:

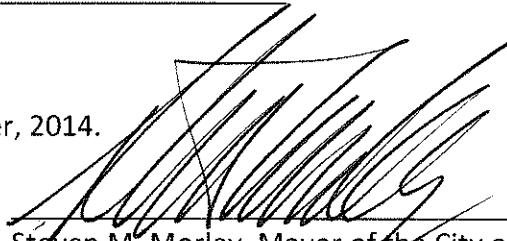
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**NAYS:** 0

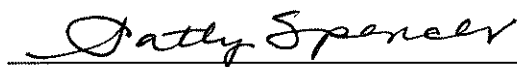
**ABSENT:** 1

**ABSTENTION:** \_\_\_\_\_

**APPROVED** by me this 20<sup>th</sup> day of October, 2014.

  
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Steven M. Morley, Mayor of the City of  
Elmhurst, DuPage and Cook Counties, Illinois

**ATTESTED** and filed in my office,  
this 20<sup>th</sup> day of October, 2014.

  
\_\_\_\_\_  
Patty Spencer, Clerk of the City of Elmhurst,  
DuPage and Cook Counties, Illinois

## **COUNCIL ACTION SUMMARY**

**SUBJECT:** An Ordinance Amending Chapter 24 Entitled "Building Code" of the City of Elmhurst Municipal Code Adopting "Impervious Surface Regulations for Residentially Zoned Properties"

**ORIGINATOR:** City Attorney

### **DESCRIPTION OF SUBJECT MATTER:**

Pursuant to the recommendation of the Development Planning and Zoning Committee, the City Attorney prepared an ordinance amending Chapter 24 of the Elmhurst Municipal Code adopting the "Impervious Surface Regulations for Residentially Zoned Properties" as Section 24.10 of Chapter 24, "Building Code," of the City of Elmhurst Municipal Code.