

City Council
COMMITTEE OF THE WHOLE
City of Belvidere, Illinois

Alderman Clayton Stevens,	1 st Ward	Public Works Vice Chairman
Alderman Tom Porter,	1 st Ward	Finance & Personnel Vice Chairman; City-County
Alderman Daniel Snow,	2 nd Ward	BPZ Chairman; City- County Co-Chairman
Alderman Michael Borowicz,	2 nd Ward	Public Safety Vice Chairman; City-County
Alderman Wendy Frank,	3 rd Ward	City County Coordinating - Vice Co Chairman
Alderman Thomas Ratcliffe	3 rd Ward	Finance and Personnel Chairman
Alderman Ronald Brooks,	4 th Ward	Public Works Chairman
Alderman George Crawford	4 th Ward	Public Safety Chairman
Alderman Mark Sanderson,	5 th Ward	BPZ Vice Chairman
Alderman Marsha Freeman	5 th Ward	City-County Coordinating Committee

AGENDA

May 22, 2017

6:00 p.m.

**City Council Chambers
401 Whitney Boulevard
Belvidere, Illinois**

Call to Order – Mayor Mike Chamberlain:

Roll Call: Present: Absent:

Public Comment:

Public Forum:

Reports of Officers, Boards, and Special Committees:

1. Public Safety, Unfinished Business: None.
2. Public Safety, New Business:
 - (A) Police – Vacation/Holiday Carry Over.
 - (B) Police – COPS Grant Application.
 - (C) Police – Ordinance Amending Section 110-577 of the City of Belvidere Municipal Code.

- (D) Fire – Vacation Carry Over.
- (E) Fire – ISO Report (Insurance Services Office Inc.)
- (F) Fire Department Annual Report.

3. Finance & Personnel, Unfinished Business: None.

4. Finance & Personnel, New Business: None.

5. Other:

- (A) Business Registration – update.

- (B) Sec. 98-12 Private use of streets and sidewalks.

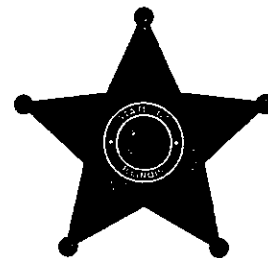
6. Adjournment:

Belvidere Police Department

Jan W. Noble - Chief of Police

Shane Woody - Deputy Chief, Operations

Matthew Wallace - Deputy Chief, Administration



615 N. Main Street • Belvidere, IL 61008 • Phone 815-544-9626 • Fax 815-544-9603 • www.ci.belvidere.il.us

TO: Mayor Chamberlain and City Council

FROM: Chief Jan W. Noble

A handwritten signature in black ink, appearing to read "JWN".

DATE: May 4, 2017

RE: Vacation/Holiday Time Carry-Over

Some of our officers have vacation/holiday time remaining that they were unable to use, for various reasons, during this fiscal year. I am, therefore, requesting that they be allowed to carry over their remaining hours and use this time during FY 18.

<u>Name</u>	<u>Hours</u>	<u>Reason</u>
Deputy Chief Wallace	32.5	Unable to take vacation time due to 10-Week School of Police Staff & Command Training & Operational Demands
Officer Dan Sommerfield	38.0	Workers Comp Injury on 12/5/16

The following officers were hired within the past year. They attended the 12-week Basic Law Enforcement training followed by the BPD Field Training Program. During Field Training, officers are expected to work their assigned shifts. This requirement, along with low shift strength, prevented them from using the holiday hours that they received.

<u>Name</u>	<u>Hours</u>	
Officer Chris Garcia	27.5	
Officer Matthew Korn	84.0	
Officer Mark Weiland	84.0	
Officer Cameron Worley	24.0	
Officer Joe Danielak	12.0	Currently Attending SLEA Basic Training

Motion: To authorize Deputy Chief Wallace, Officer Sommerfield, Officer Garcia, Officer Korn, Officer Weiland, Officer Worley and Officer Danielak to carry over their unused vacation/holiday time, as shown above, from FY 17 and use it in FY 18.

JWN/sd

Rebecca Tobin

From: Jan Noble <noble@belviderepolice.com>
Sent: Friday, May 12, 2017 10:28 AM
To: Mayor Mike Chamberlain
Cc: Becky Tobin
Subject: FW: 2017 COPS Office Grant Program Solicitations - COMING SOON!

As per my voice mail.

From: Office of Community Oriented Policing Services (COPS) [mailto:copsusdoj@service.govdelivery.com]
Sent: Thursday, May 11, 2017 8:02 AM
To: Jan Noble <noble@belviderepolice.com>
Subject: RE: 2017 COPS Office Grant Program Solicitations - COMING SOON!



U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
145 N Street, NE, Washington, D.C. 20530

COPS

May 11, 2017

RE: 2017 COPS Office Grant Program Solicitations - COMING SOON!

Dear Colleague:

Last week, President Trump signed legislation which includes funding for a number of COPS Office grant programs in FY 2017. As a result, I am pleased to announce that **we anticipate opening and accepting applications for Fiscal Year (FY) 2017 COPS Office grant programs in the near future.** Please find brief descriptions of our FY 2017 programs below.

- **COPS Hiring Program (CHP)**
CHP is a competitive grant program that funds the hiring of full-time, sworn, career law enforcement officers. CHP provides 75 percent of the approved entry-level salaries and fringe benefits of each full-time officer, up to \$125,000 per officer position, over the three year (36 month) grant period. State, local, and tribal law enforcement agencies that have primary law enforcement authority are eligible to apply.
- **Community Policing Development (CPD)**
CPD is a competitive grant program that enhances the practice of community policing in law enforcement agencies and helps to reduce crime and enhance public safety in communities through

training and technical assistance, development of innovative community policing strategies, applied research, guidebooks, and best practices that are national in scope. State, local, tribal law enforcement, public governmental agencies, nonprofit institutions, universities, community groups, and faith-based organizations are eligible to apply for CPD funding.

- **COPS Anti-Methamphetamine Program (CAMP)**

CAMP is a competitive grant program that advances public safety by providing funds to investigate illicit activities related to the manufacture and distribution of methamphetamine. Only state-level law enforcement agencies are eligible to apply; however, local law enforcement agencies are encouraged to partner with them on CAMP-funded projects.

- **COPS Anti-Heroin Task Force (AHTF)**

AHTF is a competitive grant program that assists state law enforcement agencies in states with high per capita levels of primary treatment admissions for both heroin and other opioids. AHTF funds shall be used for investigative purposes to locate or investigate illicit activities related to the distribution of heroin or unlawful distribution of prescription opioids. Only state-level law enforcement agencies are eligible to apply; however, local law enforcement agencies are encouraged to partner with them on AHTF-funded projects.

To assist applicants in preparing for the FY 2017 application process, please review the "[Preparing Your Application](#)" document found on our website. This document provides helpful information on steps your agency can take now to ensure a smooth application process and minimize the chance of problems or delays. Please note that all applications will be accepted electronically via a two-step process through Grants.gov and the COPS Office Agency Portal.

Detailed instructions about how to apply for all available programs will be placed on the [COPS Office website](#) soon, along with information about application submission deadlines and other important details, so please check the website regularly for updates.

Thank you for your time and cooperation as we prepare for the FY 2017 COPS Office program solicitation openings. If you have questions about completing a FY 2017 COPS grant application, please contact the COPS Office Response Center at 1.800.421.6770.

Sincerely,

A handwritten signature in black ink, appearing to read 'R Washington'.

Russell Washington
Acting Director

NOTE: New Application Requirement

The COPS Office's FY 2017 grant applications will contain a new certification requirement that must be completed by the applicant's chief legal officer IF (a) your agency is a state or local government entity (e.g., police or sheriff's department) or (b) your agency is a Tribal, non-profit, private, or other non-State or local entity and you will use funds to make subawards to a State or local government entity. The "chief legal officer" must be that of (a) your state or local governing body (e.g., City or County Attorney) or (b) of the entity that is applying for funds and will make subawards to a State or local government entity (e.g., General Counsel for a non-profit organization that will make subawards to a City or County).

To prepare for submitting your FY 2017 application, the following steps are required to ensure your chief legal officer can e-sign the required certification:

1. Set up a new user in Agency Portal. Establish accounts for the law enforcement executive (LE), government executive (GE), and chief legal officer (CLO); or for Community Policing Development (CPD) awards, the program official (PO), financial official (FO), and chief legal officer (CLO).
2. Set up an e-signature in Agency Portal. Establish an electronic signature for all officials (LE/PO, GE/FO, and CLO). This is critical as it enables your agency to sign important documents in the application process.

ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POL



You have received this e-mail because you have asked to be notified of changes to the **Department of Justice's Office of Community Oriented Policing Services (COPS)** website. Update your subscriptions, modify your password or e-mail address, or stop subscriptions at any time on your [Subscriber Preferences Page](#). You will need to use your e-mail address to log in. If you have questions or problems with the subscription service, please contact subscriberhelp.govdelivery.com. If you have questions about the DOJ Office of Community Oriented Policing Services site, please contact tellcops@usdoj.gov.

ORDINANCE #
AN ORDINANCE AMENDING SECTION 110-577,
OF THE CITY OF BELVIDERE MUNICIPAL CODE

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Belvidere as follows:

SECTION 1: Section 110-577 of the City of Belvidere Municipal Code is amended to read as follows:

Sec. 110-577. - Notice required.

- (a) At the time the vehicle is towed, the police officer shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person found to be in control of the vehicle at the time of the alleged offence of the fact of the seizure, that the impounded vehicle is subject to a \$300.00 administrative fee under this article in addition to any costs imposed by the private towing company and in addition to any other fines or penalties assessed for the underlying violation. That individual shall also be informed of their right to contest this fee at a preliminary hearing and at an administrative hearing and the procedures for requesting such hearing. At the time the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person found to be in control of the vehicle requests a preliminary hearing that date and time will be provided by the authority handling the administrative tow process.
- (b) In addition, all interested parties of record, including the registered owner and lienholders of record shall be mailed a notice by first class mail that the vehicle has been impounded pursuant to this Article and is subject to a \$300.00 administrative fee, in addition to any costs imposed by the private tow company. This notice shall be sent via first class mail to the registered owner, lessee and any lienholder of record at the address as registered with the Illinois Secretary of State, and shall contain the date, time and location of the Administrative Hearing. An Administrative Hearing shall be scheduled and convened no later than 45 days after the date of the mailing of the notice of hearing. Notice of the impoundment and of the Initial Hearing shall also be mailed by first class mail to any interested party, including the owners, lessees and lienholder of record within ten (10) days of the impoundment.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law which publication is hereby authorized.

Voting Aye: .

Voting Nay: .



**BELVIDERE
FIRE
DEPARTMENT**

123 S. State St.
Belvidere, IL 61008

Fire Chief and Administration Offices
(815)544-2242
Fax (815)544-2278

Memo...

From:	Chief Hyser	Today's Date:	April 26, 2017
To:	Shauna Arco	Effective Date:	May 22, 2017
Subject:	Agenda Items		

Item #1 – Carry over vacation time

C Shift has been short one FF since Shoefflin left on 1/29/17 which has only left one opening per day for vacation opportunities. As a result there were not enough C Shift openings available to complete all the outstanding vacation time in this fiscal year. The following personnel have time that will need to be carried over into fiscal year 2018:

Cunningham - 12 hours (1/2 shift)
Tangye - 24 hours (1 shift)
Herman - 72 hours (3 shifts) just earned on 4/11/17

Chief Al Hyser

Chapter 74 Offenses

Article IX Criminal Nuisance Abatement

74-300 Findings of the City Council.

The City Council hereby finds as follows:

- (1) The repeated commission of criminal offenses substantially annoys and injures the health, comfort, repose and safety of the public.
- (2) The failure of owners of certain real property to control the activity occurring on their property causes repeated and substantial expenditures of public funds in order to enforce state, federal and city laws upon or near their property
- (3) The decline in or depression of surrounding property values and the expenditures of public funds results in part from the fact that certain property owners fail to adequately manage and control their property.

74-301 Definitions.

Knowingly or *Knew* means that which a person knows or knew, allowed or a similarly situated reasonable person should know or should have known of a fact or activity.

Public Nuisance or *Nuisance Activities* means any activity defined as a nuisance in section 5/37-1 of the Criminal Code of 2012 or Section 1 of the Illinois Lewdness Public Nuisance Act (740 ILCS 105/0.01 et seq.).

Person means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying, or using property.

Person in charge means any person, in actual or constructive possession of a property, including, but not limited to, an owner, a property manager, a tenant or other occupant of property under his or her ownership or control.

Property or *Premises* means any real property, including land and that which is affixed, incidental, or appurtenant to land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit, or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the separate and distinct portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property, including, without limitation, other structures erected on the property and areas used for parking, loading, and landscaping.

Owner means any person who owns property either in fee simple, as a beneficiary of a trust, has an interest in Property under a land or property contract or any other form of legal ownership or interest recognized under the laws of the State of Illinois.

Sec. 74-302. – Public Nuisance Prohibited.

It shall be unlawful for any person to maintain any Public Nuisance on any Property within the City or on any Property subject to the jurisdiction of the City.

Sec.74-303. – Violations / Fine / Remedies.

- (a) A person who knowingly maintains or allows a Public Nuisance on any Premises commits a petty offense and shall be fined not less than \$200.00 and not more than \$1,000.00 plus court costs and attorney’s fees per offense with each day that the Public Nuisance occurs or continues constituting a separate offense.
- (b) All licenses, permits or certificates issued by the City, or any Department thereof, including, but not limited to, business registrations, liquor licenses, and gaming licenses, shall be void and immediately revoked for any premises found to constitute a Public Nuisance or upon which a Public Nuisance is found to have been maintained. Any permit or license so revoked shall not be reissued for the premises for a period of sixty (60) days. Further, any person found, or having pled guilty, of maintaining a Public Nuisance shall be ineligible for any such permit or license for one (1) year following a finding or plea of guilty.

Sec. 74-304. – Abatement of Public Nuisance - In Rem.

Upon the filing of a verified complaint or affidavits or other sworn evidence that an alleged Public Nuisance exists, the court shall, without notice or bond required, enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such Public Nuisance and shall enter an order restraining any defendant from removing or interfering with all Property and personal property used in connection with the Public Nuisance. If the proceeding on the merits establishes the existence of the Public Nuisance, the court shall enter any order restraining all persons from maintaining or permitting such Public Nuisance. Further, if the court finds that the Public Nuisance was knowingly maintained or permitted by an Owner of the Property, it shall enter an order restraining any person from using the Property or any structure on the Property for a period of one (1) year without specific leave of court for a specific use or uses, which shall only be granted if the Owner of the Property provides a bond or other surety acceptable to the court in an amount of not less than \$5,000.00. Conditions of the bond shall include, but are not limited to, (i) no Public Nuisance shall be permitted on the Property and (ii) the City shall be permitted to inspect the Property without warrant to ensure compliance with the bond. If a subsequent Public Nuisance is established after posting bond, such bond shall be forfeited to the City of Belvidere, the permission for the use of the Property revoked and the original injunction reinstated , in addition to any new actions brought under this Article.

Sec. 74-305. – Burden of Proof.

The City's burden of proof shall be that of all ordinance violations, a preponderance of the evidence.

Sec. 74-306. – Service.

- (a) For purposes of section 74-303, service may be had by any means established by the laws of the State of Illinois, including but not limited to Section 1-2-9.1 of the Illinois Municipal Code. In addition, for purposes of Section 74-304, service may also be had as set forth in Sections 2-206 and 2-413 of the Illinois Code of Civil Procedure if personal service is not otherwise possible or if Persons in Charge of the Property complained of are not ascertainable after diligent inquiry.
- (b) For purposes of serving injunctive relief ordered by the court, temporary, preliminary or otherwise, posting a copy of the order entered at the Property shall be sufficient actual notice to all persons of the Court's order.

Sec. 74-307. Evidence of Other Proceedings.

A plea of guilty or finding of guilty in a criminal action, directly related to the Public Nuisance complained of respecting a Property, shall be sufficient evidence to support the existence of the Public Nuisance on the Property. However, a dismissal of the criminal charges, or a finding of not guilty shall not, in and of itself, be evidence that the Public Nuisance did not or does not exist as the burden of proof under this Article is less than that under the Illinois Criminal Code.

Sec. 74-308. - Retaliation prohibited.

It shall be unlawful for an owner to terminate the lease agreement of a tenant or otherwise retaliate against any tenant because that tenant complained or otherwise notified the police department about nuisance activities at the owner's premises. Such eviction, attempted eviction or other retaliation shall be enforceable as a violation of this article.

Z:\Legal\Police Misc\Nuisance Abatement.docx

Article III. General Business Registration License

Sec. 26-76. Purpose.

Each Business establishment located within the City is an integral part of, and affects, the physical and economic development of the City. This Article is intended to keep a current listing of all businesses doing business in the City, aid the Police Department, Fire Department and other departments in their responsibilities and to ensure proper zoning compliance.

Sec. 26-77. Definitions.

Business. The term Business, for purposes of this Article, means any occupation or endeavor resulting in or intending to sell any commodity, whether at wholesale or retail, from a fixed location or from a wagon, van, pack, cart or other vehicle, ~~or the application of skilled labor to the property of any other person by the person conducting such trade or business,~~ or the provision of any service, whether professional or technical, or any other occupation involving the maintenance of any office, store or other facilities within the City, or territory subject to the City's ordinances, except businesses, trades or occupations which have been preempted from municipal regulation. The term Business specifically ~~includes~~ excludes any not for profit organization, or other organization that does not receive compensation for its services or goods.

Person. The term Person, for purposes of this Article, shall include any person, partnership, corporation, association, firm or other association.

Sec. 26-78. Business Registration License Required (BRL).

It shall be unlawful for any Person to operate, conduct or engage in any Business within the City of Belvidere, or any territory subject to its ordinances, without first having obtained a Business Registration License from the City of Belvidere. The Business Registration License shall be specific to a single location within the City. If a Person operates more than one location for the same Business or multiple Businesses, each location must obtain a separate Business Registration License. If one Person operates more than one Business from a single location only one Business Registration License is required. However, if multiple Persons operate legally unrelated Businesses from the same location, each Business must obtain an individual Business Registration License.

Sec. 26-79. Business Registration License Issuance.

The Business Registration License shall be issued by the City Clerk, upon application, on forms provided by the City Clerk. At a minimum, the application shall require the name, address, including home address or outside corporate address of any Person owning or operating the Business, phone number, corporate documents for any corporation (articles of incorporation), EIN number if issued, partnership documents, if applicable. Each partner of a partnership, member of a LLC, member of an unincorporated association or any shareholder of a corporation holding 40% or more of an interest in

the corporation shall be identified with address. The applicant shall also describe the nature of the proposed Business and the type of goods to be offered for sale or services offered. In certain cases, the City may also require a sketch layout of the proposed Business which identifies all areas of the Business including storage areas and the type of materials to be stored.

No fee shall be charged for issuance of a Business Registration License nor is any background check required. However, any other license and/or fee required by another section (eg. bowling allies etc.) must obtain that license permit and pay the applicable fee.

Upon filing of a complete application, the Business Registration License shall be issued unless the Business is prohibited by law or prohibited at the location applied for. Notwithstanding the foregoing, the City shall not be estopped from enforcing any ordinance or law (including its Zoning Ordinance) even if a Business Registration License is issued for an illegal use, non-complying use or location.

The Business Registration License is not transferable and in the event of the sale or transfer of the Business, the sale or transfer of a majority of the stock of any Person owning the Business, or upon the sale or transfer of the majority of the assets of the Business (including good will), a new Business Registration License must be obtained within ten (10) days of the sale or transfer by the Person then owning or operating the Business.

The BRL shall be prominently displayed at the location for which it is issued. The issuance of a BRL shall not relieve the Person or Business, to whom it is issued, from complying with any other relevant ordinance or statute, including but not limited to the City of Belvidere Zoning Ordinance. Issuance of the BRL does not guarantee compliance with such other laws and ordinances and it is the responsibility of the Person or Business to whom the BRL is issued to ensure compliance with such laws and ordinances.

Sec. 26-80. Term of License.

Each Business Registration License shall expire on April 30th of each year. Each Business must apply for a new license or a renewal of an existing license prior to April 15th of each year. The City Clerk need not send renewal notices or reminders. It is the responsibility of each Business to comply with the terms of this Article. If an existing Business moves to a new location, it must apply for a new Business Registration License for the new location.

Sec. 26-81. Suspension or Revocation of a Business Registration License.

- (a) The Mayor (or his designee) of the City, after a hearing, may suspend or revoke any Business Registration License for any of the following reasons:
 - 1) The making of any false or misleading statement on the application for the Business Registration License.
 - 2) Use of the Business or the premises on which the Business is located for any purpose in violation of the Criminal Code of the State of Illinois (720 ILCS 5/1-1 et seq.) with the knowledge or consent of the Business, any principal of the Business, any employee of the

Business or the owner of the property at which the Business is located. For purposes of this section, a Person shall be deemed to have knowingly allowed a criminal use of the Business or location if a similarly situated reasonable person would have suspected the existence of criminal activity.

- (b) Upon credible evidence of a violation identified in Sec. 26-81(e) the Mayor (or his designee) may temporarily close (for a period of not more than thirty (30) days), without a hearing or notice, any Business pending a hearing on whether a Business Registration License should be revoked or suspended. If after a hearing, the Mayor (or his designee) finds sufficient evidence of a violation as identified in Sec. 26-81, the Business Registration License may be suspended or revoked.
- (c) Suspension of a Business Registration License shall begin immediately upon the ruling of the Mayor (or his designee) and shall be for a term of not more than thirty (30) days after the reason for the suspension is cured.
- (d) A Person or Business whose Business Registration License has been revoked may not apply for a new Business Registration License for a period of six (6) months which term shall not begin until after the reason for the revocation is cured.
- (e) A Person or Business whose Business Registration License is revoked based upon a violation of Sec. 26-81(4) shall be ineligible for any future Business Registration License where the violation constituted a violation of: child pornography (720 ILCS 5/11-20.1), the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), the Methamphetamine Control and Community Protection Act (720 ILCS 646/1 et seq.), the Sale of Immoral Publications to Children Act (720 ILCS 670/0.01 et seq.), or Prostitution Offenses, Subdivision 15 of Article 11 of the Criminal Code of 2012 (720 ILCS 5/11-14 et seq.).
- (f) No Business Registration License shall be issued for any Business at a location, for a period of six (6) months where two or more Business Registration License's for the same location have been revoked in the previous two (2) years.
- (g) The penalties contained herein are in addition to and not exclusive of any other remedy the City or the State of Illinois may have for an underlying violation of local ordinance, County ordinance or State law.

Sec. 26-82. Hearing.

- (a) Any Person whose Business Registration License is subject to revocation or suspension is entitled to a hearing before the Mayor (or his designee). Upon a complaint of a violation identified in Section 26-81, the City shall provide Notice of Hearing, to any Person owning the Business identified on the application for a Business Registration License or any renewal application, of a hearing to consider the suspension or revocation of the Business Registration License. The Notice of Hearing shall be served by first class mail addressed to the Person(s) identified as the Owner(s) on the application. Service on any Person identified as an Owner on the Business Registration License Application shall be sufficient notice on the entire Business

and all Owners. Proof of mailing, in the United States mail, postage pre-paid, is sufficient evidence of service and service shall be deemed effective the date of mailing.

- (b) The Hearing shall be initiated not less than five (5) days, nor more than thirty (30) days, from the time a Notice of Hearing is served. The Hearing shall not be conducted under the formal rules of evidence and the Mayor (or his designee) may consider any evidence which a reasonable person would find relevant, including but not limited to, hearsay evidence. The Business, any Person owning the Business or their representative may cross examine any witness presented by the complainant or the City and may introduce any relevant information within the sound discretion of the Mayor (or his designee). Any party to the Hearing may request a reasonable continuance to obtain additional evidence or obtain counsel. However, any temporary suspension then in effect shall continue regardless of the time frame set forth in section 26-81(b).
- (c) The burden of proof necessary to find against a Person or Business shall be a preponderance of the evidence and the burden shall lie on the complainant or City. In the event the Person or Business is found guilty or pleads guilty in Circuit Court of a violation contained in Sec. 26-81, it shall be presumed that the City or complainant has met their burden of proof for the infraction for purposes of this Article.
- (d) The Mayor (or his designee) shall enter a written order, upon the conclusion of the Hearing, either revoking or suspending or finding insufficient reason to revoke or suspend the Business Registration License. In making the decision, the Mayor (or his designee) may consider whether the reasons articulated and presented for revocation or suspension have been cured and a finding that there is no reason to further suspend or revoke a Business Registration License is not necessarily a finding that a violation identified in Section 26-81 did not occur. The Mayor (or his designee) shall serve a copy of the decision either personally or by first class mail addressed to any Person identified on the Application or renewal application.
- (e) In the event of any revocation or suspension (including one that is ultimately overturned by a court of competent jurisdiction) neither the City, nor its officers, elected officials, appointed officials, employees or independent contractors shall be liable for any damages incurred by any Person or the Business unless a Court finds that the revocation or suspension was issued in wanton or willful disregard of this Article.
- (f) Any Business or Person may appeal a decision of the Mayor (or his designee) pursuant to the Administrative Review Law.
- (g) The Mayor may appoint any employee, officer or official of the City, or an Administrative Hearing Officer to conduct the Hearing and render applicable decisions.

Sec. 26-83. Penalties.

- (a) Any Person who operates any Business within the City of Belvidere, or any territory subject to its ordinances, without a valid Business Registration License shall be fined not less than \$100.00 plus court costs per offense with each day, or part thereof, that a violation exists or continues shall be deemed a separate offense. Prior to assessment of any fine, the City shall provide a Business or Person a warning that failure to obtain or renew a Business Registration License may result in fines under this Article. If the Business or Person renews or obtains the Business

Registration License within fifteen (15) days of the giving of the warning, no fines shall be assessed.

- (b) Any Person who operates any Business during a period of suspension of the Business Registration License, or after revocation of the Business Registration License shall be fined not less than \$500.00 plus court costs per offense with each day, or part thereof, that a violation exists or continues to exist shall be deemed a separate offense.
- (c) The Court may, in addition to any other remedy, including the fines above, may order injunctive relief prohibiting operation of any Business in violation of this Article and may enforce such injunctive relief through contempt proceedings.
- (d) The City may, if an Administrative Hearing Officer is approved by the City Council, refer prosecutions of operation of a Business without a Business Registration License, or with a suspended or revoked Business Registration License, to administrative adjudication in lieu of a proceeding before the Circuit Court.

Sec. 98-12. - Private use of streets and sidewalks.

- (a) Except as provided herein, it shall be unlawful for any person to use any street, sidewalk or other public place, as space for the display of goods or merchandise for sale, or to write or mark any signs or advertisements on any such pavements. It is also unlawful to block or obstruct any portion of any street or sidewalk or other public place except as set forth herein or as permitted by this Code.
- (3) *Sidewalk cafes.* A sidewalk cafe is an outdoor area located on the sidewalk portion of the public right-of-way and which is maintained and operated by an establishment, coffeehouse, teashop or restaurant for purposes of providing seating for patrons for the consumption of food or nonalcoholic beverages. Sidewalk cafes shall be permitted in the CB zoning district only after receiving a permit as set forth herein and pursuant to the terms of this section and the issued permit. Sidewalk cafes may also subject to regulation by other portions of this Code, including but not limited to the zoning ordinance (chapter 150) and may be prohibited in certain areas where prohibited by other sections of this Code. The following regulations shall apply to sidewalk cafes in the CB zoning district:
- a. Applicants for sidewalk cafe permits shall submit ~~on the appropriate forms~~ an application to the city clerk. Each application shall state: Name and address of applicant, permit and space desired, period of time, hours of operation, a description or photo of any cart, booth, structure, table, chairs or other equipment and an operations plan including a drawing to scale of their location, all screening, plantings, amenities, entrances and exits and tables as well as and any electrical or other services desired. All applications must be accompanied by proof of issuance of all necessary building, health or other required permits or licenses.
 - b. The Sidewalk Café and all carts or booths and other structures or equipment shall conform to the following requirements and restrictions:
 1. Meet all applicable city, state and federal regulations.
 2. Benefit the public or enhance the ambiance of the downtown.
 3. Be maintained in a high-quality state of repair.
 4. *Size requirements.* Activities shall not extend more than half the width of the sidewalk, and must not block or impede pedestrian traffic along the sidewalk, or ingress and egress to the business it fronts, or neighboring businesses. A sidewalk cafe may not extend beyond the width of the face of the business it fronts. A minimum pedestrian width of ~~four~~ six feet shall be maintained at all times.
 5. The city reserves the right to deny any request for a sidewalk cafe permit if it reasonably determines that there is insufficient sidewalk space to accommodate the request either due to the actual width of the sidewalk, volume of pedestrian traffic in the area, or the condition of the sidewalk.
 6. All sidewalk cafes shall meet the Sidewalk Cafe design guidelines which were adopted contemporaneously with this section in Ordinance Number 983G.
 7. Sidewalk Cafes shall be temporary in nature capable of being disassembled and securely stored on the premises of the establishment operating the cafe within ten minutes.
 - c. Sidewalk Cafes shall be manned by a minimum of one responsible individual over the age of 18 at all times. The individual may also be employed within the establishment but shall also maintain vigilant supervision over the Sidewalk Cafe.
 - d. Sidewalk Cafes must be an extension of the existing business fronting the sidewalk space they are occupying.

- e. During the course of business, no call out, cry, or by use of any device make any noise to call attention to the sale of any goods, wares, merchandise or service whatsoever, or in any manner obstruct or interfere with the orderly flow of pedestrian traffic. No music or other noisy distractions shall be allowed.
- f. Sidewalk Cafe operators must provide adequate garbage cans for disposal of any trash, and must maintain the area within and in proximity to any cart, structure or location in a neat, clean and hazard-free condition.
- g. An establishment operating a Sidewalk Cafe shall supply the city with a certificate of insurance, reasonably acceptable to the city with policy limits of not less than \$1,000,000.0 per occurrence \$2,000,000.00 aggregate, covering the activity of the operator and/or applicant. The certificate of insurance shall name the City as an additional insured and shall be primary to any insurance carried by the City. The operator of a Sidewalk Café shall indemnify, defend and hold harmless the city, its officers, officials and employees from and against any and all loss, cost, damages or expenses to persons or property, including property of the City, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the city, any such claims or suits, provided that the city may, in its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations.
- h. Sidewalk Cafes must comply with all existing restrictions of the county health department.
- i. Sidewalk Cafe operators shall cooperate with inspection of the premises, goods, or articles at any reasonable hour by the authorized agent, officer or employee of the City or its designate.
- j. Sidewalk Cafes must ascertain and at all times comply with all laws, ordinances and regulations, and all state statutes, applicable to such permitted business or premises, including but not limited to all building, zoning, fire, health and labor regulations.
- k. Sidewalk Cafes must post and maintain any and all permits delivered for use in a conspicuous place.
- l. Sidewalk Cafes may operate between the hours of 7:00 a.m. and 8:00 p.m. daily. Vendor permits shall be valid for the period of April 1, through November 1 annually and must be re-applied for each year.
- m. Sidewalk cafe operators shall remove any cart, booth, structure, furniture or equipment from the sidewalk area at the close of business for the day. No cart, booth, structure, furniture or equipment shall be permitted to remain on the public sidewalk overnight. All carts, booths, structures, furniture or equipment shall be of a type and maintained so as to enhance the aesthetic and overall appearance of the downtown. The city reserves the right to determine the acceptability of carts, booths, structures, furniture or equipment for use on public sidewalks.
- n. Sidewalk café operators shall not serve alcoholic beverages unless the underlying establishment has appropriate valid liquor licenses issued by the State of Illinois and the City allowing consumption of alcohol on premises and have received specific authority to serve alcoholic beverages as a part of their Sidewalk Café permit. When applying for a Sidewalk Café Permit the applicant shall specifically state whether they are seeking permission to serve alcoholic beverages. The following regulations, in addition to all other requirements, shall apply to all Sidewalk Cafés serving alcohol:
 1. The applicant shall provide proof of liquor liability (dram shop) insurance with the application for a Sidewalk Café Permit with the request to serve alcohol.
 2. The Sidewalk Café Permittee has an affirmative duty to prohibit any patron from leaving the Sidewalk Café premises with any alcoholic liquor, except a package properly sealed, bagged and receipted pursuant to Section 633 of the Illinois Liquor Control Act.

3. Alcohol served or consumed within a Sidewalk Café premises shall only be served or consumed in a plastic cup clearly identifying the retail establishment from which the alcohol was purchased.

4. Bring your own alcohol (BYOB) is not permitted within a Sidewalk Café premises.

5. The City may require, as a condition of allowing a Sidewalk Café, that the retail establishment engage in a beautification program requiring decorative fencing, decorative railings, decorative plantings, flower boxes etc. as a part of the City's objective of fostering aesthetically pleasing streets and boulevards.

6. Any Sidewalk Café with specific permission to serve alcoholic beverages shall enclose the permitted area from the remainder of the public way, and be maintained in accordance with a plan reasonably approved by the City. The boundary shall be no less than 24 inches or more than 36 inches in height. The boundary shall be durable so that it shall not collapse or fall over due to wind or incidental contact with patrons or pedestrians. The boundary may have movable sections to aid in public access to seating as long as the boundary complies with the submitted plan. The boundary shall be maintained in place during operating hours and must be removed at the end of each day as provided above. No boundary may be stabilized by bolting to the sidewalk. The boundary shall be designed to leave at least 6 feet of clear and unobstructed sidewalk space to allow for pedestrian passage. Clearance between Sidewalk Café and all public way encumbrances shall also be at least 6 feet. Non-permissible enclosure of City property, within the boundaries of the Sidewalk Café, shall include, but is not limited to, parking meters, fire hydrants, and utility or signal control boxes. These types of items can be identified as items which must be accessible to the public or to the City for emergency services.

0. The Sidewalk Café shall be operated in conformance with the approved plan of operation submitted with the application. Any change in operation or location other than diminimus modifications requires the prior approval of the City.

(b) Whoever violates any provision of this article for which no penalty is otherwise provided, shall be subject to punishment as provided in section 1-9. A separate offense shall be deemed committed on each day that a violation occurs or continues. The permits granted in this section shall be subject to the provisions of chapter 26, sections 26-31 et seq. regarding licensing regulations and discipline.

(Code 1982, § 94.12; Ord. No. 237G, § 1, 8-3-98; Ord. No. 416G, § 1, 6-4-01; Ord. No. 958G, § 1, 4-21-08; Ord. No. 983G, §§ 1, 2, 9-2-08; Ord. No. 294H, §§ 15, 16, 4-4-16)